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# Zoning Ordinance – Proposed for Public Hearing

## February 17, 2021

## with Strike-through and Underlined Edits

CLARION

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# Article 1 - General Provisions

## 1100. Title[1]

The regulations in this and the following Articles constitute Chapter 112.1 of the Code of the County of Fairfax, Virginia, which is designated 'The Zoning Ordinance of Fairfax County, Virginia' ("the Ordinance").

## 1101. Enabling Legislation[2]

Zoning is a legislative power residing in the State, which has been delegated to cities, towns, and counties. Article 7, Chapter 22, Title 15.2 of the Code of Virginia sets forth the legislation that enables Fairfax County to legislate zoning. The Code of Virginia is available by accessing the State's website at https://law.lis.virginia.gov/vacode/.

## 1102. Applicability[3]

The provisions in this Ordinance apply to all land and structures in the unincorporated territory of Fairfax County.

## 1103. Official Document[4]

A certified copy of the Zoning Ordinance, as may be amended from time to time, is filed in the Office of the Zoning Administrator of Fairfax County. The Ordinance may be kept in hardcopy or digital form.

## 1104. Ordinance Structure[5]

1. For purposes of organization, Chapter 112.1, The Zoning Ordinance, is divided into nine Articles.
2. Each Article within the Zoning Ordinance is subdivided into sections. The first digit of a section number represents the Article number. For example, Section 8106 is within Article 8.
3. For purposes of further organization, each section may be subdivided into subsections which are represented by such numbers as 1, 2, 3; which may be further subdivided as A, B, C...(1), (2), (3)... (a), (b), (c)…and (i), (ii), (iii), etc.

[1] From Sect. 1-100, revised for clarity and did not carry forward date of "1976" as applied to the County Code. Change since 11/24/2020 draft: Updated to Chapter 112.1 here and in Section 1104.
[2] Relocated from Appendix 3 – *Enabling Legislation*. Revised the URL to a simplified version that the previous version redirected the user to.
[3] Change from 3/10/2020 draft: Carried forward from Sect. 2-101.
[4] From Sect. 1-700, except deleted requirement for the Ordinance to be kept in the Clerk's office.
[5] Carried forward from Part 1, 20-100. Revised to represent the new structure.

4. Each Article contains its own separate page numbering system. The page numbers are prefixed by the respective Article number. As an example, page 10 of Article 8 is designated page 8-10.[6]
5. The Zoning Ordinance should be referenced as shown below:

… as required in Article 8.

… as required in Section 8101.

… as required in subsection 8101.1.B(1)(a).

## 1105. Purpose and Intent[7]

The Zoning Ordinance is intended to promote the health, safety, and general welfare of the public and to implement the Comprehensive Plan for the orderly and controlled development of the County. Where applicable, the Ordinance is intended to:

1. Create and maintain conditions under which people and their environment can coexist[8] while fulfilling the social, economic, and other requirements of present and future generations;
2. Facilitate the creation of an equitable and healthy community;[9]
3. Recognize the needs of agriculture, housing, industry, and business in the County's future growth;
4. Improve the quality of the community by helping to develop and provide low-cost affordable housing in safe neighborhoods, to include rental units and home ownership[10];
5. Ensure land uses will be developed with adequate access to infrastructure[11], utilities, and health, education, and recreational facilities;
6. Promote the conservation of natural resources and encourage the preservation of stream valleys, steep slopes, lands of natural beauty, forests, scenic vistas, and other similar areas;
7. Protect against noise, air, and water pollution[12];
8. Encourage innovative and desirable design of development;
9. Promote the distinctive urban and suburban contexts as well as the overall sense of community within the County through placemaking[13];
10. Accomplish all other objectives and exercise all other powers ~~set forth in Va. Code Sect. 15.2-2303~~authorized by state law.[14]

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[6] Carried forward from 20-106. Page numbering in this draft is consecutive and is still under discussion for the final draft.

[7] From Sect. 1-200, revised as noted. Any standard that is already covered by Va. Code Sect. 15.2-2283 was deleted. Simplified the intro text and revised each purpose statement to begin with an active verb. Consolidated the list of intended outcomes substantially.

[8] Did not carry forward "in a productive and enjoyable harmony." Harmonious development addressed in purpose statement number 2.

[9] Merged "healthy surroundings" from current Par. 6 of Sect. 1-200. Added "equitable."

[10] New.

[11] Replaced "highway" with "infrastructure."

[12] Removed "undue intensity of."

[13] Removed "exurban" and added "placemaking."

[14] Change since 1/19/2021 draft: Certain Va. Code references have been deleted throughout the Ordinance as unnecessary to state.

# 1106. Minimum Requirements and Conflicting Ordinances[15]

1. In interpreting and applying the provisions of this Ordinance, the provisions are deemed to be the minimum requirements for the promotion of the public safety, health, and general welfare.[16]

2. It is not the intent of this Ordinance to interfere with, limit, or invalidate any easements, covenants, or other agreements between parties. While other agreements may establish more restrictive provisions, where this Ordinance imposes a greater restriction on the use and dimensions of buildings or premises, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance govern.

3. Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal statute or other County ordinance or regulation, the provision of this Ordinance governs. Whenever any provision of any State or Federal statute or other County ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other County ordinance or regulation governs. In the event a specific provision of this Ordinance precludes the provision of an accessibility improvement or other reasonable accommodation, the accessibility improvement or other reasonable accommodation is allowed regardless of the specific provision of this Ordinance that would otherwise preclude it.[17]

4. The text of this Ordinance applies to any parcel covered by a previous zoning approval with proffered conditions ~~in accordance with Va. Code Sect. 15.2-2303~~, except that when the imposition of the requirements of this Ordinance would conflict with a specific proffered condition, that proffered condition supersedes the requirements of this Ordinance to the extent of the difference. However, when a specific proffered condition precludes the provision of an accessibility improvement or other reasonable accommodation, such improvement will be allowed regardless of the specific proffered condition that would otherwise preclude it.

# 1107. Effective Date[18]

This Ordinance becomes effective on [*insert effective date of this Ordinance*].

# 1108. Duties of the Zoning Administrator[19]

1. In the administration of the provisions of this Ordinance, the Zoning Administrator serves at the will of the Board and has the following duties and responsibilities:

   A. The receipt, review for completeness and substantial compliance, official acceptance, and maintenance of current and permanent files and records for the following:

[15] From Sect. 1-400 and Sect. 1-500.
[16] Removed "convenience, comfort, prosperity" for consistency with the introduction to the Purpose.
[17] Added references to "other reasonable accommodation" throughout.
[18] New – replaces current Sect. 1-600.
[19] Carried forward from 18-102. Change since 3/10/2020 draft: Deleted Par. 6 of Sect. 18-102 because it is covered by Sect. 18-103 (subsection H below).

**(1)** Proposed and adopted amendments to the Zoning Ordinance, to include the Zoning Map.

**(2)** Applications for special exceptions.

**(3)** Applications for special permits.

**(4)** Applications for administrative permits.

**(5)** Appeals of a decision or interpretation.

**(6)** Applications for a variance.

**(7)** Generalized development plans, conceptual development plans, final development plans, PRC development plans, PRC plans, and amendments of such plans.[20]

**(8)** Applications for building permits, Residential, and Non-rResidential Use Permits.

**(9)** All other applications required by this Ordinance unless otherwise qualified by specific provisions.

**B.** Conduct inspections of buildings, structures, and uses of land to determine compliance with the provisions of this Ordinance.

**C.** Make an annual report to the Planning Commission on the status of the Zoning Ordinance, to include a listing of suggested amendments.[21]

**D.** Prepare and have available: [22]

**(1)** The compiled text of the Zoning Ordinance and all amendments adopted through the preceding year; and

**(2)** A Zoning Map or maps, showing the zoning districts, divisions, and classifications in effect during the preceding year.

**E.** Make a determination in the case of an alleged conflict between the requirements of this Ordinance and the specifics of a proffered condition accepted by the Board ~~pursuant to Va. Code Sect. 15.2-2303~~ prior to the effective date of this Ordinance. If the Zoning Administrator determines that a conflict exists, the specifics of the proffered condition governs; if there is no conflict, the requirements of this Ordinance governs. Any such determination is appealable as provided for in subsection 8100.2.D(3)(d).

**F.** In the administration of this Ordinance, the Zoning Administrator may delegate authority to a designated agent and may be assisted by the following officers, departments, committees, agencies, and boards:[23]

**(1)** Department of Planning and Development[24];

**(2)** Land Development Services and the Department of Code Compliance;

**(3)** The boards, commissions, and committees as established in Section 8103 or others as may be created by the Board; and

[20] Added PRC plans.
[21] Deleted "effectiveness."
[22] Updated to delete the references to supply of copies and book, pamphlet, or map form. Deleted references to the rules of the Planning Commission and BZA which are kept with the respective Clerk's offices.
[23] Carried forward from Sect. 18-101.
[24] Added based on current practice.

**(4)** Such additional officers, departments, agencies, committees, and boards of the County, State, and Federal governments as specified and referred to under the various Sections of this Ordinance.

**G.** The Zoning Administrator has authority to administer, interpret, and enforce this Ordinance. Such authority includes the ability to do the following:

**(1)** Make findings of fact and conclusions of law with the concurrence of the Office of the County Attorney in connection with determination of rights regarding nonconforming uses;

**(2)** Issue determinations;

**(3)** Order, in writing, the remedy of any condition found in violation of this Ordinance; and

**(4)** Bring legal action to ensure compliance with the provisions, including injunction, abatement, or other appropriate action or proceeding.[25]

**H.** Perform such other duties and functions as are required by the provisions of this Ordinance.

**I.** Questions of Interpretation:[26]

The Zoning Administrator administers and interprets the Zoning Ordinance. Every question involving the interpretation of any provision of this Ordinance must be presented to the Zoning Administrator for decision. An appeal of any decision of the Zoning Administrator may be taken to the BZA as provided for in subsection 8100.10, except an appeal of a decision which relates to a proffered condition must be taken to the Board as provided for in subsection 8100.2.D(3)(d).

## 1109. Severability[27]

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

## 1110. Transition from Prior Regulations[28]

This Ordinance applies, unless a specific use, feature, or structure is vested or otherwise ~~grandfathered~~ entitled to continue under previous approvals in accordance with Appendix 1~~or vested~~.[29]

[25] Carried forward from Par. 3 of Sect. 18-101. Added "interpret" to the introduction and added "issue determinations."
[26] From Sect. 18-103.
[27] From Sect. 1-300.
[28] New section.
[29] Change since 1/19/2021 draft: Replaced "grandfathered" throughout the Ordinance.

# Article 2 - Zoning Districts[30]

## 2100. Zoning Districts and Boundaries[31]

### 1. Zoning Districts[32]

The unincorporated territory of the County of Fairfax is divided into the zoning districts presented in this Article and shown in Table 2100.1 below.[33]

**TABLE 2100.1: Zoning Districts Established**
**ac** = acres **du** = dwelling units

| | District Name | Section |
|---|---|---|
| **Residential Districts** | | |
| **R-A** | Rural Agricultural | 2102.1 |
| **R-C** | Residential Conservation | 2102.2 |
| **R-E** | Residential Estate | 2102.3 |
| **R-1** | Residential, One Du/Ac | 2102.4 |
| **R-2** | Residential, Two Du/Ac | 2102.5 |
| **R-3** | Residential, Three Du/Ac | 2102.6 |
| **R-4** | Residential, Four Du/Ac | 2102.7 |
| **R-5** | Residential, Five Du/Ac | 2102.8 |
| **R-8** | Residential, Eight Du/Ac | 2102.9 |
| **R-12** | Residential, Twelve Du/Ac | 2102.10 |
| **R-16** | Residential, Sixteen Du/Ac | 2102.11 |
| **R-20** | Residential, Twenty Du/Ac | 2102.12 |
| **R-30** | Residential, Thirty Du/Ac | 2102.13 |
| **R-MHP** | Residential, Manufactured Home Park | 2102.14 |
| **Commercial Districts** | | |
| **C-1** | Low-Rise Office Transitional | 2103.1 |
| **C-2** | Limited Office | 2103.2 |
| **C-3** | Office | 2103.3 |
| **C-4** | High Intensity Office | 2103.4 |
| **C-5** | Neighborhood Retail Commercial | 2103.5 |
| **C-6** | Community Retail Commercial | 2103.6 |
| **C-7** | Regional Retail Commercial | 2103.7 |
| **C-8** | Highway Commercial | 2103.8 |

| | District Name | Section |
|---|---|---|
| **Industrial Districts** | | |
| **I-I** | Industrial Institution | 2104.1 |
| **I-2** | Industrial Research | 2104.2 |
| **I-3** | Light Intensity Industrial | 2104.3 |
| **I-4** | Medium Intensity Industrial | 2104.4 |
| **I-5** | General Industrial | 2104.5 |
| **I-6** | Heavy Industrial | 2104.6 |
| **Planned Development Districts** | | |
| **PDH** | Planned Development Housing | 2105.2 |
| **PRC** | Planned Residential Community | 2105.3 |
| **PDC** | Planned Development Commercial | 2105.4 |
| **PRM** | Planned Residential Mixed-Use | 2105.5 |
| **PTC** | Planned Tysons Corner Urban | 2105.6 |
| **PCC** | Planned Continuing Care Facility | 2105.7 |

[30] Most of the text has been edited for clarity and readability; however, content changes are footnoted throughout.
[31] From Part 2, 2-200.
[32] From Sect. 2-201. The R-P and I-1 Districts are deleted because there is no land zoned to either district.
[33] Revised from "articles 3 through 7" and did not carry forward "which Articles may be referenced as the Schedule of Regulations." The table is new, provided to summarize the list of established districts in Fairfax County and includes hyperlinked cross-references to individual zoning districts.

## 2. Zoning Map[34]

The map entitled "Official Zoning Map, Fairfax County, Virginia" indicates the location and boundaries of the zoning districts established by this Ordinance. These locations and boundaries derive from the authoritative data source as maintained by the Department of Information Technology.[35] A copy of the official Zoning Map is on file in the Office of the Zoning Administrator, and it may be kept in either hardcopy or digital form. This Ordinance incorporates the official Zoning Map.

## 3. Zoning of Entire Jurisdictional Area[36]

**A.** It is the intent of this Ordinance that the entire unincorporated area of the County of Fairfax, including all land, water areas, and waterways, be included in the districts established by this Ordinance. Any area on the Official Zoning Map that is not shown in a specific zoning district is zoned to the R-C District.

**B.** Unless otherwise specifically designated, all water areas, waterways, alleys, roads, streets, highways, railroads, and other rights-of-way are deemed to be in the same zoning district as the immediately abutting property. Unless specifically designated, where the center line of any water areas, waterways, or rights-of-way serves as a zoning district boundary, the zoning of each area is deemed to be the same as that of the abutting property up to the center line.

## 4. Zoning District Boundaries[37]

If uncertainties exist with respect to the intended boundaries of a zoning district as shown on the Official Zoning Map, the following rules apply:

**A.** Where a zoning district boundary is indicated as approximately following the center line of a street, alley, railroad, or waterway, the center line is the zoning district boundary, and where a zoning district boundary is indicated as approximately following the line of a lot or other parcel of record, the lot or parcel line is the zoning district boundary.

**B.** Any zoning district boundary shown extended to or into any body of water bounding the County is deemed to extend straight to the County boundary.

**C.** Where uncertainties continue to exist or where further interpretation is required beyond that presented above, the Zoning Administrator will make a determination in accordance with Section 1108. Any person aggrieved by the Zoning Administrator's decision may appeal that decision as described in subsection 8100.10.A(1).

---

[34] From Sect. 2-202. A reference to the GIS authoritative data source is added, and the reference to sections sheets as well as repetitive language are deleted.
[35] A link to the online Zoning Map will be inserted.
[36] From Sect. 2-203.
[37] From Sect. 2-204. Outdated provisions relating to scaling a map are not carried forward.

# 2101. Interpretation of District Regulations[38]

## 1. Purpose Statements [39]

Each zoning district has a specific purpose and intent expressed in a purpose statement. However, zoning districts are not created to fulfill a singular stated purpose. Each zoning district is also established to promote the general health, safety, and welfare of Fairfax County and to implement the stated purpose and intent of this Ordinance.

## 2. Lot Size, Bulk, and Open Space Regulations[40]

General lot size, bulk, and open space regulations are located in subsection 5100.2.C.

## 3. Affordable Dwelling Unit Developments[41]

In the R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, and R-30 Districts and Planned[42] Districts, affordable dwelling unit developments may be required under Section 5101. Affordable dwelling unit developments are subject to the provisions of Section 5101, and the required minimum lot size and bulk regulations are addressed in their respective zoning districts. Unless expressly stated otherwise, all other provisions of the respective zoning districts are applicable to affordable dwelling unit developments.

## 4. Workforce Housing[43]

### A. Accommodation of Units in Conventional Residential Districts

If a development in the R-12, R-16, R-20, and R-30 Districts has workforce dwelling units proffered as part of a rezoning application in accordance with the Comprehensive Plan, those workforce dwelling units may be developed according to the district regulations applicable to Affordable Dwelling Unit Developments as established in this Article.

### B. Accommodation of Units in Planned Development Districts

If a development in a Planned Development District has workforce dwelling units proffered as part of a rezoning application in accordance with the Comprehensive Plan, those workforce dwelling units are subject to the regulations established by the proffered conditions associated with the applicable rezoning application.

---

[38] From Part 3, 2-300. The use standards (permitted, special permit, special exception, and use limitations) addressed by current Sections 2-302, 2-303, 2-304, and 2-305 were not included in this Article. Those standards were relocated to Article 4: *Use Regulations* and revised as noted. Parts 4 through 11 of the current Article 2 were not included in this Article. Those standards are addressed in the new Article 5: Development Standards.
[39] From Sect. 2-301. Each district was revised to include a "purpose" statement instead of a "purpose and intent" statement. Revised this sentence for clarity and to remove passive language. Added the last sentence to apply broadly to all districts.
[40] From Sect. 2-306. Did not carry forward Par. 3 of Sect. 2-306 because it is unnecessary and confusing, except as indicated in 2.A with "may be" (not all districts have a minimum district size).
[41] From current Sect. 2-310. Part 8 is located in the new Article 5: Development Standards.
[42] Clarified planned districts instead of "P."
[43] From current Sect. 2-1100, modified for clarity.

# 2102. Residential Zoning Districts

This Section 2102 includes the standards related to the Residential zoning districts established in Fairfax County.

# 1. R-A Rural Agricultural District[44]

## A. Purpose[45]

The R-A District provides land areas within the County for agricultural operations and generally distinguishes those lands from conventional single-family residential districts. The intent of the R-A District is to protect agricultural operations from urban development.

**Figure 2102.1: R-A District Aerial Example**





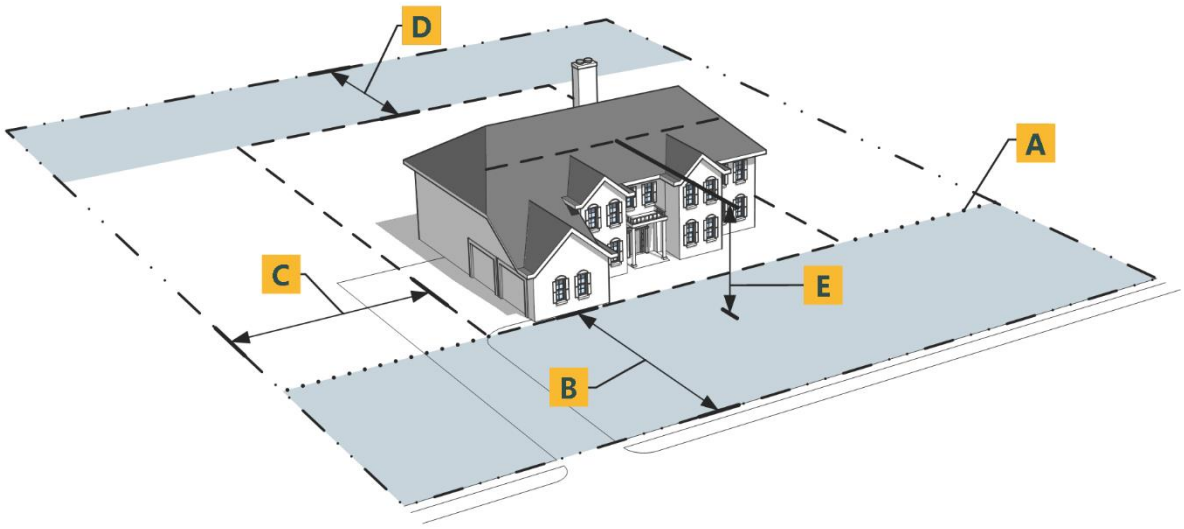



[44] Carried forward from Sect. 3-A00, with changes as noted.
[45] Carries forward Sect. 3-A01.

## B. R-A Lot and Building Dimensional Standards

| TABLE 2102.1: R-A Lot and Building Standards | | | |
|---|---|---|---|
| | | Single-family dwellings and manufactured homes | Other principal uses |
| | Density, maximum | 0.2 du or manufactured homes/ac | |
| | Open space, minimum | No requirement | |
| | Lot area, minimum | 5 acres | |
| A | Lot width, minimum [1] | 200 feet | |
| | | | |
| B | Front setback, minimum | 60 feet | See Table 2102.1a below[46] |
| C | Side setback, minimum | 50 feet | |
| D | Rear setback, minimum | 50 feet | |
| E | Building height, maximum | 35 feet | 60 feet |
| | Floor area ratio, maximum | No requirement | 0.15 for public uses; 0.10 for uses other than residential or public |
| | **Notes:**<br>[1] Lot width may be modified in accordance with subsection 5100.2.K.<br>[2] Freestanding accessory structures are regulated by subsection 4102.7.A. | | |

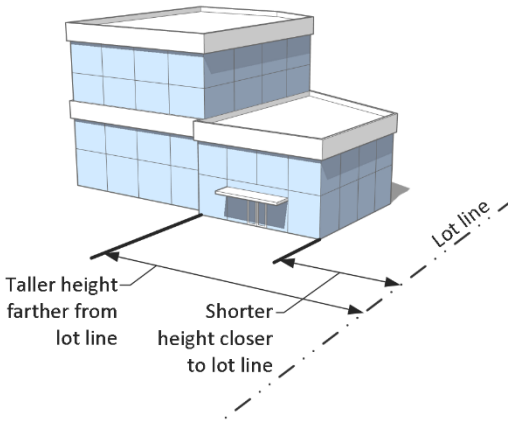
**Figure 2102.2: R-A District Lot and Building Dimensional Standards**




[46] Replaced 60 degree angle of bulk plane with new table with the same minimum setbacks as for a dwelling.

| Table 2102.1a: R-A Setback Relative to Height | | |
|---|---|---|
| Other principal uses | | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** | **Side and Rear setback, minimum (feet)** |
| 30 | 60 | 50 |
| 35 | 60 | 54 |
| 40 | 62 | 62 |
| 45 | 71 | 71 |
| 50 | 80 | 80 |
| 55 | 88 | 88 |
| 60 | 97 | 97 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




## C. Additional Standards

**(1)** The agricultural operation, related uses, and open space must occupy at least 75 percent of the lot area. Single-family detached dwellings, manufactured homes, and any non-agricultural uses, accessory uses, and structures may occupy no more than 25 percent of the lot area.[47]

## D. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[47] Change since 6/30/2020 draft: Carried forward from Sect. 3-A02. Relocated from the Agricultural Operation use standards and expanded to allow the 75% to be open space, not just agriculture.

# 2. R-C Residential-Conservation District[48]

## A. Purpose[49]

The R-C District protects water courses, stream valleys, marshes, forest cover in watersheds, aquifer recharge areas, rare ecological areas, and areas of natural scenic vistas. The R-C District also minimizes impervious surface and protects the quality of water in public water supply watersheds by encouraging open areas for agriculture and large lot single-family subdivisions.

**Figure 2102.3: R-C District Aerial Example**








[48] Carried forward from Sect. 3-C00, with changes as noted.
[49] Carried forward from Sect. 3-C01.

## B. R-C Lot and Building Dimensional Standards

**TABLE 2102.2: R-C Lot and Building Standards**

| | | Conventional | | Cluster | |
|---|---|---|---|---|---|
| | District size, minimum | No requirement | | 50 acres | |
| | Density, maximum | 1 du/5 ac | | **Approved by special exception**: 0.22 du/ac **If the result of a proffered rezoning from a district that allows a density of less than 1 du/5 acres**: 0.20 du/ac | |
| | Open space, minimum [1] | No requirement | | 50 percent of the gross area | |
| | Lot area, minimum | 5 acres | | 36,000 square feet | |
| | | **Interior** | **Corner** | **Interior** | **Corner** |
| A | Lot width, minimum | 200 feet [2] | 200 feet [2] | Adjacent to a major thoroughfare: 200 feet; adjacent to a local or collector street: no requirement | Adjacent to a major thoroughfare: 200 feet; adjacent to a local or collector street: 125 feet |

| | | Single-family dwellings | | Other principal uses |
|---|---|---|---|---|
| | | **Conventional** | **Cluster** | |
| B | Front setback, minimum | 40 feet or 50 feet [3, 4] | | See Table 2102.2a below[50] |
| C | Side setback, minimum | 20 feet or 50 feet [3, 4] | | Setback equal to building height, but at least 20 feet |
| D | Rear setback, minimum | 25 feet or 50 feet [3, 4] | | Setback equal to building height, but at least 25 feet |
| E | Building height, maximum | 35 feet or 40 feet [3] | | 60 feet |
| | Floor area ratio, maximum | No requirement | | 0.15 for public uses; 0.10 for uses other than residential or public |

**Notes:**

[1] Open space is calculated in accordance with subsection 5100.3.A(3).

[2] Lot width may be modified in accordance with subsection 5100.2.K.

[3] A dwelling may be taller than 35 feet, up to a maximum of 40 feet, with a minimum 50-foot setback.

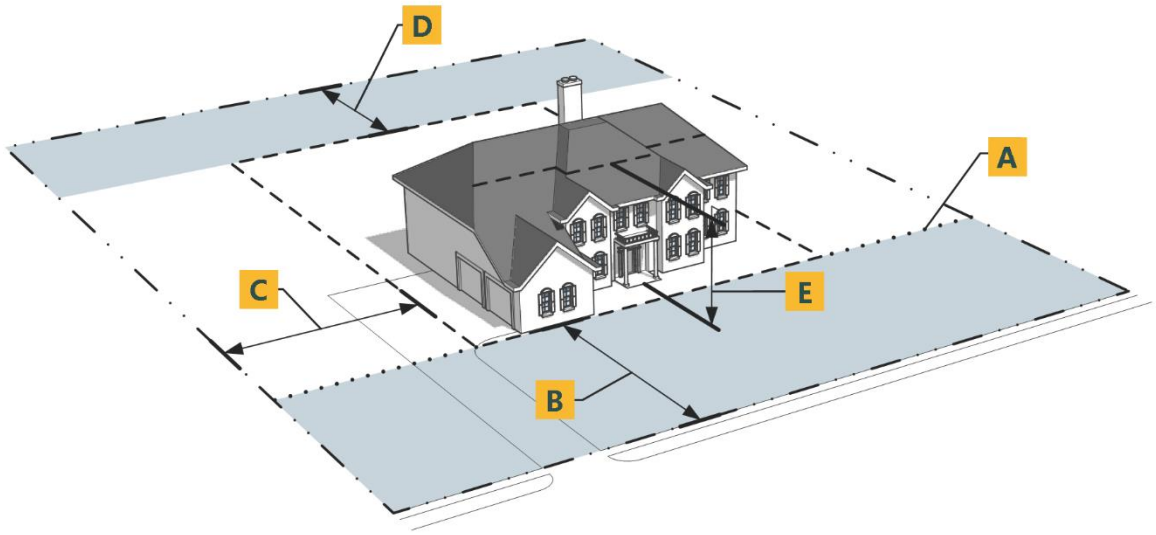
[4] If a proposed dwelling or addition to a dwelling on a lot rezoned to the R-C District on July 26, 1982 or August 2, 1982 and that lot was (a) the subject of a final plat approved before July 26, 1982, or (b) recorded with a final consent decree entered in Chancery No. 78451 by the Fairfax County Circuit Court on September 17, 1985, or (c) recorded with a final consent decree entered in Chancery Nos. 78425, 78452, 78454, 78461, 78462 and 78465 by the Fairfax County Circuit Court on September 17, 1985, as amended by a final consent decree entered on November 25, 1991 by the Fairfax County Circuit Court in Chancery No. 123887, then the setbacks are those applicable to the lot on July 25, 1982.[51]

[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

[50] Replaced angle of bulk plane (50 degrees for front) with new table; for side and rear replaced 45 degrees with statement that setback equals the building height.

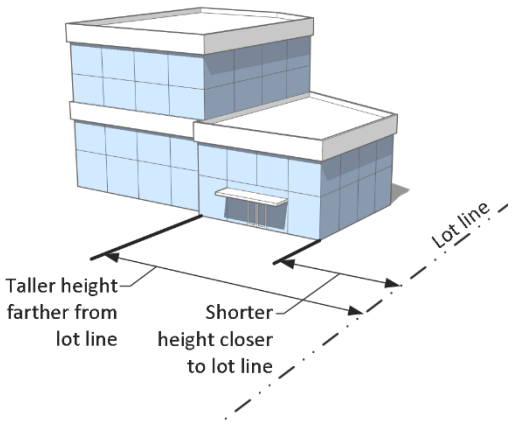
[51] Change since 8/9/2019 draft: Added to address current provisions in Paragraphs 1 and 2 of Sec. 8-913, which only apply to dwellings in the R-C district. This changes a special permit application to by right, based on the same requirements, except that the requirement that the BZA determine that the resultant development will be harmonious with existing development has not been carried forward. The requirement for a separate plat and fee are not carried forward.

**Figure 2102.4: R-C District Lot and Building Dimensional Standards**




| Table 2102.2a: R-C Setback Relative to Height | |
|---|---|
| Other principal uses | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** |
| 35 | 40 |
| 40 | 43 |
| 45 | 49 |
| 50 | 55 |
| 55 | 61 |
| 60 | 67 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

## 3. R-E Residential-Estate District[52]

### A. Purpose[53]

The R-E District provides for single-family detached dwellings on large lots and allows other uses that are compatible with the open and rural character of the district.

**Figure 2102.5: R-E District Aerial Example**




[52] Carried forward from Sect. 3-E00, with changes as noted.
[53] Carried forward from Sect. 3-E01.

## B. R-E Lot and Building Dimensional Standards

**TABLE 2102.3: R-E Lot and Building Standards**

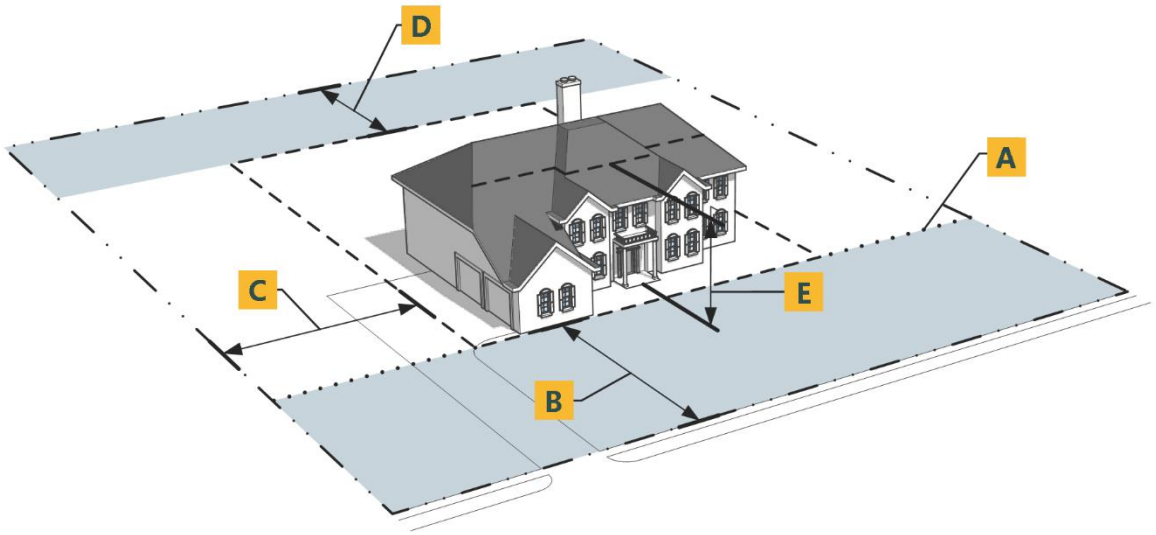
| | | Conventional | | Cluster | |
|---|---|---|---|---|---|
| | District size, minimum | No requirement | | 20 acres | |
| | Density, maximum | 0.5 du/ac | | **Approved by special exception:** 0.55 du/ac **If result of a proffered rezoning from a district that allows a density of less than one du/two acres**: 0.5 du/ac | |
| | Open space, minimum [1] | No requirement | | 30 percent of the gross area | |
| | Lot area, minimum | 75,000 SF | | 52,000 SF | |
| A | Lot width, minimum | **Interior** | **Corner** | **Interior** | **Corner** |
| | | 200 feet [2] | 225 feet [2] | No requirement | 175 feet |

| | | Single-family dwellings | | Other principal uses |
|---|---|---|---|---|
| | | **Conventional** | **Cluster** | |
| B | Front setback, minimum | 50 feet | 30 feet or 50 feet [3] | See Table 21022.3a below[54] |
| C | Side setback, minimum | 20 feet or 50 feet [3] | 15 feet (total minimum 40 feet) or 50 feet [3] | Setback equal to building height, but at least 20 feet |
| D | Rear setback, minimum | 25 feet or 50 feet [3] | | Setback equal to building height, but at least 25 feet |
| E | Building height, maximum | 35 feet or 40 feet [3] | | 60 feet |
| | Floor area ratio, maximum | No requirement | | 0.20 for public uses; 0.15 for uses other than residential or public |

**Notes:**
[1] Open space is calculated in accordance with subsection 5100.3.A(3).
[2] Lot width may be modified in accordance with subsection 5100.2.K.
[3] A dwelling may be taller than 35 feet, up to a maximum of 40 feet, with a minimum 50-foot setback.
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[54] Replaced angle of bulk plane (55 degrees for front) with new table; replaced 45 degrees for side and rear with statement that setback equals building height.

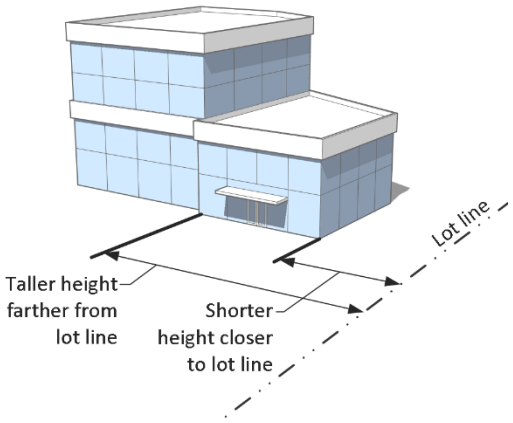
**Figure 2102.6: R-E District Lot and Building Dimensional Standards**




1

| Table 2102.3a: R-E Setback Relative to Height | |
|---|---|
| Other principal uses | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** |
| 35 | 50 |
| 40 | 51 |
| 45 | 59 |
| 50 | 66 |
| 55 | 73 |
| 60 | 80 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




2

3

## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

4

# 4. R-1 Residential District, One Dwelling Unit/Acre[55]

## A. Purpose[56]

The R-1 District provides for single-family detached dwellings on large lots and allows other uses that are compatible with the low-density residential character of the district.

**Figure 2102.7: R-1 District Aerial Example**








[55] Carried forward from Sect. 3-100, with changes as noted.
[56] Carried forward from Sect. 3-101.

## B. R-1 Lot and Building Dimensional Standards

**TABLE 2102.4: R-1 Lot and Building Standards**

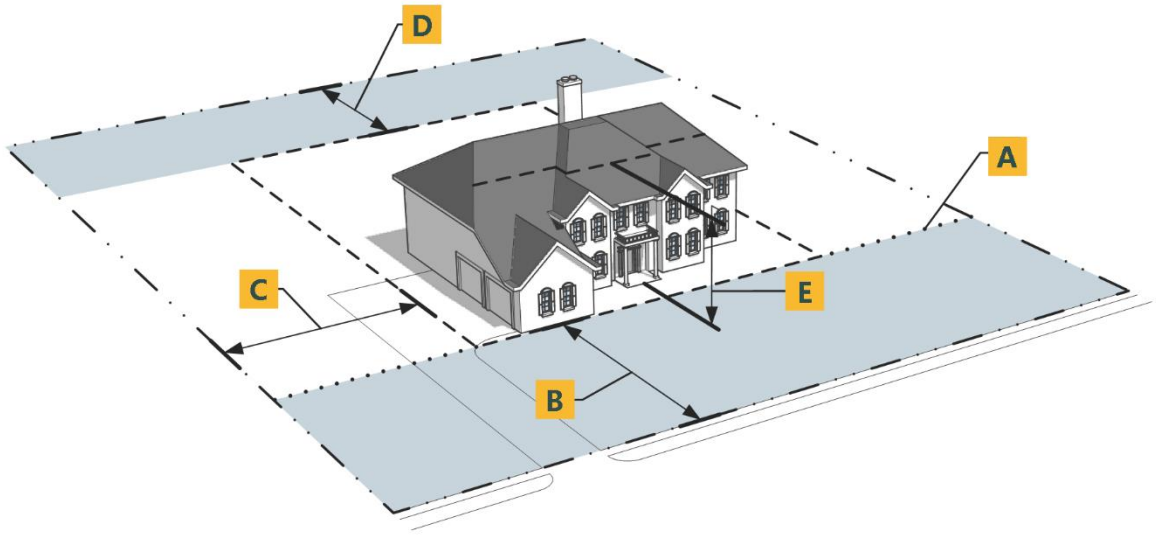
| | | Conventional | | Cluster | |
|---|---|---|---|---|---|
| | District size, minimum | No requirement | | 10 acres [1] | |
| | Density, maximum | 1 du/ac | | **Approved by special exception**: 1.1 du/ac<br>**If the result of a proffered rezoning from a district that allows a density of less than 1 du/acre**: 1 du/ac | |
| | Open space, minimum [2] | No requirement | | 30 percent of the gross area | |
| | Lot area, minimum | 36,000 square feet | | 25,000 square feet | |
| A | Lot width, minimum | **Interior** | **Corner** | **Interior** | **Corner** |
| | | 150 feet [1] | 175 feet [1] | No requirement | 125 feet [1] |

| | | Single-family dwellings | | Other principal uses |
|---|---|---|---|---|
| | | **Conventional** | **Cluster** | |
| B | Front setback, minimum | 40 feet | 30 feet | See Table 21022.4a below[57] |
| C | Side setback, minimum | 20 feet | 12 feet (total minimum 40 feet) | Setback equal to building height, but at least 20 feet |
| D | Rear setback, minimum | 25 feet | | Setback equal to building height, but at least 25 feet |
| E | Building height, maximum | 35 feet | | 60 feet |
| | Floor area ratio, maximum | No requirement | | 0.20 for public uses; 0.15 for uses other than residential or public |

**Notes:**
[1] District size and lot width may be modified in accordance with subsection 5100.2.K.
[2] Open space is calculated in accordance with subsection 5100.3.A(3).
[3] Freestanding accessory structures are regulated by subsection 4102.7.A-.

[57] Replaced angle of bulk plane (50 degrees for front, 45 degrees for side and rear) with new table.

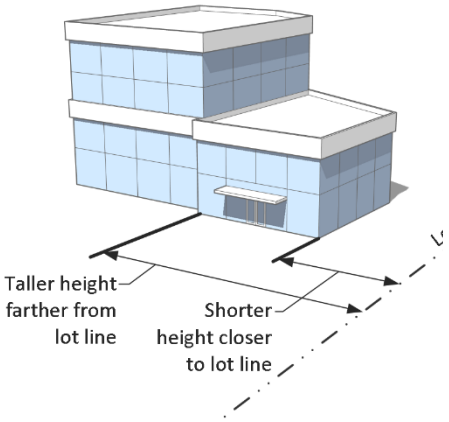
**Figure 2102.8: R-1 District Lot and Building Dimensional Standards**




1

| Table 2102.4a: R-1 Setback Relative to Height | |
|---|---|
| Other principal uses | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** |
| 35 | 40 |
| 40 | 43 |
| 45 | 49 |
| 50 | 55 |
| 55 | 61 |
| 60 | 67 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




2

3

## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

4

## 5. R-2 Residential District, Two Dwelling Units/Acre[58]

### A. Purpose[59]

The R-2 District provides for single-family detached dwellings and affordable dwelling unit developments and allows other uses that are compatible with the low-density suburban character of the district.

**Figure 2102.9: R-2 District Aerial Example**








[58] Carried forward from Sect. 3-200, with changes as noted.
[59] Carried forward from Sect. 3-201. The specific densities are removed from the purpose statement.

## B. R-2 Lot and Building Dimensional Standards

**TABLE 2102.5: R-2 Lot and Building Standards**

| | | Conventional | | Cluster | |
|---|---|---|---|---|---|
| | District size, minimum | No requirement | | 2 acres [1] | |
| | Density, maximum | 2 du/ac | | 2 du/ac | |
| | Open space, minimum [2] | No requirement | | 25 percent of the gross area | |
| | Lot area, average | 18,000 square feet | | No requirement | |
| | Lot area, minimum | 15,000 square feet | | 13,000 or 15,000 square feet [1] | |
| | | **Interior** | **Corner** | **Interior** | **Corner** |
| A | Lot width, minimum | 100 feet [3] | 125 feet [3] | No requirement or 100 feet [1] | 100 or 125 feet [1] |

| | | Single-family dwellings | | Other principal uses |
|---|---|---|---|---|
| | | **Conventional** | **Cluster** | |
| B | Front setback, minimum | 35 feet | 25 feet | Setback equal to building height, but at least 35 feet[60] |
| C | Side setback, minimum | 15 feet | 8 feet (total minimum 24 feet) | See Table 2102.5a below |
| D | Rear setback, minimum | 25 feet | | |
| E | Building height, maximum | 35 feet | | 60 feet |
| | Floor area ratio, maximum | No requirement | | 0.25 for public uses; 0.20 for uses other than residential or public |

**Notes:**

[1] The minimum lot area of a cluster subdivision lot is 15,000 square feet and the minimum lot width of the cluster subdivision lot is 100 feet for interior lots and 125 for corner lots if (a) any portion of a cluster subdivision lot is (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of two du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling This does not apply if the contiguous development is zoned to the PDH-2 District, or to the R-2 District and is developed or approved for a cluster subdivision.

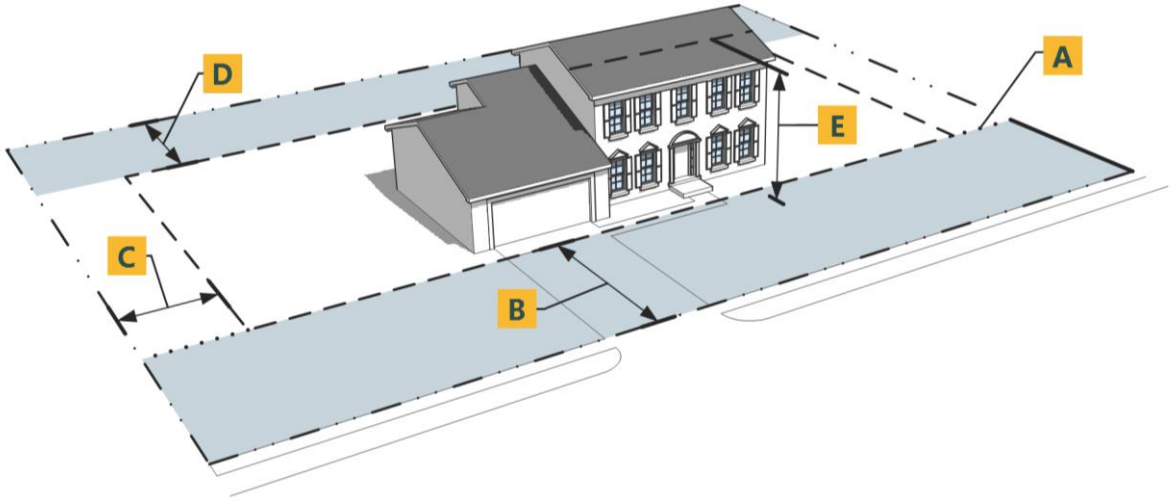
[2] Open space is calculated in accordance with subsection 5100.3.A(3).

[3] Lot width may be modified in accordance with subsection 5100.2.K.

[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[60] Angle of bulk plane (45 degrees for front) replaced with statement that setback equals building height, and 40 degrees for side and rear replaced with new table.

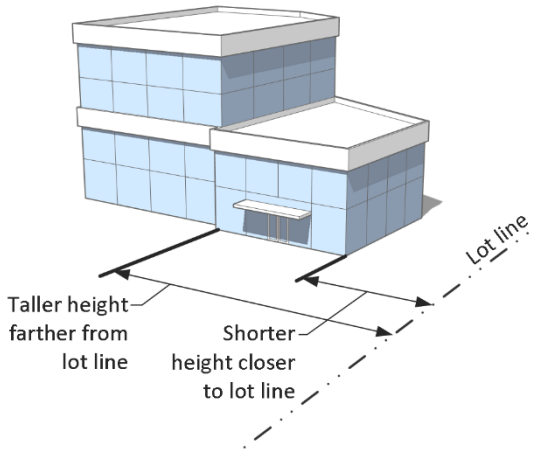
**Figure 2102.10: R-2 District Lot and Building Dimensional Standards**




1

| Table 2102.5a: R-2 Setback Relative to Height | | |
|---|---|---|
| Other principal uses | | |
| Building height, maximum (feet) [1] | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 20 | 15 | 25 |
| 25 | 18 | 25 |
| 30 | 22 | 25 |
| 35 | 26 | 26 |
| 40 | 30 | 30 |
| 45 | 34 | 34 |
| 50 | 39 | 39 |
| 55 | 43 | 43 |
| 60 | 47 | 47 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




2

## C. R-2 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development[61]

**TABLE 2102.6: R-2 Lot and Building Standards – Affordable Dwelling Unit Development [1]**

| | | | | | |
|---|---|---|---|---|---|
| Density, maximum | 2.4 du/ac | | | | |
| | Single-family detached | | | | Single-family attached [2] |
| | Conventional | | Cluster | | |
| Open space, minimum [3] | No requirement | | 22 percent of the gross area [4] | | 200 sf per attached unit |
| Lot area, minimum | 12,000 sf | | 10,400 sf [5] | | None |
| | Interior | Corner | Interior | Corner | |
| Lot width, minimum | 80 feet [6] | 105 feet [6] | None [5] | 80 feet [5] | 14 feet |
| Front setback, minimum | 30 feet | | 20 feet | | 5 feet[62] |
| Side setback, minimum | 8 feet | | | | 10 feet |
| Rear setback, minimum | 25 feet | | | | 20 feet |
| Building height, maximum | 35 feet | | | | 40 feet |

**Notes:**

[1] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.

[2] The number of single-family attached dwelling units may not exceed 35 percent of the total number of dwelling units allowed within the development. Refer to subsection 5100.2.D(1)(d) for provisions that qualify minimum setback requirements for individual units in single-family attached dwellings.[63]

[3] Open space is calculated in accordance with subsection 5100.3.A(3). The 200 sf per attached unit must be provided adjacent to the units.

[4] If development also contains attached dwelling units, the 200 square feet per attached dwelling unit must be provided as part of the required 22 percent general requirement.

[5] The minimum lot area of the cluster subdivision lot is 12,000 square feet and the minimum lot width of the cluster subdivision lot is 80 feet for interior lots and 105 feet for corner lots if (a) any portion of a cluster subdivision lot is located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of two du/ac or greater, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-2 District, or to the R-2 District and is developed or approved for a cluster subdivision.

[6] Lot width may be modified in accordance with subsection 5100.2.K.

## D. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[61] Did not carry forward Par. 7, Sect. 3-210: "Single family attached dwelling units shall be located so to minimize their impact on single-family detached dwelling unit developments located adjacent to the ADU development." Similar standards within other residential districts in the current Ordinance were also not carried forward.

[62] Angle of bulk plane (ABP) deleted because the maximum height is allowed for the minimum side setback and close to the rear setback and the ABP at the minimum front setback is impractical.

[63] First sentence carried forward from introductory paragraph of Sect. 3-210; second sentence carried forward from Par. 5 of Sect. 3-210.

# 6. R-3 Residential District, Three Dwelling Units/Acre[64]

## A. Purpose[65]

The R-3 District provides for single-family detached dwellings and affordable dwelling unit developments and allows other uses that are compatible with the suburban residential character of the district.

**Figure 2102.11: R-3 District Aerial Example**







[64] Carried forward from Sect. 3-300, with changes as noted.
[65] Carried forward from Sect. 3-301. The reference to specific densities is removed from the purpose statement.

## B. R-3 Lot and Building Dimensional Standards

**TABLE 2102.7: R-3 Lot and Building Standards**

| | | Conventional | | Cluster | |
|---|---|---|---|---|---|
| | District size, minimum | No requirement | | **Greater than 2 acres but less than 3.5 acres:** subject to special exception approval<br>**3.5 acres or greater:** subject to approval by the Director | |
| | Open space, minimum [1] | No requirement | | 25 percent of the gross area | |
| | Density, maximum | 3 du/ac | | **Approved by Director**: 3 du/ac [2]<br>**Approved by special exception**: 3 du/ac plus 1 bonus dwelling unit | |
| | Lot area, average | 11,500 square feet | | No requirement | |
| | Lot area, minimum | 10,500 square feet | | 8,500 square feet approved by the Director or by special exception [3] | |
| | | **Interior** | **Corner** | **Interior** | **Corner** |
| A | Lot width, minimum | 80 feet [4] | 105 feet [4] | **Approved by Director or by special exception**: No requirement or 80 feet [3] | **Approved by Director or by special exception**: 80 or 105 feet [3] |

| | | Single-family dwellings | | Other principal uses |
|---|---|---|---|---|
| | | **Conventional** | **Cluster** | |
| B | Front setback, minimum | 30 feet | 20 feet | See Table 2102.7a below[66] |
| C | Side setback, minimum | 12 feet | 8 feet (total minimum 20 feet) | |
| D | Rear setback, minimum | 25 feet | | |
| E | Building height, maximum | 35 feet | | 60 feet |
| | Floor area ratio, maximum | No requirement | | 0.30 for public uses; 0.25 for uses other than residential or public |

**Notes:**

[1] Open space is calculated in accordance with subsection 5100.3.A(3).

[2] If approved by the Director or as a result of proffered rezoning that allows a permitted maximum density of less than 3 du/ac.

[3] The minimum lot area of the cluster subdivision lot is 10,500 square feet, and the minimum lot width of the cluster subdivision lot is 80 feet for interior lots and 105 for corner lots if any portion of a cluster subdivision lot is: (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of three du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-3 District, or to the R-3 District and is developed or approved for a cluster subdivision.

[4] Lot width may be modified in accordance with subsection 5100.2.K.

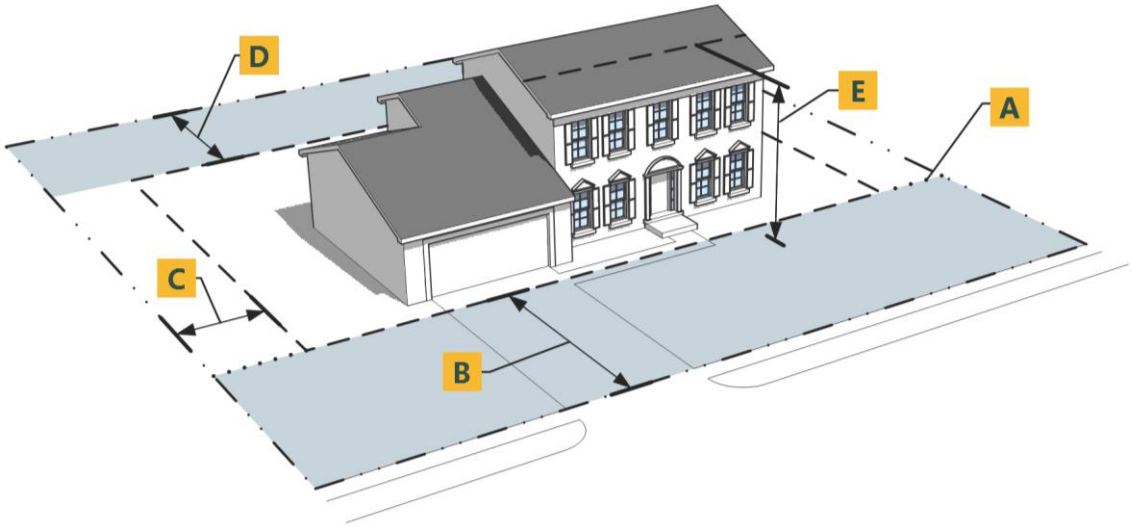
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

[66] Angle of bulk plane (40 degrees for front, 35 degrees for side and rear) replaced with new table.

1

2

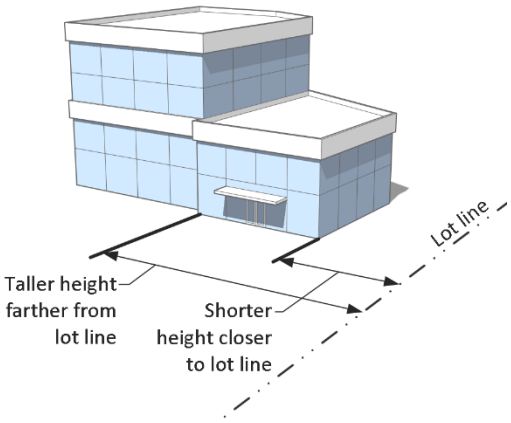
**Figure 2102.12: R-3 District Lot and Building Dimensional Standards**




3

| Table 2102.7a: R-3 Setback Relative to Height | | | |
|---|---|---|---|
| Other principal uses | | | |
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 15 | 30 | 10 | 25 |
| 20 | 30 | 11 | 25 |
| 25 | 30 | 15 | 25 |
| 30 | 30 | 18 | 25 |
| 35 | 30 | 22 | 25 |
| 40 | 30 | 25 | 25 |
| 45 | 34 | 29 | 29 |
| 50 | 39 | 32 | 32 |
| 55 | 43 | 36 | 36 |
| 60 | 47 | 39 | 39 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




4

## C. R-3 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

**TABLE 2102.8: R-3 Lot and Building Standards – Affordable Dwelling Unit Development [1]**

| | | | | | |
|---|---|---|---|---|---|
| Density, maximum | 3.6 du/ac | | | | |
| | Single-family detached | | | | Single-family attached [2] |
| | Conventional | | Cluster | | |
| Lot area, minimum | 8,400 sf | | 6,800 sf [3] | | None |
| Open space, minimum [4] | No requirement | | 22 percent of the gross area [5] | | 200 sf per attached unit |
| | Interior | Corner | Interior | Corner | |
| Lot width, minimum | 70 feet [6] | 95 feet [6] | None [3] | 70 feet [3] | 14 feet |
| Front setback, minimum | 30 feet | | 20 feet | | 5 feet[67] |
| Side setback, minimum | 8 feet | | | | 10 feet |
| Rear setback, minimum | 25 feet | | | | 20 feet |
| Building height, maximum | 35 feet | | | | 40 feet |

**Notes:**

[1] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.

[2] The number of single-family attached dwelling units may not exceed 40 percent of the total number of dwelling units allowed within the development. Refer to subsection 5100.2.D(1)(d) for provisions that qualify minimum setback requirements for individual units in single-family attached dwellings.[68]

[3] The minimum lot area of the cluster subdivision lot is 8,000 square feet and the minimum lot width of the cluster subdivision lot is 70 feet for interior lots and 95 feet for corner lots if any portion of a cluster subdivision lot is: (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of three du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-3 District, or to the R-3 District and is developed or approved for a cluster subdivision.

[4] Open space is calculated in accordance with subsection 5100.3.A(3). The 200 sf per attached unit must be provided adjacent to the units.

[5] If development also contains attached dwelling units, the 200 square feet per attached dwelling unit must be provided as part of the required 22 percent general requirement.

[6] Lot width may be modified in accordance with subsection 5100.2.K.

## D. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[67] Angle of bulk plane (ABP) deleted because the maximum height is allowed for the minimum side setback and close to the rear setback and the ABP at the minimum front setback is impractical.

[68] First sentence carried forward from introductory paragraph of Sect. 3-310; second sentence carried forward from Par. 5 of Sect. 3-310.

## 7. R-4 Residential District, Four Dwelling Units/Acre[69]

### A. Purpose[70]

The R-4 District provides for single-family detached dwellings and affordable dwelling unit developments and allows other uses that are compatible with the medium-density residential character of the district.

**Figure 2102.13: R-4 District Aerial Example**








[69] Carried forward from Sect. 3-400, with changes as noted.
[70] Carried forward from Sect. 3-401. The reference to specific densities is removed from the purpose statement.

## B. R-4 Lot and Building Dimensional Standards

**TABLE 2102.9: R-4 Lot and Building Standards**

| | | Conventional | | Cluster | |
|---|---|---|---|---|---|
| | District size, minimum | No requirement | | **Greater than 2 acres but less than 3.5 acres:** subject to special exception approval<br>**3.5 acres or greater:** subject to approval by the Director | |
| | Density, maximum | 4 du/ac | | **Approved by the Director**: 4 du/ac [1]<br>**Approved by special exception**: 4 du/ac plus one bonus dwelling unit | |
| | Open space, minimum [2] | No requirement | | 25 percent of the gross area | |
| | Lot area, average | 8,800 square feet | | No requirement | |
| | Lot area, minimum | 8,400 square feet | | 6,000 square feet approved by the Director or by special exception [3] | |
| | | **Interior** | **Corner** | **Interior** | **Corner** |
| A | Lot width, minimum | 70 feet [4] | 95 feet [4] | **Approved by Director or by special exception**: No requirement or 70 feet [3] | **Approved by Director or by special exception**: 70 or 95 feet [3] |

| | | Single-family dwellings | | Other principal uses |
|---|---|---|---|---|
| | | **Conventional** | **Cluster** | |
| B | Front setback, minimum | 30 feet | 20 feet | See Table 2102.9a below[71] |
| C | Side setback, minimum | 10 feet | 8 feet | |
| D | Rear setback, minimum | 25 feet | | |
| E | Building height, maximum | 35 feet | | 60 feet |
| | Floor area ratio, maximum | No requirement | | 0.35 for public uses; 0.30 for uses other than residential or public |

**Notes:**

[1] If approved by the Director or as a result of proffered rezoning that allows a permitted maximum density of less than 4 du/ac.

[2] Open space is calculated in accordance with subsection 5100.3.A(3).

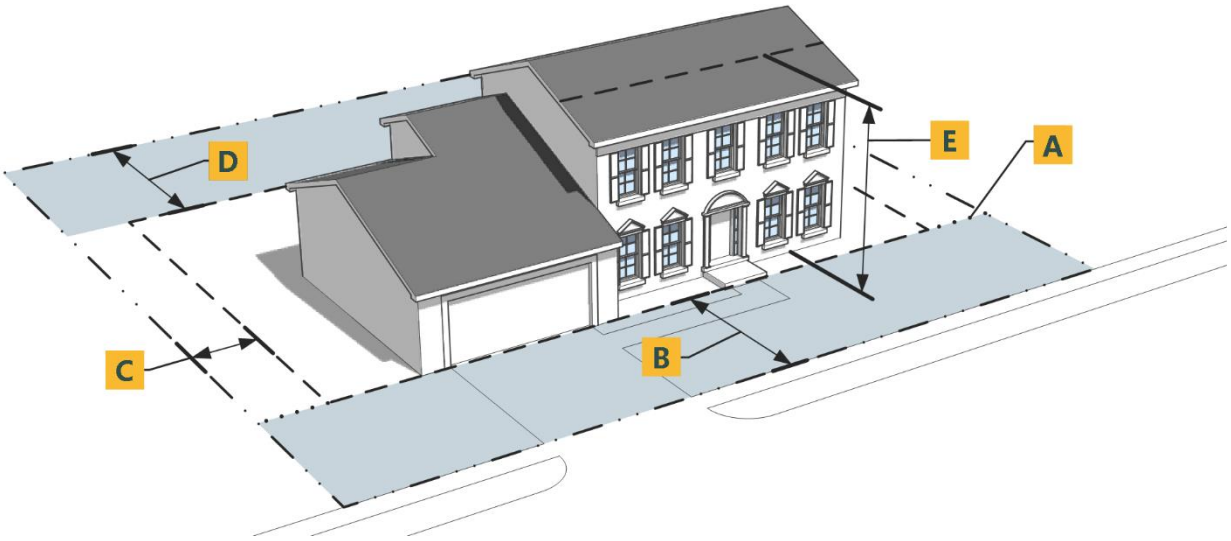
[3] The minimum lot area of the cluster subdivision lot is 8,000 square feet and the minimum lot width of the cluster subdivision lot is 70 feet for interior lots and 95 feet for corner lots if any portion of a cluster subdivision lot is (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of four du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling, then This does not apply if the contiguous development is zoned to the PDH-4 District, or to the R-4 District and is developed or approved for a cluster subdivision.

[4] Lot width may be modified in accordance with subsection 5100.2.K.

[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

[71] Angle of bulk plane (35 degrees for front, 30 degrees for side and rear) replaced with new table.

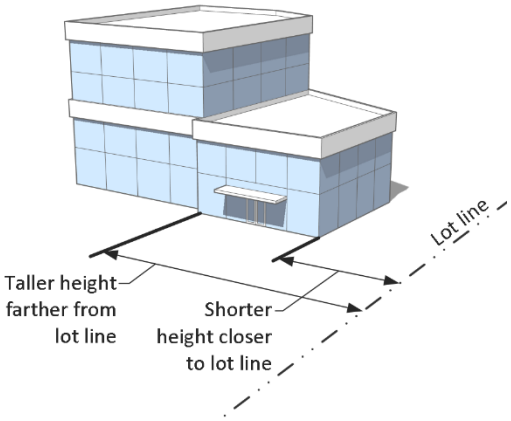
**Figure 2102.14: R-4 District Lot and Building Dimensional Standards**




1

| Table 2102.9a: R-4 Setback Relative to Height | | | |
|---|---|---|---|
| Other principal uses | | | |
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 20 | 25 | 10 | 25 |
| 25 | 25 | 12 | 25 |
| 30 | 25 | 15 | 25 |
| 35 | 25 | 18 | 25 |
| 40 | 25 | 21 | 25 |
| 45 | 29 | 24 | 25 |
| 50 | 32 | 27 | 27 |
| 55 | 36 | 29 | 29 |
| 60 | 39 | 32 | 32 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




2

## C. R-4 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

**TABLE 2102.10: R-4 Lot and Building Standards – Affordable Dwelling Unit Development [1]**

| | | | | | |
|---|---|---|---|---|---|
| Density, maximum | 4.8 du/ac | | | | |
| | Single-family detached | | | | Single-family attached [2] |
| | Conventional | | Cluster | | |
| Open space, minimum [3] | No requirement | | 22 percent of the gross area [4] | | 200 sf per attached unit |
| Lot area, minimum | 6,720 sf | | 4,800 sf [5] | | None |
| | Interior | Corner | Interior | Corner | |
| Lot width, minimum | 56 feet [6] | 76 feet [6] | No requirement [5] | 56 feet [5] | 14 feet |
| Front setback, minimum | 24 feet | | 16 feet | | 5 feet[72] |
| Side setback, minimum | 8 feet | | | | 10 feet |
| Rear setback, minimum | 25 feet | | | | 20 feet |
| Building height, maximum | 35 feet | | | | 40 feet |

**Notes:**

[1] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.

[2] The number of single-family attached dwelling units may not exceed 45 percent of the total number of dwelling units allowed within the development. Refer to subsection 5100.2.D(1)(d) for provisions that qualify minimum setback requirements for individual units in single-family attached dwellings.[73]

[3] Open space is calculated in accordance with subsection 5100.3.A(3). The 200 sf per attached unit must be provided adjacent to the units.

[4] If development also contains attached dwelling units, the 200 square feet per attached dwelling unit must be provided as part of the required 22 percent general requirement.

[5] The minimum lot area of the cluster subdivision lot is 6,720 square feet and the minimum lot width of the cluster subdivision lot is 56 feet for interior lots and 76 feet for corner lots if any portion of a cluster subdivision lot is (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of three du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-4 District, or to the R-4 District and is developed or approved for a cluster subdivision.

[6] Lot width may be modified in accordance with subsection 5100.2.K.

[72] Angle of bulk plane (ABP) deleted because the maximum height is allowed for the minimum side setback and close to the rear setback and the ABP at the minimum front setback is impractical.

[73] First sentence carried forward from introductory paragraph of Sect. 3-410; second sentence carried forward from Par. 5 of Sect. 3-410.

## D. Reference to Other Standards

General regulations that may supplement the regulations above:

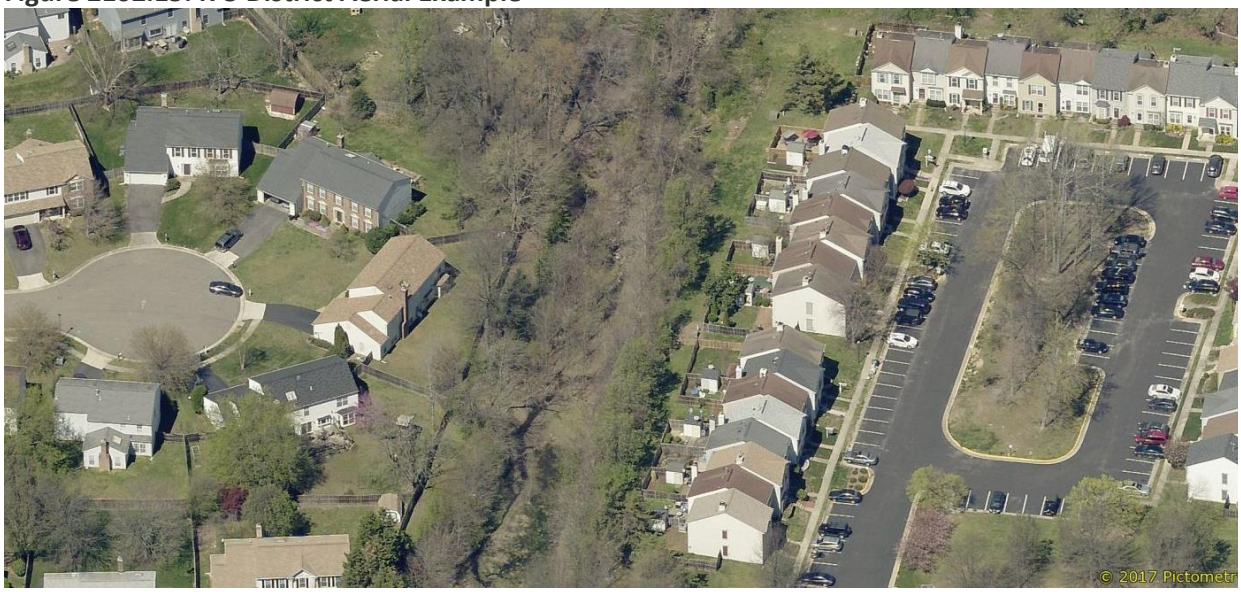
| | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 8. R-5 Residential District, Five Dwelling Units/Acre[74]

## A. Purpose[75]

The R-5 District provides for a mixture of single-family residential dwelling types and affordable dwelling unit developments at medium densities and allows other uses that are compatible with the medium-density residential character of the district.

**Figure 2102.15: R-5 District Aerial Example**








[74] Carried forward from Sect. 3-500, with changes as noted.
[75] Carried forward from Sect. 3-501, with specific densities removed.

## B. R-5 Lot and Building Dimensional Standards

**TABLE 2102.11: R-5 Lot and Building Standards [1]**

| | | Single-family detached | | Single-family attached | Other principal uses | |
|---|---|---|---|---|---|---|
| | District size, minimum [2] | 4 acres | | 4 acres | 4 acres | |
| | Density, maximum | 5 du/ac | | 5 du/ac | n/a | |
| | Open space, minimum [3] | 25 percent of the gross area | | | | |
| | Lot area, minimum | 5,000 sf | | No requirement | 14,000 sf | |
| A | Lot width, minimum [2] | **Interior** | **Corner** | 18 feet | **Interior** | **Corner** |
| | | 50 feet | 70 feet | | 75 feet | 100 feet |
| B | Front setback, minimum | 20 feet | | 5 feet[76] | See Table 2102.11a below[77] | |
| C | Side setback, minimum | 8 feet | | 10 feet | | |
| D | Rear setback, minimum | 25 feet | | 20 feet | | |
| | Privacy yard, minimum | Not required | | 200 sf per lot | Not required | |
| E | Building height, maximum | 35 feet | | 35 feet | 65 feet | |
| | Floor area ratio, maximum | No requirement | | No requirement | 0.35 for all uses other than residential | |

**Notes:**

[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

[2] District size and lot width may be modified in accordance with subsections 5100.2.K.

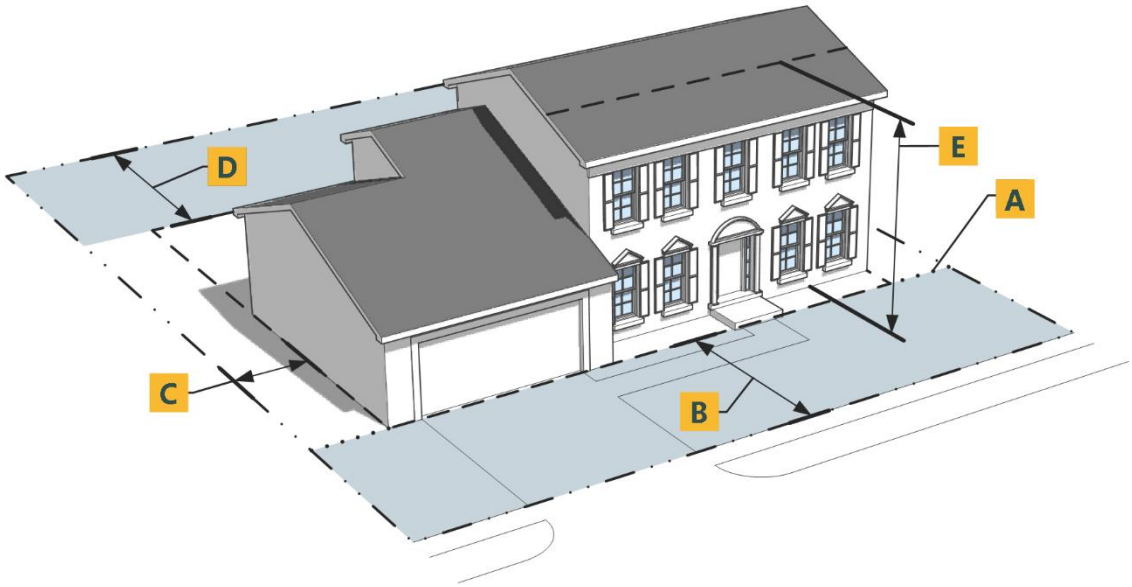
[3] Open space is calculated in accordance with subsection 5100.3.A(3).

[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[76] Angle of bulk plane (ABP) deleted because the maximum height is allowed for the minimum side and rear setbacks and the ABP at the minimum front setback is impractical.

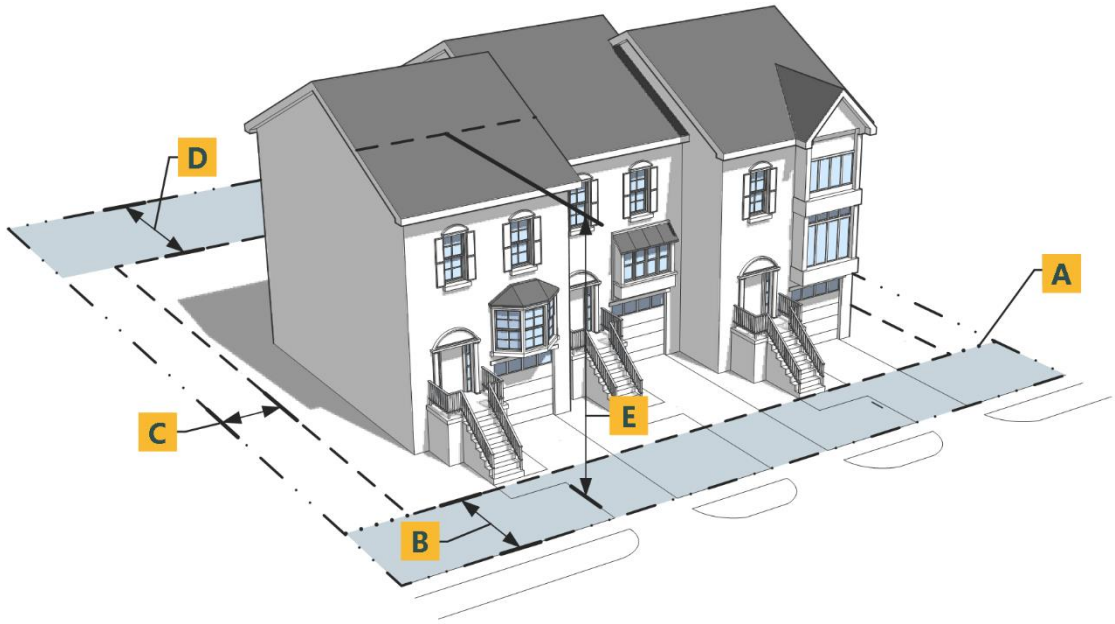
[77] Angle of bulk plane (30 degrees for front, 25 degrees for side and rear) replaced with new table.

**Figure 2102.16: R-5 District Lot and Building Dimensional Standards**




1

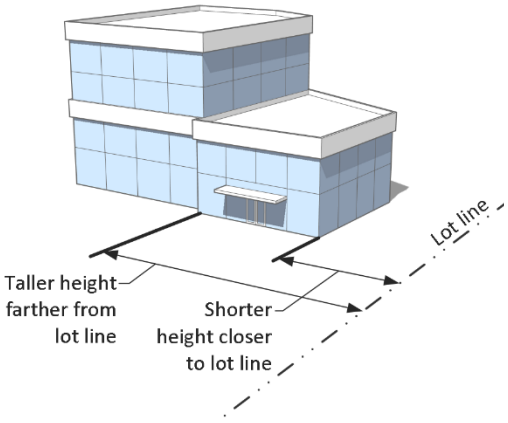
**Figure 2102.17: R-5 District Lot and Building Dimensional Standards**




2
3
4
5
6
7

| Table 2102.11a: R-5 Setback Relative to Height | | | |
|---|---|---|---|
| Other principal uses | | | |
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 21 | 17 | 25 |
| 45 | 24 | 19 | 25 |
| 50 | 27 | 21 | 25 |
| 55 | 29 | 24 | 25 |
| 60 | 32 | 26 | 26 |
| 65 | 35 | 28 | 28 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




## C. R-5 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

| TABLE 2102.12: R-5 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3] | | | | |
|---|---|---|---|---|
| | Single-family detached | | Single-family attached and stacked townhouses | Multifamily dwellings |
| Density, maximum | 6 du/ac | | 6 du/ac | 6 du/ac |
| Open space, minimum [4] | 20 percent of the gross area | | | |
| Lot area, minimum | 4,000 sf | | No requirement | No requirement |
| Lot width, minimum [5] | Interior | Corner | 14 feet | No requirement |
| | 40 feet | 56 feet | | |
| | | | | |
| Front setback, minimum | 16 feet | | 5 feet[78] | 20 feet |
| Side setback, minimum | 8 feet | | 8 feet | See Table 2102.12a below[79] |
| Rear setback, minimum | 20 feet | | 16 feet | 25 feet[80] |

[78] Angle of bulk plane deleted for single-family attached, consistent with non-ADU developments. A new ABP is not added for stacked townhouses.
[79] ABP replaced with new table for multifamily side setback.
[80] ABP (25 degrees for front and rear) deleted because the maximum height is allowed at the minimum rear setback, and the maximum height would be allowed with a front setback of 23 feet.

| TABLE 2102.12: R-5 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3] | | | | |
|---|---|---|---|---|
| | Single-family detached | Single-family attached and stacked townhouses | | Multifamily dwellings |
| | | Attached | Stacked | |
| Building height, maximum | 35 feet | 40 feet | 50 feet | 50 feet |

**Notes:**

[1] Affordable dwelling unit developments may consist of single-family detached and attached dwelling units. Multifamily dwelling units are also permitted, but the number of multifamily dwelling units may not exceed 50 percent of the total number of dwelling units allowed within the development.

[2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.

[3] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

[4] Open space is calculated in accordance with subsection 5100.3.A(3).

[5] Lot width may be modified in accordance with subsection 5100.2.K.

| Table 2102.12a: R-5 ADU Setback Relative to Height | |
|---|---|
| Multifamily | |
| Building height, maximum (feet) [1] | Side setback, minimum (feet) |
| 25 | 10 |
| 30 | 12 |
| 35 | 14 |
| 40 | 17 |
| 45 | 19 |
| 50 | 21 |

**Notes:**

[1] Maximum height of the portion of the building at the specified minimum setback.

## D. Reference to Other Standards

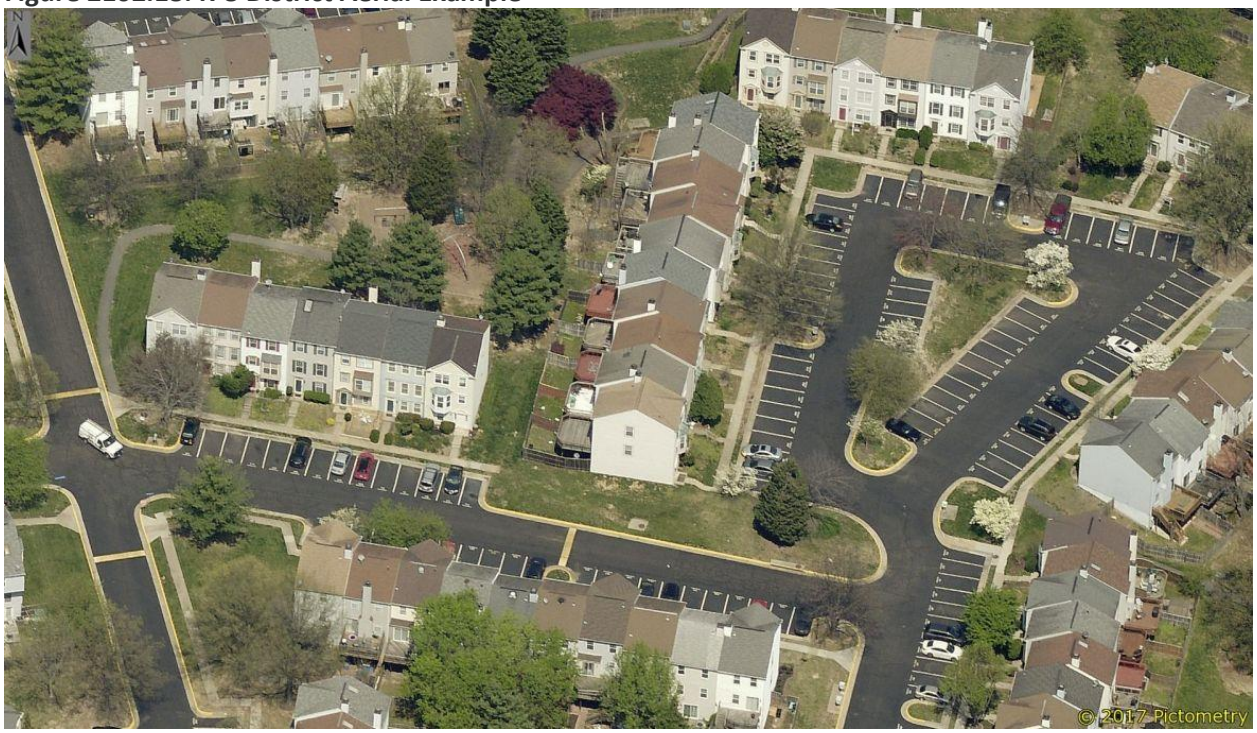
| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 9. R-8 Residential District, Eight Dwelling Units/Acre[81]

## A. Purpose[82]

The R-8 District provides for a mixture of single-family residential dwelling types and affordable dwelling unit developments at medium densities and allows other uses that are compatible with the residential character of the district.

**Figure 2102.18: R-8 District Aerial Example**








[81] Carried forward from Sect. 3-800, with changes as noted.
[82] Carried forward from Sect. 3-801 with specific densities removed.

## B. R-8 Lot and Building Dimensional Standards

**TABLE 2102.13: R-8 Lot and Building Standards [1]**

| | | Single-family detached | Single-family attached | Other principal uses |
|---|---|---|---|---|
| | District size, minimum [2] | 5 acres | 5 acres | 5 acres |
| | Density, maximum | 8 du/ac | 8 du/ac | n/a |
| | Open space, minimum [3] | 20 percent of the gross area | | |
| | Lot area, minimum | 5,000 sf | No requirement | 12,000 sf |
| A | Lot width, minimum [2] | Interior: 50 feet; Corner: 70 feet | 18 feet | Interior: 75 feet; Corner: 100 feet |
| B | Front setback, minimum | 20 feet | 5 feet[83] | See Table 2102.13a below[84] |
| C | Side setback, minimum | 8 feet | 10 feet | |
| D | Rear setback, minimum | 25 feet | 20 feet | |
| | Privacy yard, minimum | Not required | 200 sf per lot | Not required |
| E | Building height, maximum | 35 feet | 35 feet | 65 feet |
| | Floor area ratio, maximum | No requirement | No requirement | 0.55 for all uses other than residential |

**Notes:**

[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with 5100.2.D(1)(e).

[2] District size and lot width may be modified in accordance with subsection 5100.2.K.

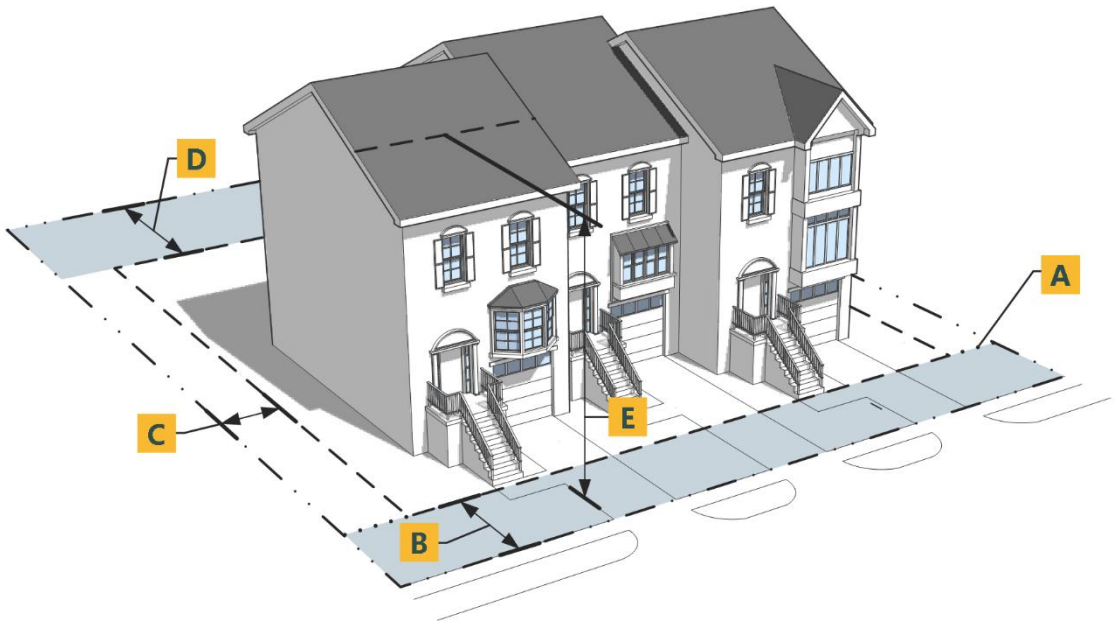
[3] Open space is calculated in accordance with subsection 5100.3.A(3).

[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[83] Angle of bulk plane (ABP) deleted because the maximum height is allowed for the minimum side and rear setbacks and the ABP at the minimum front setback is impractical.

[84] ABP for Other uses replaced with new table.

**Figure 2102.19: R-8 District Lot and Building Dimensional Standards**

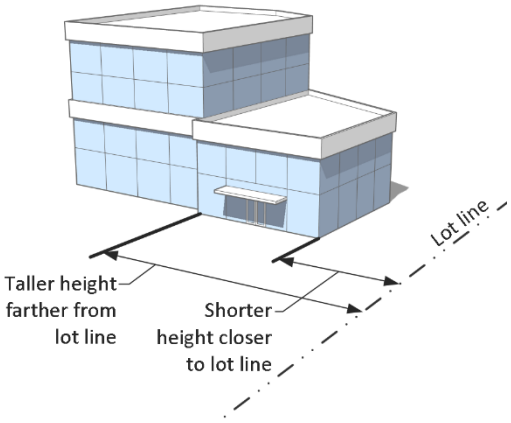



1

| Table 2102.13a: R-8 Setback Relative to Height | | | |
|---|---|---|---|
| Other principal uses | | | |
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 21 | 17 | 25 |
| 45 | 24 | 19 | 25 |
| 50 | 27 | 21 | 25 |
| 55 | 29 | 24 | 25 |
| 60 | 32 | 26 | 26 |
| 65 | 35 | 28 | 28 |

**Notes:**

[1] Maximum height of the portion of the building at the specified minimum setback.




2

## C. R-8 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

**TABLE 2102.14: R-8 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3]**

| | Single-family detached | Single-family attached and stacked townhouses | Multifamily dwellings |
|---|---|---|---|
| Density, maximum | 9.6 du/ac | 9.6 du/ac | 9.6 du/ac |
| Open space, minimum [4] | | 16 percent of the gross area | |
| Lot area, minimum | 4,000 sf | No requirement | No requirement |
| Lot width, minimum [5] | Interior: 40 feet; Corner: 56 feet | 14 feet | No requirement |
| | | | |
| Front setback, minimum | 16 feet | 5 feet[85] | 20 feet |
| Side setback, minimum | 8 feet | 8 feet | See Table 2102.14a below |
| Rear setback, minimum | 20 feet | 16 feet | 25 feet[86] |
| Building height, maximum | 35 feet | Attached: 40 feet; Stacked: 50 feet | 50 feet |

**Notes:**

[1] Affordable dwelling unit developments may consist of single-family detached and attached dwelling units. Multifamily dwelling units are also permitted, but the number of multifamily dwelling units may not exceed 50 percent of the total number of dwelling units allowed within the development.

[2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.

[3] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

[4] Open space is calculated in accordance with subsection 5100.3.A(3).

[5] Lot width may be modified in accordance with subsection 5100.2.K.

[85] ABP deleted for single-family attached, consistent with non-ADU developments.

[86] ABP (25 degrees for front and rear) deleted because the maximum height is allowed at the minimum rear setback, and the maximum height would be allowed with a front setback of 23 feet. The ABP for the side setback is replaced with a new table.

| Table 2102.14a: R-8 ADU Setback Relative to Height | |
|---|---|
| **Multifamily** | |
| **Building height, maximum (feet) [1]** | **Side setback, minimum (feet)** |
| 25 | 10 |
| 30 | 12 |
| 35 | 14 |
| 40 | 17 |
| 45 | 19 |
| 50 | 21 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.

## D. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 10. R-12 Residential District, Twelve Dwelling Units/Acre[87]

## A. Purpose[88]

The R-12 District provides for a range of residential dwelling unit types and affordable dwelling units at medium densities and allows other uses that are compatible with the residential character of the district.

**Figure 2102.20: R-12 District Aerial Example**







[87] Carried forward from Sect. 3-1200, with changes as noted.
[88] Carried forward from Sect. 3-1201, with specific densities removed.

## B. R-12 Lot and Building Dimensional Standards

**TABLE 2102.15: R-12 Lot and Building Standards [1]**

| | | Single-family attached and stacked townhouses[89] | Multifamily dwellings | Other principal uses |
|---|---|---|---|---|
| | District size, minimum [2] | 4 acres | 4 acres | 4 acres |
| | Density, maximum | 12 du/ac | 12 du/ac | n/a |
| | Open space, minimum [3] | 25 percent of the gross area | | |
| | Lot area, minimum | No requirement | No requirement | 10,000 sf |
| A | Lot width, minimum [2] | 18 feet | No requirement | **Interior** 75 feet; **Corner** 100 feet |
| B | Front setback, minimum | 5 feet[90] | See Table 2102.15a below[91] | |
| C | Side setback, minimum | 10 feet | | |
| D | Rear setback, minimum | 20 feet | | |
| | Privacy yard, minimum | Not required | n/a | n/a |
| E | Building height, maximum | **Attached** 35 feet; **Stacked** 60 feet | 65 feet | 65 feet |
| | Floor area ratio, maximum | No requirement | No requirement | 0.70 for all uses other than residential |

**Notes:**

[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

[2] District size and lot width may be modified in accordance with subsection 5100.2.K.

[3] Open space is calculated in accordance with subsection 5100.3.A(3).

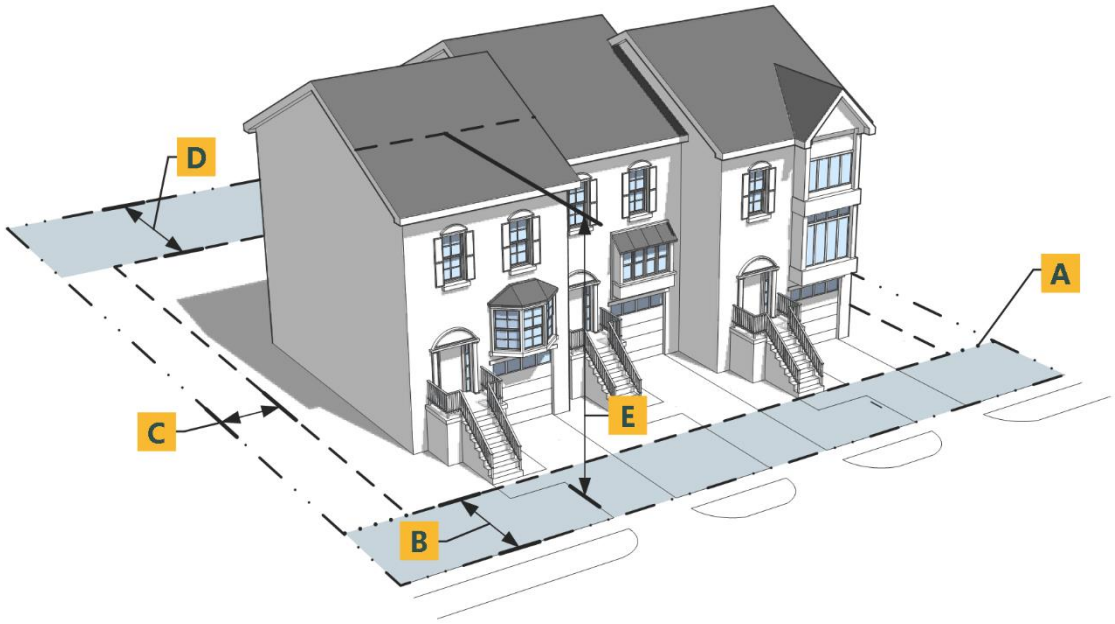
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[89] Lot and building standards for this new use are added.

[90] Angle of bulk plane (ABP) deleted because the maximum height for single-family attached is allowed for the minimum side and rear setbacks and the ABP at the minimum front setback is impractical.

[91] Angle of bulk plane for multifamily and nonresidential uses replaced with new table.

**Figure 2102.21: R-12 District Lot and Building Dimensional Standards**



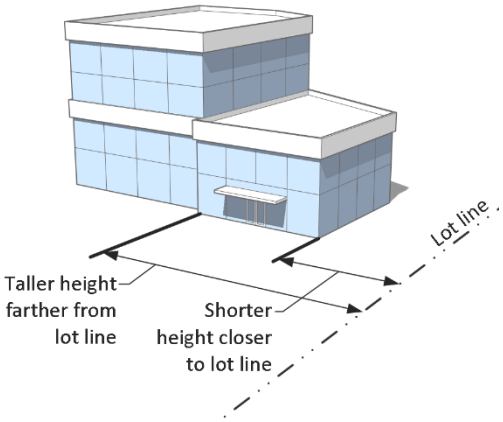

1

**Table 2102.15a: R-12 Setback Relative to Height**

| Multifamily and other principal uses | | | |
|---|---|---|---|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 20 | 17 | 25 |
| 45 | 20 | 19 | 25 |
| 50 | 21 | 21 | 25 |
| 55 | 24 | 24 | 25 |
| 60 | 26 | 26 | 26 |
| 65 | 28 | 28 | 28 |

**Notes:**

[1] Maximum height of the portion of the building at the specified minimum setback.




2

## C. R-12 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development[92]

**TABLE 2102.16: R-12 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3]**

| | Single-family attached and stacked townhouses | | Multifamily dwellings |
|---|---|---|---|
| Density, maximum | 14.4 du/ac | | 14.4 du/ac |
| Open space, minimum [4] | 20 percent of the gross area | | |
| Lot area, minimum | No requirement | | No requirement |
| Lot width, minimum [5] | 14 feet | | No requirement |
| | | | |
| Front setback, minimum | 5 feet[93] | | See Table 2102.16a below[94] |
| Side setback, minimum | 8 feet | | |
| Rear setback, minimum | 16 feet | | |
| Building height, maximum | **Attached** | **Stacked** | 65 feet |
| | 40 feet | 60 feet | |

**Notes:**
[1] Affordable dwelling unit developments may consist of single-family attached, stacked townhouses, and multifamily dwelling units.
[2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.
[3] Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings and stacked townhouses. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).
[4] Open space is calculated in accordance with subsection 5100.3.A(3).
[5] Lot width may be modified in accordance with subsection 5100.2.K.

**Table 2102.16a: R-12 ADU Setback Relative to Height**

| Multifamily | | | |
|---|---|---|---|
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** | **Side setback, minimum (feet)** | **Rear setback, minimum (feet)** |
| 40 | 20 | 10 | 25 |
| 45 | 20 | 11 | 25 |
| 50 | 21 | 12 | 25 |
| 55 | 24 | 14 | 25 |
| 60 | 26 | 15 | 26 |
| 65 | 28 | 16 | 28 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.

[93] Angle of bulk plane deleted for single-family attached, consistent with non-ADU developments.
[94] Angle of bulk plane for multifamily replaced with new table.

## D. Reference to Other Standards

General regulations that may supplement the regulations above:

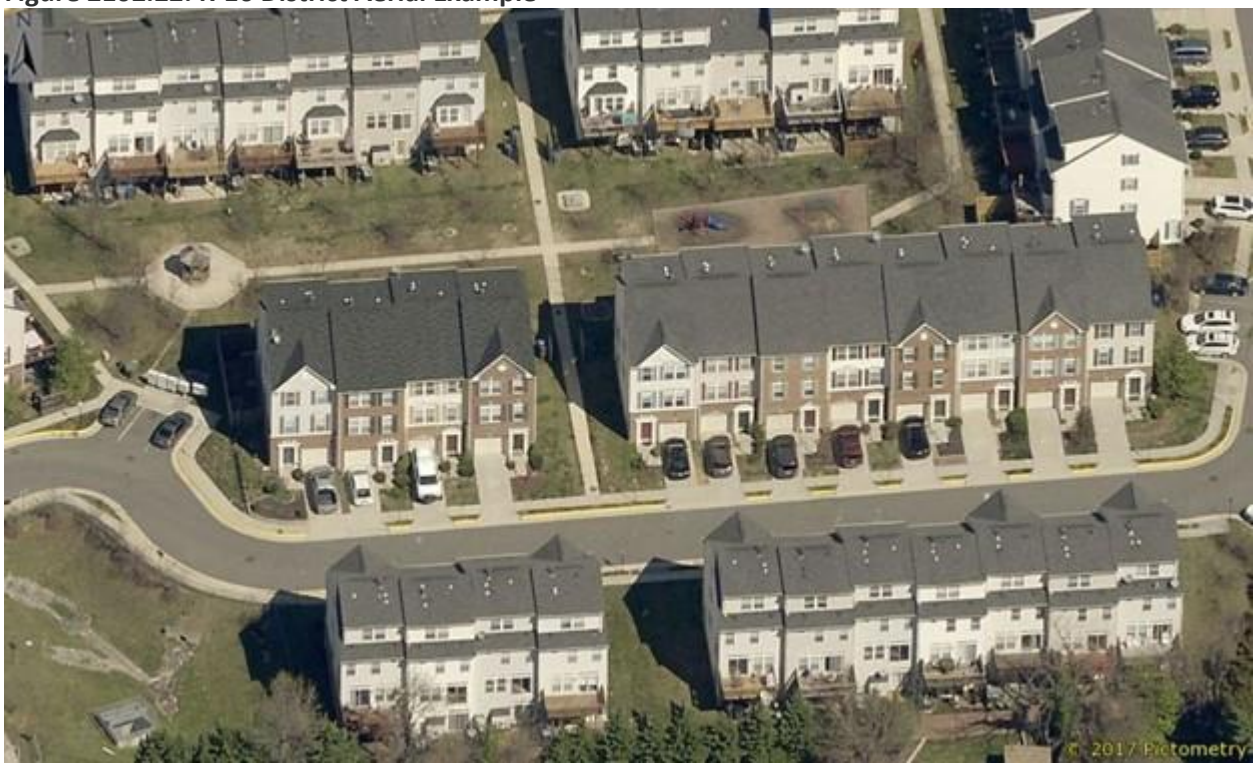
| | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 11. R-16 Residential District, Sixteen Dwelling Units/Acre[95]

## A. Purpose[96]

The R-16 District provides for a range of residential dwelling types and affordable dwelling units at medium to high densities and allows other uses that are compatible with the residential character of the district.

**Figure 2102.22: R-16 District Aerial Example**








[95] Carried forward from Sect. 3-1600, with changes as noted.
[96] Carried forward from Sect. 3-1601 with specific densities removed.

## B. R-16 Lot and Building Dimensional Standards

**TABLE 2102.17: R-16 Lot and Building Standards [1]**

| | | Single-family attached and stacked townhouses | Multifamily dwellings | Other principal uses |
|---|---|---|---|---|
| | District size, minimum [2] | 4 acres | 4 acres | 4 acres |
| | Density, maximum | 16 du/ac | 16 du/ac | n/a |
| | Open space, minimum [3] | 30 percent of the gross area | | |
| | Lot area, minimum | No requirement | No requirement | 10,000 sf |
| A | Lot width, minimum [2] | 18 feet | No requirement | **Interior** 75 feet / **Corner** 100 feet |
| B | Front setback, minimum | 5 feet[97] | See Table 2102.17a below [98] | |
| C | Side setback, minimum | 10 feet | | |
| D | Rear setback, minimum | 20 feet | | |
| | Privacy yard, minimum | Not required | Not required | Not required |
| E | Building height, maximum | **Attached** 35 feet / **Stacked** 60 feet | 65 feet | 65 feet |
| | Floor area ratio, maximum | No requirement | No requirement | 0.70 for all uses other than residential |

**Notes:**

[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings and stacked townhouses. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

[2] District size and lot width may be modified in accordance with subsection 5100.2.K.

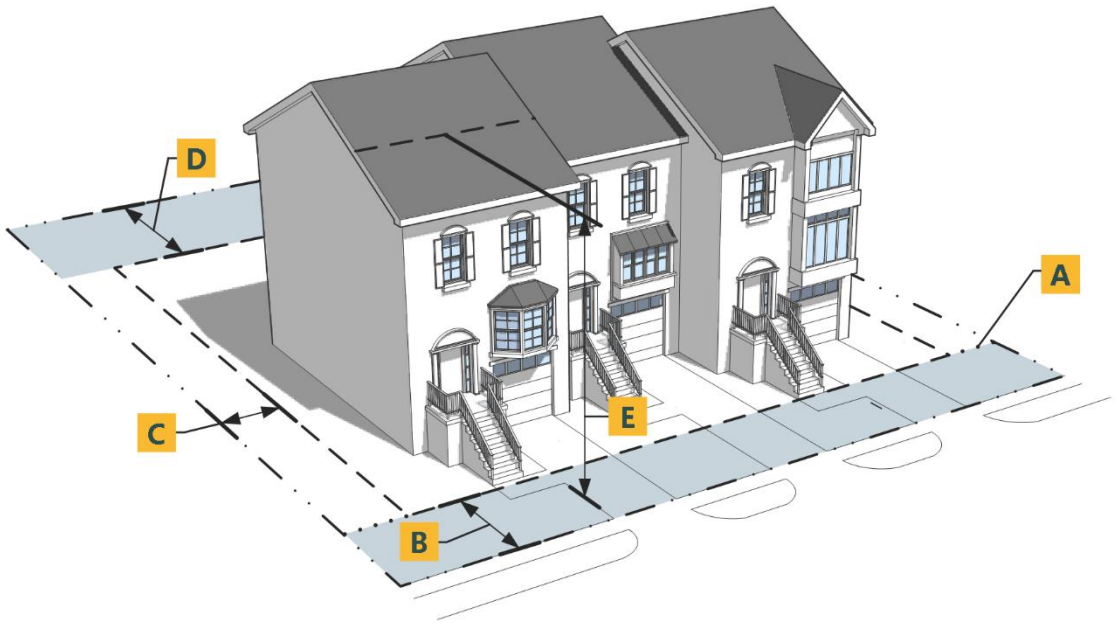
[3] Open space is calculated in accordance with subsection 5100.3.A(3).

[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[97] Angle of bulk plane (ABP) deleted because the maximum height is allowed for the minimum side and rear setbacks and the ABP at the minimum front setback is impractical.

[98] Angle of bulk plane for multifamily and nonresidential replaced with new table.

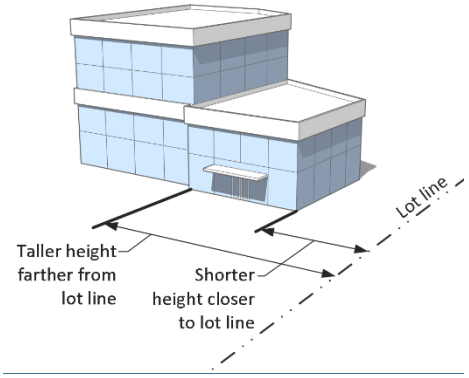
**Figure 2102.23: R-16 District Lot and Building Dimensional Standards**




1

| Table 2102.17a: R-16 Setback Relative to Height | | | |
|---|---|---|---|
| **Multifamily and other principal uses** | | | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** | **Side setback, minimum (feet)** | **Rear setback, minimum (feet)** |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 20 | 17 | 25 |
| 45 | 20 | 19 | 25 |
| 50 | 21 | 21 | 25 |
| 55 | 24 | 24 | 25 |
| 60 | 26 | 26 | 26 |
| 65 | 28 | 28 | 28 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




2

3

## C. R-16 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

| TABLE 2102.18: R-16 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3] | | | |
|---|---|---|---|
| | Single-family attached and stacked townhouses | | Multifamily dwellings |
| Density, maximum | 19.2 du/ac | | 19.2 du/ac |
| Open space, minimum [4] | 24 percent of the gross area | | |
| Lot area, minimum | No requirement | | No requirement |
| Lot width, minimum [5] | 14 feet | | No requirement |
| | | | |
| Front setback, minimum | 5 feet[99] | | See Table 2102.18a below[100] |
| Side setback, minimum | 8 feet | | |
| Rear setback, minimum | 16 feet | | |
| Building height, maximum | **Attached** | **Stacked** | 65 feet |
| | 40 feet | 60 feet | |

**Notes:**

[1] Affordable dwelling unit developments may consist of single-family attached, stacked townhouses, and multifamily dwelling units.

[2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.

[3] The setback requirements apply to single-family attached units and stacked townhouses as they relate to peripheral lot lines, streets, and other buildings, but do not apply to individual dwelling units within a building. Refer to subsection 5108.6 for additional provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

[4] Open space is calculated in accordance with subsection 5100.3.A(3).

[5] Lot width may be modified in accordance with subsection 5100.2.K.

| Table 2102.18a: R-16 ADU Setback Relative to Height | | | |
|---|---|---|---|
| Multifamily | | | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** | **Side setback, minimum (feet)** | **Rear setback, minimum (feet)** |
| 40 | 20 | 10 | 25 |
| 45 | 20 | 11 | 25 |
| 50 | 21 | 12 | 25 |
| 55 | 24 | 14 | 25 |
| 60 | 26 | 15 | 26 |
| 65 | 28 | 16 | 28 |

**Notes:**

[1] Maximum height of the portion of the building at the specified minimum setback.

[99] Angle of bulk plane deleted for single-family attached, consistent with non-ADU developments.

[100] Angle of bulk plane for multifamily replaced with new table.

## D. Reference to Other Standards

General regulations that may supplement the regulations above:

| | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 12. R-20 Residential District, Twenty Dwelling Units/Acre[101]

## A. Purpose[102]

The R-20 District provides for a mixture of residential dwelling types and affordable dwelling units at higher densities and allows other uses that are compatible with the residential character of the district.

**Figure 2102.24: R-20 District Aerial Example**








[101] Carried forward from Sect. 3-2000, with changes as noted.
[102] Carried forward from Sect. 3-2001, with the specific densities removed.

## B. R-20 Lot and Building Dimensional Standards

**TABLE 2102.19: R-20 Lot and Building Standards [1]**

| | | Single-family attached and stacked townhouses | Multifamily dwellings | Other principal uses |
|---|---|---|---|---|
| | District size, minimum [2] | 4 acres | 4 acres | 4 acres |
| | Density, maximum | 20 du/ac | 20 du/ac | n/a |
| | Open space, minimum [3] | 30 percent of the gross area | | |
| | Lot area, minimum | No requirement | No requirement | 10,000 sf |
| A | Lot width, minimum [2] | 18 feet | No requirement | **Interior** 75 feet / **Corner** 100 feet |
| B | Front setback, minimum | 5 feet[103] | See Table 210219a below [104] | |
| C | Side setback, minimum | 10 feet | | |
| D | Rear setback, minimum | 20 feet | | |
| | Privacy yard, minimum | Not required | Not required | Not required |
| E | Building height, maximum | **Attached** 35 feet / **Stacked** 60 feet | 90 feet | 90 feet |
| | Floor area ratio, maximum | No requirement | No requirement | 0.70 for all uses other than residential |

**Notes:**

[1] Refer to subsection 5108.6 for additional provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings and stacked townhouses. Setback requirements may be waived by the Board in accordance with 5100.2.D(1)(e).

[2] District size and lot width may be modified in accordance with subsection 5100.2.K.

[3] Open space is calculated in accordance with subsection 5100.3.A(3).

[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[103] Angle of bulk plane (ABP) deleted because the maximum height for single-family attached is allowed for the minimum side and rear setbacks and the ABP at the minimum front setback is impractical.

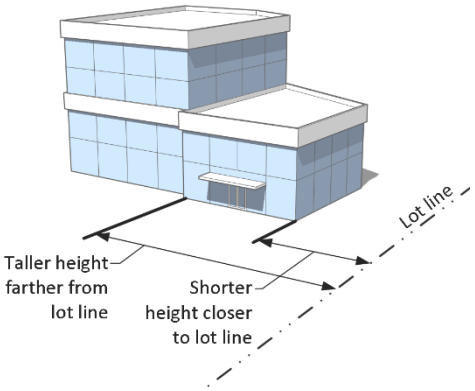
[104] Angle of bulk plane for multifamily and other uses replaced with new table.

**Figure 2102.25: R-20 District Lot and Building Dimensional Standards**




1

| Table 2102.19a: R-20 Setback Relative to Height | | | |
|---|---|---|---|
| Multifamily and other principal uses | | | |
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 20 | 17 | 25 |
| 45 | 20 | 19 | 25 |
| 50 | 21 | 21 | 25 |
| 55 | 24 | 24 | 25 |
| 60 | 26 | 26 | 26 |
| 65 | 28 | 28 | 28 |
| 70 | 31 | 31 | 31 |
| 75 | 33 | 33 | 33 |
| 80 | 35 | 35 | 35 |
| 85 | 38 | 38 | 38 |
| 90 | 40 | 40 | 40 |




**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.

## C. R-20 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

**TABLE 2102.20: R-20 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3]**

| | | Single-family attached and stacked townhouses | | Multifamily dwellings |
|---|---|---|---|---|
| | Density, maximum | 24 du/ac | | 24 du/ac |
| | Open space, minimum [4] | 20 percent of the gross area | | |
| | Lot area, minimum | No requirement | | No requirement |
| A | Lot width, minimum [5] | 14 feet | | No requirement |
| | | | | |
| B | Front setback, minimum | 5 feet[105] | | See Table 2102.20a below[106] |
| C | Side setback, minimum | 8 feet | | |
| D | Rear setback, minimum | 16 feet | | |
| E | Building height, maximum | **Attached** | **Stacked** | 90 feet |
| | | 40 feet | 60 feet | |

**Notes:**

[1] Affordable dwelling unit developments may consist of single-family attached, stacked townhouses, and multifamily dwelling units.

[2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.

[3] Refer to subsection 5108.6 for additional provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings and stacked townhouses. Setback requirements may be waived by the Board in accordance with 5100.2.D(1)(e).

[4] Open space is calculated in accordance with subsection 5100.3.A(3).

[5] Lot width may be modified in accordance with subsection 5100.2.K.

[105] Angle of bulk plane deleted for single-family attached, consistent with non-ADU developments.

[106] Angle of bulk plane for multifamily replaced with new table.

| Table 2102.20a: R-20 ADU Setback Relative to Height | | | |
|---|---|---|---|
| Multifamily | | | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** | **Side setback, minimum (feet)** | **Rear setback, minimum (feet)** |
| 40 | 15 | 10 | 20 |
| 45 | 15 | 11 | 20 |
| 50 | 17 | 12 | 20 |
| 55 | 19 | 14 | 20 |
| 60 | 20 | 15 | 20 |
| 65 | 22 | 16 | 22 |
| 70 | 24 | 18 | 24 |
| 75 | 26 | 19 | 26 |
| 80 | 28 | 20 | 28 |
| 85 | 29 | 22 | 29 |
| 90 | 31 | 23 | 31 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.

## D. Reference to Other Standards

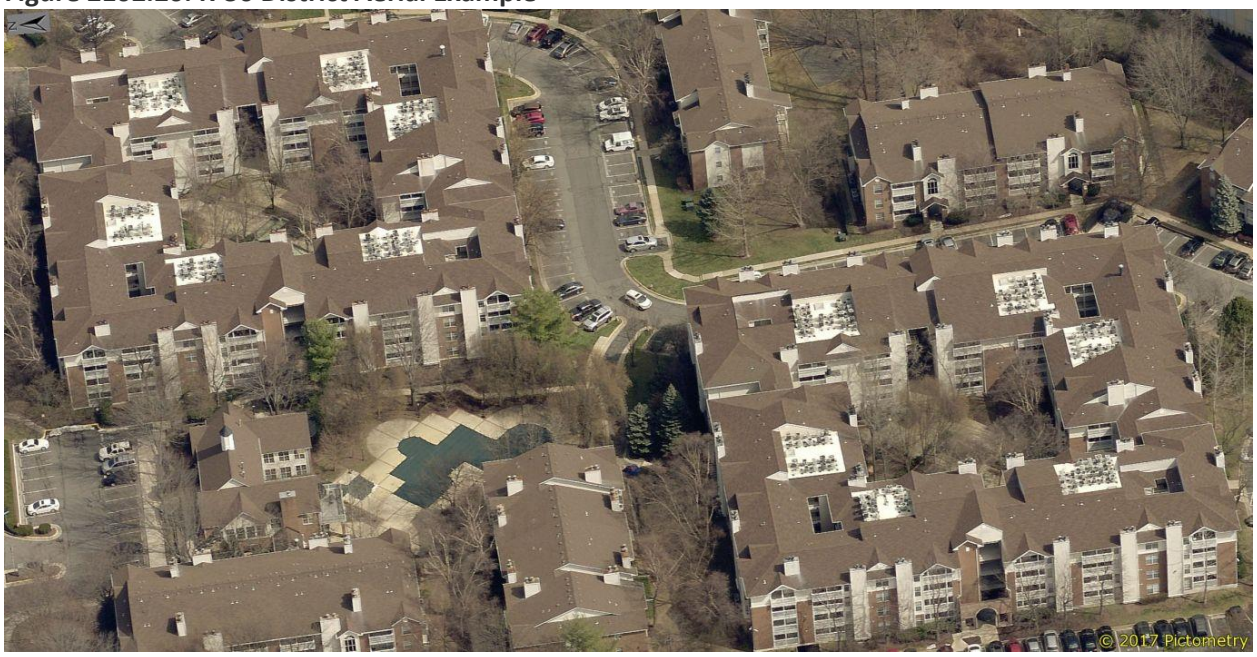
| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 13. R-30 Residential District, Thirty Dwelling Units/Acre[107]

## A. Purpose[108]

The R-30 District provides for high density residential and affordable dwelling units and allows other uses that are compatible with the residential character of the district.

**Figure 2102.26: R-30 District Aerial Example**








[107] Carried forward from Sect. 3-3000, with changes as noted.
[108] Carried forward from Sect. 3-3001 with specific densities removed.

## B. R-30 Lot and Building Dimensional Standards

**TABLE 2102.21: R-30 Lot and Building Standards [1]**

| | | Stacked townhouses and multifamily dwellings | Other principal uses | |
|---|---|---|---|---|
| | District size, minimum [2] | 3 acres | 3 acres | |
| | Density, maximum | 30 du/ac | n/a | |
| | Open space, minimum [3] | 40 percent of the gross area | | |
| | Lot area, minimum | No requirement | 10,000 sf | |
| A | Lot width, minimum [2] | No requirement | **Interior** | **Corner** |
| | | | 75 feet | 100 feet |
| B | Front setback, minimum | See Table 2102.21a below[109] | | |
| C | Side setback, minimum | | | |
| D | Rear setback, minimum | | | |
| | Privacy yard, minimum | Not required | Not required | |
| E | Building height, maximum | 150 feet, subject to increase as permitted by the Board in accordance with the provisions of 5100.2.C(8) | | |
| | Floor area ratio, maximum | No requirement | 1.0 for all uses other than residential | |

**Notes:**

[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in stacked townhouses. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

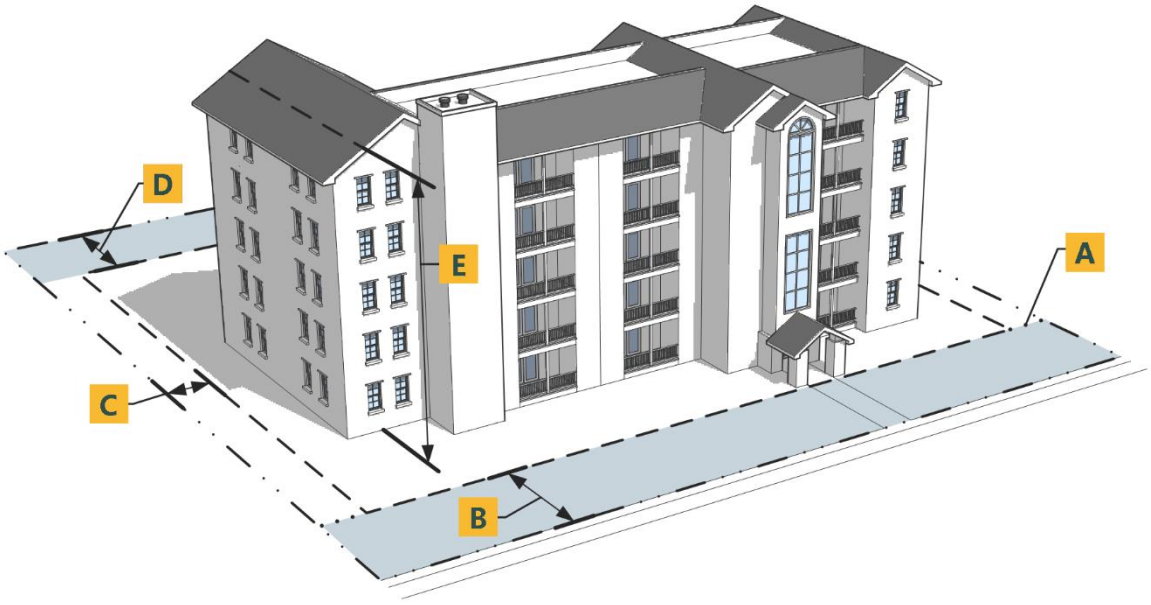
[2] District size and lot width may be modified in accordance with subsection 5100.2.K.

[3] Open space is calculated in accordance with subsection 5100.3.A(3).

[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

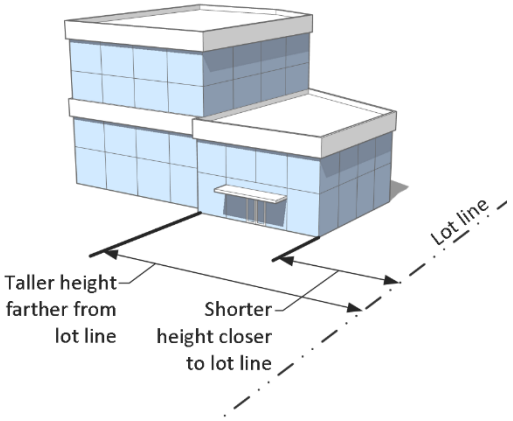
[109] Angle of bulk plane replaced with new table.

**Figure 2102.27: R-30 District Lot and Building Dimensional Standards**




1

| Table 2102.21a: R-30 Setback Relative to Height | | | |
|---|---|---|---|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 20 | 17 | 25 |
| 45 | 20 | 19 | 25 |
| 50 | 21 | 21 | 25 |
| 55 | 24 | 24 | 25 |
| 60 | 26 | 26 | 26 |
| 65 | 28 | 28 | 28 |
| 70 | 31 | 31 | 31 |
| 75 | 33 | 33 | 33 |
| 80 | 35 | 35 | 35 |
| 85 | 38 | 38 | 38 |
| 90 | 40 | 40 | 40 |
| 95 | 42 | 42 | 42 |
| 100 | 45 | 45 | 45 |
| 105 | 47 | 47 | 47 |



| | | | |
|---|---|---|---|
| 110 | 49 | 49 | 49 |
| 115 | 52 | 52 | 52 |
| 120 | 54 | 54 | 54 |
| 125 | 56 | 56 | 56 |
| 130 | 59 | 59 | 59 |
| 135 | 61 | 61 | 61 |
| 140 | 63 | 63 | 63 |
| 145 | 66 | 66 | 66 |
| 150 | 68 | 68 | 68 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.

## C. R-30 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

**TABLE 2102.22: R-30 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3]**

| | | Stacked townhouses and multifamily dwellings |
|---|---|---|
| | Density, maximum | 36 du/ac |
| | Open space, minimum [4] | 26 percent of the gross area |
| | Lot area, minimum | No requirement |
| A | Lot width, minimum [5] | No requirement |
| | | |
| B | Front setback, minimum | See Table 2102.22a below[110] |
| C | Side setback, minimum | |
| D | Rear setback, minimum | |
| E | Building height, maximum | 150 feet, subject to increase as permitted by the Board in accordance with the provisions of 5100.2.C(8) |

**Notes:**
[1] Affordable dwelling unit developments must consist of multifamily dwelling units.
[2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.
[3] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).
[4] Open space is calculated in accordance with subsection 5100.3.A(3).
[5] Lot width may be modified in accordance with subsection 5100.2.K.

[110] Angle of bulk plane replaced with new table.

| Table 2102.22a: R-30 ADU Setback Relative to Height | | | |
|---|---|---|---|
| Stacked townhouses and multifamily | | | |
| **Building height, maximum (feet) [1]** | **Front setback, minimum (feet)** | **Side setback, minimum (feet)** | **Rear setback, minimum (feet)** |
| 40 | 15 | 10 | 15 |
| 45 | 15 | 11 | 15 |
| 50 | 17 | 12 | 15 |
| 55 | 19 | 14 | 15 |
| 60 | 20 | 15 | 15 |
| 65 | 22 | 16 | 16 |
| 70 | 24 | 18 | 18 |
| 75 | 26 | 19 | 19 |
| 80 | 28 | 20 | 20 |
| 85 | 29 | 22 | 22 |
| 90 | 31 | 23 | 23 |
| 95 | 33 | 24 | 24 |
| 100 | 35 | 26 | 26 |
| 105 | 37 | 27 | 27 |
| 110 | 39 | 28 | 28 |
| 115 | 40 | 30 | 30 |
| 120 | 42 | 31 | 31 |
| 125 | 44 | 32 | 32 |
| 130 | 46 | 34 | 34 |
| 135 | 48 | 35 | 35 |
| 140 | 49 | 36 | 36 |
| 145 | 51 | 38 | 38 |
| 150 | 53 | 39 | 39 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.

## D. Reference to Other Standards

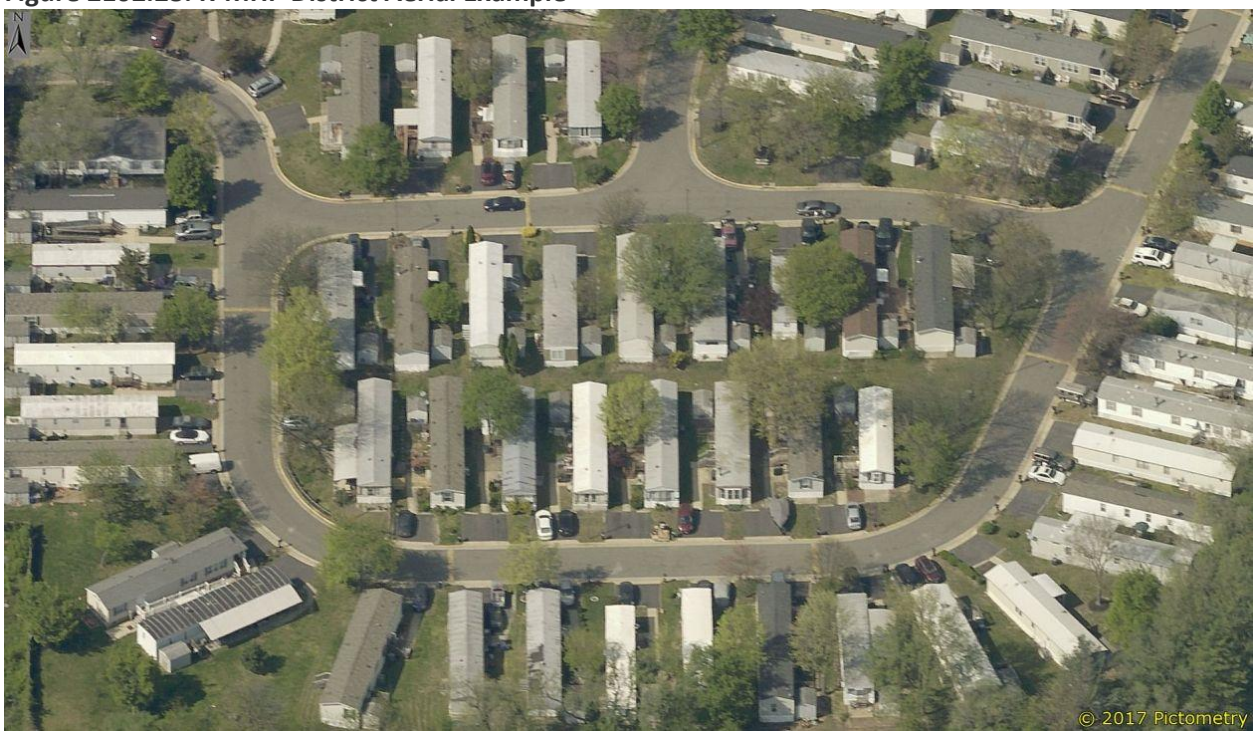
| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 14. R-MHP Residential District, Manufactured Home Park[111]

## A. Purpose[112]

The R-MHP District provides for manufactured home parks and allows other uses that are compatible with the residential character of the district.

**Figure 2102.28: R-MHP District Aerial Example**








[111] Carried forward from Sect. 3-M00, renamed "manufactured home park" from "mobile home park."
[112] Carried forward from Sect. 3-M01, revised to reference manufactured homes instead of mobile homes, consistent with the updated use definition in new Article 4.

## B. R-MHP Lot and Building Dimensional Standards

**TABLE 2102.23: R-MHP Lot and Building Standards [1]**

| | | Manufactured home | | Single-family detached | | Other principal uses | |
|---|---|---|---|---|---|---|---|
| | District size, minimum [2] | 15 acres | | 15 acres | | 15 acres | |
| | Density, maximum [3] | 6 manufactured homes per acre | | 6 du/ac | | n/a | |
| | Open space, minimum [4] | 20 percent of the gross area | | | | | |
| | Lot area, average | 4,000 sf | | No requirement | | No requirement | |
| | Lot area, minimum | No requirement | | 5,000 sf | | 10,000 sf | |
| A | Lot width, minimum [2] | **Manufactured Home Park** | **Manufactured Home Lot** | **Interior** | **Corner** | **Interior** | **Corner** |
| | | 70 feet | No dimension less than 50 feet | 50 feet | 70 feet | 75 feet | 100 feet |
| B | Front setback, minimum | 35 feet from front line of manufactured home park | | See Table 2102.23a below, but at least ¼ the width of the right-of-way of the abutting street[113] | | | |
| C | Side setback, minimum | 25 feet from side line of the manufactured home park | | 8 feet | | See Table 2102.23a below | |
| D | Rear setback, minimum | 25 feet from rear line of the manufactured home park | | 25 feet | | | |
| | Distance between manufactured homes and other buildings, minimum | 15 feet | | n/a | | n/a | |
| | Distance between manufactured homes and public street, minimum | 35 feet | | n/a | | n/a | |
| | Distance between manufactured homes and private street or common open area within the park, minimum | 10 feet | | n/a | | n/a | |
| E | Building height, maximum | 35 feet | | 35 feet | | 90 feet | |
| | Floor area ratio, maximum | No requirement | | No requirement | | 0.50 for all uses other than residential | |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Setback requirements may be waived by the Board in accordance with the provisions of subsection 5100.2.D(1)(e).
[2] District size and lot width may be modified in accordance with subsection 5100.2.K.
[3] The Board may allow additional density by a factor of 50 percent under subsection 5101.5.D.[114]
[4] Open space is calculated in accordance with subsection 5100.3.A(3).

[113] Angle of bulk plane replaced with new table.
[114] Change since 8/9/2019 draft: Added reference to increased density provisions from Sect. 2-820 (now 5101.5.D).

[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2102.29: R-MHP District Lot and Building Dimensional Standards**

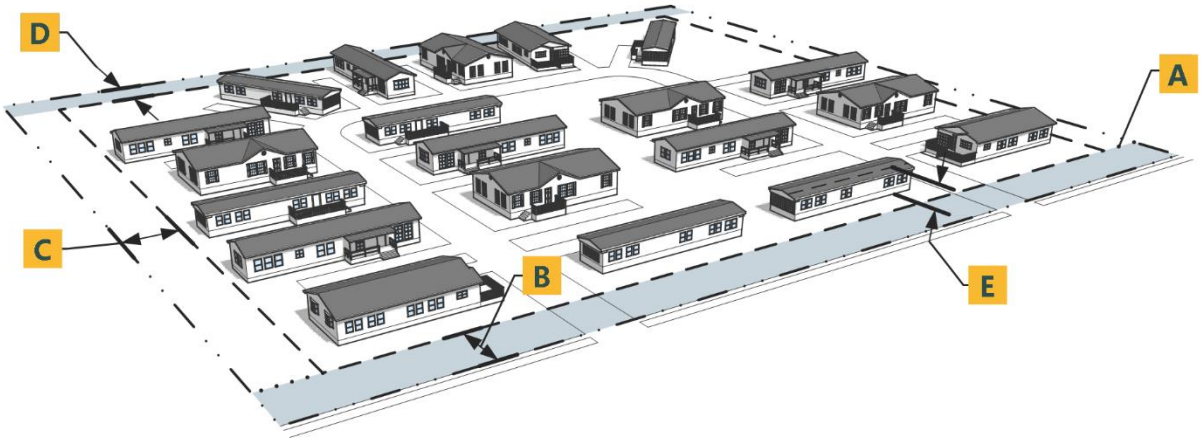
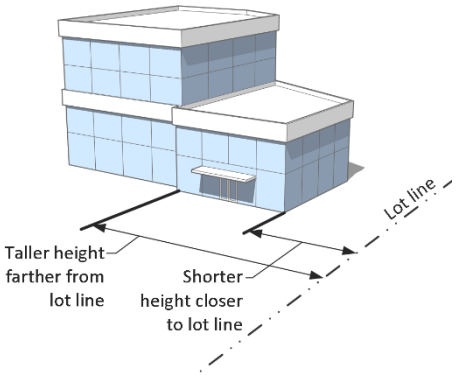



**Table 2102.23a: R-MHP Setback Relative to Height**

| Other principal uses | | | |
|---|---|---|---|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 14 | 10 | 25 |
| 30 | 15 | 12 | 25 |
| 35 | 18 | 14 | 25 |
| 40 | 21 | 17 | 25 |
| 45 | 24 | 19 | 25 |
| 50 | 27 | 21 | 25 |
| 55 | 29 | 24 | 25 |
| 60 | 32 | 26 | 26 |
| 65 | 35 | 28 | 28 |
| 70 | 38 | 31 | 31 |
| 75 | 41 | 33 | 33 |
| 80 | 44 | 35 | 35 |
| 85 | 47 | 38 | 38 |
| 90 | 50 | 40 | 40 |

| Single-family detached | |
|---|---|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) |
| 25 | 14 |
| 30 | 15 |
| 35 | 18 |



**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.

## C. Additional Standards[115]

**(1)** A manufactured home park must comply with the requirements for manufactured homes set forth in Chapter 61 of the County Code. Private streets and driveways within a manufactured home park must be constructed in accordance with Chapter 61 of the County Code and the Public Facilities Manual.

**(2)** Each manufactured home lot within a manufactured home park must comply with the following standards:

- **(a)** The lot must be located so that it provides for the practical placement of a manufactured home and its appurtenant structures in accordance with all requirements of this Ordinance;
- **(b)** The lot must abut a driveway or a private street and have unobstructed access to a public street;
- **(c)** The lot may not extend into a floodplain;
- **(d)** The lot must be clearly defined on the ground by permanent monuments;
- **(e)** The lot must be provided with a manufactured home stand designed to provide adequate support of the maximum anticipated loads during all seasons;
- **(f)** The lot must be provided with a paved outdoor patio having a minimum area of 180 square feet that is conveniently accessible from the entrance of the manufactured home on the space; and
- **(g)** A maximum of one manufactured home may be placed on the lot at any given time.[116]

**(3)** Each manufactured home located in a manufactured home park must be placed on a lot meeting the requirements in subsection (2) above,[117] and must meet the requirements of the Mobile Home Manufacturers Association 'Mobile Home Standards for Plumbing, Heating and Electrical Systems'.

**(4)** Storage facilities within a manufactured home park must comply with the following standards:

- **(a)** A minimum of 90 cubic feet of storage space must be provided for the use of the occupants of each manufactured home, located on or conveniently near the lot where the manufactured home is placed; and
- **(b)** Required storage facilities must be located no closer to park boundary lines, public streets, private streets, or driveways than is permitted for manufactured homes.

[115] Change since 8/9/2019 draft: Carried forward from Par. 3 – 10 of Sect. 3-M05. Paragraphs 1 and 2 are covered by general standards.
[116] Change since 8/9/2019 draft: New provision added for clarity.
[117] Change since 8/9/2019 draft: New provision added for clarity.

**(5)** Except with short-term lodging in accordance with subsection 4102.7.O, the rental of any manufactured home lot for a period of less than 30 days is prohibited.[118]

## D. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[118] Change since 8/9/2019 draft: Added exception for short-term lodging, consistent with those adopted provisions.

# 2103. Commercial Zoning Districts

This Section 2103 includes the standards related to the commercial Districts established in Fairfax County.

# 1. C-1 Low-Rise Office Transitional District[119]

## A. Purpose[120]

The C-1 District provides areas for non-retail commercial uses such as offices, financial institutions, and other similar uses. The C-1 District is intended to provide for those types of uses in a low-intensity manner so that they are compatible with and serve as a transition to adjacent single -family dwellings.

**Figure 2103.1: C-1 District Aerial Example**







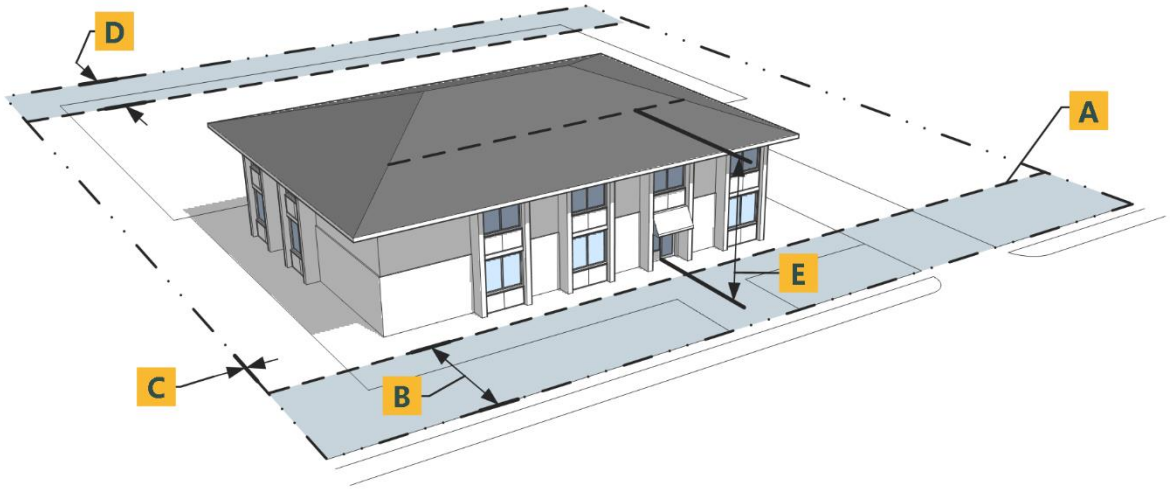

[119] Carried forward from Sect. 4-100.
[120] Carried forward from Sect. 4-101 with minor revisions.

## B. C-1 Lot and Building Dimensional Standards

| TABLE 2103.1: C-1 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 20,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 50 percent of the gross area |
| B | Front setback, minimum | Setback equal to building height[121] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 25 feet |
| E | Building height, maximum | 35 feet |
| | Floor area ratio, maximum | 0.25 |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2103.2: C-1 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[121] Angle of bulk plane (45 degrees) standard expressed as setback equal to height.

## 2. C-2 Limited Office District[122]

### A. Purpose[123]

The C-2 District provides areas where predominantly non-retail commercial uses may be located such as offices, financial institutions, and other similar uses. The C-2 District is intended to provide for those types of uses in a low-intensity manner so they can serve as a transition between higher intensity uses and residential uses.

**Figure 2103.3: C-2 District Aerial Example**









[122] Carried forward from Sect. 4-200.
[123] Carried forward from Sect. 4-201, with minor editorial revisions.

## B. C-2 Lot and Building Dimensional Standards

| TABLE 2103.2: C-2 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 20,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 30 percent of the gross area |
| B | Front setback, minimum | 25 feet[124] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 25 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.50 |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2103.4: C-2 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[124] Angle of bulk plane (30 degrees) deleted because maximum height exceeded at 25 ft setback.

# 3. C-3 Office District[125]

## A. Purpose[126]

The C-3 District provides areas for predominantly non-retail commercial uses, primarily including offices, financial institutions, and other related and supporting uses.

**Figure 2103.5: C-3 District Aerial Example**









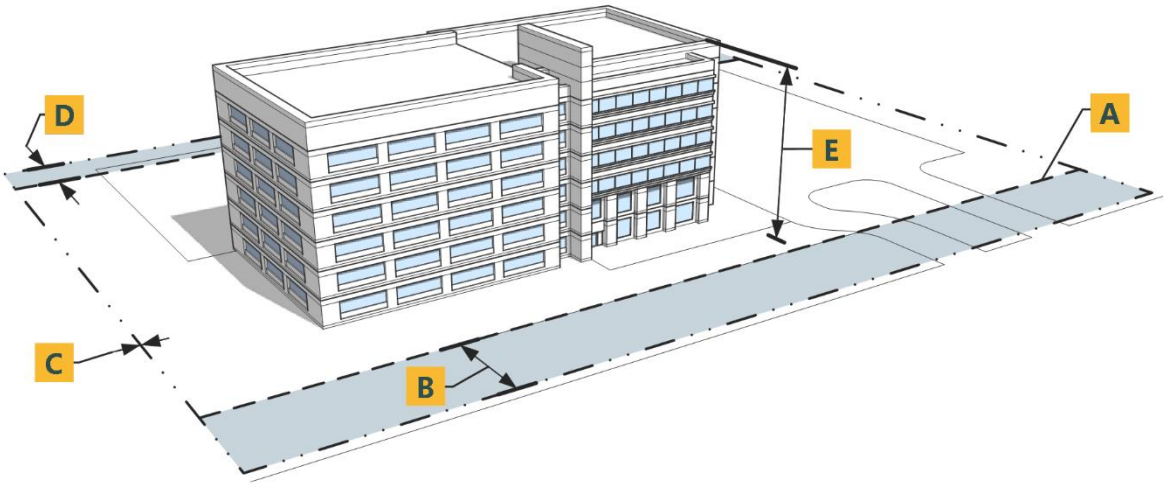
[125] Carried forward from Sect. 4-300.
[126] Carried forward from Sect. 4-301.

## B. C-3 Lot and Building Dimensional Standards

| TABLE 2103.3: C-3 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 20,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | 40 feet[127] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | See Table 2103.3a below[128] |
| E | Building height, maximum | 90 feet |
| | Floor area ratio, maximum | 1.0 |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2103.6: C-3 District Lot and Building Dimensional Standards**



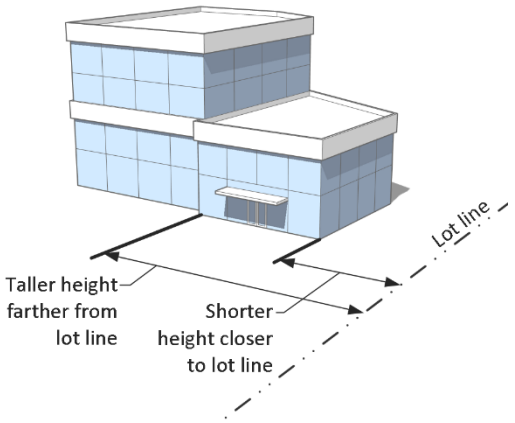

[127] Angle of bulk plane (25 degrees) deleted because the maximum height of 90 would be allowed with a 42-foot setback which is an insignificant difference.
[128] Angle of bulk plane (20 degrees) replaced with table.

1

**Table 2103.3a: C-3 Setback Relative to Height**

| Building height, maximum (feet) [1] | Rear setback, minimum (feet) |
|---|---|
| 70 | 25 |
| 75 | 26 |
| 80 | 28 |
| 85 | 29 |
| 90 | 31 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




2

3

## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

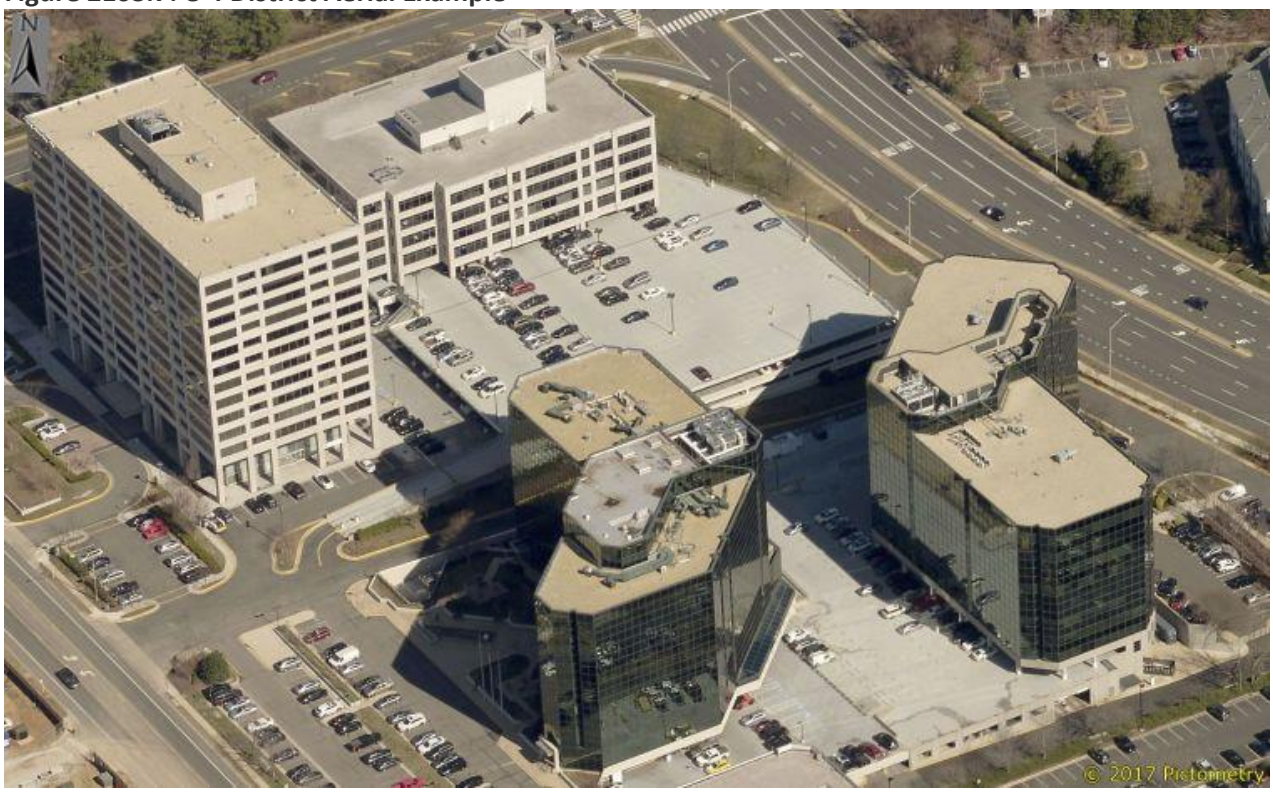
4

# 4. C-4 High Intensity Office District[129]

## A. Purpose[130]

The C-4 District provides areas of high-intensity development of predominantly non-retail commercial uses, including offices, financial institutions, and other nonresidential uses.

**Figure 2103.7: C-4 District Aerial Example**








[129] Carried forward from Sect. 4-400.
[130] Carried forward from Sect. 4-401.

## B. C-4 Lot and Building Dimensional Standards

| TABLE 2103.4: C-4 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | See Table 2103.4a below[131] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | See Table 2103.4a below |
| E | Building height, maximum | 120 feet |
| | Floor area ratio, maximum | 1.65 |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2103.8: C-4 District Lot and Building Dimensional Standards**



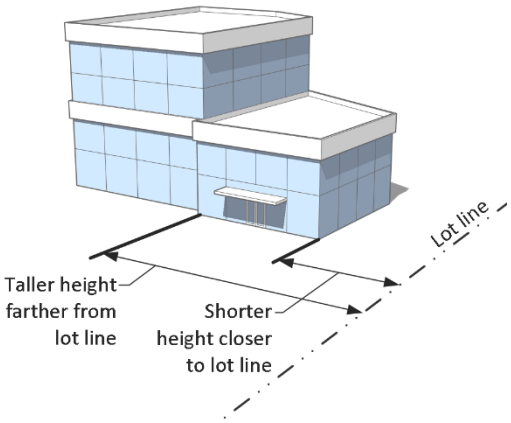

[131] Angle of bulk plane (25 degrees front, 20 degrees rear) replaced with table.

1

**Table 2103.4a: C-4 Setback Relative to Height**

| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Rear setback, minimum (feet) |
|---|---|---|
| 70 | 40 | 25 |
| 75 | 40 | 26 |
| 80 | 40 | 28 |
| 85 | 40 | 29 |
| 90 | 40 | 31 |
| 95 | 42 | 33 |
| 100 | 45 | 35 |
| 105 | 47 | 37 |
| 110 | 49 | 39 |
| 115 | 52 | 40 |
| 120 | 54 | 42 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




2

3

## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

4

5

# 5. C-5 Neighborhood Commercial Retail[132]

## A. Purpose[133]

The C-5 District provides for neighborhood-oriented convenience shopping. Typical uses include retail commercial, such as grocery stores, drug stores, small specialty shops, and business and personal service establishments, with a limited number of small professional offices and other similar uses. The C-5 District is intended to accommodate development in compact centers. Development should incorporate safe multimodal access, pedestrian circulation, and should be architecturally compatible with the neighborhood in which it is located. Development in the C-5 District is not intended to attract substantial trade from outside the neighborhood.

**Figure 2103.9: C-5 District Aerial Example**



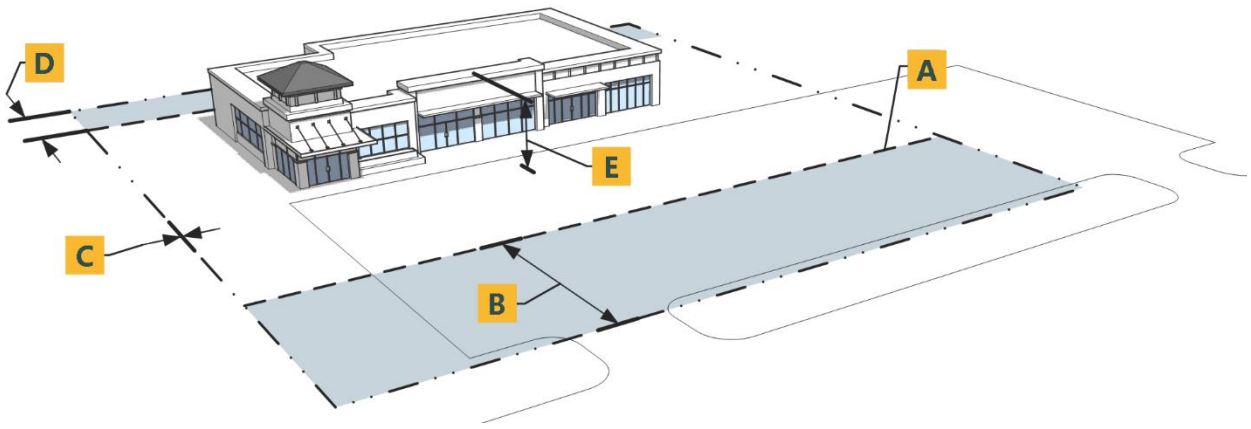

[132] Carried forward from Sect. 4-500.
[133] Carried forward from Sect. 4-501, with minor editorial revisions.

## B. C-5 Lot and Building Dimensional Standards

| TABLE 2103.5: C-5 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 20 percent of the gross area |
| B | Front setback, minimum | 40 feet[134] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.30 |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2103.10: C-5 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[134] Angle of bulk plane deleted because at 45 degrees the maximum height is allowed at the minimum setback.

# 6. C-6 Community Retail Commercial District[135]

## A. Purpose[136]

The C-6 District provides locations for retail commercial and service uses oriented to serve multiple neighborhoods within the community. Typical uses in the C-6 District are similar to those allowed in the C-5 District, but also include more intense commercial uses. Development within the district should be encouraged in compact centers with coordinated development that is planned to maximize comparison and one-stop shopping, to minimize traffic congestion, and to incorporate safe multimodal and pedestrian circulation.

**Figure 2103.11: C-6 District Aerial Example**








[135] Carried forward from Sect. 4-600.

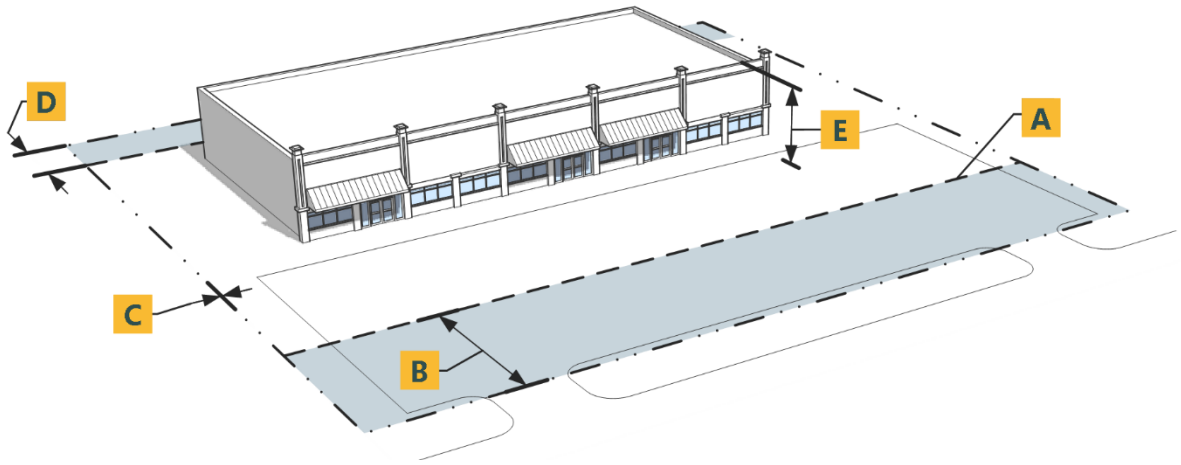
[136] Carried forward from Sect. 4-601 but without references to specific types of uses, development of one quadrant of an intersection, and the specific sizes. The reference to safe multimodal circulation is new.

## B. C-6 Lot and Building Dimensional Standards

| TABLE 2103.6: C-6 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | 40 feet[137] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.40 [4] |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] An increase to 0.50 FAR may be permitted by the Board in accordance with 5100.2.E(4).
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2103.12: C-6 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

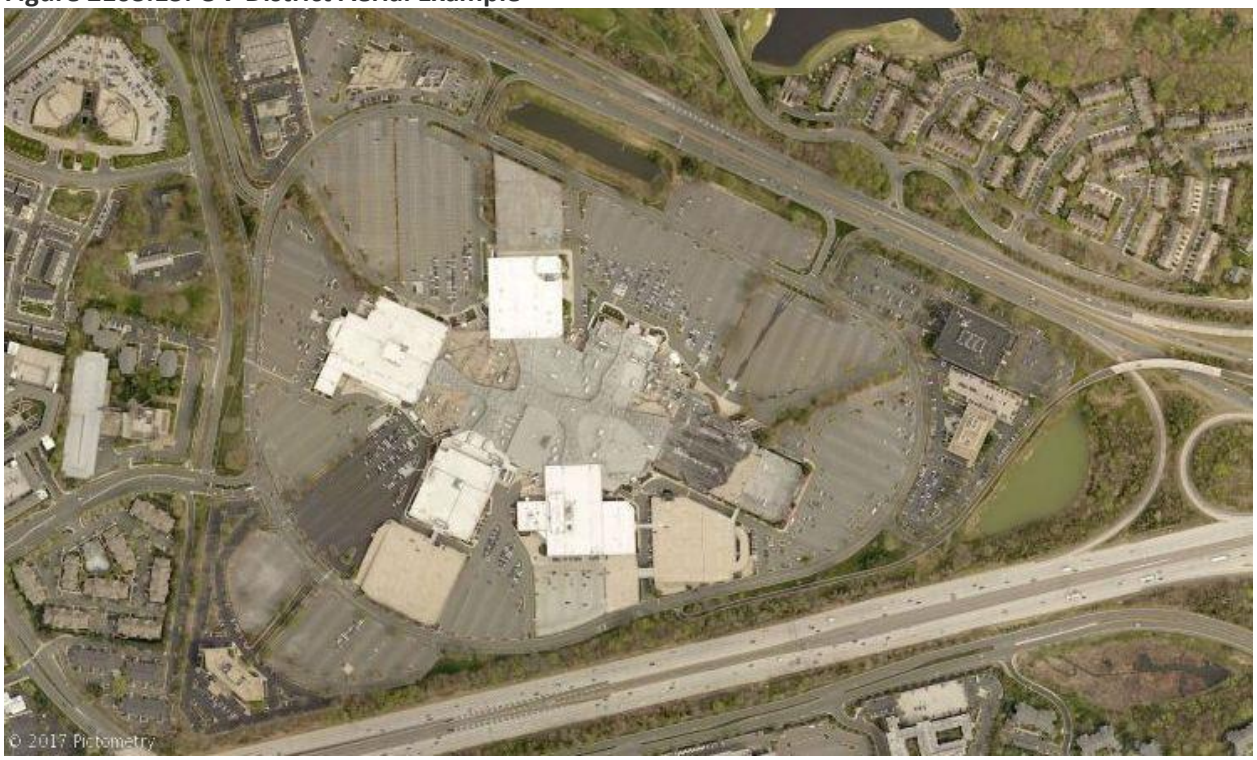
[137] Angle of bulk plane deleted because at 45 degrees the maximum height is allowed at the minimum setback.

## 7. C-7 Regional Retail Commercial District[138]

### A. Purpose[139]

The C-7 District provides locations for a full range of retail commercial and service uses oriented to serve a regional market area. Areas in the C-7 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. Development in the C-7 District should incorporate walkable and safe multimodal design.

**Figure 2103.13: C-7 District Aerial Example**









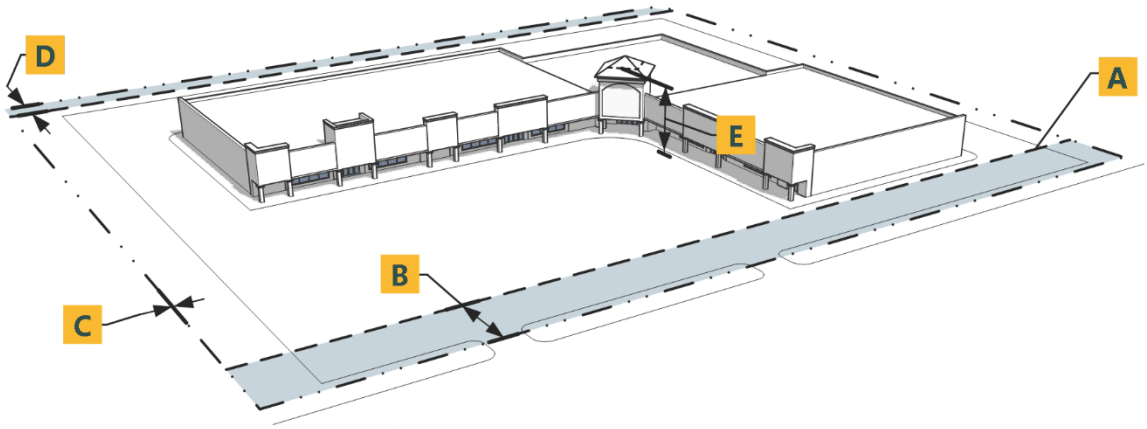
[138] Carried forward from Sect. 4-700.
[139] Carried forward from Sect. 4-701.

## B. C-7 Lot and Building Dimensional Standards

| TABLE 2103.7: C-7 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | Setback equal to building height; at least 40 feet [140] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 90 feet |
| | Floor area ratio, maximum | 0.80 [4] |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] An increase to 1.0 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4).
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2103.14: C-7 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[140] Angle of bulk plane (45 degrees) replaced with statement that setback must equal building height.

## 8. C-8 Highway Commercial District[141]

### A. Purpose[142]

The C-8 District provides locations on heavily traveled collector and arterial highways for auto-oriented commercial and service uses. The C-8 District is intended to accommodate uses in a manner that minimizes interference with through traffic movements and to ensure a high standard in site design, layout, and landscaping. Allowed uses in the C-8 District are encouraged in concentrations.[143]

**Figure 2103.15: C-8 District Aerial Example**




[141] Carried forward from Sect. 4-800.
[142] Carried forward from Sect. 4-801, but without the reference to uses that "do not depend upon adjoining uses for reasons of comparison shopping or pedestrian trade." Change since 8/9/2019 draft: Also did not include the reference to uses that "require large land areas and good access."
[143] Did not carry forward "preferable separated by a minimum distance of three miles between each concentration." That is not how this district has developed over time.







## B. C-8 Lot and Building Dimensional Standards

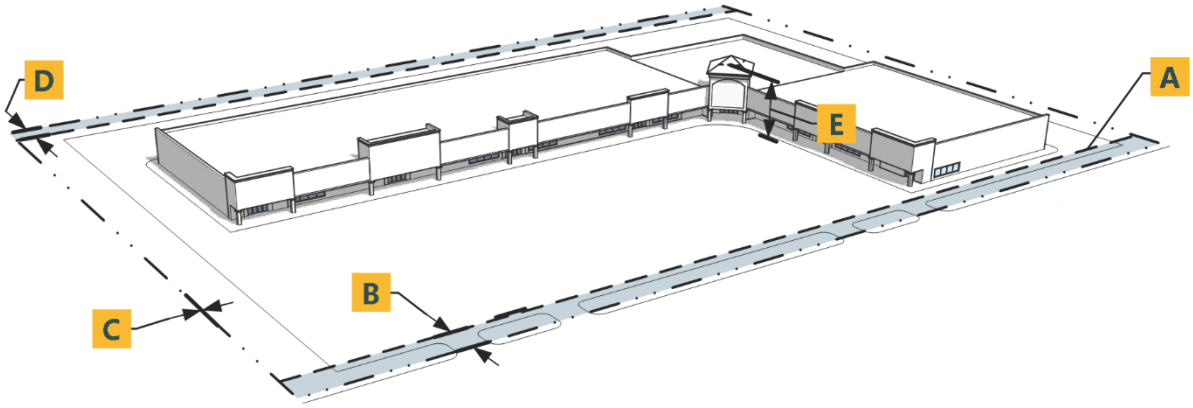
**TABLE 2103.8: C-8 Lot and Building Standards [1]**

| | | |
|---|---|---|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | 40 feet[144] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.50 [4] |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] An increase to 0.70 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4).
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

[144] Angle of bulk plane deleted because at 45 degrees the maximum height is allowed at the minimum setback.

**Figure 2103.16: C-8 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 2104. Industrial Zoning Districts

This Section 2104 includes the standards related to the Industrial zoning districts established in Fairfax County.

# 1. I-I Industrial Institutional District[145]

## A. Purpose[146]

The I-I District provides for intense office and office-related uses in a campus-like or institutional setting. Uses are generally limited to office uses and supporting nonresidential uses with enhanced site layout and building design quality.

**Figure 2104.1: I-I District Aerial Example**






[145] Carried forward from Sect. 5-I00.
[146] Replaces Sect. 5-I01.

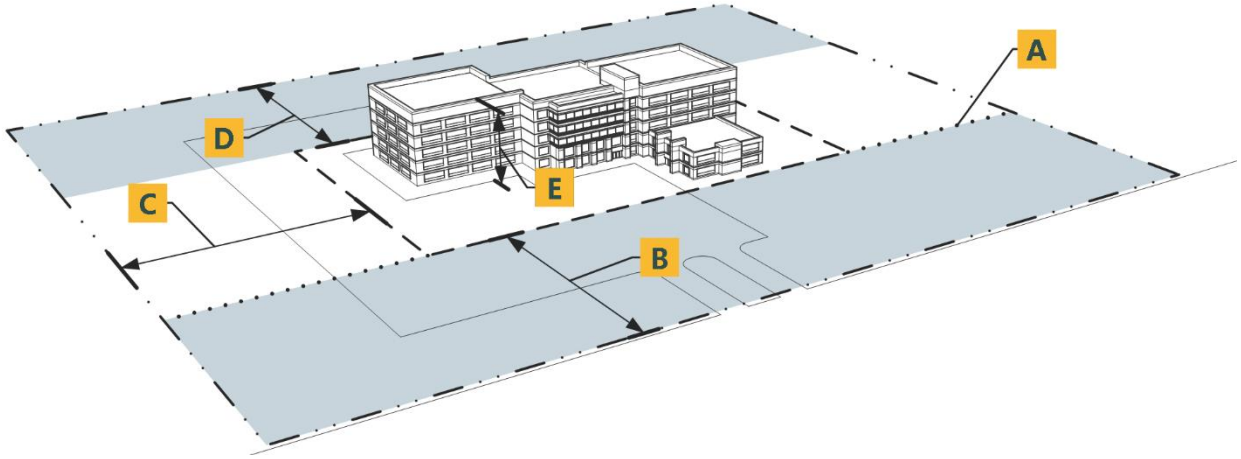
## B. I-I Lot and Building Dimensional Standards

**TABLE 2104.1: I-I Lot and Building Standards**

| | | |
|---|---|---|
| | Lot area, minimum [1] | 20 acres |
| A | Lot width, minimum [1] | No requirement |
| | Landscaped open space, minimum | No requirement |
| B | Front setback, minimum | 320 feet from the center line of any street, or 200 feet from the lot line, whichever is greater [2] |
| C | Side setback, minimum [2] | 200 feet; none required abutting a railroad right-of-way |
| D | Rear setback, minimum [2] | |
| E | Building height, maximum | 65 feet[147] |
| | Lot coverage, maximum | 30 percent |
| | Floor area ratio, maximum | No requirement |

**Notes:**
[1] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[2] Unless a lesser distance is approved by the Board to facilitate the implementation of a proposed major street improvement.
[3] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2104.2: I-I District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |

[147] The height increase to 75' for 25 percent of the roof area is deleted and instead the I-I District was included with the other industrial districts for the SE for an increase in height with 5100.2.C(8).

| | |
|---|---|
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 2. I-2 Low Intensity Industrial District[148]

## A. Purpose[149]

The I-2 District provides areas for scientific research, development and training, offices, industrial flex, small-scale production, and manufacturing incidental and accessory to those types of uses. The I-2 District is designed to promote an industrial park atmosphere for the conduct of research-oriented activities and other similar uses. Development will incorporate enhanced building and site design, and performance standards in this district will ensure that development is compatible with surrounding uses.

**Figure 2104.3: I-2 District Aerial Example**




[148] Carried forward from Sect. 5-200. The name of the district has been revised from "industrial research" to "low intensity industrial" to reflect the use and development pattern of the district.
[149] Carried forward from Sect. 5-201. The references to industrial flex and small-scale production are new.





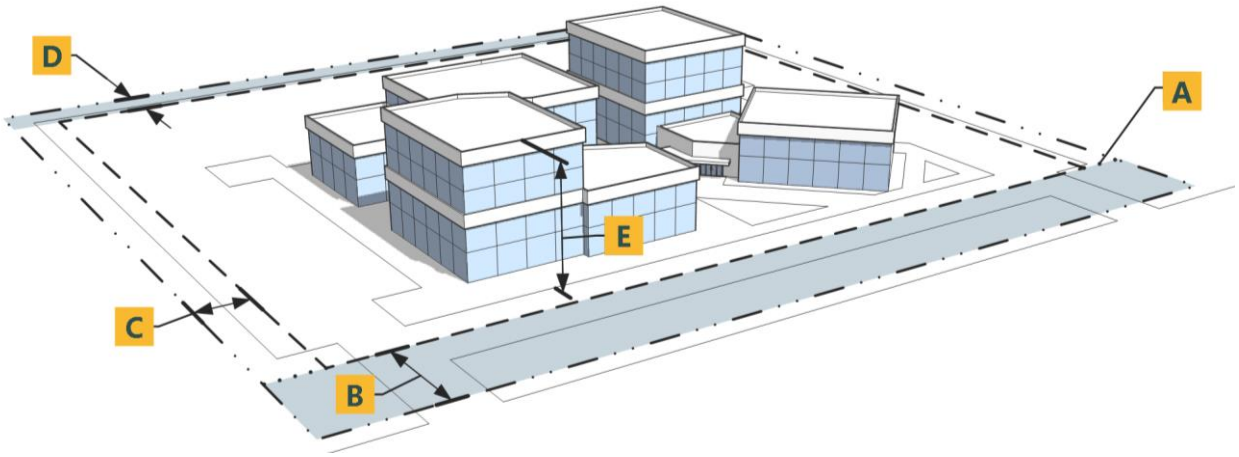
## B. I-2 Lot and Building Dimensional Standards

| | TABLE 2104.2: I-2 Lot and Building Standards [1] | |
|---|---|---|
| | District size, minimum [2] | 10 acres |
| | Lot area, minimum [2] | 4 acres in a district of 10 acres; 3 acres in a district of 11-20 acres; 1 acre in a district larger than 20 acres |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 20 percent of gross area |
| B | Front setback, minimum | 50 feet[150] |
| C | Side setback, minimum | See Table 2104.2a below[151]; none required abutting railroad right-of-way |
| D | Rear setback, minimum | |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.25 |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] District size, lot area, and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] Freestanding accessory structures are regulated by subsection 4102.7.A.

[150] Angle of bulk plane (50 degrees) deleted because the maximum height is exceeded at the minimum setback.
[151] Angle of bulk plane (50 degrees) replaced with new table with a minimum side and rear setback of 25 feet.

**Figure 2104.4: I-2 District Lot and Building Dimensional Standards**

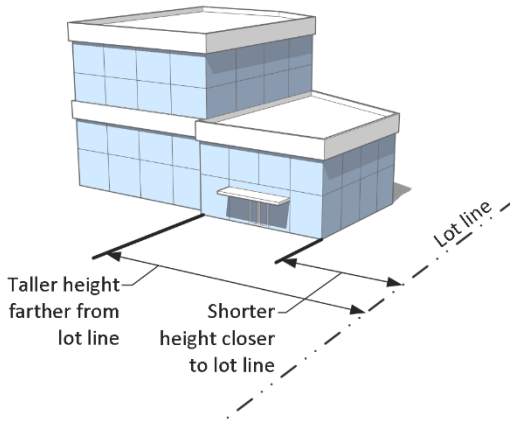



1
2
3
4

**Table 2104.2a: I-2 Setback Relative to Height**

| Building height, maximum (feet) [1] | Side and Rear setback, minimum (feet) |
|---|---|
| 25 | 25 |
| 30 | 31 |
| 35 | 37 |
| 40 | 43 |

**Notes:**
[1] Maximum height of the portion of the building at the specified minimum setback.




5

6

## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

7

8

# 3. I-3 Light Intensity Industrial District[152]

## A. Purpose[153]

The I-3 District provides areas for scientific research, development and training, offices, light-intensity production of goods, and related supply and supporting nonresidential activities. This district is designed to provide for a broad spectrum of clean industries operating under enhanced performance standards.

**Figure 2104.5: I-3 District Aerial Example**









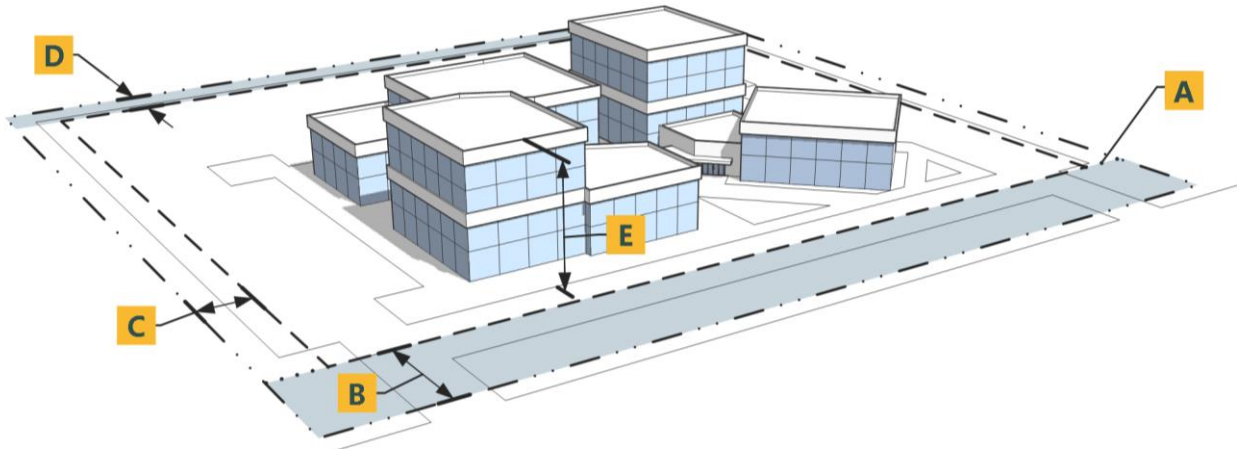
[152] Carried forward from Sect. 5-300.
[153] Carried forward from Sect. 5-301 with minor editorial revisions.

## B. I-3 Lot and Building Dimensional Standards

| TABLE 2104.3: I-3 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 15 percent of gross area |
| B | Front setback, minimum | Setback equal to building height; at least 40 feet[154] |
| C | Side setback, minimum | Setback equal to building height; none required abutting railroad right-of-way |
| D | Rear setback, minimum | |
| E | Building height, maximum | 75 feet |
| | Floor area ratio, maximum | 0.40 [4] |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] An increase to 0.50 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4).
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2104.6: I-3 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

[154] Replaced angle of bulk plane (45 degrees) with statement that setback equals building height.

## 4. I-4 Medium Intensity Industrial District[155]

### A. Purpose[156]

The I-4 District provides area for a wide range of industrial uses such as scientific research, development and training, offices, medium-intensity production of goods, and related supply and supporting nonresidential activities at a greater intensity of development than is allowed in the I-3 District.

**Figure 2104.7: I-4 District Aerial Example**









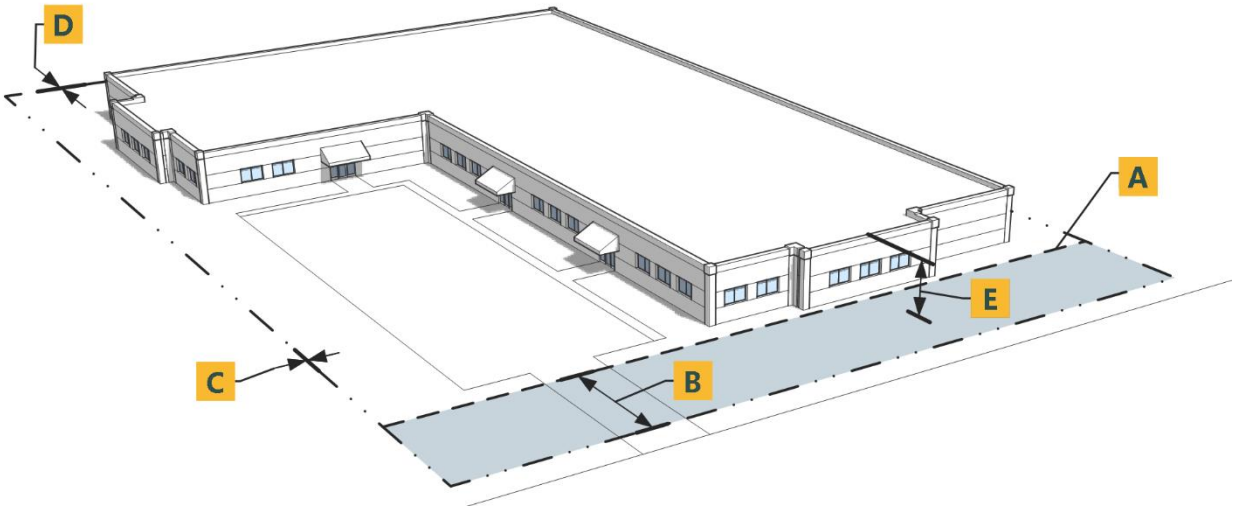
[155] Carried forward from Sect. 5-400.
[156] Carried forward from Sect. 5-401.

## B. I-4 Lot and Building Dimensional Standards

| TABLE 2104.4: I-4 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 20,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 15 percent of gross area |
| B | Front setback, minimum | Setback equal to building height; at least 40 feet[157] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | |
| E | Building height, maximum | 75 feet |
| | Floor area ratio, maximum | 0.50 [4] |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] An increase to 0.70 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4).
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2104.8: I-4 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |

[157] Replaced 45 degree angle of bulk plane with statement that setback equals the building height.

| | |
|---|---|
| Site plan provisions | Article 8, subsection 8100.7 |

## 5. I-5 General Industrial District[158]

### A. Purpose[159]

The I-5 District provides for a wide range of industrial and industrially-oriented business activities. Uses must minimize noise, smoke, glare, and other environmental pollutants on the uses within the district and on neighboring areas. Other nonresidential uses generally provide services and supplies to industrial companies, engage in wholesale operations, and are associated with warehouse establishments.

**Figure 2104.9: I-5 District Aerial Example**









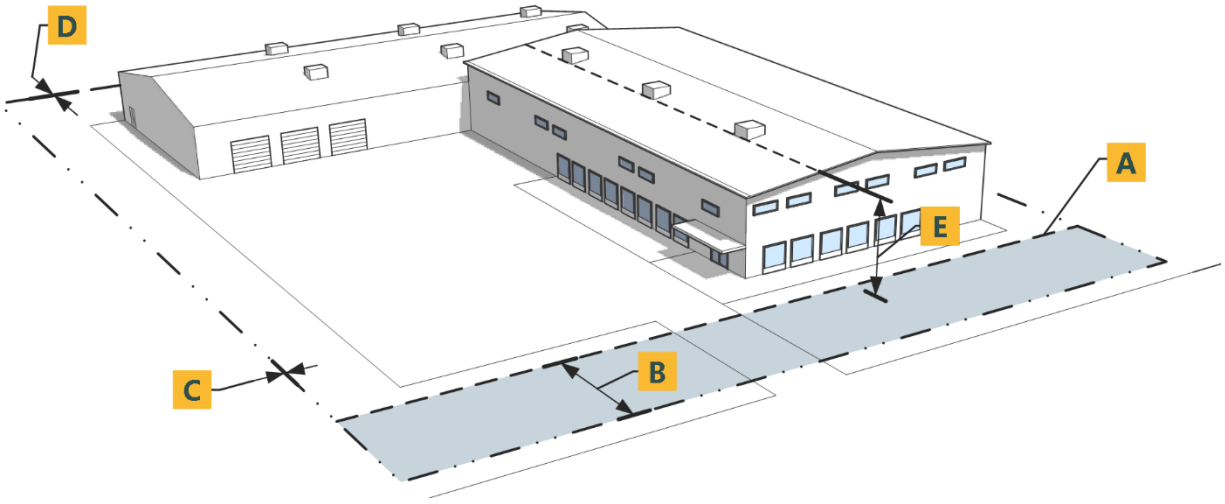

[158] Carried forward from Sect. 5-500. Change since 8/9/2019 draft: Changed "commercial activities" to "business activities."
[159] Carried forward from Sect. 5-501 with minor editorial revisions.

## B. I-5 Lot and Building Dimensional Standards

| TABLE 2104.5: I-5 Lot and Building Standards [1] | | |
|---|---|---|
| | Lot area, minimum [2] | 20,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 15 percent of gross area |
| B | Front setback, minimum | Setback equal to building height; at least 40 feet[160] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | |
| E | Building height, maximum | 75 feet |
| | Floor area ratio, maximum | 0.50 [4] |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] An increase to 1.0 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4).
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

**Figure 2104.10: I-5 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |

[160] Replaced 45 degree angle of bulk plane with statement that setback equals the building height.

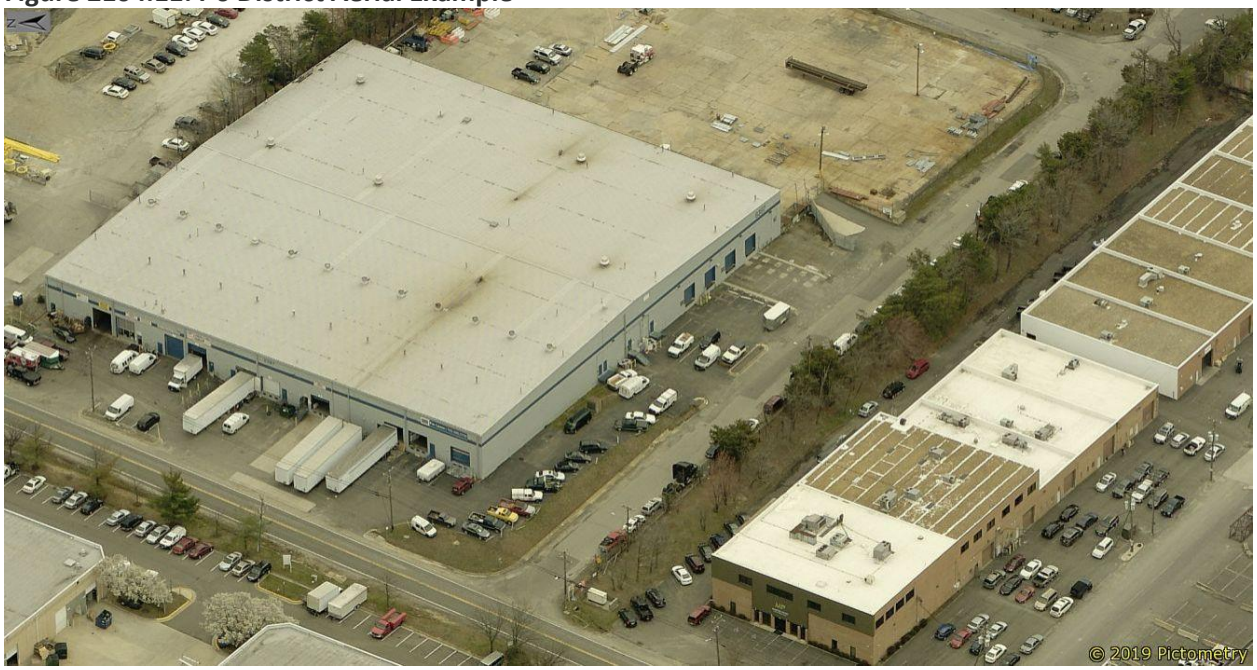
| | |
|---|---|
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

## 6. I-6 Heavy Industrial District[161]

### A. Purpose[162]

The I-6 District provides for heavy industrial activities. Uses and activities that may require noise, vibration, intensive traffic, and other environmental pollutants are tolerated and are subject to minimum performance standards. The I-6 District is intended for use by the largest manufacturing operations, heavy equipment, construction and fuel yards, major transportation terminals, and other basic industrial activities required in an urban economy.

**Figure 2104.11: I-6 District Aerial Example**




[161] Carried forward from Sect. 5-600.
[162] Carried forward from Sect. 5-601.






## B. I-6 Lot and Building Dimensional Standards

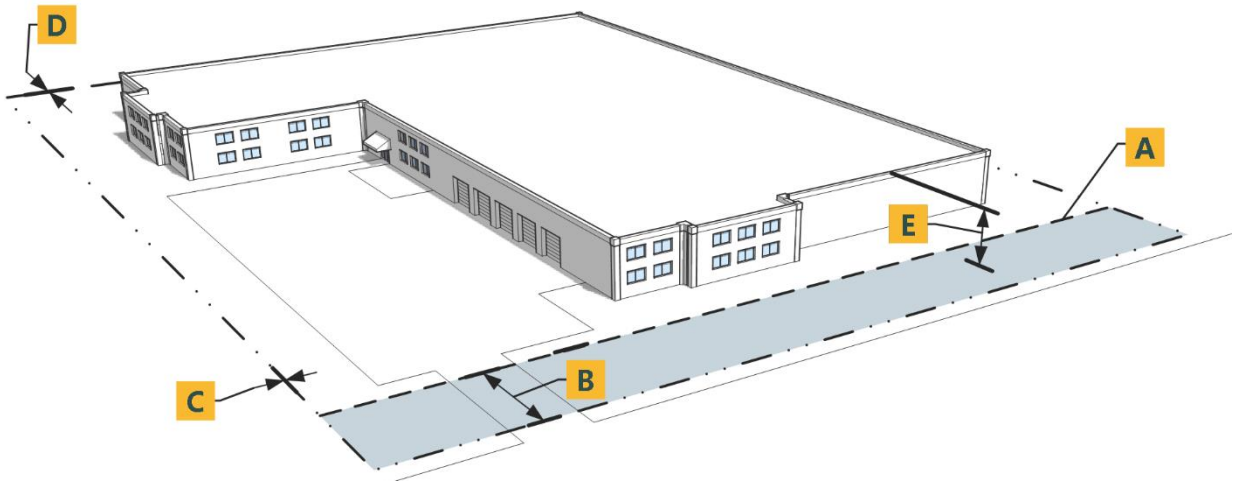
**TABLE 2104.6: I-6 Lot and Building Standards [1]**

| | | |
|---|---|---|
| | Lot area, minimum [2] | 20,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 10 percent of gross area |
| B | Front setback, minimum | Setback equal to building height; at least 40 feet[163] |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | |
| E | Building height, maximum | 75 feet |
| | Floor area ratio, maximum | 0.50 [4] |

**Notes:**
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
[2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
[3] Open space is calculated in accordance with subsection 5100.3.A(3).
[4] An increase to 1.0 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4).
[5] Freestanding accessory structures are regulated by subsection 4102.7.A.

[163] Replaced 45 degree angle of bulk plane with statement that setback equals the building height.

**Figure 2104.12: I-6 District Lot and Building Dimensional Standards**




## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Site plan provisions | Article 8, subsection 8100.7 |

# 2105. Planned Districts

This Section 2105 includes the standards related to the planned districts established in Fairfax County.

## 1. Standards for All Planned Districts[164]

### A. Lot Area and Width[165]

No minimum requirement for each use or building.

### B. Building Height, Setbacks, and Floor Area Ratio[166]

Controlled by the general and design standards for all planned developments as set forth below, except as expressly stated in the standards for a particular district.

### C. General Standards[167]

A rezoning application or development plan amendment application may only be approved for a planned development if the planned development satisfies the following general standards:

**(1)** The planned development must substantially conform to the Comprehensive Plan with respect to type, character, intensity of use, and public facilities. Planned developments may not exceed the density or intensity permitted by the Comprehensive Plan, including any permitted density or intensity bonus provisions.

**(2)** The planned development must be of designed to achieve the stated purpose of the planned development district more than would development under a conventional zoning district.

**(3)** The planned development must, to the extent possible, protect, preserve, and restore natural ecosystem components, including trees, meadows, streams, topographic features, and healthy soils, and heritage resources.[168]

**(4)** The planned development must be designed to prevent adverse impact to the use and value of existing surrounding development and may not deter or impede development of surrounding undeveloped properties in accordance with the Comprehensive Plan.

**(5)** The planned development must be located in an area in which existing or planned transportation, police and fire protection, other public facilities, and public utilities will be available and adequate for the uses proposed. The applicant may provide for those facilities or utilities which are not presently available.

---

[164] Change since 8/9/2019 draft: The subsection that carries forward Par. 8 of Sect. 16-401 has been relocated to Article 8.

[165] From the lot size requirements for each planned district in Article 6

[166] From the bulk regulations for each planned district in Article 6

[167] From Sect. 16-101.

[168] Change since 6/30/2020 draft: Par. 3 of Sect. 16-101 has been revised to add "restore" and to replace "scenic assets and natural features" with "natural ecosystem components" and to add "meadows," "healthy soils," and "heritage resources."

**(6)** The planned development must provide coordinated linkages among internal facilities and services as well as connections to major external facilities and services at a scale appropriate to the development.

## D. Design Standards[169]

It is the intent to allow flexibility in the design of all planned developments. The following design standards apply in the review of rezoning applications, development plans, site plans, and subdivision plats:[170]

**(1)** Other than those regulations specifically listed for a particular planned district, the open space, off-street parking, loading, sign, and all other similar regulations in this Ordinance will generally apply to all planned developments.

**(2)** Streets and driveways must generally conform to the provisions in this Ordinance and all other applicable County ordinances and regulations. Where applicable, street systems must afford convenient access to mass transportation facilities. In addition, a network of trails and sidewalks must be coordinated access to recreational amenities, open space, public facilities, vehicular access routes, and mass transportation facilities.

**(3)** In order to complement and prevent adverse impacts to development on adjacent properties, the bulk regulations of the proposed planned development must generally conform to those of the conventional zoning district that is most similar to the proposed P District development at the following boundaries:

**(a)** In the PDH, PRM, PDC, PRC, and PCC Districts, at all peripheral boundaries;

**(b)** In the PDC, PRM, or PCC Districts when located within a CRD or in an area designated as a Community Business Center, Commercial Revitalization Area, or Transit Station Area in the Comprehensive Plan, only at the periphery of the CRD or other designated area; or

~~**(a)**~~**(c)** In the PTC District, only at the periphery of the Tysons Urban Center in the Comprehensive Plan.

[169] From Sect. 16-102

[170] Par. 1 of Sect. 16-102 for bulk regulations and screening to conform to the conventional district is not carried forward. Screening is based on use, not district. Change since 8/9/2019 draft: Deleted "conceptual development plans, final development plans, PRC plans" because the term development plan has been redefined to include all of these types of plans. Change since 1/19/2021 draft: Added subsection (3) based on Par. 1 of Sect. 16-102 for bulk regulations.

# 2. PDH Planned Development Housing District[171]

## A. Purpose[172]

The PDH District is established to encourage innovative and creative design in the development of land for residential and other secondary uses. The district regulations are designed to:

**(1)** Insure ample provision and efficient use of open space;

**(2)** Encourage tree preservation and the protection of environmental features on the site;

**(3)** Promote high standards in the layout, design, and construction of residential development;

**(4)** Promote balanced developments of mixed housing types;

**(5)** Encourage the provision of dwellings within the means of families of low and moderate income; and

**(6)** Implement the stated purpose and intent of this Ordinance.

Rezoning to and development under this district will be permitted only in accordance with a development plan prepared and approved in accordance with subsection 8100.2.E.

**Figure 2105.1: PDH District Aerial Example**




[171] Carried forward from Sect. 6-100.

[172] Carried forward from Sect. 6-101. The reference to tree preservation and environmental features is new. The reference to advantageous construction techniques has been deleted.





## B. PDH Lot and Building Dimensional Standards

### (1) District Size

Minimum: two acres.

### (2) Privacy Yard

Minimum: 200 square feet for each single-family attached dwelling unit unless waived by the Board in conjunction with the approval of a development plan.

### (3) Density[173]

(a) The PDH District is divided into subdistricts, with residential density limited to the following:

| TABLE 2105.1: PDH Maximum Density [1] | |
|---|---|
| **Subdistrict** | **Density** |
| PDH-1 | 1 du/ac |
| PDH-2 | 2 du/ac |
| PDH-3 | 3 du/ac |
| PDH-4 | 4 du/ac |
| PDH-5 | 5 du/ac |
| PDH-8 | 8 du/ac |
| PDH-12 | 12 du/ac |
| PDH-16 | 16 du/ac |
| PDH-20 | 20 du/ac |
| PDH-30 | 30 du/ac |
| PDH-40 | 40 du/ac |

**Notes:**

[1] The maximum density may be increased by providing affordable dwelling units and bonus market rate units in accordance with the requirements for affordable dwelling units set forth in Section

[173] Then density bonus of Par. 2 of Sect. 6-109 has been deleted because it isn't being used. It is not useful for the smaller applications that are common today.

5101 and does not include the bonus market rate units associated with the provision of workforce dwelling units, as applicable.

### (4) Open Space

**(a)** The following minimum amount of open space must be provided within each PDH subdistrict:

**TABLE 2105.2: PDH Minimum Open Space**

| Subdistrict | Open Space (% of the gross area) | Affordable Dwelling Unit Development Open Space (% of the gross area) |
|---|---|---|
| PDH-1 | 25 | Not applicable |
| PDH-2 | 20 | 18 |
| PDH-3 | 20 | 18 |
| PDH-4 | 20 | 18 |
| PDH-5 | 35 | 31 |
| PDH-8 | 25 | 22 |
| PDH-12 | 30 | 27 |
| PDH-16 | 35 | 31 |
| PDH-20 | 35 | 31 |
| PDH-30 | 45 | 40 |
| PDH-40 | 35 | 31 |

**(b)** As part of the open space to be provided in accordance with Table 2150.2(a) above, recreational facilities are required to be provided in all PDH Districts in conjunction with approval of a final development plan. Such facilities are subject to the provisions of subsection 8100.2.E(4), and those requirements are based on a minimum expenditure of $1,900 per dwelling unit for the recreational facilities and either:

***1.*** The facilities are provided on-site by the developer in substantial conformance with the approved final development plan; and/or

***2.*** The Board may approve facilities on land that is not part of the subject PDH District.

**(c)** The per unit contribution in (b) above does not apply to affordable dwelling units.

## C. Additional Standards

### (1) Secondary Uses[174]

**(a)** Secondary uses in the commercial classification in Table 4101.2 are only permitted in a PDH District that has a minimum of 50 residential dwelling units.

**(b)** Secondary uses in the commercial classification must be designed as an integrated component of the planned development where they are located, and must be

[174] Carried forward from Par. 5 and 6 from Sect. 6-106. The uses have been updated based on the new uses and classification system.

designed to maintain and protect the residential character of the planned development and adjacent residential neighborhoods. To accomplish these purposes:[175]

1. Commercial uses must be conducted within a completely enclosed building with no outside display except for outdoor seating and those uses that by their nature must be conducted outside a building.
2. When located within the same building as residential uses, commercial uses are limited to the first and second floors.[176]
3. Except for outdoor commercial recreation, zoos or aquariums, and golf courses or country clubs, the maximum total land area, including at-grade off-street parking and loading areas, devoted to uses in the commercial classification is as follows:
   a. PDH-1, PDH-2, PDH-3, and PDH-4: 400 square feet of commercial/dwelling unit.
   b. PDH-5, PDH-8, PDH-12, PDH-16, and PDH-20: 300 square feet of commercial/dwelling unit.
   c. PDH-30 and PDH-40: 200 square feet of commercial/dwelling unit.

   The Board may increase the commercial land area if that land area serves two or more contiguous PDH Districts if it also approves concurrently a conceptual and final development plan showing the layout, uses, and intensity of the commercial land area. In these instances, the land area devoted to commercial use may be based on the total number of dwelling units in the PDH Districts if the commercial land area does not exceed twice that which would have been permitted otherwise for the individual PDH District where the commercial land area is located.[177]
4. Office uses may not exceed ten percent of the total gross floor area of all commercial uses in subsection 3 above.

**(c)** In conjunction with the approval of a conceptual development plan and in order to further implementation of the Comprehensive Plan, the Board may modify the limitations in this subsection for the following uses when located outdoors:

1. Outdoor commercial recreation;
2. Zoo or aquarium; and
3. Golf course or country club

[175] The standard that the commercial uses need to serve the residents of the district is revised to focus on the design and integration of the uses. The reference to outdoor seating is new. Change since 8/9/2019 draft: Outdoor seating is no longer required to be in conjunction with a restaurant or craft beverage production establishment and may be provided with any use.

[176] Revised from "lowest two floors" to clarify that basements and cellars would not count as one of the lowest floors.

[177] Change since 8/9/2019 draft: Added reference to two or more PDH Districts from Par. 6C of Sect. 6-106, but did not carry forward the requirement for the districts to be designed as a single development and zoned at the same time.

## D. Reference to Other Standards

General regulations that may supplement the regulations above:

| | |
|---|---|
| Use regulations | Article 4 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Development plan requirements | Article 8, subsection 8100.2.E |
| Site plan provisions | Article 8, subsection 8100.7 |

# 3. PRC Planned Residential Community District[178]

## A. Purpose[179]

The PRC District permits the development of planned communities on a minimum of 750 contiguous acres of land. At the time of the initial rezoning to establish a PRC District, the land in that district must be owned or controlled by a single individual or entity. These planned communities require a comprehensive plan that, when approved, automatically becomes a part of the Comprehensive Plan of the County and is subject to review and revision from time to time.

The PRC District regulations permit greater flexibility to a developer of a planned community by removing many of the restrictions of conventional zoning. This flexibility provides opportunity and incentive to developers to achieve excellence in physical, social, and economic planning. To be granted this zoning district, the developer must demonstrate meet the following objectives throughout the planning, design, and development:

**(1)** A variety of housing types, employment opportunities, and commercial services to achieve a balanced community for households[180] of all ages, sizes and levels of income.

**(2)** An orderly and creative arrangement of all land uses with respect to each other and to the entire community.

**(3)** A planned and integrated comprehensive transportation system providing for a separation of pedestrian and vehicular traffic, to include facilities such as mass transportation, roadways, bicycle or equestrian paths and pedestrian walkways.

**(4)** The provision of cultural, educational, medical, and recreational facilities for all segments of the community.

**(5)** The location of structures to take maximum advantage of the natural and manmade environment.

**(6)** The provision of adequate and well-designed open space for the use of all residents.

**(7)** The staging of development in a manner that can be accommodated by the timely provision of public utilities, facilities and services.

Rezoning to and development under this district will be permitted only in accordance with a comprehensive plan and development plan prepared and approved in accordance with subsection 8100.2.F.

[178] Carried forward from Sect. 6-300.
[179] Carried forward from Sect. 6-301.
[180] Change since 8/9/2019 draft: replaced the word “families” with “households” to match terminology in definition and to include individuals.

**Figure 2105.2: PRC District Aerial Example**








## B. PRC Lot and Building Dimensional Standards

### (1) District Size

Minimum: 750 acres. Additional adjacent land may be added to a planned residential community if it represents a logical extension of the planned residential community under the Comprehensive Plan.[181]

[181] Change from 8/9/2019 draft: added language from Par. 10 of Sect. 16-201.

### (2) Privacy Yard

Minimum: 200 square feet for each single-family attached dwelling unit unless waived by the Board in conjunction with the approval of a development plan or PRC plan.

### (3) Setbacks

**(a)** The location and arrangement of structures must 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 may be erected closer than 16 feet to any other single-family dwelling unless a an approved development plan or PRC plan specifically provides for a lesser distance.

**(c)** No single-family detached or attached dwelling or accessory structure may be erected closer than 15 feet to any public street right-of-way line unless shown on an approved development plan or PRC plan.

**(d)** Any single-family dwelling or an addition to a dwelling permitted in the PRC District, for which a building permit was approved before April 2, 1979 and that does not comply with the minimum setback requirements in this section is a noncompliant structure.[182]

### (4) Density

**(a)** The overall maximum density for a PRC District is 13 persons per acre of gross residential and associated commercial areas.

**(b)** In computing density, the following factors are used: A factor of 3.0 persons per single-family detached dwelling; 2.7 persons per single-family attached dwelling or stacked townhouse; and 2.1 persons per multiple family dwelling.

**(c)** Residential densities in a PRC District must be designated as low, medium, or high on the approved development plan.

***1.*** Low: The maximum overall density within the entire area of a PRC District is 3.8 persons per acre of gross residential area. The maximum density in any one low density area is five dwelling units per acre.

***2.*** Medium: The maximum overall density within the entire area of a PRC District is 14 persons per acre of gross residential area. The maximum density in any one medium density area is 20 dwelling units per acre.

***3.*** High: The maximum overall density within the entire area of a PRC District is 60 persons per acre of gross residential area. The maximum density in any one high density area is 50 dwelling units per acre.

For the purposes of this district, density area means a development unit within an area designated on the approved development plan for low, medium, or high density.

**(d)** In computing average density on any development plan, subsequent PRC plan, or final plat of a part of a PRC District, the density may include any excess in land area over that required to support an average density of 13 persons per acre in any previously recorded final plat. As each plan and subsequent final plat is submitted,

[182] Carried forward from Par. 3 of Sect. 15-102.

the overall density of all areas shown on recorded final plats within the PRC District is recomputed so that the average density within the recorded plats of sections of the PRC District will never exceed a density of 13 persons.

**(e)** The provisions of subsections (a), (b), and (c) above do not apply to affordable and market rate dwelling units that comprise the increased density in accordance with Section 5101 or to proffered bonus market rate units or bonus floor area associated with the provision of workforce dwelling units, as applicable.

**(5) Open Space**

Controlled by Section 5106.

## C. Additional Standards[183]

**(a)** In areas approved for low-density residential uses, no multifamily dwellings are allowed unless provided by Section 5101 and are specifically shown on the approved development plan.

**(b)** In commercial centers, all business, service, storage, and display of goods must be conducted within an entirely enclosed building, except for storage of rental trucks approved for a truck rental establishment and other uses that must be conducted outside a building.

## D. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Development plan requirements | Article 8, subsection 8100.2.F |
| Site plan provisions | Article 8, subsection 8100.7 |

[183] Carried forward from Par. 6 and 8 of Sect. 6-305. These standards may be relocated to the use standards in Article 4 in subsequent drafts. Change since 8/9/19 draft: Par. 7 of Sect. 6-305 requiring separate exterior entrances when commercial and residential is in the same building is removed for consistency with other P districts.

# 4. PDC Planned Development Commercial District[184]

## A. Purpose[185]

The PDC District encourages the innovative and creative design of commercial development. The district regulations are designed to accommodate preferred high density or intensity land uses which if not strictly controlled as to location and design in accordance with the Comprehensive Plan recommendations could produce detrimental effects on neighboring properties. The district regulations are further intended to:

**(1)** Insure high standards in the mix of uses, lay-out, design and construction of commercial developments;

**(2)** Include unique design elements and amenities;

**(3)** Encourage lot consolidation and the use of Transportation Demand Management techniques; and

**(4)** Otherwise to implement the stated purpose and intent of this Ordinance.

Rezoning to and development under this district will be permitted only in accordance with a development plan prepared and approved in accordance with subsection 8100.2.E

**Figure 2105.3: PDC District Aerial Example**



[184] Carried forward from Sect. 6-200.
[185] Carried forward from Sect. 6-201.





## B. PDC Lot and Building Dimensional Standards

### (1) District Size

To be classified in the PDC District, the Board must find that the proposed development meets at least one of the following conditions:

**(a)** The proposed development will yield a minimum of 100,000 square feet of gross floor area.

**(b)** The proposed development will be a logical extension of an existing Planned District and yield a minimum of 40,000 square feet of gross floor area.

**(c)** The proposed development is located in a Commercial Revitalization District or in an area designated in the Comprehensive Plan as a Community Business Center, Commercial Revitalization Area, or Transit Station Area. In addition, a final development plan must be submitted and approved concurrently with the conceptual development plan for the proposed development. The conceptual and final development plan must specify the uses and gross floor area for the proposed development and provide site and building designs that will complement existing and planned development by incorporating high standards of urban design, to include any specific urban design plans in the Comprehensive Plan for the area and for safe and convenient pedestrian, bicycle, and vehicular movement and access.

### (2) Privacy Yard

Minimum: 200 square feet for each single-family attached dwelling unit. The Board may waive this requirement in conjunction with the approval of a development plan.

### (3) Floor Area Ratio

**(a)** The maximum floor area ratio is 2.5. The Board may approve an increase up to 3.0 in the McLean Commercial Revitalization District and Community Business Center and up to 5.0 for developments in other Commercial Revitalization Districts, Community Business Center Areas, or Transit Station Areas, if the proposed development implements the site-specific density or intensity and other recommendations in the Comprehensive Plan.

**(b)** The maximum floor area ratio permitted by this subsection excludes:

1. The floor area for affordable and bonus market rate dwelling units provided in accordance with Section 5101; and
2. The floor area for proffered bonus market rate units or bonus nonresidential floor area associated with the provision of workforce dwelling units.

(c) Cellar space must be counted as part of the gross floor area and included in the calculation of the floor area ratio for any rezoning to the PDC District approved by the Board after June 21, 2016, except when the cellar space:

1. Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment;
2. Is specifically identified for storage or other uses that are accessory to the principal uses in the building;
3. Is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock used for the temporary loading and unloading of goods; or
4. Is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.

### (4) Open Space

(a) Minimum open space: 15 percent of the gross area.

(b) In a PDC District development where dwelling units are proposed, as part of the open space to be provided in accordance with subsection (a) above, recreational facilities for the enjoyment of the residents of the dwelling units must be provided and shown on the final development plan. The required recreational facilities are subject to the provisions of subsection 8100.2.E(4), and must be based on a minimum expenditure of $1,900 per dwelling unit and either:

1. The facilities are provided on-site by the developer in substantial conformance with the approved final development plan. In the administration of this provision, credit may be considered where there is a plan to provide common recreational facilities for the residents of the dwelling units and the occupants of the principal uses; or
2. The Board may approve the provision of the facilities located on property that is not part of the subject PDC District.

(c) The per unit contribution above does not apply to affordable dwelling units.

## C. Additional Standards

### (1) Secondary Uses

(a) Secondary uses are only permitted in a PDC District containing one or more principal uses. Unless the Board modifies the gross floor area in conjunction with a conceptual development plan approval to implement the comprehensive plan, the gross floor area is limited as follows:

1. The gross floor area of dwellings may not exceed 50 percent of the gross floor area of all principal uses in the development, except for floor area for affordable and market rate dwelling units that comprise the increased density in accordance with Section 5101. The floor area for dwellings is determined in

accordance with the gross floor area definition, except for the following features are not included:

***a.*** Balconies, porches, decks, breezeways, stoops, and stairs that may be covered but have at least one open side; and

***b.*** Breezeways that may be covered but have two open ends.

***c.*** For the purpose of this subsection, an open side or open end has no more than 50 percent of the total area between the side(s), roof, and floor enclosed with railings, walls, or architectural features.

***2.*** The total gross floor area of all other secondary uses may not exceed 25 percent of the gross floor area of all principal uses in the development.

**(b)** Secondary uses must be designed to maintain and protect the character of adjacent properties.

**(c)** Secondary uses must be conducted entirely within an enclosed building, with no outside display except for outdoor seating and uses that must be conducted outside a building.[186]

### (2) Parking

It is intended that a substantial portion of the required parking be provided in above or below grade parking structures.[187]

## D. Reference to Other Standards

General regulations that may supplement the regulations above:

| | |
|---|---|
| Use regulations | Article 4 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Development plan requirements | Article 8, subsection 8100.2.E |
| Site plan provisions | Article 8, subsection 8100.7 |

[186] The reference to outdoor seating is new. Change since 8/9/2019 draft: no longer required to be in conjunction with a craft beverage production establishment and may be provided with any use.

[187] Carries forward the last sentence of Par. 16 of Sect. 6-206. The remainder of that paragraph is in Article 6 and/or procedures.

# 5. PRM Planned Residential Mixed-Use District[188]

## A. Purpose[189]

The PRM District provides for high density, multiple family residential development (generally with a minimum density of 40 dwelling units per acre) and for mixed use development consisting primarily of multiple family residential development (generally with a density of at least 20 dwelling units per acre), with secondary office or other commercial uses. PRM Districts should be located in those limited areas where high density residential or residential mixed use development is in accordance with the comprehensive plan, such as within areas delineated as Transit Station Areas, Community Business Centers, Commercial Revitalization Districts or Areas, and Urban and Suburban Centers. The PRM District regulations promote high standards in design and layout, encourage compatibility among uses within the development and integration with adjacent developments, encourage the use of Transportation Demand Management techniques, and otherwise implement the stated purpose and intent of this Ordinance and the recommendations of the comprehensive plan.

Rezoning to and development under this district will be permitted only in accordance with development plans prepared and approved in accordance with the provisions of subsection 8100.2.E.

**Figure 2105.4: PRM District Aerial Example[190]**




[188] Carried forward from Sect. 6-400.
[189] Carried forward from Sect. 6-401.
[190] Change since 1/19/2021 draft: Replaced photo with a different PRM example photo.





## B. PRM Lot and Building Dimensional Standards

### (1) District Size

Minimum: Two acres.

### (2) Privacy Yard

Minimum: 200 square feet for each single-family attached dwelling unit. The Board may waive this requirement in conjunction with the approval of a rezoning application or by the Planning Commission in conjunction with the approval of a final development plan amendment.

### (3) Floor Area Ratio

**(a)** The maximum floor area ratio is 3.0. Other than in the McLean Commercial Revitalization District and Community Business Center, the Board may approve an increase up to 5.0 for developments in a Commercial Revitalization District, Community Business Center Area, or Transit Station Area if the proposed development implements the site-specific density or intensity and other recommendations in the Comprehensive Plan.

**(b)** The maximum floor area ratio permitted by this subsection excludes:

***1.*** Floor area for affordable and bonus market rate units provided in accordance with Section 5101; and

***2.*** Floor area for proffered bonus market rate units or bonus floor area associated with the provision of workforce dwelling units

**(c)** Cellar space is counted as part of the gross floor area and included in the calculation of the floor area ratio for any rezoning to the PRM District approved by the Board after June 21, 2016, except when the cellar space:

***1.*** Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment;

***2.*** Is specifically identified for storage or other uses that are accessory to the principal uses in the building;

***3.*** Is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock used for the temporary loading and unloading of goods; or

*4.* Is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.

**(4) Open Space**

**(a)** A minimum of 20 percent of the gross area must be landscaped open space, unless modified by the Board in accordance with subsection 5100.3.B. Unless otherwise modified by the board, no more than one-half of the minimum required landscaped open space is permitted above the street level.

**(b)** Recreational facilities must be provided in conjunction with approval of a final development plan. Provision of recreational facilities is subject to the provisions of subsection 8100.2.E(4); however, recreational facilities located on rooftops, deck areas, or areas within a building, such as swimming pools, exercise rooms, or health clubs, may be used to fulfill this requirement. The requirement for providing recreational facilities is based on a minimum expenditure of $1,900 per dwelling unit for recreational facilities and either:

*1.* The facilities will be provided on-site by the developer in substantial conformance with the approved final development plan; or

*2.* The Board may approve facilities on land that is not part of the subject PRM District.

**(c)** The per unit contribution above does not apply to affordable dwelling units.

## C. Additional Standards

**(1) Principal Uses**

The principal residential use must be multifamily dwellings. 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.

**(2) Secondary Uses**

**(a)** Secondary uses may be permitted only in a PRM District where at least 50 percent of the total gross floor area in the development is devoted to multifamily dwellings.

**(b)** The floor area for dwellings will be determined in accordance with the gross floor area definition, except that the following features will not be deemed gross floor area:

*1.* Balconies, porches, decks, breezeways, stoops, and stairs that may be roofed but that have at least one open side; or

*2.* Breezeways that may be covered but that have two open ends.

*3.* For the purposes of this subsection, an open side or open end has no more than 50 percent of the total area between the side(s), roof, and floor enclosed with railings, walls, or architectural features.

### (3) Parking

A substantial portion of the required parking should be provided in above or below grade parking structures.[191]

## D. Reference to Other Standards

General regulations that may supplement the regulations above:

| | |
|---|---|
| Use regulations | Article 4 |
| Development plan requirements | Article 8, subsection 8100.2.E |
| Site plan provisions | Article 8, subsection 8100.7 |

[191] Carries forward the last sentence of Par. 9 of Sect. 6-406. The remainder of that paragraph is in Article 6 and/or procedures.

# 6. PTC Planned Tysons Corner Urban District[192]

## A. Purpose[193]

The PTC District is established for the Tysons Urban Center as defined in the Comprehensive Plan to implement the mix of uses, densities, and intensities under the redevelopment option set forth in the Comprehensive Plan. The PTC District regulations provide flexibility to transform the designated Tysons Urban Center area from a suburban office park and activity center into an urban, mixed-use, transit, bicycle, and pedestrian oriented community. The regulations also promote high standards in urban design, layout, and construction.

To create mixed-use downtowns near mass transit, higher development intensities are to occur within approximately one-half mile of the four Metrorail Station entrances, identified as Transit Oriented Development (TOD) Districts in the Comprehensive Plan. The remaining areas, the Non-Transit Oriented Development (Non-TOD) Districts, are to be developed into lively urban neighborhoods that include an appropriate mix of uses, densities, and intensities compatible to adjacent communities. In both TOD and Non-TOD Districts, development should be designed in an integrated manner that will enhance the urban character. Smaller, freestanding structures are generally discouraged – however, when the proposed use is designed in an urban form that creates or enhances an appropriate street edge and implements the stated purpose and intent of the district, the proposed use will be considered.

To be granted this zoning district, the applicant must demonstrate that the development furthers the vision of the Tysons Urban Center, as identified in the Comprehensive Plan, by meeting the following minimum objectives:

**(1)** Contribute to a tiered intensity of development having the highest intensities located closest to the transit stations and providing the mix of residential, office and commercial uses necessary to achieve a vibrant, urban environment.

**(2)** Contribute to the network of open space and urban parks, to include stream valley parks, pocket parks, common greens, civic plazas, and athletic fields for the workers and residents of Tysons.

**(3)** Promote environmental stewardship by implementing green building design; use efficient, renewable, and sustainable energy practices; incorporate low impact development strategies, such as innovative stormwater management and green roofs; and achieve the tree canopy goals for Tysons.

**(4)** Further the implementation of the urban grid of streets and the described street hierarchy for Tysons.

**(5)** Reduce the amount of single occupant vehicle trips by limiting the amount of provided parking, encouraging shared parking arrangements among uses, permitting the inclusion of managed tandem parking spaces, and implementing various Transportation Demand Management strategies, such as transit subsidies, carpool and vanpool services, employee shuttles, car-sharing programs, and bicycle accommodations.

[192] Carried forward from Sect. 6-500.
[193] Carried forward from Sect. 6-501. Change since 8/9/2019 draft: removed the word “Corner” from “Tysons Corner Urban Center” to align with language in the Comprehensive Plan.

**(6)** Contribute to the necessary public facilities to support the projected job and population growth, including schools, fire and police services, a library, public utilities, and an arts center.

**(7)** Contribute to the specified streetscape and apply the urban design guidelines specified for build-to lines, building articulation, fenestration, ground floor transparency, and parking design to create an integrated urban, pedestrian-friendly environment.

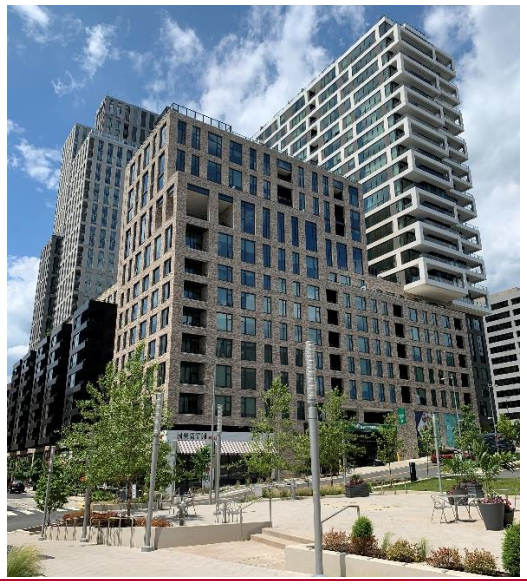
**(8)** Contribute to implementing the workforce and affordable housing policies for Tysons to provide housing to various income levels.

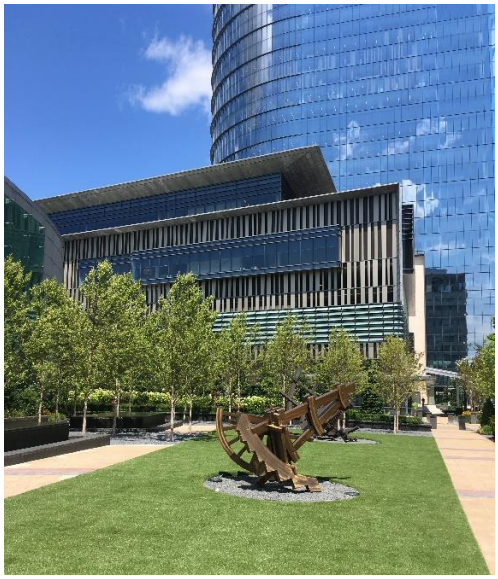
The Board will only consider those development proposals within the Tysons Urban Center that are submitted with a rezoning application and that use the redevelopment option as set forth in the Comprehensive Plan. A rezoning to and development under this district will be permitted only in accordance with development plans prepared and approved in accordance with this Part and the provisions of subsection 8100.2.E.

**Figure 2105.5: PTC District Aerial Example**[194]



[194] ~~Rendering will be updated with oblique aerial photography prior to adoption.~~Change since 1/19/2021 draft: Replaced photos with new PTC examples.





## B. PTC Lot and Building Dimensional Standards

### (1) District Size

The minimum PTC District size is ten acres. This minimum size may be waived by the Board if the development proposal is in conformance with the Comprehensive Plan.

### (2) Floor Area Ratio

(a) Maximum floor area ratio within the TOD District up to ¼ mile from a Metrorail Station entrance is as follows:

1. **For residential and all other uses except office**: No maximum FAR when the proposed development implements the site-specific development guidelines and recommendations of the Comprehensive Plan, including design, mix of uses, and scale of the proposed development, and only when the appropriate measures are proposed or in place to adequately mitigate the anticipated transportation impacts of the proposed development.
2. **For office uses**: 2.5 FAR, exclusive of any bonus intensity obtained for proffered public facilities or public infrastructure, as set forth in the Comprehensive Plan; the Board, however, may permit an increase in FAR in accordance with subsection c below.
3. To encourage redevelopment near Metrorail Station areas at a high intensity and ensure that the impacts on the transportation network are adequately addressed, the Board may approve, in conjunction with a rezoning, a special exception to allow an increase in FAR in the PTC District for property located

within the TOD District up to ¼ mile of a Metrorail Station entrance, subject to the following:[195]

***a.*** The proposed development must facilitate transit-oriented redevelopment in furtherance of the Comprehensive Plan.

***b.*** The proposed development must achieve, to the maximum extent feasible, the vehicle trip reduction goals of the Comprehensive Plan.

***c.*** The proposed development must fully meet all applicable areawide, districtwide, and site specific recommendations of the Comprehensive Plan.

***d.*** The proposed development must exhibit excellence in urban design and building form as envisioned in the Comprehensive Plan.

***e.*** The applicant must identify each phase of the proposed development.

***f.*** The location and amount of special exception floor area will be allocated on a per building basis. To the extent possible, the floor area may be dispersed among the building shown on the SE plat. Unless good cause is shown, the total amount of the approved special exception floor area may not be allocated to a single building in a multi-building or multi-phased development or be allocated solely within the initial phases of the development. Additionally, if any building is constructed without using any or all of its assigned special exception floor area, the unused floor area will be forfeited. The unused floor area may only be transferred to another building within the development with a special exception amendment, and, if applicable, a proffered condition/conceptual development plan amendment.

***g.*** The applicant must submit the SE plat showing the location and allocation of the special exception floor area per building, and the development plan associated with the PTC District rezoning specifying the floor area per building without the special exception floor area.

***h.*** A special exception for increased floor area will automatically expire in whole or in part, without notice, 10 years from the date of approval, or a timeframe as specified by the Board, unless the core and shell final inspection(s) has been approved for the building(s) containing the special exception floor area; or additional time is granted by the Board. If a request for additional time is filed in accordance with subsection i below, the special exception will remain valid until the request for additional time is acted upon by the Board. During this period, the special exception floor area may not be constructed.

***i.*** The Board may approve a request for additional time if:

(1) The request is filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for the

[195] Change since 8/9/2019 draft: Carried forward from Sect. 9-629. Par. 5 of the section is not carried forward because it is unnecessary to state that the Board may impose conditions on the approval of the SE. Also, the requirements that the applicant identify the order of construction, the anticipated completion date of each phase, and the market feasibility have not been brought forward.

amount of additional time requested and explain why all or a portion of the approved special exception floor area has not been constructed in accordance with the timeframe specified in the approval of the special exception;

(2) The request must specify the amount of floor area and mix of uses currently constructed in the development; include the amount of special exception floor area constructed per building; indicate the total amount of proposed floor area including the special exception floor area per building to be constructed; identify each phase and the anticipated order of the remaining development and the anticipated completion date; establish, to the satisfaction of the Board, the continued market feasibility of the proposal; and state, in detail, how the proposal meets the recommendations set forth in the Comprehensive Plan including, but not limited to, the land use mix, the grid of streets, the amount of open space, including active recreation, parking ratios, and Transportation Demand Management achievements proffered in conjunction with the rezoning and any amendments thereto.

**(b)** Floor area ratio within the TOD District beyond ¼ mile from a Metrorail Station entrance and the Non-TOD District is as follows:

***1.*** Maximum floor area ratio: 2.5 FAR, or as further qualified in the Comprehensive Plan. This requirement does not include the floor area for affordable and bonus market rate units provided in accordance with Section 5101; the floor area for proffered bonus market rate units or bonus floor area associated with the provision of workforce dwelling units as applicable; or any bonus density or intensity obtained for proffered public facilities or public infrastructure, all as set forth in the Comprehensive Plan.

***2.*** For those properties within the TOD District beyond the ¼ mile and proposed for residential mixed use development as defined in the Comprehensive Plan, the FARs set forth in subsection (a) above may be applied if the applicant demonstrates to the Board's satisfaction that:

***a.*** There is acceptable pedestrian access to the Metrorail Station;

***b.*** The proposed FAR cannot be achieved with the inclusion of bonuses for affordable housing or public facilities; and

***c.*** The property is adjacent to or redeveloping in coordination with property that is located within one-fourth of a mile from a Metrorail Station entrance.

**(c)** Cellar space counts as gross floor area and is included in the calculation of FAR, except when the cellar space:

***1.*** Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment;

***2.*** Is specifically identified for storage or other uses that are accessory to the principal uses in the building;

3. Is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock used for the temporary loading and unloading of goods; or

4. Is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.

(d) The floor area for dwellings will be calculated according to the gross floor area definition, as modified above, except that the following features will not be deemed gross floor area:

1. Balconies, porches, decks, breezeways, stoops, and stairs that may be roofed but that have at least one open side; or

2. Breezeways that may be covered but that have two open ends.

3. For the purposes of this subsection, an open side or open end has no more than 50 percent of the total area between the side(s), roof, and floor enclosed with railings, walls, or architectural features.

### (3) Open Space

(a) The Board will determine the amount of on-site or off-site open space in accordance with the Comprehensive Plan recommendations for streetscape and urban park standards. Open space includes publicly accessible parks and other open space elements such as courtyards, plazas, trails, outdoor recreational facilities, landscaped rooftops, courtyards on structures, green roofs, or any rooftop recreational facilities. Not more than one-half of the publicly accessible open space may be accommodated above the street level, unless the Board modifies this requirement to accommodate active recreation facilities.

(b) Recreational facilities must be provided in conjunction with approval of a final development plan. These facilities are subject to the provisions of subsection 8100.2.E(4); however, recreational facilities, such as swimming pools, exercise rooms, or health clubs located on rooftops, deck areas, or areas within a building may be used to fulfill this requirement. The requirement for providing recreational facilities will be based on a minimum expenditure of $1,900 per dwelling unit for recreational facilities and either:

1. The facilities will be provided on-site by the developer in substantial conformance with the approved final development plan; or

2. The Board may approve the provision of the facilities on land that is not part of the subject PTC District.

(c) The per unit contribution in subsection (b) above does not apply to affordable dwelling units.

## C. Additional Standards

### (1) Concurrent Applications

A site plan or minor site plan may be filed concurrently with the filing of a rezoning, special exception, or special permit; however, it may not approve it until the rezoning, special exception, or special permit application has been approved by the Board. Concurrent processing will not prejudice the consideration of the application in any way.

### (2) Off-Street Parking and Loading[196]

(a) A substantial portion of the required parking should be provided in above or below grade parking structures.

(b) Additional off-street parking and loading requirements in the PTC District are included in Section 6102.

### (3) Landscaping and Screening

The landscaping and screening requirements of Section 5108 will apply as follows:

(a) Subsections 5108.1 through 5108.4, are applicable.

(b) Subsection 5108.5 applies, except where streetscape standards are set forth in the Comprehensive Plan.

(c) Subsection 5108.6 only applies at the peripheral boundary of the Tysons Urban Center, as identified in the Comprehensive Plan.

### (4) Layout[197]

All uses and structures must be designed in an integrated manner. Freestanding structures up to two stories in height containing one or more uses are only permitted when the applicant demonstrates that the development meets the urban design guidelines set forth in the Comprehensive Plan.

### (5) Interim Uses

As a part of a long-term phased development proposal and to assist in maintaining the economic viability of the Tysons Urban Center, when proposed as an interim use, uses and 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 structures may also be permitted as interim uses, even if these interim structures do not fully satisfy the urban design guidelines. All interim uses must be specifically identified on an approved conceptual development plan, subject to the following:

(a) The phasing plan must identify the interim use or structure, the intended duration of the interim use/structure, and how the interim use/structure fits into the phasing plan. The applicant must also demonstrate that the interim use or structure will not adversely impact the ability to achieve the objectives set forth above in the Purpose of the PTC District.

(b) For existing uses and structures, to the extent feasible, the applicant should provide the design elements set forth in the urban design guidelines of the Comprehensive Plan, such as enhanced streetscape and improvements to pedestrian and vehicular access. New uses or structures, to the extent feasible, must 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 must be included as a part of the parking plan in Section 6102. Existing surface parking may

[196] Carries forward the last sentence of Par. 2 of Sect. 6-509. Additional parking and loading standards of Sect. 6-509 is relocated to the Article 6 with other parking requirements.
[197] This brings forward Par. 8 of 6-505, except "small-scale" has been replaced with "freestanding structures up to two stories in height."

be retained, provided this parking is redesigned, to the extent feasible, if it achieves the following:

1. Minimizes pedestrian conflicts by limiting the number of curb cuts;
2. Provides clearly identified pedestrian access through the parking lot; and
3. Provides appropriate interior and perimeter landscaping and screening to minimize the potential adverse impacts on adjacent property.

**(d)** New interim surface parking may be provided when the standards in subsection (5)(c) above are satisfied and when this surface parking is designed to orient parking, loading, and drive aisles to the rear and side of the structure.

**(e)** The Board may impose such conditions and restrictions as it deems necessary to assure that the interim use or structure will be compatible with and will not adversely impact the ability to achieve the goals and objectives set forth in the Comprehensive Plan.

## D. Reference to Other Standards

General regulations that may supplement the regulations above:

| | |
|---|---|
| Use regulations | Article 4 |
| Development plan requirements | Article 8, subsection 8100.2.E |
| Site plan provisions | Article 8, subsection 8100.7 |

# 7. PCC Planned Continuing Care Facility District[198]

## A. Purpose[199]

The PCC District provides for the development of a continuing care facility in furtherance of ~~the provisions of~~ Va. Code Sect. 15.2-2223(C), regarding the designation of community service facilities as part of the Comprehensive Plan. A continuing care facility offers accommodation choices, medical care services, and assistance with activities of daily living in varying levels and combinations. It also includes full-time, on-site supervision and administration and may include other appropriate secondary uses. This district must provide for a mix of accommodation styles and services that allows opportunities to age-in-place within the development and facilitates movement between levels of support as care needs change, including, at a minimum, the provision of meals, recreational opportunities, health care services, and personal services. The district may be established in an area that is planned for institutional, residential, mixed use, commercial development, or where the Comprehensive Plan guidance would otherwise permit the establishment of an independent living facility, assisted living facility, or other medical care facility.

Rezoning to and development under this district will be permitted only in accordance with a development plan prepared and approved in accordance with subsection 8100.2.E.

**Figure 2105.6: PCC District Aerial Example**



[198] Carried forward from Sect. 6-600.
[199] Carried forward from Sect. 6-601.






## B. PCC Lot and Building Dimensional Standards

### (1) District Size

Minimum: Five acres, except where modified by the Board. In modifying the minimum district size, the Board should consider:

**(a)** The pattern of development of adjacent parcels and the ability to integrate the proposed development into surrounding developments; and

**(b)** The recommended height limits in the Comprehensive Plan and other factors which demonstrate that the proposed level of development on a lot of less than five acres furthers the purpose of this district and the recommendations in the Comprehensive Plan.

### (2) Building Height

Maximum, unless modified by the Board to better advance neighborhood compatibility:

**(a)** 75 feet – for all developments that abut property zoned R-A, R-C, R-E, R-1, R-2, R-3, R-4, R-5, and R-8, or properties that are planned for a residential density of eight dwelling units per acre or less.

**(b)** 100 feet – for all other developments.

### (3) Setbacks

Subsection 2105.1 controls all setbacks, except those at all peripheral boundaries, which are:

**(a)** 50 feet - where the development abuts or is across a street from an area planned for residential density of eight dwelling units per acre or less.

**(b)** 30 feet - where the development abuts or is across a street from an area planned for residential density greater than eight dwelling units per acre, or any commercial, office or industrial use.

### (4) Floor Area Ratio

**(a)** The maximum floor area ratio is based on the land use recommendation in the Comprehensive Plan for a continuing care facility or on the land use recommendation for other uses, as modified in the table below, whichever is greater. In all cases, the gross floor area of any affordable dwelling units or workforce dwelling units constructed on-site is excluded from the maximum FAR in the table below:

| TABLE 2105.3: PCC Maximum Floor Area Ratio | | |
|---|---|---|
| **Comprehensive Plan Land Use Recommendation** | **Comprehensive Plan Density/Intensity Recommendation (du/ac or FAR)** | **Maximum FAR for PCC District** |
| Residential use when specified in terms of Dwelling Units Per Acre (du/ac) | ≥ 1 du/ac to ≤ 2 du/ac | 0.40 |
| | > 2 du/ac to ≤ 5 du/ac | 0.65 |
| | > 5 du/ac to ≤ 12 du/ac | 0.80 |
| | >12 du/ac to ≤ 30 du/ac[200] | 1.00 |
| | > 30 du/ac | 1.25 |
| Institutional, office, retail, mixed use, residential, or any other use, excluding industrial, when specified in terms of Floor Area Ratio (FAR) | All intensity recommendations specified in FAR | Plan maximum plus 25 percent |

**(b)** Cellar space is counted as part of the gross floor area and must be included in the FAR calculation for any rezoning to the PCC District, except when the cellar space:

***1.*** Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment, an unmanned data center, or other similar telecommunication or electronic equipment;

***2.*** Is specifically identified for storage, a commercial kitchen, laundry facilities, or other uses that are accessory to the principal uses in the building; or

***3.*** Is specifically identified as a loading space or a loading dock used for the temporary loading and unloading of goods, including any associated travel way providing access to these spaces.

### (5) Open Space

Minimum: 20 percent of the gross land area, except as may be modified by the Board when the modification would:

**(a)** Further the intent of the Ordinance, Comprehensive Plan, or other design guidelines endorsed by the Board;

**(b)** Result in a development that is harmonious with adjacent development; and

**(c)** Satisfy the provisions of Section 5108.

## C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|---|---|
| Use regulations | Article 4 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Development plan requirements | Article 8, subsection 8100.2.E |
| Site plan provisions | Article 8, subsection 8100.7 |

[200] Revised to correct a current gap between 12 and 16 du/ac.

# Article 3 - Overlay and Commercial Revitalization Districts[201]

## 3100. General Provisions

### 1. Purpose[202]

The districts in this Article are established to provide special regulations in designated areas of the County. These districts overlap and overlay other applicable underlying zoning districts, so that any parcel of land in an overlay or commercial revitalization district will also be in one or more underlying zoning districts established by this Ordinance in subsection 2100.1.

### 2. Establishment of Overlay Districts[203]

The districts in this Article and amendments to those districts are established by the procedures in subsection 8100.2, for other zoning districts, unless otherwise qualified by the provisions of a particular district in this Article.

### 3. District Boundaries

The boundaries for the overlay and commercial revitalization districts are as established on the Official Zoning Map, except as further defined by the provisions of a particular overlay or revitalization district.

### 4. Permitted Uses, Special Exception Uses, and Special Permit Uses

All uses according to the underlying zoning district(s), unless expressly modified by an overlay or commercial revitalization district.

### 5. Additional Regulations and Standards

Lot size, bulk regulations, open space, and additional regulations are as specified in the underlying zoning district(s), unless expressly modified by an overlay or commercial revitalization district.

## 3101. Historic Overlay Districts[204]

### 1. Purpose[205]

Historic Overlay Districts (HODs) are created to promote the general welfare, education, economic prosperity, and recreational pleasure of the public through the identification, preservation, and

[201] Currently Article 7.
[202] Carried forward from Sect. 7-101.
[203] Carried forward from Sect. 7-102.
[204] From Part 2, 7-200, revised as noted. Individual historic overlay districts from Appendix One were also integrated into this draft.
[205] Carried forward from 7-201.

enhancement[206] of buildings, structures, neighborhoods, landscapes, places, and areas that have special historical, cultural, architectural, or archaeological significance as provided by ~~Va. Code Sect. 15.2-2306, as amended~~state law, and that have been officially designated by the Board. Regulations within HODs are intended to protect against destruction of or encroachment upon those areas, structures, or premises; to prevent creation of environmental influences adverse to those purposes; and to encourage uses that will lead to their continuance, conservation, and improvement in accordance with the following purposes:

**A.** To preserve and improve the quality of life for residents of the County by protecting and preserving familiar visual elements in the district.

**B.** To promote heritage tourism by protecting heritage resources for visitors to the County that may support local business and industry.

**C.** To promote the rehabilitation and upkeep of significant structures[207] and encourage appropriate land use planning and development that will enhance both the economic viability and historic character of the district.

**D.** To educate residents of the County about heritage resources and to encourage a sense of appreciation[208] in this heritage.

**E.** To encourage local heritage resource identification and preservation efforts and the nomination of qualified properties for listing in the Fairfax County Inventory of Historic Sites, the Virginia Landmarks Register, and the National Register of Historic Places.[209]

**F.** To prevent the encroachment of new buildings or structures and additions or attachments to existing structures that are architecturally incongruous with the visual and historic character of the district.

**G.** To ensure that new development and structures within the district are appropriate.

## 2. Districts

HODs are listed in the table below.

[206] Change since 8/9/2019 draft: Language “and enhancement” added.
[207] Did not carry forward “older” following “significant.”
[208] Revised from “pride” to “appreciation.”
[209] Change since 8/9/2019 draft: Added County and State inventories.

| TABLE 3101.1: Historic Overlay Districts |
|---|
| Bull Run Stone Bridge |
| Centreville |
| Colvin Run Mill |
| Dranesville Tavern |
| Huntley |
| Lake Anne Village Center |
| Langley Fork |
| Mount Air |
| Pohick Church |
| Robey's Mill |
| St. Mary's Church |
| Sully |
| Woodlawn |

## 3. Establishment of Districts[210]

**A.** To establish an HOD, the Board must determine that the proposed district possesses historic, architectural, archaeological, or cultural significance. The property or properties comprising an HOD must meet one or more of the following criteria:[211]

**(1)** Be associated with events that have made a significant contribution to the broad patterns of our history;

**(2)** Be associated with the lives of persons significant in our past;

**(3)** Embody the distinctive characteristics of a type, period, or method of construction, represent the work of a master, possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction;

**(4)** Yield, or may be likely to yield, information important in prehistory or history;

**(5)** Possess information on, or represents any aspect of heritage considered important by a discrete population, ethnic group, or community;

**(6)** Serve, or have the potential to serve, as a focus of community identity and pride;

**(7)** Retain characteristics that are potentially useful in educating the public about the past and how it is studied; or

**(8)** Enable the exhibit and display of objects, ruins, or stabilized restored structures for public education and enjoyment.

**B.** The Department of Planning and Development, in cooperation with the ARB and the History Commission, must prepare and submit a report to the Planning Commission and Board evaluating the proposal to establish an HOD. The report must identify the proposed boundaries as well as the historic, architectural, archaeological, or cultural significance of buildings, structures, or sites to be protected, and describe present trends, conditions, and

[210] Carried forward from Sect. 7-203. Change since 8/9/2019 draft: Did not carry forward Par. 2 of Sect. 7-203 because the provisions for proposal of a map amendment are included in Article.
[211] Change since 8/9/2019 draft: Edited to follow the National Register criteria of significance.

objectives for preservation. In addition, the report must include the following specific information, as applicable:

**(1)** An analysis of current conditions including: ownership; existing and planned land use; existing zoning; access; existing structures by period of construction, architectural style, and condition; and matters relating to site conditions, such as building location, location of yards and other open spaces, and existing or planned off-street parking.

**(2)** A description of individual structures and premises of interest, with maps, photographs, and other data indicating the public importance of their preservation and the specific features to be preserved. Properties identified as historic, contributing, or non-contributing properties must all be identified.

**(3)** A description of existing structures, premises, and uses likely to have an adverse effect on the desired character of the district, including those near and visually related to the district, with maps, photographs, and other data indicating the reasons for the adverse effect.

**(4)** An analysis of the extent and historic significance of identified archaeological sites including general location maps, photographs, and other data indicating the importance of each site.

**(5)** The boundaries of the proposed HOD and the location of all historic, contributing, and non-contributing properties shown on the current Fairfax County Zoning Map, covering the area generally within a 500-foot radius of the proposed district.[212]

**(6)** The boundaries of an HOD are based on an analysis that determines and describes the characteristics of the area that is to be preserved and enhanced. The boundaries may be drawn to include:[213]

- **(a)** A property or properties in which historic events have occurred;
- **(b)** A property or properties that are heritage resources or contain noted heritage resources;
- **(c)** A property or properties that have special cultural significance; or
- **(d)** A property or properties that have been identified as having important archaeological significance.

**(7)** Additional properties that may or may not possess historical significance individually may be included in the HOD as follows:

- **(a)** A property or properties that are visually or historically related to the district;
- **(b)** A property or properties that reflect the historic pattern of development of the district;
- **(c)** A property or properties that relate to the social or economic character or architectural or archaeological interest of the district; or
- **(d)** Lands closely related to and bearing upon the visual character of the district and that contribute to the historic context of the district.

[212] Change since 8/9/19 draft: removed reference to section sheets.

[213] Carried forward from Sect. 7-202. Change since 8/9/2019 draft: Changed from ". . . area that is to be preserved and in general, may be drawn . . ." and deleted references to a district or district core.

**(8)** Recommendations concerning detailed regulations for the district to prevent changes that are architecturally incompatible with the buildings, structures, or sites to be preserved. Recommendations may include:

- **(a)** Permitted and prohibited principal and accessory uses and structures;
- **(b)** Use standards;
- **(c)** Bulk regulations;
- **(d)** Lot size requirements;
- **(e)** Performance standards;
- **(f)** Off-street parking and loading requirements;
- **(g)** Standards for signs, outdoor lighting, and landscaping and screening;
- **(h)** Standards for the exterior character of buildings and sites that are visible from a public right-of-way; and
- **(i)** Standards for control of, additions to, or removal of existing buildings when the regulations prevent changes that are architecturally incompatible with preserved buildings, structures, or sites.

**C.** The report for a request to amend an existing HOD may contain all or part of the information and requirements contained in subsection B above that are necessary to evaluate the request.

**D.** As part of establishing an HOD, the Board must include a declaration that the buildings, structures, or sites to be preserved are of historical, architectural, archaeological, or cultural significance worthy of protection against destruction and encroachment, and must identify, where applicable, whether each property included in the district is contributing or non-contributing. The Board's action will amend the Zoning Map and include regulations and development policies that the Board deems necessary.[214]

## 4. Permitted, Special Exception, and Special Permit Uses

**A.** Uses permitted within an HOD are contained in the regulations for the individual HOD.

**B.** The ARB will review and make recommendations on any application for a special exception or special permit use located in an HOD.

**C.** No use permitted by right, special exception, or special permit will be permitted where the operational characteristics of the use would destroy, degrade, or encroach upon the character of the HOD as established.

## 5. Additional Standards

**A.** Signs are permitted in accordance with the provisions of Article 7, and in accordance with any additional provisions that may be adopted for a particular HOD. However, any proposed sign that the ARB finds architecturally incompatible with the historical, architectural, or cultural character of the HOD will not be permitted, despite otherwise conforming to the applicable

[214] Reference to appendix to the Ordinance not carried forward. Change since 8/9/2019 draft: added "of regulations and development policies that the Board deems necessary."

provisions of Article 7. In addition, unless further restricted in the specific HOD use standards, freestanding signs may not exceed ten feet in height.[215]

**B.** Off-street parking and loading requirements must be in accordance with the provisions of Article 6, and any additional regulations that may be adopted for a particular HOD. However, for applications requiring final action by the ARB, BZA, Planning Commission, or Board, these bodies must provide specific approval for any off-street parking space located in any minimum front setback. The approval must be based on a finding that the proposed location is compatible with the purpose and intent of the District, and additional landscaping for such parking spaces may be required to promote compatibility.

**C.** Off-street parking and loading areas will be permitted and encouraged to locate on adjacent properties where it is determined that the parking or loading facilities would otherwise have an adverse effect on the appearance of the property or the district in general. Off-street parking and loading areas will be encouraged to locate facilities in interior parking lots, courts, or at other appropriate locations that will be convenient for users, reduce interference with pedestrian and vehicular traffic, and generally promote public safety.

**D.** Development within an HOD will be in general conformance with the policies and recommendations set forth in the Comprehensive Plan.

## 6. Administration of Historic Overlay District Regulations

### A. Applicability

Once established, HODs are subject to the administrative procedures in this Section.

### B. Zoning Applications, and Site, Subdivision, Grading and Sports Illumination Plans[216]

ARB review and recommendation is required on applications for a rezoning, special exception, special permit, and variance, and for site plans, subdivision plats, grading plans, and sports illumination plans. This review must include consideration of the potential impact of the proposal on the historical, architectural, or archaeological significance of the district. In addition, the following should also be considered:

**(1)** The impact of the proposed use, including the intensity, density, and scale of development, on existing conditions in the district;

**(2)** Any change to the visual character of the district including views to and from historic, contributing, and non-contributing properties;

**(3)** The location of buildings, structures, streets, parking areas, and planting and landscape features;

**(4)** Any change to existing grades, drainage patterns, landscaping, or similar features as a result of permanent or temporary site construction activities; and

**(5)** Any change to non-structural site elements, such as vehicular access, yard requirements, or utility easements that may affect the historic character of the district.

[215] Last sentence is new.
[216] Change since 8/9/2019 draft: Added sports illumination plans as adopted with ZO-20-486.

## C. Building Permits, Sign Permits, and Utility Facility Applications

**(1)** ARB review and approval is required before the issuance of a building permit by the Director and approval of a sign permit by the Zoning Administrator, as listed below. The ARB may also review and provide recommendation on new utility distribution or transmission structures 50 feet or lower in height and their associated facilities, (together known as a "utility facility application"). ARB review and approval is not required for building permits that are only for the interior alteration of a structure. The following are subject to ARB review and approval:

**(a)** Building permits for the construction, reconstruction, or exterior rehabilitation, remodeling, alteration, or restoration of any building or structure in an HOD, except as qualified in subsection (3) below;

**(b)** Building permits for the demolition or relocation of any building or structure in an HOD;

**(c)** Sign permits for the erection, alteration, refacing or relocation of any sign in an HOD; and

**(d)** Zoning Permits or Zoning Approvals for utility facility applications located on, adjacent to, or visible from a major thoroughfare, scenic byway, road listed or determined to be eligible for listing in the National Register, or a contributing, non-contributing, or historic property in an HOD. The ARB will recommend approval or denial of any application no later than 45 days after a complete application is filed and accepted by the Department of Planning and Development. If the recommendation is not rendered within that time, the Zoning Administrator may consider the recommendation of the ARB in making the final decision on the permit, provided that the recommendation is made within any applicable deadline under local, state, or federal law.

**(2)** Regulations related to the length of approval are included below:

**(a)** ARB approval for issuing a building permit or a sign permit is valid for two years or for a longer period if deemed appropriate. However, approval of a new utility facility application remains valid unless subject to removal under Section 4102.4.Y or state or federal law.

**(b)** If a building permit or sign permit has not been issued within the approval period, the ARB may grant a one-year extension of the approval. The applicant must request the extension before the original expiration date, and the ARB must find that the proposed project and conditions within the HOD are essentially the same as when the approval was first granted.

**(3)** Department of Planning and Development Heritage Resources staff will review and approve building permits on the ARB's behalf in the following circumstances:

**(a)** For the construction, reconstruction, or exterior rehabilitation, remodeling, alteration, or restoration of:

***1.*** Non-contributing buildings and structures or for accessory structures; and

***2.*** When the proposed development is neither adjacent to nor visible from:

***a.*** A contributing or historic property; or

***b.*** A major thoroughfare, scenic byway, or road listed or determined to be eligible for listing in the National Register;

**(b)** For re-roofing or re-siding of non-contributing buildings or structures, when the replacement roofing or siding is similar in color, material, and texture to that which is being replaced; or

**(c)** For signs previously approved by the ARB as part of a larger property-wide sign plan.

**(4)** The ARB reviews and makes decisions on building permits, sign permits, and utility facility applications as required by subsection (1) above, in accordance with the following:

**(a)** The applicant must forward copies of the complete permit application to the ARB;

**(b)** The ARB may only consider the following in its review of applications to ensure architectural compatibility within the HOD:

***1.*** The exterior architectural features, including all signs, that are visible from a public right-of-way or from contributing, non-contributing, or historic property;

***2.*** The general design, size, arrangement, texture, material, color, and fenestration of the proposed building, structure, utility facility, or sign, and how those factors relate to similar features of historic or contributing buildings or structures within the HOD;

***3.*** The architectural compatibility of the building, structure, utility facility, or sign with historic, contributing, or non-contributing buildings or structures within the district; and

***4.*** Whether the building or structure will promote the general welfare of the County and all citizens by the preservation and protection of historic places and areas of historic significance in the County.

**(c)** The ARB will review an application for a permit to demolish a building or structure, in whole or part, based on the circumstances and the condition of the structure in question and make its determination based on consideration of any of the following criteria:

***1.*** Whether the building or structure is of architectural or historical interest that contributes to the significance of the district, and its removal or alteration would be against public interest;

***2.*** Whether the building or structure is of an old and unusual or uncommon design, texture, and material that cannot be reproduced or can only be reproduced with great difficulty; or

***3.*** Whether retention of the building or structure and its specific architectural features helps preserve and protect the character of a historic place or area of historic interest in the County.

**(d)** When reviewing an application for a building permit to relocate a building or structure, the ARB will make its determination based on whether:

***1.*** The proposed relocation has a detrimental effect on the structural soundness of the building or structure;

***2.*** The proposed relocation has a detrimental effect on the historical aspects of other historic, contributing, or non-contributing properties in the HOD;

***3.*** The proposed relocation's new surroundings are consistent with the historical and architectural aspects of the structure or building; and

***4.*** The building or structure contributes to the significance of the district, and its proposed relocation would therefore help preserve and protect a historic place or area of historic interest in the County.

**(e)** The ARB will approve, approve with modifications, or disapprove an application based on the ARB's general knowledge, information received from the applicant, and upon application of the appropriate criteria set forth in this subsection 3101.6.C and subsection 3101.6.G below. After approval, the ARB will transmit notice of its approval; this notice is a prerequisite to the issuance of a building permit by the Director or the approval of by the Zoning Administrator of a sign permit. If the ARB disapproves the application, it will notify the applicant and the Director or the Zoning Administrator, as applicable.

## D. Submission Requirements

For applications and plans subject to its review or approval, the ARB may require the submission of any or all of the following information and any other materials as deemed necessary for its review:

**(1)** A statement of proposed use and name of proposed user;

**(2)** A statement of estimated time of construction;

**(3)** Maps relating proposed use to surrounding property, zoning, and the historic district;

**(4)** A plan showing building configuration, topography, grading and paving;

**(5)** Architectural schematic drawings showing floor plans and all exterior elevations (principal one in color);

**(6)** Color photographs of the property, adjacent properties, and similar properties within or near the district that clearly show the visual character of the surrounding area;

**(7)** Plan and section drawings of the site showing the relationship between new construction and existing structures indicating building heights, ground elevations, and the general location of existing and proposed plant materials;

**(8)** A landscaping plan showing the location and identification of existing and proposed plantings, landscape features such as fences, gates, retaining walls, and paving, and a list indicating the name and size of proposed plantings, and the limits of clearing;

**(9)** A plan showing exterior signs, graphics, and lighting to establish location, size, color, and type of materials; and

**(10)** Samples, descriptive literature, or photographs showing the type and color of fixtures to be installed and primary building materials including foundation, cladding, trim, and roofing.

**(11)** With respect to permit applications for new utility facility applications, the ARB may request submission of photographic simulations of the proposed facility as it would appear on the existing structure; schematic drawings showing the color, proposed material, and scale of the proposed facility relative to the existing structure; or other similar materials that will assist the ARB in timely reviewing such permit applications.

## E. Appeals

**(1)** Any person aggrieved by any decision of the ARB may appeal that decision to the Board of Supervisors. The appeal must include the grounds for appeal and be filed in writing with the Clerk to the Board within 30 days of the ARB's decision.

**(2)** The Board will review the action of the ARB and decide the appeal. The Board may affirm, reverse, or modify the decision of the ARB, and its determination will be forwarded to the Director or the Zoning Administrator, as applicable.

**(3)** Any person or persons jointly or severally aggrieved by any decision of the Board, or any officer, department, board or agency of the County, may appeal that decision to the Circuit Court of Fairfax County. A petition at law setting forth the alleged illegality of the action of the Board must be filed within 30 days after the final decision is rendered by the Board. The filing will stay the decision of the Board pending the outcome of the appeal to the Court, except that the filing of the petition will not stay the decision of the Board if the decision denies the right to raze or demolish any building, or structure. The Court may reverse or modify the decision of the Board, in whole or in part, if it finds upon review that the decision is arbitrary and constitutes an abuse of discretion, or the Court may affirm the decision of the Board.

**(4)** In addition to the right of appeal set forth in subsections (1), (2), and (3) above, the owner of a building or structure, the demolition of which is subject to the provisions of subsection C(1)(b) above, will be entitled to raze or demolish the building or structure, provided that:

**(a)** The owner has applied to the ARB and Board for that right;

**(b)** The owner has for the period of time set forth in the time schedule referenced below and at a price reasonably related to its fair market value, made a bona fide offer to sell the building or structure, and the land pertaining to the building or structure, to the County or to any department, officer, agency, board or government entity of the County, or political subdivision or agency of the County, that gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining to the building or structure; and

**(c)** That no bona fide contract, binding upon all parties to that contract, has been executed for the sale of that building or structure, and the land pertaining to that building or structure, before the expiration of the applicable time period set forth in the time schedule below. An owner retains the right to make a bona fide offer to sell regardless of any appeal to the Court from the Board’s decision, whether brought by an owner or other proper party, and the provisions in this section relating to a stay of the appealed decision. No offer to sell will be made more than one year after a final decision by the Board, but thereafter the owner may renew the request to the Board to approve the razing or demolition of the building or structure. The time schedule for offers to sell are as defined in Va. Code Sect. 15.2-2306.

## F. Archaeological Survey Requirements[217]

To further the purpose of the HODs and to aid in the identification and protection of historic or archaeological resources located within or in the vicinity of an HOD, the Fairfax County Park Authority archaeologists must be consulted concerning a rezoning, development plan, special exception, special permit, or variance application on a property that is located wholly, partially within, or contiguous to an HOD and when the application involves 2,500 square feet or more of land disturbing activity.

## G. Standards for Adoption of Development of Guidelines

The ARB will adopt guidelines for new construction, existing structures, the exterior alteration of existing buildings, structures, and sites, and for the installation of new utility facility applications located within an HOD based on the standards below:

**(1)** A property should be used for its historic purpose or be adapted for a new use that requires minimal change to the defining characteristics of the building, its site, and the surrounding area.

**(2)** The historic character of a property should be retained and preserved; the removal of historic materials or alteration of features and spaces that characterize a property should be avoided.

**(3)** The changes must not create a false sense of historical development.

**(4)** Changes that have acquired historic significance over time should be retained and preserved.

**(5)** Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property should be preserved.

**(6)** Deteriorated historic features should be repaired rather than replaced unless the severity of deterioration requires replacement of a distinctive feature; the new feature should match the old in design, color, texture, and other visual qualities, and, where possible, materials; replacement of missing features should be substantiated by documentary, physical, or pictorial evidence.

**(7)** Harsh chemical or abrasive treatments that cause damage to historic materials should not be used; the surface cleaning of structures, if appropriate, should be undertaken using the gentlest means possible.

**(8)** Significant archaeological resources affected by a project should be protected and preserved; if those resources must be disturbed, mitigation measures should be undertaken.

**(9)** New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property; new work should be differentiated from the old and should be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environs.

[217] Change since 8/9/2019 draft: Removed the detailed procedures for archaeological reviews. These will be maintained in procedural guides by the Park Authority archaeologists. The submission of an Archaeological Survey Data Form and a Phase I survey (if required) are contained in Article 8.

**(10)** New additions or related new construction should be undertaken so that if they are removed in the future, the essential form and integrity of the historic property and its environs would be unimpaired.

**(11)** Site design, including the placement of structures, shaping of landforms, and use of plant materials should be undertaken so that the visual characteristics and physical integrity of a historic property and its environs is preserved and enhanced.

**(12)** New construction associated with new development should be undertaken in a manner that is compatible and complimentary to the existing character of the historic district.

## 7. Bull Run Stone Bridge Historic Overlay District[218]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Bull Run Stone Bridge Historic Overlay District is created to protect against destruction of the Bull Run Stone Bridge historic landmark.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:[219]

**(1)** Residential dwellings are limited to single-family detached units.

**(2)** Commercial uses are limited to those uses permitted by right, special permit, or special exception in the C-5 District.

**(3)** No industrial uses are permitted.

### C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Bull Run Stone Bridge in terms of mass, scale, color and visual impact.

### D. Building Height

Maximum: 35 feet.

## 8. Centreville Historic Overlay District[220]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Centreville Historic Overlay District is created to protect against destruction of the historic, archaeological, and architectural quality of the Centreville structures and landmarks.

[218] Carried forward from A1-500.
[219] Change since 11/24/2020: Replaced "except as follows" with "subject to the following limitations" for clarity. This change has been made in all applicable HOD subsections on permitted uses.
[220] Carried forward from A1-1300.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** The following uses are not allowed: kennel, new vehicle storage, warehouse, and wholesale facility.

**(2)** The following uses are allowed only on properties that are contiguous to Route 29: car wash, drive-through financial institution, drive-through pharmacy, restaurant with drive-through, vehicle fueling station, light vehicle repair and maintenance, vehicle transportation service, and other drive-through.

### C. Additional Standards

Any new improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities must be designed and installed to be compatible with the historic landmarks. The location and arrangement of structures must not be detrimental to existing uses or prospective adjacent uses.

**(1)** Any new improvements must be designed to be sensitive to archaeological resources, as well as the historical character of the area.

**(2)** Any type of outdoor lighting is subject to the approval of the ARB.

### D. Building Height

Maximum: 35 feet.[221]

## 9. Colvin Run Mill Historic Overlay District[222]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Colvin Run Mill Historic Overlay District is created to protect against destruction of the Colvin Run Mill historic landmark.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** Residential dwellings are limited to single-family detached units.

**(2)** Commercial uses within this district are permitted only on the Colvin Run Mill site and are limited to those uses deemed appropriate by the ARB.

**(3)** No industrial uses are permitted.

[221] Change from 11/24/20: Deleted "building height" for consistency with other HODs.
[222] Carried forward from A1-600.

### C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Colvin Run Mill Complex in terms of mass, scale, color and visual impact.

### D. Building Height

Maximum: 35 feet.

## 10. Dranesville Tavern Historic Overlay District[223]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Dranesville Tavern Historic Overlay District is created to protect against destruction of the Dranesville Tavern historic landmark.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** Residential dwellings are limited to single-family detached units.

**(2)** Commercial uses within this district are limited to those uses deemed appropriate by the ARB on the Dranesville Tavern site.[224]

**(3)** No industrial uses are permitted.

### C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Dranesville Tavern in terms of mass, scale, color and visual impact.

### D. Building Height

Maximum: 35 feet.

## 11. Huntley Historic Overlay District[225]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Huntley Historic Overlay District is created to protect against destruction of the Huntley historic landmark.

[223] Carried forward from A1-700.
[224] The limitation of commercial uses to golf driving ranges and ancillary miniature golf is deleted because the previously existing use no longer exists. No commercial zoning is within the HOD.
[225] Carried forward from A1-800.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special permit, and special exception in the underlying zoning districts, except that no commercial or industrial uses are permitted. However, certain commercial and industrial uses may be permitted in any location if approved as an Alternative Use of Historic Buildings special exception.

### C. Additional Limitations

**(1)** All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with Huntley in terms of mass, scale, height, color, type of material and visual impact.

**(2)** Freestanding signs may not exceed five feet in height.

### D. Building Height

Maximum: 35 feet.

## 12. Lake Anne Village Center Historic Overlay District[226]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Lake Anne Village Center Historic Overlay District is created to protect against destruction of the historic and architectural quality of the significant landmarks.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit for a Village Center in the PRC District.

### C. Additional Standards

Any new improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities must be designed and installed as integral parts of the present village complex, and to be compatible with the original design. The location and arrangement of structures must not be detrimental to existing uses or prospective adjacent uses.

## 13. Langley Fork Historic Overlay District[227]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Langley Fork Historic Overlay District is created to protect against destruction of the Langley Fork historic landmarks.

[226] Carried forward from A1-1100. Change since 8/9/2019 draft: Did not carry forward provision "building height must be compatible with the intent of the district," which is too subjective and unenforceable.
[227] Carried forward from A1-900.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** Residential dwellings are limited to single-family detached units.

**(2)** No additional commercial uses are permitted.

**(3)** No industrial uses are permitted.

### C. Additional Standards

**(1)** All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the landmark structures.

**(2)** Freestanding signs may not exceed five feet in height.

### D. Building Height

Maximum: 35 feet.

## 14. Mount Air Historic Overlay District[228]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Mount Air Historic Overlay District is created to protect against destruction of the historic and archaeological integrity of the existing and potential heritage resources.

### B. Additional Limitations

Any new improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the historic landmark. The location and arrangement of structures must not be detrimental to existing uses or prospective adjacent uses.

### C. Bulk Regulations

Maximum: 35 feet. [229]

## 15. Pohick Church Historic Overlay District[230]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Pohick Church Historic Overlay District is created to protect against destruction of the Pohick Church.

[228] Carried forward from A1-1200.
[229] Change from 11/24/20: Deleted "building height" for consistency with other HODs.
[230] Carried forward from A1-100.

### B. Permitted, Special Exception, and Special Permit Uses[231]

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** No multifamily dwelling units are permitted.

**(2)** No vehicle fueling stations, vehicle service establishments, or restaurants with drive-through may be permitted.

**(3)** No industrial uses are permitted.

### C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Pohick Church complex in terms of mass, scale, color, and visual impact.

### D. Building Height

Maximum: 39.5 feet.

## 16. Robey's Mill Historic Overlay District[232]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Robey's Mill Historic Overlay District is created to protect against destruction of the Robey's Mill historic landmarks.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** Residential dwellings are limited to single-family detached units.

**(2)** No commercial uses are permitted, except for the use of the mill itself.

**(3)** No industrial uses are permitted.

### C. Additional Standards

**(1)** All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the landmark structures.

**(2)** Freestanding signs may not exceed five feet in height.

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[231] Revised for consistency with Article 4. The standard limiting commercial uses to local serving and tourist-oriented uses such as libraries, professional offices, craft shops, restaurants, and antique shops has been deleted, as it has been found to be problematic and vague. A reference to the new Alternative Use of Historic Buildings has been added to each HOD.

[232] Carried forward from A1-1000.

### D. Building Height

Maximum: 35 feet.

## 17. St. Mary's Church Historic Overlay District

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the St. Mary's Church Historic Overlay District is created to protect against destruction of the St. Mary's Church historic landmark.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** Commercial uses must be developed only as part of a shopping center.

**(2)** Industrial uses must be developed only as part of a designed industrial park and are limited to those uses permitted by right, special exception, or special permit in the I-4 District.

### C. Additional Standards

**(1)** All improvements including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with St. Mary's Church in terms of mass, scale, color and visual impact.

**(2)** To the extent possible, existing tree cover must be preserved in that area south of the Southern Railroad.

### D. Building Height

Maximum: 35 feet

## 18. Sully Historic Overlay District[233]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Sully Historic Overlay District is created to protect against destruction of the Sully historic landmark, associated structures, and the cultural landscape. This district is uniquely located adjacent to Dulles International Airport. In recognition of the potential for industrial uses surrounding the historic property, Sully is currently the only HOD that requires a 200-foot wide planted buffer around the historic property. In addition, the Sully Historic Overlay District was created to encompass land areas located within one-fourth mile of the Sully Property, making it one of the largest HODs established by this Ordinance.

[233] Carried forward from A1-300.

## B. Permitted, Special Exception, and Special Permit Uses

**(1)** All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(a)** Industrial uses are limited to those uses permitted by right, special exception, or special permit in the I-4 District.

**(b)** Except as allowed by subsection 1 above, no commercial uses are permitted[234].

**(2)** The Board may approve a special exception in accordance with subsection 8100.3 to allow outdoor storage in association with a warehouse in the I-5 and I-6 Districts subject to the following:[235]

**(a)** Storage may not be visible from the Sully complex or the approaches to the Sully complex;

**(b)** Storage must be compatible with the purpose of this district; and

**(c)** The Board may impose additional conditions regarding the size, location, and screening of the outdoor storage area.

## C. Additional Standards

**(1)** All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Sully complex in terms of mass, scale, color, and visual impact.

**(2)** A planted buffer having a 200-foot minimum width must be provided along all lot lines that are contiguous to the Sully property, as defined by Tax Map Parcels 34-2 ((1)) 13 and 14. If the Park Authority acquires additional land area for the Sully property, the 200-foot wide planted buffer requirement is only applicable along those lot lines contiguous to the Tax Map Parcels identified above and may not be altered by the acquisition of additional land. The minimum planting must be in accordance with standards established by the ARB.

## D. Bulk Regulations

**(1)** Maximum building height: 35 feet, subject to increase up to 60 feet as may be permitted by the Board in accordance with the provisions of subsection 5100.2.C(8) and within 500 feet of the interior of the Sully Historic Overlay District perimeter boundary. The approval of a height increase may not permit the actual height of any building to exceed 65 feet as measured from grade to the top of any roof or rooftop structure.

**(2)** Setback requirements: As specified in the underlying zoning districts, except structures developed on land contiguous to the Sully property, as defined by Tax Map Parcels 34-2 ((1)) 13 and 14, which must be located no closer than 200 feet to the Sully property line. Where that limitation would preclude permitted uses, the minimum setback and building location requirements will be as determined by the ARB. If the Park Authority acquires additional land area for the Sully property, the 200-foot minimum setback

[234] This may be revised in consultation with the Architectural Review Board.
[235] Change since 8/9/2019 draft: Carries forward A1-303, Par. 6.

requirement are only applicable along those lot lines contiguous to the Tax Map Parcels identified above and must not be altered by the acquisition of additional land.

## 19. Woodlawn Historic Overlay District[236]

### A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Woodlawn Historic Overlay District is created to protect against destruction of Woodlawn and the George Washington Grist Mill.

### B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, subject to the following limitations:

**(1)** Residential dwellings south of Richmond Highway are limited to single-family detached units.

**(2)** Commercial uses are limited to offices and tourist-oriented uses, including but not limited to antique shops, craft shops, restaurants, hotels and motels. No service stations or restaurants with drive-through may be permitted.

**(3)** No industrial uses are permitted.

### C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with Woodlawn and George Washington Grist Mill in terms of mass, scale, color and visual impact.

### D. Building Height

Maximum: 35 feet.

# 3102. Commercial Revitalization Districts[237]

## 1. Purpose

The Commercial Revitalization Districts (CRDs) are established to encourage economic development activities in the older commercial areas of the County in order to provide desirable employment and enlarge the tax base consistent with ~~the provisions of Va. Code Sections 15.2-2200, 2283 and 2284, as amended~~state law. The districts are intended to enhance the older commercial areas of the County by providing for specific regulations that are designed to facilitate the continued viability and redevelopment of these areas. To that end, the districts are intended to provide for additional flexibilities for development and redevelopment in these areas while also providing for urban design measures such as streetscape and landscaping.

[236] Carried forward from A1-200.
[237] From Part 10, Sect. 7-1000.

## 2. Districts

The Commercial Revitalization Districts (CRDs) are listed in the Table below.

| TABLE 3102.1: Commercial Revitalization Districts |
|---|
| Annandale Commercial Revitalization District |
| Bailey's Crossroads/Seven Corners Commercial Revitalization District |
| McLean Commercial Revitalization District |
| Richmond Highway Commercial Revitalization District |
| Springfield Commercial Revitalization District |

## 3. Standards Applicable to All Commercial Revitalization Districts

### A. Permitted Uses

All uses are allowed according to the underlying zoning district(s), except vehicle transportation service is not allowed by right in the CRDs.

### B. Special Exception Uses[238]

In addition to all uses permitted by special exception in the underlying zoning district regulations, the following uses, modifications, and waivers may be approved either as a special exception or in conjunction with a rezoning:

**(1)** Vehicle transportation service in the C-6, C-7, and C-8 Districts;

**(2)** Modification or waiver of the minimum lot size requirements, setback requirements, or minimum open space requirements;

**(3)** Increase in the maximum building height in the C-3, C-4, C-5, C-6, C-7, C-8, I-2, I-3, I-4, I-5, I-6, Districts in accordance with 8100.3;

**(4)** Increase in maximum permitted floor ratio in the C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts;

**(5)** Increase in the amount of permitted office in accordance with subsection 4102.5.M(3); and

**(6)** Modification or waiver of the standards for commercial revitalization districts set forth in this section.

### C. Bulk Regulations

#### (1) Maximum Building Height

As specified in the underlying zoning district regulations, except that for land zoned to the C-6 or C-8 District, a maximum height of 50 feet is allowed by right. However, in all districts, a greater height is permitted if the Comprehensive Plan specifies a height greater than the height of the underlying zoning district.[239]

[238] Carried forward from Sect. 9-622 and the special exception uses for each CRD. Change since 8/9/2019 draft: The SE for an increase in the percent of office in C-8 has been revised to reference the standard for the office use which has been revised to allow up to a 100% increase.
[239] The standard allowing a greater height if specified in the Comprehensive Plan is new.

**(2) Setback Requirements**

**(a)** As specified in the underlying zoning district regulations, except the front setback in a commercial district is either:[240]

***1.*** 20 feet; or

***2.*** A lesser distance if the Comprehensive Plan specifies a lesser distance, but only if any recommended plantings, streetscape treatments, or other amenities are provided in general accordance with the Comprehensive Plan.

**(b)** In addition to the modification or waiver of the setback requirements permitted in B. above, for developments located in areas where specific design guidelines have been established in the Comprehensive Plan, the Director in approving a site plan may approve a reduction of setbacks if this reduction is in accordance with the Comprehensive Plan.[241]

## D. Open Space

The open space requirement of the underlying zoning district regulations does not apply to an expansion or enlargement of an existing development, as defined in subsection E(1) below, if the expansion or enlargement does not decrease the amount of existing open space.

## E. Additional Standards

**(1)** For the purpose of this section, an expansion or enlargement of an existing development is an increase in the gross floor which is less than 100 percent of the total gross floor area of all existing buildings. A redevelopment is the total removal of all buildings on a lot and the construction of new buildings, or the addition of gross floor area that is equal to or more than 100 percent of the total gross floor area of all existing buildings on a lot. A new development is the construction of buildings on a vacant lot.

**(2) Parking**

The off-street parking, loading, and private street requirements of Article 6 apply, except as follows:

**(a)** In the Richmond Highway CRD, the minimum off-street parking requirements for all nonresidential uses may be reduced by 20 percent.

**(b)** In all other CRDS, the minimum off-street parking requirements for nonresidential uses may be reduced by up to 20 percent by the Board, subject to conditions it deems appropriate[242]. The applicant must demonstrate to the Board that the reduction furthers the goals of the CRD as set forth in the Comprehensive Plan, including economic vitality, appearance and function. A request for this reduction in minimum off-street parking requirements may also be considered in conjunction

[240] Change since 8/9/2019 draft: Revised front setback to allow the setback to be 20' or less if specified in the Comprehensive Plan. The current Ordinance says to use the Plan recommendation if it is the same or less than the underlying zoning district (not 20').

[241] Change since 8/9/2019 draft: this language that allows the Director to modify or waive setback requirements as a part of site plan approval is new. This currently only applies to CRAs, CBCs, and TSAs, and it has been expanded to CRDs.

[242] Change since 8/9/2019 draft: added "subject to conditions it deems appropriate," which is the same language used in other parking reductions not in CRDs.

with a rezoning or special exception application. The parking reduction established in Section 8102 is not applicable.[243]

**(c)** For a mixed-use development in a PDC or PRM District, the minimum off-street parking requirements for residential and non-residential uses may be reduced by the Board in accordance with Article 6. The applicant must demonstrate to the Board that the reduction furthers the recommendations of the Comprehensive Plan for the area and that the reduction will not adversely affect the site or the adjacent area.

**(d)** The provisions of subsection 6100.1 are applicable, except that where there are practical difficulties or if the public safety or public convenience would be better served by parking spaces that are not located on the same lot or a lot contiguous to the use to which it is accessory. The Director, acting on a specific request for a non-residential use, may authorize an alternative location subject to appropriate and the following:

***1.*** The required spaces are permanently available because of agreements or arrangements approved by the Director; and

***2.*** The Director is satisfied that the required spaces are generally located within 500 feet walking distance of a building entrance to the use served by the spaces, or that there are off-site with valet or shuttle service access subject to agreements or arrangements that will ensure the operation of those services without any adverse impacts on the site of the parking spaces or the adjacent area.

**(e)** With special exception approval in accordance with subsection 8100.3, the Board may approve an alternative location that conforms with the provisions in subsection (d) above.

**(f)** The standard in subsection 6100.2.A(3) which requires off-street parking spaces that are located on the ground and open to the sky to be located no closer than ten feet to any front lot line does not apply in CRD Districts.

### (3) Signs

The sign provisions of Article 7 apply. However, the provisions to not apply to nonconforming signs that lawfully existed on the effective date of this Ordinance or prior ordinances, or to signs that are accessory to a nonconforming use. In accordance with subsections 7100.6.A(1) and 7100.6.C(2), nonconforming signs may not be enlarged or extended but may be removed and replaced with a sign that is reduced in height or sign area.

### (4) Landscaping and Screening

The landscaping and screening requirements of Section 5108 apply, except as set forth below. When the following provisions require a determination of feasibility of meeting the requirements on a lot, the Director may make the determination through the approval of a site plan, or the Board may make the determination by special exception in accordance with subsection 8100.3.

[243] Change since 8/9/2019 draft: Added provision for the Board to impose appropriate conditions.

**(a)** The interior parking lot landscaping requirements of subsection 5108.5.A apply as follows:

***1.*** When a proposed expansion or enlargement of an existing development results in a parking lot containing 20 or more parking spaces, the interior parking lot landscaping requirements apply to the parking lot unless the Director determines that it is not feasible to meet the requirement or that compliance with the requirement will adversely impact the required off-street parking.[244]

***2.*** The interior parking lot landscaping requirements apply for redevelopments and new developments.

**(b)** The peripheral parking lot landscaping requirements of subsection 5108.5.B apply as follows:

***1.*** The peripheral parking lot landscaping requirements of subsection 5108.5.B(1) concerning when a property line abuts land that is not the right-of-way of a street do not apply to expansions or enlargements of existing developments.

***2.*** The requirements of subsection 5108.5.B(1) apply to redevelopments or new developments. However, where there are landscaping or design provisions in the Comprehensive Plan that recommend a planting strip or other streetscape treatment with a different width or different plant materials than those required by subsection 5108.5.B, then the standards in the Comprehensive Plan apply.[245]

***3.*** The peripheral parking lot landscaping requirements of subsection 5108.5.B(2) concerning when the property line abuts the right-of-way of a street do not apply for expansions or enlargements of existing developments, redevelopments, and new developments. However, the following are required:

***a.*** A ten foot wide landscaping strip, which may not include any sidewalk, trail, or parallel utility easement, must be located on the lot where it abuts a street right-of-way line.

***b.*** If there are no existing or proposed overhead utility lines, there must be at least one large deciduous tree planted in the landscaping strip for each 30 feet of length, but the trees are not required to be installed at a spacing of one tree every 30 feet on center. If there are overhead utility lines, at least one small to medium deciduous tree must be planted in the landscaping strip for every 25 feet of length, but the trees are not required to be installed at a spacing of one tree every 25 feet on center. Trees planted in a landscaping strip beneath overhead utility lines must be of a shape and character to avoid interfering with the utility lines.

***c.*** All trees must be two and one-half to three inches in caliper at the time of planting.

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[244] Revised to establish a threshold for compliance with interior parking lot landscaping for any parking area containing 20 spaces, instead of only an expansion of the parking area by 20 or more parking spaces, to be consistent with Par. 1 of Sec. 13-202.

[245] Change since 8/9/2019 draft: Revised in this subsection and below to refer to "a different" width instead of "the same or lesser."

*d.* If there are landscaping or design provisions in the Comprehensive Plan that recommend a planting strip or other streetscape treatment with a different width or different plant materials than set forth above, then the provisions of the Comprehensive Plan apply.

*e.* The above requirements may be modified or waived for expansions or enlargements of existing developments when it is determined that it is not feasible to meet these requirements on the lot.

**(c)** The transitional screening and barrier requirements of subsection 5108.6.B apply as follows:

*1.* For new development and redevelopment, or for expansions or enlargements of existing developments, the transitional screening and barrier requirements apply. If there are landscaping or design provisions in the Comprehensive Plan that recommend a planting strip or other streetscape treatment with a different width, a different number of plantings, or different plant materials than required by subsection 5108.6, then the provisions of the Comprehensive Plan apply.

*2.* When the peripheral planting requirements of subsection (b)3 above, are required and provided in accordance with that subsection, they are deemed to meet the transitional screening requirement for that portion of the lot.

*3.* In addition to the above and to the provisions of subsection 5108.6.C, transitional screening may be modified or waived when a barrier is provided. The barrier must consist of a decorative brick or block wall, a decorative tubular steel or aluminum fence, or an alternative treatment that is compatible with treatments prevalent in the district or provisions of the Comprehensive Plan. Any alternative treatments must be approved by the Director.[246]

*4.* For all of the above, the requirements may be modified or waived by the Board by special exception in accordance with subsection 8100.3.

## F. Site Plans and Required Improvements

**(1)** Improvements in accordance with subsections 8100.7.E(3)(a) and 8100.7.E(4), which require the construction of service drives adjacent to a primary highway, and dedication and construction of widening for existing roads, existing roads on new alignments, and proposed roads, as indicated on the Comprehensive Plan, are not required in conjunction with a minor site plan for the following:

**(a)** Additions to existing buildings on a lot when those additions do not exceed a total of 5,000 square feet of gross floor area and not more 100 percent of the gross floor area of the existing buildings.

**(b)** Any permitted use on a temporary basis for a period not to exceed two years from the date of approval. The Director may extend the approval for one additional two-year period.

**(c)** Additions and alterations to provide an accessibility improvement not otherwise exempt under subsection 8100.7.D.

[246] Change since 8/9/2019 draft: Updated wrought iron fence to decorative tubular steel or aluminum fence.

**(d)** Uses that do not involve construction of gross floor area, such as tennis courts or storage yards, or modifications to existing uses that do not involve construction of gross floor area, such as changes to walkways, parking lots, or landscape plans.

**(e)** For uses subject to a minor site plan for other than as specified above or a site plan and upon request of the applicant, the Board, in accordance with the provisions of subsection 3.B above may modify or waive the required improvements of subsections 8100.7.E(1), 8100.7.E(3)(a), 8100.7.E(4), 8100.7.E(5), and 8100.7.E(14).

**(f)** In addition, for a minor site plan or site plan, the required improvement for the construction of trails and walkways as set forth in subsection 8100.7.E(2) are applicable unless there is a conflict with the Comprehensive Plan, in which case, the Director, in conjunction with the approval of a minor site plan or site plan, or the Board, by special exception in accordance with subsection 8100.3, may require the provision of trails or walkways in accordance with the Comprehensive Plan.

**(2)** A site plan or minor site plan may be filed concurrently with the filing of a rezoning, special exception, or special permit application, but may not be approved by the Director until the rezoning, special exception, or special permit application has been approved by the Board or BZA, respectively. This concurrent processing does not relieve the applicant from complying with the provisions of any applicable ordinances, regulations, or adopted standards, and does not prejudice the consideration of the application.

# 3103. Other Overlay Districts

## 1. Natural Resource Overlay District[247]

### A. Purpose[248]

The Natural Resource Overlay District is created in recognition of the natural resources that exist in Fairfax County and in recognition that the sand and gravel industries and the related processing of these materials into concrete, asphalt, and other products have been a basic construction support industry for many years, providing a broad range of employment opportunities and contributing to the County's tax base. However, the Natural Resource Overlay District also recognizes that natural resource extraction operations constitute a significant potential impact on the pattern of development in areas nearby.

### B. Special Permit Uses

Extraction activity requires a special permit in accordance with subsection 8100.4.

[247] From Part 3, Sect. 7-300.
[248] Changed heading from “purpose and intent” to be consistent with other zoning districts. This also applies to the overlay districts that follow.

# 2. Airport Noise Impact Overlay District[249]

## A. Purpose

The Airport Noise Impact Overlay District is established for the general purpose of controlling conflicts between land uses and noise generated by aircraft and to protect the public health, safety, and welfare from the adverse impacts associated with excessive noise.

It is the intent of this overlay district to regulate land uses within designated existing or projected airport noise impact areas by requiring acoustical performance standards. Nothing within this section will be construed as altering building materials or construction methods from those that are specified in the USBC.

## B. District Boundaries[250]

The Airport Noise Impact Overlay District boundaries are based on noise impact contours adopted by the Board, which are subject to periodic updating and amendment in accordance with the provisions of subsection 8100.2.

## C. Establishment of Districts

**(1)** For purposes of administering these regulations, there will be three Airport Noise Impact Areas:

- **(a)** Greater than Day-Night Average Sound Level ("DNL") 75 dBA
- **(b)** DNL 70-75 dBA
- **(c)** DNL 65-70 dBA

**(2)** The boundaries of each noise impact area will be established in accordance with the provisions of subsection B. The purpose of the establishment of three Airport Noise Impact Areas is to distinguish between the severity of the levels of noise impact so that appropriate uses and acoustical performance standards can be established to mitigate the adverse impacts of aircraft noise to protect the public health, safety, and welfare.

## D. Administration

The Director is responsible for reviewing site plans, subdivision plats, and building permits to determine if the property to be developed is located in the Airport Noise Impact Overlay District; if so, it must be noted on the plan, plat, or permit. Before any building permit may be approved in the district, it must satisfy subsections E and F below.

## E. Uses and Use Standards

Uses are permitted according to the underlying zoning district(s), except as qualified below. In addition to the use standards presented in Article 4, the following apply:

**(1)** Uses within this district are permitted only in accordance with the Noise Compatibility Table in subsection G below.

[249] From Part 4, Sect. 7-400.
[250] Change since 8/9/2019 draft: Deleted "potential post year 2000" in reference to the adopted noise contours.

**(2)** In those instances where a proposed use is not listed in the table, the Director, using the table as a guide, will determine which use is most similar and which provisions of the table are applicable.

**(3)** Where a structure contains different occupants or tenants, the more stringent requirements of the table apply, unless it is architecturally possible to achieve the interior noise levels specified in subsection F below for the area occupied by each occupant or tenant.

**(4)** The table identifies the uses, the Airport Noise Impact Areas, and, where applicable, the respective interior noise level standards and acoustical treatment measures for each use in a given Impact Area. The following subsections explain how uses are designated and permitted:

**(a)** If a use is permitted in a given Impact Area without any interior noise level standard, it is represented on the table with a "P." If a given use is not permitted, it is represented with a "NP."

**(b)** Many uses are permitted in a given Impact Area, but only if acoustical treatment measures are provided to achieve a specified interior noise level standard for the entire structure. Such uses are represented on the table with a designation of "P1," "P2," or "P3," which corresponds with the three interior noise level standards presented in subsection F below.

**(c)** Many uses are represented on the table with a designation of "P1," "P2," or "P3," and are qualified with an asterisk (*). Such uses are permitted only if acoustical treatment measures are provided for those portions of the building that contain offices or other noise sensitive uses in accordance with one of three interior noise level standards presented in subsection F below.

**(5)** In the greater than DNL 75 dBA Impact Area, dwellings are not permitted, but new dwelling units and additions to existing dwelling units may be permitted if:

**(a)** The lot is located in an R district or a residential area of a P district;

**(b)** The lot had final plat approval before July 26, 1982; and

**(c)** The new dwelling unit or addition complies with the Interior Noise Level Standard P1 set forth in subsection F below.

## F. Interior Noise Level Standards

**(1)** The acoustical treatment requirements of this Section are to achieve the interior noise levels set forth below and will apply to the construction of new structures and the alteration or repair of existing structures with enclosed interior space as established under the USBC.

**(2)** Nothing within this section will be construed as altering building materials, construction methods, plan submission requirements, or inspection practices from those that are specified in VUSBC, and the acoustical treatments required must comply with the provisions of VUSBC.

**(3)** Any structure existing in the Airport Noise Impact Overlay District for which a building permit was issued before April 8, 1997 and that does not comply with the applicable interior noise level standards in subsection 3103.2.G is a noncompliant structure.

**(4)** There will be three different interior noise level standards as identified on the table. These standards are described as follows:

**(a)** **Interior Noise Level P1:** In the greater than DNL 75 dBA Impact Area, all structures or portions of structures as applicable will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 45 dBA. This standard must be met by one of the following:

***1.*** The use of roof and exterior wall assemblies that have a laboratory sound transmission class (STC) of at least 50, and doors and windows that have a laboratory STC of at least 42. The STC of construction assemblies will be determined by a certified sound testing laboratory; or

***2.*** A certification by an acoustical engineer that the construction practices or materials of the structure will achieve the specified interior noise level. The acoustical professional will submit relevant information to permit the Director to verify that the proposed measures will achieve the interior noise level standard.

**(b)** **Interior Noise Level Standard P2:** In the greater than DNL 75 dBA Impact Area, all structures or portions of structures as applicable will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 50 dBA. In the DNL 70-75 dBA Impact Area, all structures will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 45 dBA. This standard must be met by one of the following:

***1.*** The use of roof and exterior wall assemblies that have a laboratory sound transmission class (STC) of at least 45, and doors and windows that have a laboratory STC of at least 37. The STC of construction assemblies will be determined by a certified sound testing laboratory;

***2.*** A certification by an acoustical engineer that the construction practices or materials of the structure will achieve the specified interior noise level. The acoustical professional will submit relevant information to permit the Director to verify that the proposed measures will achieve the interior noise level standard; or

***3.*** A determination by the Director that the interior noise level standard is met based on the exterior or interior wall and roof assemblies and the location of the use in the structure.

**(c)** **Interior Noise Level Standard P3:** In the DNL 70-75 dBA Impact Area, all structures or portions of structures as applicable will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 50 dBA. In the DNL 65-70 dBA Impact Area, all structures will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 45 dBA. This standard must be met by one of the following:

***1.*** The use of roof and exterior wall assemblies that have a laboratory sound transmission class (STC) of at least 39 and doors and windows that have a laboratory STC of at least 28. The STC of construction assemblies must be determined by a certified sound testing laboratory;

***2.*** A certification by an acoustical engineer that the construction practices or materials of the structure will achieve the specified interior noise level. The

acoustical professional will submit relevant information to permit the Director to verify that the proposed measures will achieve the interior noise level standard; or

3. A determination by the Director that the interior noise level standard is met based on the exterior or interior wall and roof assemblies and the location of the use in the structure.

## G. Noise Compatibility Table

**TABLE 3103.1: Noise Compatibility Table**
**For KEY to table, refer to subsection 3103.2.E, *Use Limitations***

| Use[251] | Noise Impact Areas (DNL dBA) | | |
|---|---|---|---|
| | 75+ | 70-75 | 65-70 |
| **AGRICULTURAL AND RELATED USES** | | | |
| Agricultural Operation | | | |
| *Growing of crops* | P | P | P |
| *Livestock* | NP | P3* | P |
| *Residential use* | NP | P2 | P3 |
| Farm Winery, Limited Brewery, or Limited Distillery[252] | P2* | P3* | P |
| Stable, Riding or Boarding | NP | P3* | P |
| **RESIDENTIAL USES** | | | |
| **Household Living** | | | |
| *Additions to existing dwellings & new dwellings on certain existing lots* | P1 | P2 | P3 |
| *All other new construction* | NP | P2 | P3 |
| Dwelling, Multifamily | See Above | | |
| Dwelling, Single-Family Attached | | | |
| Dwelling, Single-Family Detached | | | |
| Dwelling, Stacked Townhouse | | | |
| Group Residential Facility | | | |
| Live-Work Development | | | |
| Manufactured Home | NP | NP | P3 |
| **Group Living** | | | |
| Congregate Living Facility | NP | P2 | P3 |
| Group Household | | | |
| Religious Group Living | | | |
| Residence Hall | | | |
| **PUBLIC, INSTITUTIONAL, AND COMMUNITY USES** | | | |

[251] The uses have been updated to be consistent with the proposed use names. The most similar use has been assigned to new uses. Accessory and temporary uses have not been included.
[252] Change since 8/9/2019 draft: the noise impact areas from outdoor commercial recreation have been applied, as this is the most similar use.

**TABLE 3103.1: Noise Compatibility Table**
**For KEY to table, refer to subsection 3103.2.E, *Use Limitations***

| Use[251] | Noise Impact Areas (DNL dBA) | | |
|---|---|---|---|
| | 75+ | 70-75 | 65-70 |
| **Community, Cultural, and Educational Facilities** | | | |
| Adult Day Support Center[253] | NP | P2 | P3 |
| Alternate Use of Public Facility | *See most similar use* | | |
| Child Care Center | NP | P2 | P3 |
| Club, Service Organization, or Community Center | NP | P2 | P3 |
| College or University | P1 | P2 | P3 |
| *with residential facilities* | NP | P2 | P3 |
| Community Swim, Tennis, and Recreation Club | P | P | P |
| Convention or Conference Center | P2 | P3 | P |
| Cultural Facility or Museum | NP | P2 | P3 |
| Public Use | *See most similar use* | | |
| Religious Assembly | NP | P2 | P3 |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | NP | P2 | P3 |
| School, Private | NP | P2 | P3 |
| Specialized Instruction Center | NP | P2 | P3 |
| **Funeral and Mortuary Services** | | | |
| Cemetery | P2* | P3* | P |
| Crematory | | | |
| Funeral Home | P2 | P3 | P |
| **Health Care** | | | |
| Adult Day Care Center | NP | P2 | P3 |
| Continuing Care Facility | NP | P2 | P3 |
| Independent Living Facility | NP | P2 | P3 |
| Medical Care Facility | | | |
| *Educational and residential* | NP | P2 | P3 |
| *Offices and research* | P2 | P3 | P |
| **Transportation** | | | |
| Transit Facility | P2* | P3* | P |
| **Utilities** | | | |
| Utility Facility, Heavy | P2* | P3* | P |
| Utility Facility, Light | | | |
| **COMMERCIAL USES** | | | |
| **Animal-Related Services** | | | |
| Animal Shelter | NP | P3* | P |

[253] Change since 6/30/2020 draft: This is a new use.

## TABLE 3103.1: Noise Compatibility Table

**For KEY to table, refer to subsection 3103.2.E, *Use Limitations***

| Use[251] | Noise Impact Areas (DNL dBA) | | |
|---|---|---|---|
| | 75+ | 70-75 | 65-70 |
| Kennel | | | |
| Pet Grooming Establishment | | | |
| Veterinary Hospital | | | |
| **Food and Lodging** | | | |
| Bed and Breakfast | P1 | P2 | P3 |
| Catering | P2 | P3 | P |
| Hotel or Motel | P1 | P2 | P3 |
| Restaurant | P2 | P3 | P |
| Restaurant, Carryout | | | |
| Restaurant with Drive-Through | | | |
| Retreat Center | NP | P2 | P3 |
| **Office and Financial Institutions** | | | |
| Alternative Lending Institution | P2 | P3 | P |
| Drive-Through Financial Institution | | | |
| Financial Institution | | | |
| Office | | | |
| Office in a Residential District | *See standards for dwellings* | | |
| **Personal and Business Services** | | | |
| Business Service | P2 | P3 | P |
| Household Repair and Rental Service | | | |
| Massage Therapy Establishment | | | |
| Personal Service | | | |
| **Recreation and Entertainment** | | | |
| Banquet or Reception Hall | P2 | P3 | P |
| Campground | NP | NP | P |
| Commercial Recreation, Indoor | P2 | P3 | P |
| Commercial Recreation, Outdoor | P2* | P3* | P |
| Entertainment, Adult | P2 | P3 | P |
| Entertainment, Public | P2 | P3 | P |
| Golf Course or Country Club | P2* | P3* | P |
| Health and Exercise Facility, Large | P2 | P3 | P |
| Health and Exercise Facility, Small | P2 | P3 | P |
| Marina, Commercial or Private Noncommercial | P | P | P |
| Quasi-public Park, Playground, or Athletic Field | P2* | P3* | P |
| Smoking Lounge | P2 | P3 | P |

**TABLE 3103.1: Noise Compatibility Table**
**For KEY to table, refer to subsection 3103.2.E, *Use Limitations***

| Use[251] | Noise Impact Areas (DNL dBA) | | |
|---|---|---|---|
| | 75+ | 70-75 | 65-70 |
| Stadium or Arena | NP | NP | P[254] |
| Zoo or Aquarium | NP | P3* | P |
| **Retail Sales** | | | |
| Convenience Store | P2 | P3 | P |
| Drive-Through, Other | P | P | P |
| Drive-Through Pharmacy | P2 | P3 | P |
| Drug Paraphernalia Establishment | P2 | P3 | P |
| Garden Center | P2* | P3* | P |
| Pawnshop | P2 | P3 | P |
| Retail Sales, General | P2 | P3 | P |
| Retail Sales, Large | P2 | P3 | P |
| **Vehicle-Related Uses** | | | |
| Car Wash | P | P | P |
| Commercial Off-Street Parking | P | P | P |
| New Vehicle Storage | P2 | P3 | P |
| Truck Rental Establishment | P2* | P3* | P |
| Vehicle Fueling Station | P2* | P3* | P |
| Vehicle Repair and Maintenance, Heavy | P2* | P3* | P |
| Vehicle Repair and Maintenance, Light | P2* | P3* | P |
| Vehicle Sales, Rental, and Service | P2* | P3* | P |
| Vehicle Transportation Service | P2* | P3* | P |
| **INDUSTRIAL USES** | | | |
| **Freight Movement, Warehousing, and Wholesale Distribution** | | | |
| Data Center | P2* | P3* | P |
| Freight Distribution Hub | | | |
| Goods Distribution Hub | | | |
| Self-Storage | | | |
| Warehouse | | | |
| Wholesale Facility | | | |
| **Industrial Services and Extraction of Materials** | | | |
| Building Materials Storage and Sales | P2* | P3* | P |
| Contractor's Office and Shop | | | |
| Extraction Activity | | | |
| Petroleum Products Storage Facility | | | |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | | | |

[254] Revised stadium or arena from NP to P in 65-70 for consistency with the Comprehensive Plan.

**TABLE 3103.1: Noise Compatibility Table**
**For KEY to table, refer to subsection 3103.2.E, *Use Limitations***

| Use[251] | Noise Impact Areas (DNL dBA) | | |
|---|---|---|---|
| | 75+ | 70-75 | 65-70 |
| Storage Yard | | | |
| Vehicle Storage or Impoundment Yard | P | P | P |
| **Production of Goods** | | | |
| Craft Beverage Production Establishment | P2* | P3* | P |
| Production or Processing | | | |
| Production or Processing, Heavy | | | |
| Small-Scale Production Establishment | | | |
| **Waste and Recycling Facilities** | | | |
| Junkyard | P | P | P |
| Mixed Waste Reclamation Facility | | | |
| Recycling Center | | | |
| Solid Waste Disposal Facility | | | |
| **OTHER USES** | | | |
| Alternative Use of Historic Building | *See most similar use* | | |

## 3. Sign Control Overlay District[255]

### A. Purpose

Sign Control Overlay Districts are established in furtherance of subsection 7100.1 by restricting freestanding signs in the intensely developed commercial and industrial areas of the County where there is an increased need to reduce visual clutter, sight distance obstructions, interference with traffic control signals and mechanisms, and where the speed of traffic does not warrant the freestanding signs otherwise permitted by the provisions of Article 7.

### B. Administration and Standards

The administration and standards of this Sign Control Overlay District are as provided for in Article 7.

## 4. Highway Corridor Overlay District[256]

### A. Purpose

To further the purposes set forth in ~~Va. Code Sections 15.2-2200, 15.2-2283, 15.2-2284 and 15.2-1200~~state law, and to protect and promote the health, safety, and general welfare of the

[255] From Part 5, Sect. 7-500.
[256] From Part 6, Sect. 7-600.

public by the prevention or reduction of traffic congestion or danger in the public and private streets, limitations are placed on certain automobile-oriented, fast service, or quick turn-over uses by the imposition of the Highway Corridor Overlay District.

### B. District Boundaries

In lieu of a metes and bounds description, the District boundaries may be described by fixing the points of beginning and end in the centerline of a street and the distance on one or both sides from the centerline to which this district extends.

### C. Establishment of Districts

The Board may apply the Highway Corridor Overlay District to the land along any street or highway upon concluding that:

**(1)** A major purpose of the street or highway is to carry through traffic; and

**(2)** The construction or use of land would have an adverse impact on level of service; increase danger or congestion in the streets; impair the public health, safety, convenience, and welfare; or impede the maintenance or creation of a convenient, attractive, and harmonious community.

### D. Use Standards

The following uses are subject to additional standards as contained in Article 4 when located in a Highway Corridor Overlay District:

**(1)** Drive-through financial institution (see subsection 4102.5.L);

**(2)** Restaurant with drive-through (see subsection 4102.5.I);

**(3)** Convenience store (see subsection 4102.5.CC); and

**(4)** Vehicle fueling station (see subsection 4102.5.NN).

## 5. Water Supply Protection Overlay District[257]

### A. Purpose

Water Supply Protection Overlay Districts are created for the purpose of promoting the public health, safety, and welfare through the protection of public water supplies from the danger of water pollution. Regulations within each overlay district are established to prevent water quality degradation due to pollutant loadings within the watersheds of public water supply reservoirs; to provide for specific review and approval of residential, commercial, industrial and other development proposals that may have adverse water quality impacts; to encourage land uses and activities that will be compatible with water quality protection; and to assure that structures and uses within each overlay district will be developed to serve the health, safety, and welfare objectives of preserving the environmental integrity of public water supply reservoirs.

[257] From Part 8, Sect. 7-800.

## B. District Boundaries

Water Supply Protection Overlay District boundaries must be drawn to include lands draining into a water supply reservoir.

## C. Administration

The Director will be responsible for reviewing all proposed uses to determine if the property to be developed or used is located in the overlay district. If any proposed use is so located, then such use will be subject, as applicable, to the provisions of subsection D below.

## D. Use Standards

In addition to the use standards applicable in the underlying zoning district(s), the following use standards will apply:

**(1)** Any subdivision that is subject to the provisions of Chapter 101 of the County Code or any use requiring the approval of a site plan in accordance with the provisions of subsection 8100.7 will provide water quality control measures designed to reduce the projected phosphorus runoff pollution by one-half for the proposed use. Such water quality control measures or Best Management Practices (BMPs) will be reviewed, modified, waived or approved by the Director in accordance with the Public Facilities Manual. The requirement for BMPs may be modified or waived only where existing site characteristics make the provision impractical or unreasonable on-site, an alternative provision is not or cannot be accommodated off-site, and where it can be established that the modification or waiver will not affect the achievement of the water quality goals for the public water supply watershed as set forth in the Comprehensive Plan.

**(2)** Any warehouse, production or processing, or heavy production or processing establishment that generates, uses, stores, treats, or disposes of a hazardous or toxic material or waste, as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., must submit the following information with any application for a proposed development or use unless deemed unnecessary by the Director:[258]

- **(a)** A listing of all toxic and hazardous materials and wastes that will be generated, used, stored, treated, or disposed of onsite;
- **(b)** A soils report describing the nature and characteristics of the soils covering the site;
- **(c)** A description of surface and groundwater characteristics of the site and the surrounding area within 300 feet of site boundaries; and
- **(d)** A description of all spill prevention, containment, and leakage control measures proposed by the applicant for all toxic and hazardous materials and wastes generated, used, stored, treated, or disposed of on the site.

**(3)** All required information will be referred to Land Development Services for review in accordance with the provisions of Chapter 67.1 of the County Code and other applicable laws and ordinances. When deemed appropriate, the Director may furnish a copy of the application and information to the Virginia Department of Environmental Quality and other appropriate agencies.

[258] Revised to reflect new use names.

# Article 4 - Use Regulations[259]

## 4100. General Provisions

**1.** All land uses are listed in the two tables in Section 4101. Table 4101.3 addresses the land uses allowed in the conventional zoning districts (the Residential, Commercial, and Industrial Districts) and Table 4101.4 addresses the land uses allowed in the Planned Districts (PDH, PDC, PRC, PRM, PCC, and PTC Districts). The land uses allowed in each zoning district are identified in those tables as permitted (i.e. by right), special exception, special permit, accessory, associated service, or administrative permit uses. Each use is subject to the applicable general and use-specific standards that are referenced in the right-most column of the tables, and to all other applicable requirements of this Ordinance.

**2.** When a proposed land use is not listed in Tables 4101.3 and 4101.4 below and is not otherwise prohibited by law, the Zoning Administrator will determine its appropriate use category and the most similar listed use.[260]

**3.** No structure or use of land may be built, moved, remodeled, established, altered, or enlarged unless it complies with all regulations of this Ordinance.[261]

## 4101. Use Tables

### 1. Use Table Instructions and Abbreviations[262]

**A.** A "P" in a cell of Table 4101.3 indicates that the use can be established by right in that zoning district, subject to compliance with related use standards.

**B.** A "✓" in a cell of Table 4101.4 indicates that the use can be established only when identified on an approved final development plan in the PDH, PDC, PRM, PCC, or PTC Districts, or when identified on an approved PRC development plan and, if applicable, a PRC plan in the PRC District, in accordance with subsection 8100.2. All uses must comply with related use standards. If the cell containing the "✓" is in a column under the subheading "Secondary," the use can only be established with one or more principal uses.

**C.** A "✓/SE" in a cell of Table 4101.4 indicates that the use can be established only when it complies with Section 2105 and related use standards as follows:

**(1)** The use must be identified on an approved PRC development plan and, if applicable, a PRC plan in the PRC District, or on an approved final development plan in any other P district; or

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[259] Most of the text has been edited for readability; however, content changes are footnoted throughout.
[260] This language carries forward and condenses Par. 1 of Sect. 2-302, adding in reference to the use category. Change since 7/1/2019 draft: Deleted the following language: "The proposed use will be treated the same as the most similar use."
[261] This combines Sect. 2-102 and Paragraphs 4 through 8 of Sect. 2-302.
[262] Description of table abbreviations draw on materials from the current articles for the zoning districts, and Articles 8 (Special Permits) and 9 (Special Exceptions).

**(2)** The use may be established with approval of a special exception by the Board when the use is not specifically identified on a final development plan, development plan, or PRC plan, as applicable. When a use is being considered for approval as a special exception, the related special exception or special permit use standards apply.

**(3)** However, when a use is being considered for approval on a development plan in the PRC District or a final development plan in any other P district, the special exception or special permit use standards are used as a guide.[263]

**(4)** When a standard is identified as required in all instances of a particular use, it is mandatory.

**D.** An "SE" in a cell of Table 4101.3 or 4101.4 indicates that the use can be established only with Board approval of a special exception in accordance with subsection 8101.3 and related use standards.[264]

**E.** An "SP" in a cell of Table 4101.3 or 4101.4 indicates that the use can be established only with BZA approval of a special permit in accordance with subsection 8101.3 and the related use standards.[265]

**F.** An "A" in a cell of Table 4101.3 or 4101.4 indicates that the use is allowed only as accessory to, in connection with, incidental to, and on the same lot with a principal use or structure that has been legally established in a district.[266] In addition, the Zoning Administrator may allow any use as an accessory use, provided that it meets the definition of an accessory use.

**G.** An "AP" in a cell of Table 4101.3 or 4101.4 indicates that the use is allowed only with approval of an administrative permit by the Zoning Administrator.[267]

**H.** An "A+" in a cell of Table 4-101.3 or 4-101.4 indicates that the use can be established as an associated service use if it conforms to the related use standards.[268]

**I.** If a cell in Table 4101.3 or 4101.4 contains more than one approval type, there is more than one possible way to establish the use, as referenced in the related use standards for the specific use. For example, when a cell contains a "P" as well as an "SE" or "SP," if the use does not meet the standards when permitted by right, it may be established with BZA or Board approval in accordance with the applicable special exception or special permit standards and procedures.

**J.** A blank cell in Table 4101.3 or 4101.4 indicates that the use cannot be established in that zoning district.

**K.** The right-most column in Table 4101.3 and Table 4101.4 references related standards that are specific to individual uses. It does not include references to other zoning standards governing uses that may apply to a particular use, including standards in subsection 4102.1, Article 2, and Article 3.

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[263] Subsections (2) and (3) carry forward provisions from Par. 3 of Sections 6-106, 6-206, 6-305, Par. 5 of Sect. 6-406, and Par. 4 of Sect. 6-505.
[264] This provision is based on Par. 1 of Sect. 2-304.
[265] This provision is based on Par. 1 of Sect. 2-303.
[266] This provision is based on Sect. 10-101.
[267] Temporary Special Permits are now referred to as administrative permits. They are approved by the Zoning Administrator (see Sect. 8-010).
[268] "Associated service use" is a new name for "accessory service use."

## 2. Structure of the Use Classification System[269]

Allowable uses are organized according to a three-tiered hierarchy consisting of use classifications, use categories, and uses. This classification system is intended to provide a structure that groups similar uses together for ease in locating or identifying a use and to simplify the classification of new uses.

### A. Use Classifications

Each use is grouped under one of these seven broad use classifications: Agricultural and Related Uses; Residential Uses; Public, Institutional, and Community Uses; Commercial Uses; Industrial Uses; Accessory Uses; and Temporary Uses.

### B. Use Categories

Use categories are subgroups of uses in each classification that have common functional or physical characteristics, such as the type and amount of activity, types of goods, services, occupants or users/customers, or operational characteristics. For example, the Commercial classification is divided into multiple use categories, including Food and Lodging, Office and Financial Institutions, and Retail Sales.

### C. Uses

Uses are the specific land uses that can be established in a zoning district, such as restaurant, hotel or motel, or catering uses.

## 3. Use Table for Residential, Commercial, and Industrial Districts

**TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts**
**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| **AGRICULTURAL AND RELATED USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Agricultural and Related Uses:** activities related to the growing or raising of plants or animals for food or other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural Operation | P | P | P | P | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.A |
| Farm Winery, Limited Brewery, or Limited Distillery | P SE | P SE | P SE | P SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.B |
| Stable, Riding or Boarding[270] | SE SP | SE SP | SE SP | SE SP | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.C |

[269] This new section explains the three-tiered organization of uses in the use table.
[270] These permissions carry forward and consolidate the current permissions for "riding/boarding stables" and "veterinary hospital, ancillary to riding or boarding stables." An SE option was also added for those applications that may be in conjunction with other SE uses. An ancillary veterinary hospital is changed from not allowed in the R-A District to allowed as part of a special permit for a riding or boarding stable.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| **RESIDENTIAL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Household Living**: uses characterized by residential occupancy of a dwelling unit that functions as a single household | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dwelling, Multifamily | | | | | | | | | | P | P | P | P | | | | | | | | | | | | | | | | |
| Dwelling, Multifamily – ADU Development[271] | | | | | | | | | | P | P | P | P | | | | | | | | | | | | | | | | |
| Dwelling, Single-Family Attached | | | | | | | | P | P | P | P | P | | | | | | | | | | | | | | | | | 4102.3.B |
| Dwelling, Single-Family Attached - ADU Development[272] | | | | | | | | P | P | P | P | P | | | | | | | | | | | | | | | | | |
| Dwelling, Single-Family Detached | P | P | P | P | P | P | P | P | P | | | | | P | | | | | | | | | | | | | | | 4102.3.C |
| Dwelling, Stacked Townhouse[273] | | | | | | | | | | P | P | P | P | | | | | | | | | | | | | | | | 4102.3.B |
| Dwelling, Stacked Townhouse – ADU Development[274] | | | | | | | | P | P | P | P | P | P | | | | | | | | | | | | | | | | |
| Group Residential Facility | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | | | | | | | | | | | |
| Live-Work Development[275] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.3.D |
| Manufactured Home[276] | P | | | | | | | | | | | | | P | | | | | | | | | | | | | | | 4102.3.E |
| **Group Living**: uses characterized by residential occupancy by a group of persons who do not constitute a household | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Congregate Living Facility | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | | | | | | | | | | 4102.3.F |
| Group Household[277] | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | 4102.3.G |
| Religious Group Living[278] | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | SP | SP | SP | SP | | SP | SP | | | | 4102.3.H |
| Residence Hall[279] | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | SE | SE | SE | | | 4102.3.I |

[271] Change since 7/1/2019 draft: ADU developments have been added to the use table.
[272] Change since 7/1/2019 draft: ADU developments have been added to the use table.
[273] This is a new use.
[274] Change since 7/1/2019 draft: ADU developments have been added to the use table.
[275] This is a new use.
[276] This consolidates the permissions for manufactured homes and mobile homes, which have been consolidated into the use "manufactured home."
[277] This carries forward the current permissions for "group housekeeping unit."
[278] This carries forward the current permissions for "convent, monastery, seminary, nunnery."
[279] This carries forward the current permissions for "dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls," except it is changed from SE to not allowed in the R-C District and from not allowed to SE in the I-4 District.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| **PUBLIC, INSTITUTIONAL, AND COMMUNITY USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Community, Cultural, and Educational Facilities**: uses generally of a public, quasi-public, nonprofit, or charitable nature providing a local service (e.g., cultural, educational, recreational, counseling, training, religious) directly to people of the community | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult Day Support Center[280] | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | P SE | P SE | P SE | P SE | P SE | P SE | 4102.4.A |
| Alternate Use of Public Facility[281] | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | SE | SE | SE | SE | SE | 4102.4.B |
| Child Care Center[282] | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE A+ | SE A+ | SE | P | P | P | P | P | P | P | P | P SE | P SE | P SE | P SE | P SE | P SE | 4102.4.C 4102.1.G |
| Club, Service Organization, or Community Center[283] | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | | SE | SE | SE | SE | SE | 4102.4.D |
| College or University[284] | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P SE | P SE | P SE | P | P | P | P | P | | SE | SE | SE | | | 4102.4.E |
| Community Swim, Tennis, and Recreation Club[285] | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | SP | SP | SP | SP | SP | 4102.4.F |

[280] Change since 6/30/2020 draft: This is a new use with new permissions.
[281] This carries forward the current permissions for alternate uses of public facilities, except in the R-A District it is changed from an SE use to not allowed.
[282] This carries forward permissions for "child care centers" and "nursery schools," except a child care center has been changed from an SE use to not allowed in the R-E District, and a nursery school has been changed from an SE use to not allowed in the R-A, R-C, and R-E Districts, except in conjunction with a religious assembly use. The use has been changed from SE to P in the C-5 through C-8 Districts. Additionally, while the uses are currently allowed as an accessory service use in the C-1 through C-4 Districts and in industrial districts, this use is not listed as an A+ use in those districts because it is permitted by right. Associated service uses are removed from R-12 and R-16 due to density.
[283] This use consolidates Category 3 SE uses "private clubs" and "public benefit associations" and Group 4 SP uses "community clubs, centers, meeting halls, swimming pool, archery ranges" and "any other recreational/social use operated by a by non-profit, where membership is limited to residents of nearby residential areas." The permissions for "private clubs and public benefit associations" are carried forward. In order to reconcile the permissions, the following changes are made: (1) "community clubs, centers, meeting halls, swimming pool, archery ranges" and "any other recreational/social use operated by a by non-profit, where membership is limited to residents of nearby residential areas" are changed from not allowed to SE in C-1 through C-4 and I-5 and I-6, and from SP to SE in R-C through R-MHP and I-2 through I-4; (2) "any other recreational/social use operated by a by non-profit, where membership is limited to residents of nearby residential areas" is changed from SP to P in C-5 and C-6 and from not allowed to P in C-7 and C-8; and (3) swimming pools and archery ranges are changed from not allowed in C-7 and C-8 to P, and from SP to P in C-5 and C-6.
[284] This changes the permissions from SE to permitted in the C-1, C-2, and C-3 Districts, subject to use standards.
[285] This carries forward permissions for "swimming club and tennis club/courts."

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards<br>NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Convention or Conference Center[286] | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.4.G |
| Cultural Facility or Museum[287] | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | | SE | SE | SE | | | |
| Public Use | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Religious Assembly[288] | | SP | SP | SP | SP | SP | SP | SP | SP | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 4102.4.H |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center[289] | | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | SP SE | P | P | P | P | P | P | P | P | P SP SE | P SP SE | P SP SE | P SP SE | P SP SE | P SP SE | 4102.4.I |
| School, Private[290] | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | P SE | P SE | P SE | P SE | P SE | P SE | 4102.4.J |
| Specialized Instruction Center[291] | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | | P | P | P | P | SE | 4102.4.K |
| **Funeral and Mortuary Services**: establishments that provide services related to the death of a human being or an animal | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cemetery[292] | | | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | | | | 4102.4.L |
| Crematory | | | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | P | P | P | 4102.4.M |
| Funeral Home[293] | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | P | P | P | P | P | P | | P | P | P | P | P | 4102.4.N |

[286] This carries forward the permissions for "exposition halls and facilities to house cultural or civic events or conventions of political, industrial, fraternal or similar associations."
[287] This carries forward the permissions for "cultural centers, museums, and similar facilities." The provisions in Sect. 9-313 are addressed by the general SE standards and by the regulations for the Water Supply Protection Overlay District.
[288] This carries forward the permissions for "churches, chapels, temples, synagogues and other places of worship."
[289] This carries forward the permissions for "churches, chapels, temples, synagogues and other places of worship with a child care center, nursery school or private school of general or special education." The permissions have been revised to reflect the change in permissions to child care center, which is proposed to be permitted by right in the C-5 through C-8 Districts.
[290] This carries forward permissions for "private schools of general education." This use is changed from SE to not allowed in R-A.
[291] This carries forward permissions for "private schools of special education," but no longer allows it as an SE use in the R-E District. Standards in Sect. 9-310 are not carried forward. Change since 7/1/209 draft: changed from not allowed to SE in the I-6 District.
[292] This carries forward the permissions for "cemetery for human or animal interment," "columbarium and mausoleum when used in conjunction with a cemetery," and "funeral home, if located in an already existing cemetery of more than 75 acres."
[293] This consolidates permissions for the uses "funeral home" and "funeral chapel." With this consolidation, "funeral chapel" is changed from an SE to an SP use in the R-E through R-MHP Districts. Aside from this change, differences in permissions for the uses are addressed in the use-specific standards.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards<br>NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| **Health Care**: uses providing health care services, including surgical or other intensive care and treatment, various types of medical treatment, and nursing care | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult Day Care Center | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.4.O |
| Continuing Care Facility | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.4.P |
| Independent Living Facility | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | | | | | | | | | | 4102.4.Q |
| Medical Care Facility[294] | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | SE | SE | SE | SE | SE | 4102.4.R |
| **Transportation**: uses associated with the operation of airplanes, trains, and buses | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Airport[295] | | | | SE | | | | | | | | | | | | | | | | | SE | | SE | SE | SE | SE | SE | SE | 4102.4.S<br>4102.4.T |
| Helipad[296] | | | SE | SE | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.4.S |
| Transit Facility[297] | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P<br>SE | 4102.4.S<br>4102.4.U |
| **Utilities**: uses including heavy utilities (infrastructure services that provide regional or community-wide service), light utilities (infrastructure services that need to be located in or near where the service is provided), solar power facilities, and wireless facilities | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Solar Power Facility[298] | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | 4102.4.V |
| Utility Facility, Heavy[299] | | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | P<br>SE | P | 4102.4.W |

[294] This use includes nursing facilities and assisted living facilities.
[295] This carries forward and consolidates current permissions for "airports" and "heliports," except they are changed from SE to not allowed in the R-E District. Use-specific standards limit this use to heliports in the C-7 and I-I Districts, consistent with current permissions for this use.
[296] This carries forward the permissions for "helistop," except it changes the permissions from not allowed in C-5 to SE. Standards for enclosures and engineering are not carried forward because they are addressed by the building code or were otherwise determined unnecessary.
[297] This consolidates permissions for "electrically powered regional rail transit facilities," "accessory electrically powered regional rail transit facilities," "bus or railroad station," "regional non-rail transit facilities," and "bus or railroad terminals, car barns, garages, storage and inspection yards, railroad switching and classification yards, and railroad car and locomotive repair shops, but specifically excluding electrically-powered regional rail transit facilities or regional non-rail transit facilities set forth as a Category 4 special exception use." Current differences in permissions among these uses are carried forward in use-specific standards, except as noted.
[298] This is a new use for utility-scale facilities, such as a solar farm. Solar panels that are accessory to an individual use are addressed separately.
[299] This consolidates permissions for the current Category 2 heavy public utility uses (except current uses #3 and #4, "solid waste disposal and treatment facilities" and "storage facilities for natural gas, oil and other petroleum products," which are separate uses). Distinctions in permissions are carried forward in the use-specific standards. A supply yard for a public utility and incidental office and maintenance facilities are changed from SE to allowed in the I-5 District.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards<br>NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Utility Facility, Light[300] | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P | P | P | P | 4102.4.X |
| Wireless Facility[301] | See standards in 4102.4.Y for different permissions. | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.4.Y |
| **COMMERCIAL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Animal-Related Services:** uses related to the provision of medical services, general care, and boarding services for household pets and domestic animals | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal Shelter[302] | SE | SE | SE | SE | | | | | | | | | | | | | | | P SE | P SE | P SE | P SE | | | | | | | 4102.5.A |
| Kennel[303] | SE | SE | SE | SE | | | | | | | | | | | | | | | P SE | P SE | P SE | P SE | | | P SE | P SE | P SE | P SE | 4102.5.A |
| Pet Grooming Establishment[304] | | | | | | | | | | | | | | | | | | | P | P | P | P | | | | | | | 4102.5.B |
| Veterinary Hospital[305] | SE | SE | SE | SE | | | | | | | | | | | | | P | P | P SE | P SE | P SE | P SE | | | P SE | P SE | P SE | P SE | 4102.5.C |
| **Food and Lodging:** establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, or providing lodging units or rooms for transient stays of 30 days or less | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bed and Breakfast | | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.D |
| Catering[306] | | | | | | | | | | | | | | | | | P | P | P | P | P | P | | | P | P | P | P | 4102.5.E |
| Hotel or Motel[307] | | | | | | | | | | | | | | | | | P | P | | SE | P | P | | SE | SE | SE | SE | | 4102.5.F |

[300] This carries forward the permissions for multiple uses currently grouped under Category 1 Light Public Utility Uses. Change since 6/30/2020 draft: Corrected permissions because transmission or distribution poles may be allowed by right. See the revised standards.
[301] Change since 7/1/2019 draft: Incorporates revisions from Zoning Ordinance Amendment ZO-19-480 – Wireless
[302] This carries forward permissions for "animal shelters," except the use is changed from not allowed in the C-5 through C-8 Districts to by right (indoor) or SE (with outdoor facilities), subject to standards.
[303] This carries forward the permissions for "kennel" and changes the use from only permitting indoor facilities in the C-5 through C-8 to allowing outdoor facilities in these districts with SE approval, subject to the SE standards.
[304] This carries forward the permissions for "personal service establishments," except the use is changed from accessory service use to not allowed in the R-12 through R-30 District, the C-1 through C-4 Districts, and the I-2 through I-6 Districts.
[305] This carries forward the current permissions for "veterinary hospitals," except it is changed from SP to SE use in the R-A through R-1 Districts, and it is added as an SE use if it includes outdoor facilities in the C-5 through C-8 Districts and the I-3 through I-6 Districts, subject to the SE standards for the use. It is also added to the C-3 and C-4 Districts as an allowed use if no outdoor facilities are included.
[306] This is newly defined as a separate use, and carries forward the permissions as a principal use of "business service and supply service establishment" and "production/processing," and it changes it from not allowed to permitted by right in the C-3 and C-4 Districts, subject to use standards. Accessory service use provisions are not carried forward for this separately defined use.
[307] This carries forward the permissions for "hotels, motels," except the use is changed from SE to allowed in the C-3 and C-4 Districts.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | NOTE: General Standards also apply |
| Restaurant[308] | | | | | | | | | | | | A+ | A+ | | A+ | SE A+ | P | P | P | P | P | P | | SE A+ | SE A+ | SE A+ | SE A+ | SE A+ | 4102.5.G 4102.1.G |
| Restaurant, Carryout[309] | | | | | | | | | | | | | | | A+ | SE A+ | P | P | P | P | P | P | | A+ | A+ | A+ | SE A+ | SE A+ | 4102.5.H 4102.1.G |
| Restaurant with Drive-Through | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | | | | | SE | SE | 4102.5.I |
| Retreat Center[310] | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | SE | SE | SE | SE | SE | SE | SE | | | SE | SE | SE | | | 4102.5.J |
| **Office and Financial Institutions:** buildings housing activities conducted in an office setting, generally focusing on the provision of professional services (e.g., lawyers, accountants, engineers, architects), financial services (e.g., banks, lenders, brokerage houses, tax preparers), research and development, and medical and dental services | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alternative Lending Institution | | | | | | | | | | | | | | | | | | | | | P | P | | | | | | | 4102.5.K |
| Drive-Through Financial Institution[311] | | | | | | | | | | | | | | | | SE | SE | SE | P SE | P SE | P SE | P SE | | | SE | SE | SE | SE | 4102.5.L |
| Financial Institution[312] | | | | | | | | | | | | | | | P | P | P | P | P | P | P | P | | P | P | P | P | P | |
| Office[313] | | | | | | | | | | | | | | | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P | P | P | P | P | P | 4102.5.M |

[308] This carries forward the current permissions for "restaurant." The special permit for older structures (Group 7) in the R-C, R-E, and R-1 Districts has been revised as an SE for Alternative Use of Historic Buildings, Associated service use permissions are not carried forward in the C-3 and C-4 Districts because the use is permitted by right in those districts. See also the footnote for the general standards for associated service uses. "Commercial recreation restaurants" are being deleted as a separate use because the use has been accommodated as both a restaurant and amusement arcade (indoor commercial recreation).

[309] This carries forward the permissions for "carryout restaurants." Associated service use permissions are not carried forward in the C-3 and C-4 Districts because the use is permitted by right in those districts. Standards pertaining to carryout restaurants as accessory service uses in Sections 10-202 and 10-203 are carried forward as general standards for associated service uses in Sect. 4102.1G.

[310] This carries forward the current permissions for "conference centers and retreat houses, operated by a religious or nonprofit organization," except the use is changed from SE to not allowed in the R-MHP District and from not allowed to SE in the R-E and R-1 Districts.

[311] This carries forward the current permissions for "drive-in financial institutions," except the use is changed from allowed as an accessory service use and SE use to only SE use the I-5 and I-6 Districts. Standards pertaining to drive-in financial institutions as accessory service uses in Sections 10-202 and 10-203 are not carried forward, except as general standards for associated service uses in Sect. 4102.1G.

[312] This carries forward the permissions for "financial institutions," except the use is changed from not allowed to allowed as an associated service use, subject to use-specific standards that limit it to a walk-up ATM that primarily serves a multifamily building or complex.

[313] This consolidates permissions from multiple current uses, including "establishment for scientific research, development, and training" and "offices." Standards for this use change the permissions for "establishments for scientific research and development" from SE use to not allowed in the R-E and R-1 Districts.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Office in a Residential District[314] | | | | SE | SE | SE | SE | SE | SE | | | | SE | | | | | | | | | | | | | | | | 4102.5.N |
| **Personal and Business Services**: businesses that primarily provide routine business support functions for the day-to-day operations of other businesses or frequent or recurrent needed services of a personal nature to individuals | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Business Service[315] | | | | | | | | | | | | | | | A+ | A+ | A+ | A+ | P | P | P | P | | A+ | A+ | A+ | A+ | A+ | 4102.1.G |
| Household Repair and Rental Service[316] | | | | | | | | | | | | | | | | | | | P | P | P | P | | | | | | | |
| Massage Therapy Establishment[317] | | | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 4102.5.O |
| Personal Service[318] | | | | | | | | | | | | A+ | A+ | | A+ | A+ | A+ | A+ | P | P | P | P | | A+ | A+ | A+ | A+ | A+ | 4102.5.O 4102.1.G |
| **Recreation and Entertainment:** uses providing indoor or outdoor facilities for recreation or entertainment-oriented activities by patrons or members | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Banquet or Reception Hall[319] | | | | | | | | | | | | | | | SE | SE | SE | SE | P | P | P | P | | | | | | | |
| Campground | | SP | SP | SP | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.Q |
| Commercial Recreation, Indoor[320] | | | | | | | | | | | | | | | | | P SP SE | P SP SE | P | P | P | P | | SP SE | SP SE | SP SE | SP SE | SP SE | 4102.5.R |

[314] This is a new use name for an existing office use. The permissions and standards have been brought forward, except the use is changed from SE to not allowed in the R-C and R-E Districts because there are no Community Business Centers in these districts.
[315] This carries forward the permissions for "business service and supply service establishments."
[316] This carries forward the permissions for "repair service establishments," except the use is changed from allowed as an accessory service use to not allowed in the C-1 through C-4 Districts and the I-2 through I-6 Districts.
[317] Change 6/30/2020 draft: New use. Massage was previously classified as either office or personal service.
[318] This consolidates permissions for "garment cleaning establishments" and "personal service establishments," except it is changed from allowed as an accessory service use to a multiple family dwelling to not allowed in the R-12 and R-16 Districts. The SE for a "convenience center" in R-2 through R-8 in Sect. 9-507 is not carried forward, as there have been no applications for this use. See also the footnote for the general associated service use standards.
[319] This is a new use.
[320] This consolidates permissions from multiple current uses: "amusement arcades," "billiard/pool hall," "bowling alley," "commercial recreation centers," "commercial recreation use, any other similar" (indoor), "commercial swimming pools, tennis courts and similar courts (indoor only)," "indoor archery ranges, fencing and other similar indoor recreational uses," "indoor firing ranges," "indoor firing ranges, archery ranges, fencing and other similar indoor recreational uses," "miniature golf courses, indoor," "skating facilities, indoor," "theaters," and "commercial recreation parks, including mechanical or motorized amusement rides/devices" (indoor). The "summer theatres (older structures)" use is not carried forward as an SP use. An SE option was also added for those applications that may be in conjunction with other SE uses.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards<br>NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Commercial Recreation, Outdoor[321] | | SP SE | SP SE | SP SE | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | | SE | SE | SE | SE | SE | 4102.5.S |
| Entertainment, Adult[322] | | | | | | | | | | | | | | | | | | | | | SP | | | | | | | | 4102.5.T |
| Entertainment, Public[323] | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | | SE | SE | SE | SE | SE | 4102.5.U |
| Golf Course or Country Club[324] | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | | | | | | 4102.5.V |
| Health and Exercise Facility, Large[325] | | | | | | | | | | | | | | | | | P SP | P SP | P | P | P | P | | | SP | SP | SP | SP | 4102.5.W |
| Health and Exercise Facility, Small[326] | | | | | | | | | | | | | | | P | P | P | P | P | P | P | P | | P | P | P | P | | |
| Marina, Commercial | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | | | | SE | SE | SE | SE | | SE | SE | SE | | | 4102.5.X |
| Marina, Private Noncommercial | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | SP | SP | SP | SP | | SP | SP | SP | | | 4102.5.Y |
| Quasi-Public Park, Playground, or Athletic Field[327] | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | | P SE | P SE | P SE | P SE | P SE | 4102.5.Z |
| Smoking Lounge[328] | | | | | | | | | | | | | | | | | | | P | P | P | P | | SP SE | SP SE | SP SE | SP SE | SP SE | 4102.5.AA |
| Stadium or Arena | | | | | | | | | | | | | | | | | | | | | SE | SE | | SE | SE | SE | SE | SE | |
| Zoo or Aquarium[329] | | | SP | SP | | | | | | | | | | | | | | | | | SP | SP | | | | | | | 4102.5.BB |

[321] This consolidates permissions from multiple current uses: "baseball hitting and archery ranges, outdoor," "commercial recreation parks, including mechanical or motorized amusement rides/devices" (outdoor), "commercial swimming pools, tennis courts and similar courts," "drive-in motion picture theaters," "driving range," "miniature golf course," "miniature golf course ancillary to golf driving ranges," "skating facilities," "skeet and trapshooting ranges," and "commercial recreation use, any other similar" (outdoor).

[322] This use consolidates the current uses "commercial nudity establishment" and "adult mini motion picture theatres."

[323] This is a new use that includes "dance halls." "Dance halls" are changed from a SP to SE in the C-6 through C-8 Districts, and from not allowed to SE in the C-5 and I-2 through I-6 Districts.

[324] This carries forward permissions for "golf courses, country clubs," except it is changed from SE to not allowed in the I-2 through I-6 Districts.

[325] This carries forward the permissions for the current use "health clubs," except use is changed from allowed to either allowed or SP in the C-3 and C-4 Districts, and the accessory service use permissions are not carried forward in the C-1 through C-4 Districts and the I-I through I-6 Districts.

[326] This is a new use based on the current use "health club" and the exercise-related classes that are currently a school of special education. These permissions are the same as those for a specialized instruction center, except it has been changed from SE to not permitted in the R districts. Accessory service use permissions for "health clubs, spas, saunas, pools, tennis and similar facilities" are not carried forward in the C-1 through C-4 and I-I through I-6 Districts.

[327] This carries forward the permissions for "quasi-public parks, playgrounds, athletic fields and related facilities."

[328] This is a new use that has been previously interpreted as indoor recreation.

[329] This carries forward the permissions for "zoological park," except the use is changed from not allowed to SP in the C-7 and C-8 Districts.

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| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| **Retail Sales:** uses involved in the sale, rental, and incidental servicing of goods and commodities that are generally delivered or provided on the premises to a consumer | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Convenience Store[330] | | | | | | | | | | | | A+ | A+ | | A+ | A+ | A+ | A+ | P SE | P SE | P SE | P SE | | A+ | A+ | A+ | SE A+ | SE A+ | 4102.5.CC 4102.1.G |
| Drive-Through, Other[331] | | | | | | | | | | | | | | | | | | | SE | SE | SE | P SE | | | | | | | 4102.5.DD |
| Drive-Through Pharmacy[332] | | | | | | | | | | | | | | | | | | | P SE | P SE | P SE | P SE | | | | | | | 4102.5.EE |
| Drug Paraphernalia Establishment | | | | | | | | | | | | | | | | | | | | | SE | | | | | | | | 4102.5.FF |
| Garden Center[333] | | | SE | SE | SE | | | | | | | | | | | | | | P | P | P | P | | | | | | | 4102.5.GG |
| Pawnshop | | | | | | | | | | | | | | | | | | | | SE | SE | SE | | | | | | | |
| Retail Sales, General[334] | | | | | | | | | | | | | | | | | | | P | P | P | P | A | | | SE | SE | SE | 4102.5.HH |
| Retail Sales, Large | | | | | | | | | | | | | | | | | | | | P SE | P SE | P SE | | | | | | | 4102.5.II |
| **Vehicle-Related Uses:** uses for the maintenance, sale, or rental of motor vehicles and related equipment | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Car Wash | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | | | SE | SE | SE | SE | 4102.5.JJ |
| Commercial Off-Street Parking | | | | | | | | | | | | | | | | | SE | P | P | P | P | P | | SE | SE | SE | SE | SE | 4102.5.KK |
| New Vehicle Storage | | | | | | | | | | | | | | | | | P | P | | P | P | P | | | P | P | P | P | 4102.5.LL |

[330] This consolidates permissions for the current uses "quick-service food stores" and "retail sales establishments selling convenience merchandise," except the permissions for "quick-service food stores" are changed from allowed as an accessory service use in a multiple family dwelling to not allowed in the R-12 and R-16 Districts. The SE for a "convenience center" in the R-2 through R-8 Districts in Sect. 9-507 is not carried forward, as there have been no applications for this use. See also the footnote for the general associated service use standards.

[331] This carries forward the permissions for "automobile-oriented uses."

[332] This carries forward the current permissions for "drive-through pharmacy."

[333] This renames and carries forward the permissions for "plant nurseries," except the use is changed from not allowed to by right in the C-5 through C-8 Districts, and from an SE use to not allowed in the R-3, R-4, I-4 through I-6 Districts.

[334] This consolidates permissions for "auction establishments," "adult bookstores," and "retail sales establishments," with several changes. "Adult bookstores" are given the same permissions as other general retail sales, consistent with the current treatment of adult video sales, whereas the use is currently limited to the C-7 District as an SP use and must be located in a regional shopping center. The permissions for "auction establishments" are changed from SP to permitted by right in the C-8 District, with the limitation to the C-8 District addressed in the use standards. The SE for a "convenience center" in R-2 through R-8 in Sect. 9-507 is not carried forward, as there have been no applications for this use. Accessory service use permissions for "prescription establishments" in the C-1 through C-4 and I-2 through I-6 are also not carried forward. The standard for accessory retail sales in the I-I District in Par. 3 of Sect. 5-I05 is not specifically carried forward as this use could be established as an accessory use. The permission and standards for an SE for retail sales in conjunction with a warehouse is extended to the I-6 District.

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| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards<br>NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Truck Rental Establishment[335] | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | | | | SE | P | P | 4102.5.MM |
| Vehicle Fueling Station[336] | | | | | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | | | SE | SE | SE | SE | 4102.5.NN |
| Vehicle Repair and Maintenance, Heavy | | | | | | | | | | | | | | | | | | | | | | SE | | | | | P | P | |
| Vehicle Repair and Maintenance, Light | | | | | | | | | | | | | | | | | | | SE | P SE | P SE | P SE | | | | | P SE | P SE | 4102.5.OO |
| Vehicle Sales, Rental, and Service[337] | | | | | | | | | | | | | | | | | P SE | P SE | | P SE | P SE | P SE | | | SE | SE | SE | | 4102.5.PP |
| Vehicle Transportation Service | | | | | | | | | | | | | | | | | | | | P SE | P SE | P SE | | | | P | P | P | 4102.5.QQ |
| **INDUSTRIAL USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Freight Movement, Warehousing, and Wholesale Distribution**: uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Data Center[338] | | | | | | | | | | | | | | | | | P SE | P SE | | | | | | P SE | P SE | P | P | P | 4102.6.A |
| Freight Distribution Hub[339] | | | | | | | | | | | | | | | | | | | | | | | | | | P | P | P | |
| Goods Distribution Hub[340] | | | | | | | | | | | | | | | | | P SE | P SE | P SE | P SE | P SE | P SE | | | | | | | 4102.6.B |
| Self-Storage[341] | | | | | | | | | | | | | | | | | | | | | | SE | | | P | P | P | P | 4102.6.C |
| Warehouse[342] | | | | | | | | | | | | | | | | | | | | | | | | | SE | P | P | P | 4102.6.D |

[335] Change since 6/30/2020 draft: This use is changed from not allowed to SE in the I-4 District when in association with a self-storage use.
[336] This consolidates permissions for current uses “service stations” and “service station/mini-mart”. The use “service station/mini-mart” is not currently allowed in the C-3, C-4, I-3, and I-4 districts, and that limitation is carried forward in the standards for this use.
[337] Change since 7/1/2019 draft: This use is currently an SE use in the I-3 District but was mistakenly listed as not allowed in the previous draft. It is included as an SE use in the I-3 District in this draft. Change since 6/30/2020 draft: Added by right option for a small “urban” car rental – see new use standards.
[338] Data center to be defined as a separate use, where it has previously been deemed a telecommunication facility (Par. 5 of Sect. 9-101). Since it would now be defined as a separate use, it is removed from the C-1, C-2, and C-5 through C-8 Districts, the R districts, and the PDH District. In the C-3, C-4, I-2, and I-3 Districts, if a size limit is exceeded, a special exception will be required.
[339] This carries forward permissions for current use “motor freight terminals.”
[340] This is a new use.
[341] This carries forward permissions for current use “mini-warehousing establishment,” except the use is changed from SE to allowed, subject to conditions, in the I-3 District.
[342] This consolidates and carries forward permissions for current uses “warehousing and associated retail establishments” and “warehousing establishments.” The use is changed from not allowed to SE in the I-3 District.

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| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Wholesale Facility[343] | | | | | | | | | | | | | | | | | | | | | SE | P | | A | SE A | P | P | P | 4102.6.E |
| **Industrial Services and Extraction of Materials**: uses involving the repair or servicing of industrial, business, or consumer machinery equipment, products or by-products, or uses involving the extraction of natural resources from the ground. Few customers from the general public come to the site. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Building Materials Storage and Sales | | | | | | | | | | | | | | | | | | | | | | | | | | | P | P | |
| Contractor's Office and Shop[344] | | | | | | | | | | | | | | | | | | | | | | P | | | P | P | P | P | 4102.6.F |
| Extraction Activity | Allowed as a SP use only in a Natural Resource Overlay Districts as established in subsection 3103.1. | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.6.G |
| Petroleum Products Storage Facility[345] | | | | | | | | | | | | | | | | | | | | | | | | | | | | SE | 4102.6.H |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | | | | | | | | | | | | | | | | | | | | | | | | | | | P | P | |
| Storage Yard[346] | | | | | | | | | | | | | | | | | | | | | | | | | SE | SE | P | P | 4102.6.I |
| Vehicle Storage or Impoundment Yard | | | | | | | | | | | | | | | | | | | | | | | | | | P | P | P | 4102.6.J |
| **Production of Goods**: uses involving the manufacturing, processing, production, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, transfer to other industrial operations, or for order by businesses or consumers. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Craft Beverage Production Establishment | | | | | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | 4102.6.K |
| Production or Processing[347] | | | | | | | | | | | | | | | | | | | | | | | | | P | P | P | P | 4102.6.L |
| Production or Processing, Heavy | | | | | | | | | | | | | | | | | | | | | | | | | | | | SE | 4102.6.M |
| Small-Scale Production Establishment | | | | | | | | | | | | | | | | | P | P | P | P | P | P | | | P | | | | 4102.6.N |

[343] This carries forward permissions for current use "wholesale trade establishments."
[344] Revised from not allowed to P use in I-3, subject to additional use limitations, in order to carry forward this aspect of the Industrial/Flex use, which is removed.
[345] This carries forward permissions for current use "Storage facilities for natural gas, oil and other petroleum products."
[346] Change since 6/30/2020 draft: This use is changed from not allowed to SE in the I-3 and I-4 Districts for vehicle storage in association with a self-storage facility.
[347] Food and beverage manufacturing and printing will continue to not be allowed in the I-3 district by use standard. Current prohibitions on bulk storage of flammable materials for resale in I-3, I-4, and I-5 are carried forward by use standard. Prohibitions on heavy industrial uses are now addressed by listing those as a separate use.

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards<br>NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| **Waste and Recycling Facilities**: uses involving receiving solid or liquid wastes from others for on-site disposal, storage, processing, or transfer to another location for processing or disposal. This use category also includes uses that manufacture or produce goods or energy from the composting of organic material, and the reuse, recycling, or processing of scrap or waste material. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Junkyard | | | | | | | | | | | | | | | | | | | | | | | | | | | | P | |
| Mixed Waste Reclamation Facility | | | | | | | | | | | | | | | | | | | | | | | | | | | | SE | 4102.6.O |
| Recycling Center | | | | | | | | | | | | | | | | | | | | | | | | | | | P | P | 4102.6.P |
| Solid Waste Disposal Facility | | | SE | SE | SE | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | P | 4102.6.Q |
| **ACCESSORY USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accessory Living Unit[348] | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | | | | | | | | | | | | | | | | | | | | 4102.1.I<br>4102.7.B |
| Caretaker Quarters[349] | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | | | | | | | 4102.7.C |
| Child Care Center for Occasional Care | | | | | | | | | | | | | | | | | | | | A | A | A | | | | | | | 4102.7.D |
| Donation Drop-off Box | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | A | A | A | A | A | 4102.7.E |
| Electric Vehicle Charging[350] | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 4102.7.F |
| Family Health Care Structure | | AP | AP | AP | AP | AP | AP | AP | AP | | | | | AP | | | | | | | | | | | | | | | 4102.1.I<br>4102.7.G |
| Garage Sale or Yard Sale | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | | | | | | | | | | | | | | 4102.7.H |
| Gardening and Composting[351] | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | |
| Home-Based Business[352] | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | | | | | | | | | | | | | | | 4102.1.I<br>4102.7.I |
| Home Day Care Facility | SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | | | | | | | | | | | | | | | 4102.7.J |

[348] This carries forward the current permissions for an accessory dwelling unit, except it changes the use from SP to SP or AP in the R-A through R-8 Districts, with additional use-specific standards, and from SP to not allowed in the R-MHP District. Change since 7/1/2019 draft: "Accessory living unit" is the new name for an "accessory dwelling unit."

[349] This carries forward the permissions for "servants quarters," except it is changed from permitted to not allowed in the R-2 through R-4 Districts, and extends the permissions for "quarters of a caretaker, watchman or tenant farmer, and his family" to the R-1 District. In addition, the permissions are changed from A to SP. [Advertised option: Delete this use if the Board removes for the age or disability requirement for accessory living units.]

[350] New use with new permissions. Change since 6/30/2020 draft: Added to I-I District.

[351] Change since 7/1/2019 draft: Incorporates revisions from Zoning Ordinance Amendment ZO-19-481. Added permission for I-I District.

[352] This consolidates permissions for "home occupation," "barber shop or beauty parlor as a home occupation," and "home professional office."

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Keeping of Animals | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | A SP | | A SP | A SP | A SP | A SP | A SP | 4102.7.K |
| Limited Riding or Boarding Stable | A AP | A AP | A AP | A AP | | | | | | | | | | | | | | | | | | | | | | | | | 4102.1.I 4102.7.L |
| Residence for Manager or Employee[353] | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | 4102.7.M |
| Sawmilling | SP | | SP | SP | | | | | | | | | | | | | | | | | | | | | | | | | 4102.7.N |
| Short-Term Lodging | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | | | | | | | | | | | | | | 4102.1.I 4102.7.O |
| Solar Collection System[354] | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 4102.7.P |
| Wayside Stand | A | A | A | A | A | A | A | | | | | | | | | | | | | | | | | | | | | | 4102.7.Q |
| **TEMPORARY USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Community Garden[355] | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | 4102.1.I 4102.8.B |
| Construction Site Office and Storage[356] | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | AP | AP | AP | AP | AP | 4102.1.I 4102.8.C |

[353] This combines the current use from Sect. 2-501 for a "proprietor, owner and/or employee and his/her family" and the accessory use from Article 10 for a "residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel" and the accessory service use "dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use." The permissions for the use from Sect. 2-501 and the accessory use "residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel" are carried forward. 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" will not be an associated service use. Change since 7/1/2019 draft: This use has been added as an SE and SP use in all districts to carry forward the use permissions in Sect. 2-501. Use-specific standards have also been added, and the definition of this use has been revised to include a residence in a separate accessory structure, consistent with the current Ordinance. Change since 6/30/2020 draft: Changed permissions from accessory to administrative permit.

[354] This is a new use that codifies existing interpretations and carries forward the current permissions.

[355] Change since 7/1/2019 draft: Incorporates revisions from Zoning Ordinance Amendment ZO-19-481. Change since 6/30/2020 draft: the current administrative allowance and ability to seek SP approval has been added to the use table.

[356] This is a new use that consolidates uses "construction materials yard accessory to a construction project" and "contractor's offices and equipment sheds to include trailers accessory and adjacent to an active construction project."

## TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

**P** = permitted; **SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-I | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Farmers Market[357] | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | AP | AP | AP | AP | AP | 4102.1.I<br>4102.8.D |
| Food Truck[358] | | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP<br>SE<br>SP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | 4102.1.I<br>4102.8.E |
| Interim Off-Street Parking in Metro Station Area[359] | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | SE | SE | SE | SE | SE | 4102.8.F |
| Model Home Sales or Leasing Office[360] | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | | | | | | | | | | | | | | 4102.1.I<br>4102.8.G |
| Portable Storage Container[361] | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | 4102.1.I<br>4102.8.H |
| Special Event[362] | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | 4102.1.I<br>4102.8.I |
| Temporary Dwelling or Manufactured Home | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | AP | AP | AP | AP | AP | 4102.1.I<br>4102.8.J |
| **OTHER USES** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alternative Use of Historic Building[363] | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | SE | SE | SE | SE | SE | 4102.1.H |

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[357] Change since 7/1/2019 draft: Incorporates revisions from Zoning Ordinance Amendment ZO-19-481. Change since 11/24/2020 draft: Added R-A District which was included in ZO-19-481 and inadvertently omitted.
[358] This carries forward the current permissions for "food trucks," but expands the availability to approved nonresidential uses in Residential districts.
[359] Renamed from "Commercial" to "Interim".
[360] This carries forward the current permissions for "subdivision and apartment sales and rental offices."
[361] This carries forward the permissions for "temporary portable storage container." Change since 6/30/2020 draft: The current permissions for this use as an accessory use have been added to the use table.
[362] This carries forward the permissions for "carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities." Change since 6/30/2020 draft: Consolidates current "promotional activities of retail merchants" use.
[363] New use and standards that replace Group 7 special permit uses and standards (older structures).

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# 4. Use Table for Planned Development Districts

**TABLE 4101.2: Use Table for Planned Development Districts**

✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
SE = special exception; SP = special permit; *blank cell* = not allowed
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| **AGRICULTURAL AND RELATED USES** | | | | | | | | | | | | | | | |
| **Agricultural and Related Uses:** activities related to the growing or raising of plants or animals for food or other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables. | | | | | | | | | | | | | | | |
| Agricultural Operation | | | | | | | | | | | | | | | 4102.2.A |
| Farm Winery, Limited Brewery, or Limited Distillery | | | | | | | | | | | | | | | 4102.2.B |
| Stable, Riding or Boarding[364] | | ✓/SE | ✓/SE | | | | | | | | | | | | 4102.2.C |
| **RESIDENTIAL USES** | | | | | | | | | | | | | | | |
| **Household Living**: uses characterized by residential occupancy of a dwelling unit that functions as a single household | | | | | | | | | | | | | | | |
| Dwelling, Multifamily | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | | | |
| Dwelling, Single-Family Attached | ✓ | | ✓ | ✓ | ✓ | ✓ | | | ✓ | | ✓ | ✓ | | | 4102.3.B |
| Dwelling, Single-Family Detached | ✓ | | ✓ | ✓ | ✓ | ✓ | | | ✓ | | | ✓ | | | 4102.3.C |
| Dwelling, Stacked Townhouse[365] | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | | | 4102.3.B |
| Group Residential Facility | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | | ✓ | | | |
| Live-Work Development[366] | | | | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | | | 4102.3.D |
| Manufactured Home | | | | | | | | | | | | | | | 4102.3.E |
| **Group Living**: uses characterized by residential occupancy by a group of persons who do not constitute a household | | | | | | | | | | | | | | | |
| Congregate Living Facility | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.3.F |
| Group Household | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | ✓/SE | | | 4102.3.G |
| Religious Group Living[367] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | | | | 4102.3.H |
| Residence Hall[368] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.3.I |

[364] These permissions carry forward and consolidate the current permissions for "riding or boarding stables" and "veterinary hospital, ancillary to riding or boarding stables," except the use is changed from ✓/SP to ✓/SE in the PRC District for consistency.
[365] This is a new use.
[366] This is a new use.
[367] This carries forward permissions for "convents, monasteries, seminaries, and nunneries," except it is changed from ✓/SP to ✓/SE in the PRC District.
[368] This carries forward the current permissions for "dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls," except it is changed from not allowed to ✓/SE in the PRM District.

**TABLE 4101.2: Use Table for Planned Development Districts**
✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
SE = special exception; SP = special permit; *blank cell* = not allowed
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| **PUBLIC, INSTITUTIONAL, AND COMMUNITY USES** | | | | | | | | | | | | | | | |
| **Community, Cultural, and Educational Facilities:** uses generally of a public, quasi-public, nonprofit, or charitable nature providing a local service (e.g., cultural, educational, recreational, counseling, training, religious) directly to people of the community | | | | | | | | | | | | | | | |
| Adult Day Support Center[369] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.A |
| Alternate Use of Public Facility[370] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.B |
| Child Care Center[371] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.C |
| Club, Service Organization, or Community Center[372] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.D |
| College or University[373] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | ✓/SE | | | 4102.4.E |
| Community Swim, Tennis, and Recreation Club[374] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.F |
| Convention or Conference Center[375] | | | | | | | ✓ | ✓ | | | | ✓ | | | 4102.4.G |

[369] Change since 6/30/2020 draft: This is a new use with new permissions.
[370] This carries forward the current permissions, except in the PRM District and in the PRC Convention/Conference Center area, the use is changed from not allowed to a ✓/SE use.
[371] This carries forward permissions for "child care centers" and "nursery schools," except they are changed from not permitted to a ✓/SE use in the PCC District, and from permitted as accessory service uses to not allowed as associated service uses the PDH, PRC, and PDC Districts.
[372] This use consolidates and carries forward permissions for "private clubs" and "public benefit associations." It also consolidates "community clubs, centers, meeting halls, swimming, pool, archery ranges" and "any other recreational/social use operated by a by non-profit, where membership is limited to residents of nearby residential areas," and carries forward permissions for those uses, with the following changes: (1) changed from ✓/SP to ✓/SE in all PRC areas except Conference/Convention Center, where it is changed from not allowed to ✓/SE, (2) changed from not allowed to ✓/SE in the PRM District.
[373] This carries forward the current permissions, except the use is changed from Secondary to Principal use in the PDC District.
[374] This carries forward the permissions for "swimming club and tennis club/courts," except the use is changed from not allowed to ✓/SE in the PRM District, and the use is changed from ✓/SP to ✓/SE in the PRC District.
[375] This carries forward the permissions for "exposition halls and facilities to house cultural or civic events or conventions of political, industrial, fraternal or similar associations."

## TABLE 4101.2: Use Table for Planned Development Districts

✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
SE = special exception; SP = special permit; *blank cell* = not allowed
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Cultural Facility or Museum[376] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | |
| Public Use | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | |
| Religious Assembly[377] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.H |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center[378] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.I |
| School, Private[379] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.J |
| Specialized Instruction Center[380] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | |
| **Funeral and Mortuary Services**: establishments that provide services related to the death of a human being or an animal | | | | | | | | | | | | | | | |
| Cemetery[381] | | ✓/SE | ✓/SE | | | | | | | | | | | ✓ | 4102.4.L |
| Crematory[382] | | ✓/SE | ✓/SE | | | | | | | | | | | | 4102.4.M |
| Funeral Home[383] | | | | | ✓ | ✓ | | | ✓/SE | | | ✓/SE | | ✓/SE | 4102.4.N |
| **Health Care**: uses providing a variety of health care services, including surgical or other intensive care and treatment, various types of medical treatment, and nursing care | | | | | | | | | | | | | | | |
| Adult Day Care Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.O |
| Continuing Care Facility | | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | | ✓ | ✓ | | 4102.4.P |

[376] This carries forward the permissions for "cultural centers, museums, and similar facilities," except it is changed from not allowed to ✓/SE in the PRC Convention/Conference Center area. The provisions in Sect. 9-313 are not included for this use in this article, but are proposed to be located in the general standards for approval of a special exception and in the regulations for the Water Supply Protection Overlay District.
[377] This carries forward permissions for "churches, chapels, temples, synagogues and other places of worship," but the use is changed from ✓/SP to ✓/SE in the PRC District
[378] This carries forward the permissions for "churches, chapels, temples, synagogues and other places of worship with a child care center, nursery school or private school of general or special education."
[379] This carries forward permissions for "private school of general education."
[380] This carries forward permissions for "private school of special education."
[381] This carries forward permissions for "cemetery for human or animal interment," "columbarium and mausoleum when used in conjunction with a cemetery," and "funeral home, if located in an already existing cemetery of more than 75 acres," but the use is changed from ✓/SP to ✓/SE in the PRC District.
[382] This carries forward permissions for "crematory, human or animal," but the use is changed from ✓/SP to ✓/SE in the PRC District.
[383] This carries forward permissions for "funeral home" and "funeral chapel." It is changed from not allowed to ✓/SE in the PDC District. Distinctions in use permissions among those uses are carried forward as use-specific standards.

**TABLE 4101.2: Use Table for Planned Development Districts**
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SE = special exception; SP = special permit; *blank cell* = not allowed
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Independent Living Facility | ✓ | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | ✓ | | ✓/SE | | | 4102.4.Q |
| Medical Care Facility[384] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.R |
| **Transportation**: uses associated with the operation of airplanes, trains, and buses | | | | | | | | | | | | | | | |
| Airport[385] | | ✓/SE | ✓/SE | | | ✓/SE | | | ✓/SE | | SE | SE | | | 4102.4.S 4102.4.T |
| Helipad[386] | | ✓/SE | ✓/SE | | | ✓/SE | ✓/SE | | ✓/SE | | SE | SE | | | 4102.4.S |
| Transit Facility[387] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.S 4102.4.U |
| **Utilities**: uses including heavy utilities (infrastructure services that provide regional or community-wide service), light utilities (infrastructure services that need to be located in or near where the service is provided), solar power facilities, and wireless facilities | | | | | | | | | | | | | | | |
| Solar Power Facility[388] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.V |
| Utility Facility, Heavy[389] | | | SE | | | | | | | | | | | | 4102.4.W |
| Utility Facility, Light[390] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.X |
| Wireless Facility[391] | See standards in 4102.4.Y for different permissions. | | | | | | | | | | | | | | 4102.4.Y |

[384] This use includes nursing facilities and assisted living facilities.
[385] This carries forward and consolidates current permissions for "airports" and "heliports." Use specific standards limit this use to heliports in the PDH, PDC, PRM, PRC-Town Center, and PTC Districts, consistent with current permissions for this use, and add the limitation to heliports to the PRC-Residential area.
[386] This carries forward permissions for "helistop," except the use is changed from not allowed to ✓/SE in the PRC Convention/Conference Center area.
[387] This consolidates current permissions for "electrically powered regional rail transit facilities," "accessory electrically powered regional rail transit facilities," "regional non-rail transit facilities," and "bus or railroad station."
[388] This is a new use. Solar panels as an accessory use are addressed separately.
[389] This consolidates permissions for multiple current uses. Use-specific standards limit this use to "sewage treatment and disposal facilities" in the PTC District.
[390] This carries forward the permissions for multiple uses currently grouped under Category 1 Light Public Utility Uses.
[391] Change since 7/1/2019 draft: Incorporates revisions from Zoning Ordinance Amendment ZO-19-480 – Wireless Telecommunications Infrastructure.

## TABLE 4101.2: Use Table for Planned Development Districts

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A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| **COMMERCIAL USES** | | | | | | | | | | | | | | | |
| **Animal-Related Services:** uses related to the provision of medical services, general care, and boarding services for household pets and domestic animals | | | | | | | | | | | | | | | |
| Animal Shelter[392] | | | ✓/SE | | | | | | | | | | | | 4102.5.A |
| Kennel[393] | | ✓ | ✓/SE | | ✓ | ✓ | | | ✓ | | ✓ | ✓ | | ✓/SE | 4102.5.A |
| Pet Grooming Establishment[394] | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | 4102.5.B |
| Veterinary Hospital[395] | | ✓ | ✓/SE | | ✓ | ✓ | | | ✓ | | ✓ | ✓ | | ✓/SE | 4102.5.C |
| **Food and Lodging:** establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, or providing lodging units or rooms for transient stays of 30 days or less | | | | | | | | | | | | | | | |
| Bed and Breakfast | | SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | | | | | | 4102.5.D |
| Catering[396] | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | 4102.5.E |
| Hotel or Motel | | | | | ✓/SE | ✓/SE | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.F |
| Restaurant | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.G |
| Restaurant, Carryout | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓ | | ✓/SE | ✓/SE | | ✓/SE | 4102.5.H |
| Restaurant with Drive-Through | | SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓ | | | ✓ | | ✓/SE | 4102.5.I |
| Retreat Center[397] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | ✓/SE | | | 4102.5.J |
| **Office and Financial Institutions:** buildings housing activities conducted in an office setting, generally focusing on the provision of professional services (e.g., lawyers, accountants, engineers, architects), financial services (e.g., banks, lenders, brokerage houses, tax preparers), research and development, and medical and dental services | | | | | | | | | | | | | | | |
| Alternative Lending Institution | | | | | | | | | | | | | | | 4102.5.K |

[392] This carries forward the permissions for "animal shelters," but the standards no longer prohibit outdoor facilities.
[393] This carries forward the permissions for "kennels," but the standards no longer prohibit outdoor facilities.
[394] This carries forward the permissions for "personal service establishments."
[395] This carries forward the permissions for "veterinary hospitals," but the standards now permit outdoor facilities.
[396] This carries forward the permissions for "business service and supply service establishments," except the accessory service use provisions are not carried forward for this separately defined use.
[397] This carries forward the permissions for "conference centers and retreat houses, operated by a religious or nonprofit organization."

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A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Drive-Through Financial Institution[398] | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | ✓/SE | 4102.5.L |
| Financial Institution | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓ | |
| Office[399] | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.M |
| Office in a Residential District[400] | | | | | | | | | | | | | | | 4102.5.N |
| **Personal and Business Services**: businesses that primarily provide routine business support functions for the day-to-day operations of other businesses or frequent or recurrent needed services of a personal nature to individuals | | | | | | | | | | | | | | | |
| Business Service[401] | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓ | |
| Household Repair and Rental Service[402] | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓ | |
| Massage Therapy Establishment[403] | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓ | 4102.5.O |
| Personal Service[404] | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓ | 4102.5.O |
| **Recreation and Entertainment:** uses providing indoor or outdoor facilities for recreation or entertainment-oriented activities by patrons or members | | | | | | | | | | | | | | | |
| Banquet or Reception Hall[405] | | ✓/SE | | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | ✓/SE | | | |
| Campground[406] | | | ✓/SE | | | | | | | | | | | | 4102.5.Q |
| Commercial Recreation, Indoor[407] | | ✓/SE | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.5.R |

[398] This carries forward the current permissions for "drive-in financial institutions," except it is changed from ✓ to ✓/SE in the PTC District.
[399] This consolidates permissions from multiple current uses, including "establishment for scientific research, development, and training" and "offices."
[400] This is a new use name for an existing office use. Current permissions and standards are carried forward.
[401] This carries forward permissions for "business service and supply service establishments."
[402] This carries forward permissions for "repair service establishments."
[403] Change since 6/30/2020 draft: New use. Massage was previously classified as office or personal service.
[404] This consolidates permissions for "garment cleaning establishments" and "personal service establishments."
[405] This is a new use.
[406] This carries forward the permissions for "camp or recreation grounds."
[407] This consolidates permissions from multiple current uses. Current permissions for uses are as follows: (1) "amusement arcades" is a ✓/SE use in PDC (Secondary), PRC (Village Center and Town Center), and PTC; (2) "bowling alley" is a ✓/SE use in PDH (Secondary), PDC (Secondary), and PTC, and a ✓/SP use in PRC (Village Center, Town Center, and Convention/Conference Center); (3) "commercial recreation centers" is a ✓/SP use in PRC (Village center and Town Center); (4) "commercial recreation parks, including mechanical or motorized

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**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Commercial Recreation, Outdoor[408] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.5.S |
| Entertainment, Adult[409] | | | | | | | | | | | | | | | 4102.5.T |
| Entertainment, Public[410] | | | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.5.U |
| Golf Course or Country Club[411] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | | | | 4102.5.V |
| Health and Exercise Facility, Large[412] | | ✓/SE | | | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.5.W |
| Health and Exercise Facility, Small[413] | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | |

amusement rides/devices" (indoor) is a ✓/SP use in PRC (Town Center and Convention/Conference Center); **(**5) "commercial recreation use, any other similar" (indoor) is a ✓/SE use in PDC (Secondary), PRM (Secondary), and PTC and a ✓/SP use in PRC (Village Center, Town Center, and Convention/Conference Center); (6) "indoor archery ranges, fencing and other similar indoor recreational uses" is a ✓/SE use in PDH (Secondary), PRM (Secondary), and PTC; (7) "indoor firing ranges, archery ranges, fencing and other similar indoor recreational uses" is ✓/SE use in PDC (Secondary) and a ✓/SP use in PRC (Town Center and Convention/Conference Center); and (8) "theatres" is a ✓ use in PDC (Principal), PRM (Secondary), PRC (Village Center and Town Center), and PTC.

[408] This consolidates permissions from multiple current uses. Current permissions for uses are as follows: (1) "baseball hitting and archery ranges, outdoor" is ✓/SE in PRC (Residential); (2) "commercial recreation parks, including mechanical or motorized amusement rides/devices" is ✓/SP use in PRC (Town Center and Convention/Conference Center); (3) "commercial swimming pools, tennis courts and similar courts" is a ✓/SE use in PDH (Secondary), PDC (Secondary), PRM (Secondary), and PTC and a ✓/SP use in PRC (Village Center, Town Center, and Convention/Conference Center); (4) "miniature golf courses" is ✓/SE use in PDH (Secondary), PDC (Secondary), and PTC and a ✓/SP use in PRC (Village Center and Town Center); (5) "skating facilities" is a ✓/SE use in PDH (Secondary), PDC (Secondary), PRM (Secondary), and PTC and ✓/SP use in PRC (Village Center, Town Center, and Convention/Conference Center); and (6) "commercial recreation use, any other similar" (outdoor) is a ✓/SE use in PDC, PRM, PTC, and a ✓/SP use in PRC (Village Center, Town Center, and Convention/Conference Center).

[409] This use consolidates the current uses "commercial nudity establishment" and "adult mini motion pictures theatres."

[410] This is a new use for "dance halls." The use "dance halls" is changed from not allowed to ✓/SE in the PDC and PRM Districts, and is changed from a ✓/SP to a ✓/SE in the PRC District.

[411] This carries forward permissions for "golf courses, country clubs," except the use is changed from not allowed in the PRM District to ✓/SE.

[412] This carries forward the permissions for the current use "health club."

[413] This is a new use based on the current uses "health club" and "private school of special education." These permissions are the same as those for health clubs and school of special education, except it has not been included in the residential areas of the PRC District.

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A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Marina, Commercial[414] | | ✓/SE | ✓/SE | | ✓/SE | ✓/SE | | | ✓/SE | | | | | | 4102.5.X |
| Marina, Private Noncommercial[415] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | | | ✓/SE | 4102.5.Y |
| Quasi-Public Park, Playground, or Athletic Field[416] | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.5.Z |
| Smoking Lounge[417] | | | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | | 4102.5.AA |
| Stadium or Arena[418] | | | | | | | | | SE | | SE | SE | | | |
| Zoo or Aquarium[419] | | ✓/SE | | | | | | | ✓/SE | | | ✓/SE | | | 4102.5.BB |
| **Retail Sales:** uses involved in the sale, rental, and incidental servicing of goods and commodities that are generally delivered or provided on the premises to a consumer | | | | | | | | | | | | | | | |
| Convenience Store[420] | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.5.CC 4102.1.G |
| Drive-Through Other | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | | | | 4102.5.DD |
| Drive-Through Pharmacy[421] | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | ✓/SE | 4102.5.EE |
| Drug Paraphernalia Establishment | | | | | | | | | | | | | | | 4102.5.FF |
| Garden Center[422] | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | ✓/SE | | | 4102.5.GG |
| Pawnshop | | | | | | | | | | | | ✓/SE | | | |

[414] This carries forward permissions for "marinas, docks, and boating facilities, commercial," except for the PTC District where there are no venues for a marina.
[415] This carries forward permissions for "marinas, docks and boating facilities of a private, nonprofit nature."
[416] This carries forward the permissions for "quasi-public parks, playgrounds, athletic fields and related facilities," except it is changed from not allowed to ✓/SE as a secondary use in the PRM District.
[417] This is a new use that has been previously interpreted to be indoor recreation. Change since 11/24/2020 draft: Added to Village Center and Convention/Conference Center areas of the PRC District.
[418] This carries forward the permissions for "stadiums or arenas," except it is changed from not allowed to SE as a secondary use in the PDC District.
[419] This carries forward the permissions for "zoological park," except, with the addition of aquarium to the use, it is changed from not allowed to ✓/SE in the PDC and PTC Districts.
[420] This carries forward permissions for the current use "quick-service food stores."
[421] This carries forward the current permissions for "drive-through pharmacy," except it is changed from ✓ to ✓/SE in the PTC District.
[422] This use carries forward the use "plant nurseries," modified to emphasize retail sales. The use "plant nurseries" is not currently allowed in any of the P districts.

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| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Retail Sales, General[423] | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.HH |
| Retail Sales, Large[424] | | | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | | 4102.5.II |
| **Vehicle-Related Uses:** uses for the maintenance, sale, or rental of motor vehicles and related equipment | | | | | | | | | | | | | | | |
| Car Wash[425] | | | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | | 4102.5.JJ |
| Commercial Off-Street Parking[426] | | | | | | ✓ | | | ✓ | | | ✓ | | | 4102.5.KK |
| New Vehicle Storage | | | | | | | | | ✓ | | | ✓ | | | 4102.5.LL |
| Truck Rental Establishment | | | | | SE | | | | | | | | | | 4102.5.MM |
| Vehicle Fueling Station[427] | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | | 4102.5.NN |
| Vehicle Repair and Maintenance, Heavy[428] | | | | | | | | | | | | | | | |
| Vehicle Repair and Maintenance, Light[429] | | ✓/SE | | | ✓ | ✓ | | | ✓/SE | | | ✓/SE | | | 4102.5.OO |
| Vehicle Sales, Rental, and Service[430] | | | | | | ✓ | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.5.PP |
| Vehicle Transportation Service | | | | | | ✓ | ✓ | | ✓ | | ✓ | ✓ | | | 4102.5.QQ |

[423] This carries forward permissions for "retail sales establishments." "Adult bookstores" are given the same permissions as other general retail sales, consistent with the current treatment of adult video sales.
[424] This carries forward permissions for "retail sales establishments-large."
[425] This carries forward permissions for "car washes," except it is changed from ✓ to ✓/SE in the PTC District.
[426] This carries forward permissions for "parking, commercial off-street, as a principal use," except it is changed from permitted as a secondary use to not allowed in PRM District.
[427] This consolidates permissions for current uses "service stations" and "service station/mini-mart," except the use is changed from ✓ to ✓/SE in the PTC District. The requirement in Paragraphs 9 and 10 of Sect. 6-505 that certain uses be permitted only when specifically identified on the FDP are not carried forward, and the option for SE approval is added.
[428] This carries forward permissions for current use "vehicle major service establishments."
[429] This carries forward permissions for current use "vehicle light service establishments," except it is changed from ✓ to ✓/SE in the PTC District.
[430] This carries forward permissions for current use "vehicle sale, rental and ancillary service establishments." Change since 7/1/2019: Corrected permissions per current Ordinance.

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| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| **INDUSTRIAL USES** | | | | | | | | | | | | | | | |
| **Freight Movement, Warehousing, and Wholesale Distribution**: uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. | | | | | | | | | | | | | | | |
| Data Center[431] | | | | | | ✓ | ✓ | ✓ | | | | ✓ | | | 4102.6.A |
| Freight Distribution Hub | | | | | | | | | | | | | | | |
| Goods Distribution Hub[432] | | | | | | | | | ✓/SE | | | ✓/SE | | | 4102.6.B |
| Self-Storage | | | | | | | | | ✓/SE | | | ✓/SE | | | 4102.6.C |
| Warehouse | | | | | | | | | | | | | | | 4102.6.D |
| Wholesale Facility[433] | | | | | | | | | | | | ✓ | | | 4102.6.E |
| **Industrial Services and Extraction of Materials**: uses involving the repair or servicing of industrial, business, or consumer machinery equipment, products or by-products, or uses involving the extraction of natural resources from the ground. Few customers from the general public come to the site. | | | | | | | | | | | | | | | |
| Building Materials Storage and Sales | | | | | | | | | | | | | | | |
| Contractor's Office and Shop | | | | | | | | | | | | ✓ | | | 4102.6.F |
| Extraction Activity | Allowed as an SP use only in a Natural Resource Overlay. | | | | | | | | | | | | | | 4102.6.G |
| Petroleum Products Storage Facility | | | | | | | | | | | | | | | 4102.6.H |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | | | | | | | | | | | | | | | |
| Storage Yard | | | | | | | | | | | | | | | |
| Vehicle Storage or Impoundment Yard | | | | | | | | | | | | | | | 4102.6.J |
| **Production of Goods**: uses involving the manufacturing, processing, production, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, transfer to other industrial operations, or for order by businesses or consumers. | | | | | | | | | | | | | | | |
| Craft Beverage Production Establishment | | | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | | 4102.6.K |

[431] Data center to be defined as a separate use, where it has previously been deemed a telecommunication facility (Par. 5 of Sect. 9-101). Since it would now be defined as a separate use, it is removed from the PDH District.
[432] This is a new use.
[433] Revised from not allowed to P use in PTC, in order to carry forward the permission for wholesale trade from the Industrial/Flex use, which is removed.

## TABLE 4101.2: Use Table for Planned Development Districts

✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
✓/**SE** = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
**SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Production or Processing[434] | | | | | | | | | | | | ✓ | | | 4102.6.L |
| Production or Processing, Heavy | | | | | | | | | | | | | | | 4102.6.M |
| Small-Scale Production Establishment | | ✓ | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | | | | 4102.6.N |
| **Waste and Recycling Facilities**: uses involving receiving solid or liquid wastes from others for on-site disposal, storage, processing, or transfer to another location for processing or disposal. This use category also includes uses that manufacture or produce goods or energy from the composting of organic material, and the reuse, recycling, or processing of scrap or waste material. | | | | | | | | | | | | | | | |
| Junkyard | | | | | | | | | | | | | | | |
| Mixed Waste Reclamation Facility | | | | | | | | | | | | | | | 4102.6.O |
| Recycling Center | | | | | | | | | | | | | | | 4102.6.P |
| Solid Waste Disposal Facility | | | | | | | | | | | | | | | 4102.6.Q |
| **ACCESSORY USES** | | | | | | | | | | | | | | | |
| Accessory Living Unit[435] | | AP SP | AP SP | AP SP | AP SP | AP SP | | | AP SP | | | AP SP | | | 4102.1.I 4102.7.B |
| Caretaker Quarters[436] | | | | | | | | | | | | | | | 4102.7.C |
| Child Care Center for Occasional Care | | | | | A | A | A | | A | | | A | | | 4102.7.D |
| Donation Drop-off Box[437] | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | ✓ | 4102.7.E |
| Electric Vehicle Charging[438] | | A | A | A | A | A | A | | A | | A | A | | A | 4102.7.F |
| Family Health Care Structure | | AP | AP | AP | AP | AP | | | AP | | | AP | | AP | 4102.1.I 4102.7.G |
| Garage Sale or Yard Sale | | A | A | A | A | A | | | A | | A | A | | A | 4102.7.H |
| Gardening and Composting[439] | | A | A | A | A | A | | | A | | A | A | | A | |

[434] Current prohibitions on bulk storage of flammable materials for resale in the PTC district are carried forward by use standard.
[435] The permissions for this use are brought forward, except it is changed from SP to either AP or SP. Change since 7/1/2019 draft: "Accessory living unit" is the new name for an "accessory dwelling unit."
[436] This carries forward the permissions for "servants quarters" and "quarters of a caretaker, watchman or tenant farmer and his family."
[437] Change since 6/30/2020 draft: Corrected permissions from A to ✓ because the standards require the boxes to be shown on the approved development plan.
[438] New use with new permissions.
[439] Change since 7/1/2019 draft: Incorporates revisions from Zoning Ordinance Amendment ZO-19-481

## TABLE 4101.2: Use Table for Planned Development Districts

✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
✓/**SE** = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
**SE** = special exception; **SP** = special permit; *blank cell* = not allowed
**A** = allowed as accessory use only; **A+** = permitted as an associated service use; **AP** = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Home-Based Business [440] | | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | | AP SP | | AP SP | AP SP | | AP SP | 4102.1.I 4102.7.I |
| Home Day Care Facility[441] | | A ✓/SE | A ✓/SE | A ✓/SE | A ✓/SE | A ✓/SE | A ✓/SE | | A ✓/SE | | A ✓/SE | A ✓/SE | | A ✓/SE | 4102.7.J |
| Keeping of Animals | | A SP | A SP | A SP | A SP | A SP | A SP | | A SP | | A SP | A SP | | A SP | 4102.7.K |
| Limited Riding or Boarding Stable[442] | | | | | | | | | | | | | | | 4102.7.L |
| Residence for Manager or Employee[443] | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | ✓ | |
| Sawmilling | | | | | | | | | | | | | | | 4102.7.N |
| Short-Term Lodging | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.7.O 4102.1.I |
| Solar Collection System[444] | | A | A | A | A | A | A | | A | | A | A | | A | 4102.7.P |
| Wayside Stand | | | | | | | | | | | | | | | 4102.7.Q |
| **TEMPORARY USES** | | | | | | | | | | | | | | | |
| Community Garden[445] | | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | | AP SP | | AP SP | AP SP | | AP SP | 4102.1.I 4102.8.B |
| Construction Site Office and Storage[446] | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.1.I 4102.8.C |

[440] This consolidates permissions for "home occupation" and "home professional office," except "home professional office" is changed from not allowed to AP or SP use in the PRM and PTC Districts.
[441] This carries forward the permissions for "home child care facility," except permissions are changed from ✓/SP to ✓/SE in the PRC District.
[442] This changes the permissions from ✓ to not allowed in the PDH, PRC, PDC, PRM, and PTC Districts based on the low likelihood that there would be enough land for this use in a planned district.
[443] This combines the current accessory use "residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel" and the accessory service use "dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use."
[444] This is a new use that codifies existing interpretations and carries forward the current permissions.
[445] Change since 7/1/2019 draft: Incorporates revisions from Zoning Ordinance Amendment ZO-19-481. Change since 6/30/2020 draft: The current allowance to seek SP approval has been added to the use table.
[446] This use consolidates uses "construction materials yard accessory to a construction project" and "contractor's offices and equipment sheds to include trailers accessory and adjacent to an active construction project."

**TABLE 4101.2: Use Table for Planned Development Districts**
✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
SE = special exception; SP = special permit; *blank cell* = not allowed
A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/ Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Farmers Market[447] | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.1.I<br>4102.8.D |
| Food Truck[448] | | AP<br>✓/SE | AP<br>✓/SE | AP<br>✓/SE | AP<br>✓/SE | AP<br>✓/SE | AP<br>✓/SE | | AP<br>✓/SE | | AP<br>✓/SE | AP<br>✓/SE | | AP<br>✓/SE | 4102.1.I<br>4102.8.E |
| Interim Off-Street Parking in Metro Station Area [449] | | SE | SE | SE | SE | SE | SE | | SE | | | | | | 4102.8.F |
| Model Home Sales or Leasing Office[450] | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.1.I<br>4102.8.G |
| Portable Storage Container[451] | | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | A<br>AP | | A<br>AP | | A<br>AP | A<br>AP | | A<br>AP | 4102.1.I<br>4102.8.H |
| Special Event[452] | | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | AP<br>SP | | AP<br>SP | | AP<br>SP | AP<br>SP | | AP<br>SP | 4102.1.I<br>4102.8.I |
| Temporary Dwelling or Manufactured Home | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.1.I<br>4102.8.J |
| **OTHER USES** | | | | | | | | | | | | | | | |
| Alternative Use of Historic Buildings[453] | | SE | SE | SE | SE | SE | SE | | SE | | SE | SE | | SE | 4102.1.H |

[447] Part of a recently adopted amendment.
[448] Change since 6/30/2020 draft: Added ✓/SE for the standard allowing the Board to allow a food truck to be located at a site in a residential area of a planned district more than 12 times per year.
[449] Renamed from "Commercial" to "Interim".
[450] This carries forward the current permissions for "subdivision and apartment sales and rental offices."
[451] This carries forward the permissions for "temporary portable storage container." Change since 6/30/2020 draft: The current permissions allowing this use as an accessory use have been added to the use table.
[452] This carries forward the permissions for "carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities." Change since 6/30/2020 draft: Consolidates current "promotional activities of retail merchants" use. In addition, the current requirement to seek SP approval has been added to the use table.
[453] New use and standards that replace Group 7 special permit uses and standards (older structures).

# 4102. Use Standards

Each use must comply with its related standards, including standards for all uses, standards for the zoning district where the use is located, and standards for the specific use. Uses established as of the effective date of this Ordinance may not be altered, modified, or enlarged in any way that conflicts with, or compounds an existing conflict with, the use standards.

## 1. General Standards[454]

### A. Standards for All Uses

**(1)** Every use must comply with the off-street parking, loading, and private street regulations in Article 6; the sign regulations in Article 7; the landscaping and screening regulations in Section 5108; and the lot size and bulk regulations of the zoning district where it is located, except as qualified elsewhere in this Ordinance.[455]

**(2)** All uses except extraction activity must comply with the performance standards in Section 5102 and Section 5109.[456]

**(3)** Before establishment, uses, including any modifications or alterations to an existing use, are subject to the provisions of subsection 8100.7.[457]

**(4)** If a use requires any governmental approval—whatever the form (e.g., license, permit, etc.) or the governmental entity (local, state, or federal)—the use must maintain compliance with that approval, including any pertinent standards and requirements. This includes, but is not limited to, compliance with performance standards relating to air pollution, fire and explosion hazards, radiation hazards, electromagnetic radiation and interference, and liquid and solid wastes.[458] Some, but not all, of these standards and requirements are referenced in this Ordinance; when they are not, it does not relieve any person of the responsibility to comply with them.

**(5) Uses Conducted from Vehicles:**[459]

The sale or offering for sale of goods or services from any vehicle is a commercial use. Any nonresidential use conducted from a vehicle must comply with all standards for the use in the district where located, except for food trucks, which are subject to subsection

[454] This section collects use standards that do not apply to a particular land use, but instead (1) apply generally to all uses, or (2) apply to all uses requiring special exception or special permit approval, or (2) apply to all uses within a defined "Group" or "Category" of uses in the current Zoning Ordinance, or (4) apply to all uses in a specific zoning district (or category of zoning districts). The standards have been collected and integrated from Sections 8,006, 9-006, 9-304, and multiple other sections of Articles 2, 3, 4, 5, 6, 8, and 9.

[455] This consolidates the references to additional regulations that are repeated for each district.

[456] Carries forward provisions from Sections 14-101 and 14-102, and other repeated references. Parts 2 through 7 of Article 14 are not carried forward because they only cross reference regulations that are located outside of the Zoning Ordinance.

[457] This consolidates the references to site plan requirements in the additional regulations for each district, and the standards for group and category uses.

[458] Change since 7/1/2019: Added reference to the performance standards that are referenced in current Article 14, but not carried forward elsewhere.

[459] Change since 7/1/2019 draft: This provision has been added to carry forward and clarify Par. 1 of Sect. 2-510. The first sentence has been relocated from the standards for Food Trucks.

4102.8.E. This standard does not prohibit vending from vehicles on public streets in accordance with all applicable laws.

**(6) Modifications and Waivers[460]**

**(a)** In conjunction with the approval of proffered conditions or a special exception, the Board may modify or waive any use standard in Article 4 if the resultant development will not adversely affect the use or development of adjacent properties. Except as specifically provided, however, the standards, procedures, and other provisions in any other article of this Ordinance may not be modified or waived.

**(b)** In accordance with the limitations in subsections 8100.2.E(1)(g), 8100.2.E(2)(h), and 8100.2.F(2)(c), the Board may modify or waive any zoning and subdivision requirements for a planned district.

**(c)** As specified in subsection 8100.4.B(2)(a), unless specifically provided, the BZA may not modify or waive any standards in the approval of a special permit.

**(d)** The definitions in Article 9 may not be modified.

## B. Standards for Uses in Residential Zoning Districts

**(1)** The sale of goods or products is not permitted, except as accessory to a permitted, special permit, special exception, or administrative permit use.[461]

**(2)** Parking of one commercial vehicle per dwelling unit is allowed, subject to the following limitations:[462]

**(a)** The commercial vehicle must be owned or operated only by the occupant of the dwelling unit where it is parked.

**(b)** The following commercial vehicles are prohibited from parking in a residential district:

***1.*** Food trucks, solid waste collection vehicles, tractors and trailers of tractor-trailers, dump trucks, construction equipment, cement-mixer trucks, and towing and recovery vehicles;

***2.*** Vehicles, including any appurtenances attached to the vehicle, that are greater than 21 feet in length, eight feet in height, or eight and one-half feet in width;

***3.*** Vehicles carrying commercial freight in plain view;

***4.*** Trailers used for transporting equipment whether attached or unattached to another vehicle;

***5.*** Vehicles with three or more axles; or

***6.*** Vehicles or equipment that are similar to those identified in subsections 1 through 5 above.

[460] Change since 7/1/2019 draft: New subsection to revise and clarify authority for modifications and waivers.
[461] Consolidates a use limitation repeated for each residential district.
[462] Carries forward Par. 16 of Sect. 10-102.

**(3)** Outdoor storage is allowed, subject to the following limitations[463]:

**(a)** It must not be located in the front yard; and

**(b)** The total area is limited to 100 square feet.

## C. Standards for Uses in Commercial Zoning Districts[464]

**(1)** The following are not allowed in the minimum setbacks:[465 / 466]

**(a)** Any outdoor storage, including the display of goods;[467] and

**(b)** Services or activities associated with the use of the property, except that off-street parking spaces, vehicle fueling station pump islands, and canopies are allowed.[468]

**(2)** All refuse must be kept in enclosed containers that are screened from view.

**(3)** In the C-1, C-2, C-3, and C-4 Districts, all business activity, including the storage and display of goods, must be conducted within a completely enclosed building, except:

**(a)** Uses which by their nature must be conducted outside a building;

**(b)** Outdoor seating provided in association with a restaurant or craft beverage production establishment.[469]

**(4)** In the C-5, C-6, C-7, and C-8 Districts, unless otherwise stated in this Ordinance, any business activity, storage, or display of goods located outdoors may be permitted as follows:

**(a)** When located on the same lot as and accessory to an established permitted, special exception, or special permit use;

**(b)** When limited to 500 square feet in accordance with subsection 8100.7.D; however, additional area may be permitted if designated on an approved development plan or site plan;[470]

**(c)** Outdoor storage and loading areas must be screened from view from the first story of any buildings on abutting lots and from rights-of-way;[471] and

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[463] Change from 7/1/2019 draft: Carried forward from Par. 24 of Sect. 10-102. Change since 6/30/2020 draft: Revised for clarity the requirement for storage to be in the "rear half" of the lot with a requirement for storage to not be in the front yard; and deleted the requirement for storage to be screened from the first story window of a neighboring dwelling.

[464] This carries forward use standards that apply district-wide from Sections 4-105, 4-205, 4-305, 4-405, 4-605, 4-705, and 4-805. The curb cut standards for C-5 through C-8 are deleted because they are not currently used and are inconsistent with PFM and VDOT standards. Also, the maximum sizes of business establishments in the C-5 District are not carried forward. Change since 7/1/2019 draft: Language in this section has been revised for clarity.

[465] This carries forward Sect. 2-504, except for the allowance for merchandise on pump islands.

[466] Minimum required yards are renamed to setbacks.

[467] Changes the current language: "no goods shall be displayed, offered for sale or stored."

[468] Reference to canopies added to reflect current practice.

[469] This extends the provisions for outdoor seating to a craft beverage production establishment.

[470] Revised to reflect recent Zoning Ordinance amendments and to reference approval on a development plan. The standards specifying that storage is limited to certain types of items are not carried forward. The standard for a contractor's office and shop is not carried forward.

[471] This carries forward paragraph 4 of Sect. 4-805, clarifies what screening is required, and extends the screening requirement from the C-8 District to the C-5 through C-8 Districts.

**(d)** There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or materials; or other similar vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor-trailer trucks.[472]

## D. Standards for Uses in Industrial Districts[473]

**(1)** The following are not allowed in the minimum setbacks:[474]

**(a)** Any outdoor storage, including the display of goods;[475]

**(b)** Processing or other industrial operations of any kind; and

**(c)** Services or activities associated with the use of the property, except that off-street parking spaces and vehicle fueling station pump islands, and associated canopies are allowed.

**(2)** In the I-2 District, all business activity, including the storage and display of goods, must be conducted within a completely enclosed building, except:

**(a)** Uses which, by their nature, must be conducted outside a building; and

**(b)** Outdoor seating provided in association with a restaurant or craft beverage production establishment.[476]

**(3)** In the I-3 and I-4 Districts, unless otherwise stated in this Ordinance, any business activity, storage or display of goods located outdoors may be permitted as follows:

**(a)** When located on the same lot as and accessory to an established permitted, special exception, or special permit use;

**(b)** When limited to 500 square feet in accordance with subsection 8100.7.D; however, additional area may be permitted if designated on an approved development plan or site plan;[477]

**(c)** Outdoor storage and loading areas must be screened from the view from the first story of any buildings on abutting lots and from rights-of-way;[478] and

**(d)** There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or

[472] This carries forward paragraph 5 of Sect. 4-805 and extends its applicability from the C-8 District to the C-5 through C-8 Districts.
[473] This carries forward provisions in Sections I-I05, I-205, I-305, I-405, I-505, and I-605. Change since 7/1/2019 draft: Language in this section has been revised for clarity.
[474] This carries forward Sect. 2-504, except for the allowance for merchandise on pump islands. It also carries forward use limitations. The reference to a transitional screening yard in Sect. 5-505 has been deleted because outdoor storage is not allowed in a transitional screening yard in any district. Change from 6/30/2020 draft: deleted repetition of this standard for the I-5 District.
[475] Changes the current language: "no goods shall be displayed, offered for sale or stored."
[476] This carries forward provisions in Par. 2 of Sections. 5-205, 5-305, and 5-405. It extends the provision for outdoor seating to a craft beverage production establishment.
[477] Revised to reflect recent Zoning Ordinance amendments and to reference approval on a development plan. The standards specifying that storage is limited to certain types of items are not carried forward. The standard for a contractor's office and shop is also not carried forward.
[478] The requirement for screening of outdoor storage and loading areas has been clarified.

materials; or other similar vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor-trailer trucks.[479]

## E. Standards for Uses in Planned Districts

**(1)** In the PRC District, all uses permitted under an approved development plan must be in substantial conformance with that approved development plan and the approved PRC plan as required by subsection 8100.2.F(2).

**(2)** In any other P district, all uses permitted under a final development plan must be in substantial conformance with the approved final development plan as required by subsection 8100.2.E(3).[480]

**(3)** Additional standards that apply to uses in the establishment of a planned district are in Section 2105.[481]

**(4)** In residential areas of Planned Districts, parking of one commercial vehicle per dwelling unit is allowed, subject to the following limitations:[482]

**(a)** The commercial vehicle must be owned or operated only by the occupant of the dwelling unit where it is parked.

**(b)** The following commercial vehicles are prohibited from parking in a residential district:

***1.*** Food trucks, solid waste collection vehicles, tractors and trailers of tractor-trailers, dump trucks, construction equipment, cement-mixer trucks, and towing and recovery vehicles;

***2.*** Vehicles, including any appurtenances attached to the vehicle, that are greater than 21 feet in length, eight feet in height, or eight and one-half feet in width;

***3.*** Vehicles carrying commercial freight in plain view;

***4.*** Trailers used for transporting equipment whether attached or unattached to another vehicle;

***5.*** Vehicles with three or more axles; or

***6.*** Vehicles or equipment that are similar to those identified in subsections 1 through 5 above.

**(5)** In residential areas of P districts, outdoor storage is allowed, subject to the following limitations[483]:

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[479] The standards for outdoor storage in the I-3 and I-4 Districts are revised to be consistent with those for the C-5 through C-8 District.

[480] Consolidates Par. 4 of Sections 6-106, 6-206, 6-305, 6-505, and Par. 11 of Sect. 6-406.

[481] This reference is to planned district standards in Article 2: Zoning Districts that cover larger types or categories of uses (e.g., principal and secondary uses in Par. 5 of Sect. 6-206 and "secondary uses of a commercial and office nature" in Par. 5 of Sect. 6-106). Standards that apply to specific uses (e.g., "kennels and veterinary hospitals" in Par. 9 of Sect. 6-106) are included in this Article.

[482] Carries forward Par. 16 of Sect. 10-102.

[483] Change since 6/30/2020 draft: Repeated outdoor storage standard from Par. 24 of Sect. 10-102 because it applies in the residential areas of P districts as well as in R districts. The standard has been revised to clarify the requirement for storage to be in the "rear half" of the lot with a requirement for storage to not be in the front yard; and the requirement for storage to be screened from the first story window of a neighboring dwelling has been deleted.

**(a)** It must not be located in the front yard; and

**(b)** The total area is limited to 100 square feet.

## F. Standards for Special Exception and Special Permit Uses[484]

**(1)** There are certain uses, like those regulated by special exception or special permit, which by their nature or design can have an undue impact upon or be incompatible with other uses of land. The Board or BZA, as applicable, may approve a special exception or special permit that complies with all applicable standards, that will be compatible with existing and planned development in the general area, and that, as conditioned, will be compatible with the neighborhood where it is proposed to be located. If it determines that the use is not in accordance with all applicable standards of this Ordinance, the Board or BZA, as applicable, must deny the special exception or special permit. [485]

**(2)** In addition to all other applicable standards, all special exception or special permit uses must comply with the following general standards:

**(a)** The proposed use at the specified location must be in harmony with the Comprehensive Plan.

**(b)** The proposed use must be in harmony with the general purpose and intent of the zoning district where it is to be located.

**(c)** The proposed use, including its design and operational characteristics,[486] must not adversely affect the use or future development of neighboring properties and must be in accordance with the applicable zoning district regulations. The location, size and height of buildings, structures, walls, and fences, as well as the nature and extent of screening, buffering and landscaping cannot hinder or discourage the appropriate development and use, or impair the value of, adjacent or nearby land or buildings.

**(d)** Pedestrian and vehicular traffic associated with the use must not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

**(e)** Adequate utility, drainage, and other necessary facilities to serve the proposed use must be provided.

**(f)** Signs are regulated by Article 7; however, the Board or BZA may impose stricter requirements for a given use than those set forth in this Ordinance.

**(3)** No use of a structure or land that is designated as a special exception or special permit use in any zoning district may be established, and no existing use may be changed to another use that is designated as a special exception or special permit use in the district, unless the applicable special exception or special permit has been approved by the Board or BZA and the use has been established in accordance with subsection 8100.3 or subsection 8100.4.

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[484] This combines the general standards in Sections 8-006 and 9-006.

[485] This carries forward Sections 8-001 and 9-001.

[486] This part of the standard is derived from Sect. 9-505, which currently applies to certain commercial uses. It is made applicable here to the review of all SP and SE uses. Provisions on operational standards are stated here to avoid the need to restate them for each use to which they apply.

**(4)** A conforming use lawfully existing before the effective date of this Ordinance that requires a special exception or special permit under this Ordinance may not be replaced or enlarged except in accordance with subsection 8104.3.

**(5)** If a current and valid special exception or special permit exists for a use that is on a lot that is zoned to more than one zoning district and if an amendment to this Ordinance allows the use as a permitted use only in one of those zoning districts, the special exception or special permit will remain in full force and effect for the entire property, unless the Board or BZA approves an amendment to the special exception or special permit to remove the land area from the area that is subject to the special exception or special permit.

## G. Standards for Associated Service Uses[487]

**(1)** In addition to the standards for specific uses, all associated service uses must comply with the following:

**(a)** The associated service use must be located in the same building as the principal use.

**(b)** The combined gross floor area of all associated service uses may not exceed 10 percent of the gross floor area of the building. In addition, except for a child care center, each individual establishment may not exceed 2,500 square feet of gross floor area.

**(c)** The hours of operation must generally conform to the business hours of the principal use, but may not exceed 6:00 a.m. to 10:00 p.m.

**(2)** In the C-1, C-2, C-3, C-4, I-2, I-3, I-4, I-5, and I-6 Districts, an associated service use must comply with the following additional standards:

**(a)** An associated service use may use the parking rate for the principal use.

**(b)** Any associated service use other than a personal service establishment must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.[488]

**(c)** An associated service use that is a personal service establishment must be part of an office building complex that is planned, designed, constructed, and managed on

[487] This carries forward provisions in Sections 10-202, 10-203, and Par. 22 of Sect. 11-102 that apply to accessory service uses, with modifications. Revisions include **(1)** deleting accessory service uses from the R-12 and R-16 Districts based on the density and that Non-RUPs have not been issued for such uses; **(2)** deleting the standard that the use be oriented to cater primarily to the residents or employees of the principal use with which they are associated; **(3)** deleting the current option for accessory service uses in a multifamily building in PDH, PDC, and PRC because the uses are allowed in those districts; **(4)** deleting options for the use to be in a freestanding building; **(5)** deleting limitations regarding which floor of a building the use may be located on; **(6)** revising the maximum percentage to be based on the building instead of the development to be consistent with the current parking standard and to reduce the percent from 15 to 10 percent; **(7)** adding a maximum size of 2,500 square feet, except for child care; **(8)** deleting accessory service uses in the I-I District and related standards; **(9)** deleting the minimum number of units in a multifamily building; **(10)** reducing the types of uses that may be approved as associated service uses; and **(11)** generalizing and expanding the standard for hours of operation.

[488] Change since 7/1/2019 draft: "Office or industrial building complex containing a minimum gross floor area of 30,000 square feet" has been replaced throughout with "office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis."

an integrated and coordinated basis and may not be part of an industrial building complex.

**(3)** In the R-20 and R-30 Districts, an associated service use must comply with the following additional standards:[489]

**(a)** The associated service use must primarily serve a multifamily building or complex.

**(b)** The use may not be located within an individual dwelling unit.

**(c)** Enrollment for a child care center is limited to persons who live or work in the building or complex where the child care center is located.

## H. Standards for Alternative Use of Historic Buildings[490]

### Standards when permitted by special exception:

**(1)** The Board may approve a special exception to allow a nonresidential use in a historic structure. For the purpose of this section, a historic structure is a structure identified on the Fairfax County Inventory of Historic Sites. The Board will consider whether the nature and scale of the proposed use is compatible with the structure, site, and surrounding properties.

**(2)** Except in buildings historically used for commercial or industrial activities, the use may not include uses within the following use categories or classification:

**(a)** Animal-related uses;

**(b)** Vehicle-related uses; and

**(c)** Industrial uses, except for craft beverage production and small-scale production establishments.

**(3)** All applications that include exterior modifications to the structure or site will be reviewed by the Architectural Review Board (ARB). The ARB will base its recommendation on whether the proposal is consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties. The ARB recommendation will be provided to the Planning Commission and Board of Supervisors.[491]

**(4)** The structure may not be altered or used in a manner that results in removal from the Fairfax County Inventory of Historic Sites.

**(5)** Goods or items offered for sale may not be displayed outdoors.

**(6)** All off-street parking and loading spaces must be located outside of required minimum side and rear yards that abut a residential district, unless modified by the Board.

**(7)** The existing structure is not required to comply with the minimum lot size requirements or bulk regulations for the zoning district. Any new structure or addition must conform to the applicable bulk regulations.

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[489] This carries forward provisions from Par. 8 of Sect. 10-203, except the maximum daily enrollment limitation of 99 children is not carried forward, the outdoor recreation area requirements are addressed in the standards for child care center, and the reference to state regulations is addressed in the general standards for all uses.

[490] New standards.

[491] Change since 7/1/2019 draft: This standard has been revised from Secretary of the Interior's Standards for "Treatment" to "Rehabilitation" per ARB recommendation.

**(8)** The Board may use the applicable use-specific standards as a guide when reviewing the proposal.

**(9)** The Board may impose conditions and restrictions that it deems necessary to ensure the use will be compatible with and not adversely impact any adjacent residential areas.

### I. Standards for Administrative Permit Approvals[492]

**(1)** The County may inspect the property during reasonable hours and in accordance with subsection 8106.2.D.

**(2)** The Zoning Administrator may revoke an administrative permit at any time if the owner or operator of the use fails to comply with all requirements of the law with respect to maintenance and conduct of the use and all conditions imposed by the Zoning Administrator in connection with the permit.

**(3)** The Zoning Administrator will issue a notice of revocation to the owner or operator, hand-delivered or mailed, return receipt requested, setting forth the grounds upon which the permit was revoked, the date and time the revocation took effect, and describing the appeals procedure. Upon receipt of the notice, operation of the activity must cease.

**(4)** These provisions do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of this Ordinance.

# 2. Agricultural and Related Uses

## Agricultural and Related Uses

### A. Agricultural Operation[493]

#### Standards when permitted by right:

**(1)** The minimum lot area is five acres, unless otherwise stated in this Ordinance for a use related to an agricultural operation.

**(2)** The retail sale of agricultural products produced on-site is permitted.

**(3)** Barns and other structures for the housing of animals are allowed, subject to the setbacks in subsection 4102.7.K(6).

[492] Change since 7/1/2019 draft: This is a new subsection that captures different standards related to uses requiring administrative permit approval that were previously scattered throughout different Articles.
[493] This consolidates standards from Sections 3-A02, 3-C02, and the use limitations in multiple sections in Article 3 (e.g., Sect. 3-A05). Change since 6/30/2020 draft: Relocated the 75% agriculture standard to the R-A District standards in Article 2.

## B. Farm Winery, Limited Brewery, or Limited Distillery [494]

**Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-C District:**

**(1)** A farm winery, limited brewery, or limited distillery must be located on one of the following:

- **(a)** A minimum of 20 acres of contiguous land under common ownership used for an agricultural operation; or
- **(b)** A lot with a minimum of five acres used for an agricultural operation and for which a Virginia Alcoholic Beverage Control Board license was pending for the operation of a farm winery, limited brewery, or limited distillery before December 7, 2016, where such license is ultimately approved.

**(2)** A farm winery, limited brewery, or limited distillery is only allowed subject to the following:

- **(a)** A valid license for the use was issued from the Virginia Alcoholic Beverage Control Board before July 1, 2016. All structures, buildings, and uses were existing on July 1, 2016, and the use does not cease for a continuous period of two years or more. Any new or expanded structures, buildings, or uses require special exception approval in accordance with subsection (3) below; or
- **(b)** A license application for the use was filed with the Virginia Alcoholic Beverage Control Board before July 1, 2016, and such license is subsequently approved. The use may not commence until a special exception is approved.

**(3)** Any expansion of existing structures, buildings, or uses or construction of new buildings or structures associated with the use requires special exception approval in accordance with subsection 8100.3, and must comply with the following additional standards:

- **(a)** All loading/unloading areas must be located at least 50 feet from all lot lines and 100 feet from all principal structures on adjacent properties, unless modified by the Board.
- **(b)** All loading/unloading areas must be screened from view of any adjacent dwelling.
- **(c)** For any new or expanded publicly accessible buildings or structures, the owner or applicant must submit plans certified by a structural engineer. The engineer must also certify to the structural integrity of the building, once the construction is complete. Such certified plans must be kept by the applicant and made available to the County for review upon request.

**(4)** A farm winery, limited brewery, or limited distillery may be used for alcohol production, sales, and tastings. In addition, the hosting of public or private events or activities is allowed in accordance with the following standards:

[494] This carries forward standards in the definitions in Article 20, and Sections 9-602 and 9-630 and portions of Sect. 3-C02. Submission requirements are included in Article 8. Requirements addressed by general standards are not repeated.

**(a)** At any one time, up to 200 guests are allowed, or, if the primary access is from a principal arterial,[495] up to 300 guests are allowed, with no limit on the number or duration of events.

**(b)** The number of guests may exceed the limit established in subsection (a) above during a maximum of 12 events or activities per calendar year. Each event must not exceed two days in duration.

**(c)** Events or activities must not include any of the following:

***1.*** Helicopter rides;

***2.*** Fireworks displays;

***3.*** Antique/flea markets;

***4.*** Go-cart/all-terrain vehicle tracks;

***5.*** Mechanized amusement park rides;

***6.*** Hot air balloons;

***7.*** Lodging;

***8.*** Spa services;

***9.*** The operation of a commercial restaurant requiring approval by the Health Department; or

***10.*** Any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety, and welfare of the public.

**(d)** The Board may approve a special exception for the hosting of public or private events or activities that exceed the maximum number of guests, or the number or duration of events or activities stated in subsections (a) and (b) above. The Board may impose conditions on the hosting of such events and activities, including conditions addressing the following:

***1.*** The number of attendees;

***2.*** The type, number, location, and duration of allowable activities;

***3.*** The adequacy of water and sanitation services to accommodate the anticipated number of attendees;

***4.*** The days and hours of such activities;

***5.*** The use of lighting or amplified sound systems; and

***6.*** The amount of parking available to accommodate the activity.

**(e)** Sales and tastings as part of the regular course of business, which may include accessory musical accompaniment or entertainment, are not considered to be a public or private event or activity.

**Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-A, R-E, and R-1 Districts:**

**(5)** A farm winery, limited brewery, or limited distillery must be located on one of the following:

[495] This is a change from "major arterial," as that functional classification of roadway does not exist. Change since 6/30/2020 draft: Previous draft used "major thoroughfare" but revised to "principal arterial" based on a review of the public hearing adoption proceedings for the farm winery amendment on December 6, 2016.

**(a)** A minimum of 20 acres of contiguous land used for an agricultural operation that is under common ownership; or

**(b)** A lot with a minimum of five acres used for an agricultural operation and for which a Virginia Alcoholic Beverage Control Board license was pending for the operation of a farm winery, limited brewery or limited distillery before December 7, 2016, where such license is ultimately approved.

**(6)** A farm winery, limited brewery, or limited distillery may be used for alcohol production, sales, and tastings. The hosting of public or private events or activities is allowed, as follows:

**(a)** At any one time, up to 200 guests are allowed, or, if the primary access is from a principal arterial, up to 300 guests are allowed, with no limit on the number or duration of events.[496]

**(b)** The number of guests may exceed the limit established in subsection (a) above during a maximum of 12 events or activities per calendar year. Each event must not exceed two days in duration.

**(c)** Events or activities must not include any of the following:

***1.*** Helicopter rides;

***2.*** Fireworks displays;

***3.*** Antique/flea markets;

***4.*** Go-cart/all-terrain vehicle tracks;

***5.*** Mechanized amusement park rides;

***6.*** Hot air balloons;

***7.*** Lodging;

***8.*** Spa services;

***9.*** The operation of a commercial restaurant requiring approval by the Health Department; or

***10.*** Any other similar use determined by the Board to have a substantial impact on the health, safety, and welfare of the public.

**(d)** The Board may approve a special exception for the hosting of public or private events or activities that exceed the maximum number of guests, or the number or duration of events or activities stated in subsections (6)(a) and (6)(b). The Board may impose conditions on the hosting of such events and activities, including conditions addressing the following:

***1.*** The number of attendees;

***2.*** The type, number, location, and duration of allowable activities;

***3.*** The adequacy of water and sanitation services to accommodate the anticipated number of attendees;

***4.*** The days and hours of such activities;

***5.*** The use of lighting or amplified sound systems; and

[496] Replaced "major arterial" in the current Ordinance with "principal arterial" which is a defined classification. See footnote above for additional information.

*6.* The amount of parking available to accommodate the activity.

**(e)** Sales and tastings as part of the regular course of business, or accessory musical accompaniment or entertainment, are not considered to be a public or private event or activity.

## C. Stable, Riding or Boarding

### Standards when permitted by special exception or special permit:[497]

**(1)** When an application for a riding or boarding stable is not submitted in conjunction with an application for a rezoning or special exception, a special permit is required. When an application for a riding or boarding stable is submitted in conjunction with a rezoning or other action before the Board, the use may be approved as either a special exception in accordance with subsection 8100.3 or a special permit in accordance with subsection 8100.4, at the discretion of the applicant.

**(2)** The minimum lot size is two acres for a riding or boarding stable where six, seven, or eight horses or ponies are kept, and five acres for a riding or boarding stable where nine or more horses or ponies are kept. These totals do not include any horses or ponies owned by a resident of the property.

**(3)** Except for light poles and fences, all structures and riding rings associated with a riding or boarding stable must be located a minimum of 100 feet from all lot lines.

**(4)** All off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining property in an R district or a residential area of a P district.

**(5)** The Board or BZA may modify or waive the setback requirements of subsection (3) or (4) above as follows:

**(a)** For stable structures, riding rings, and associated parking and loading spaces established on the lot after September 29, 2010, the BZA may reduce the 100-foot setback required in subsection (3) above to not less than 40 feet, and may reduce the 50-foot setback required in subsection (4) above to not less than 20 feet.

**(b)** For stable structures, riding rings, and associated parking and loading spaces existing on the lot before September 29, 2010, the BZA may modify or waive the 100-foot setback required in subsection (3) above and the 50-foot setback required in subsection (4) above.

**(c)** The applicant must demonstrate that the setback(s) are not necessary to minimize any adverse impacts on adjacent properties due to any of the following:

*1.* Specific operational characteristics of the riding or boarding stable, such as limits on the number of horses, students, and employees; use of outdoor lighting and public address systems; hours of operation; number and frequency of special events; odor mitigation; and amount and type of outdoor activity.

*2.* Conditions that adequately buffer adjacent properties from the riding or boarding stable, including topography, vegetation, location or orientation of

[497] These standards are carried forward from the definition in Article 20, and Sections 8-603, 8-609, and 8-611, except the standard requiring a Conservation Plan is a new standard. That standard is currently applied to limited riding and boarding stables.

on-site structures, proximity of adjacent dwelling units, development of adjacent properties with non-residential uses, or existence of roads or major utilities.

**(6)** A riding or boarding stable may include a veterinary hospital if the hospital complies with the following requirements:

**(a)** All facilities must be within a completely enclosed building.

**(b)** The construction and operation of all facilities must be approved by the Health Department before the issuance of any building permit or Non-~~R~~residential Use Permit.

**(7)** A Conservation Plan must be submitted for the property and approved by the Northern Virginia Soil and Water Conservation District. All activity on the property must conform to the approved Conservation Plan.

**Standards when permitted as an accessory use:**

**(8)** A riding or boarding stable is allowed as an accessory use in accordance with subsection 4102.7.L.

# 3. Residential Uses

## Household Living

### A. All Household Living Uses[498]

A dwelling unit may be occupied by no more than one of the following:

**(1)** Two or more persons related by blood or marriage and any number of natural children, foster children, stepchildren, adopted children, or children in kinship care, and with no more than two roomers or boarders;

**(2)** One or two persons with their dependent children, including natural children, foster children, stepchildren, adopted children, or children in kinship care, functioning as a single household;

**(3)** A group of not more than four persons not related by blood or marriage, functioning as a single household;

**(4)** A group residential facility;

**(5)** A group household; or

**(6)** A dwelling unit that includes an accessory living unit occupied in accordance with subsection 4102.7.B.

[498] Change since 7/1/2019 draft: These limitations are included from Sect. 2-502. "Bed and breakfast" has been removed, as it is an SE commercial use. The language has been updated and kinship care has been added.

## B. Dwelling, Single-Family Attached and Dwelling, Stacked Townhouse[499]

### Standards applicable to all single-family attached dwellings and stacked townhouse dwellings:

The maximum length of a contiguous building group is 250 feet, excluding any utility closet.

## C. Dwelling, Single-Family Detached

### Standards when permitted by right:

In the R-A District, a single-family detached dwelling is allowed only in conjunction with an agricultural operation.[500]

## D. Live-Work Development[501]

### Standards applicable to all live-work developments:

The following activities are prohibited:

**(1)** The conduct of any activity that is not a permitted use in the district or an approved special exception or special permit;

**(2)** Any office that involves medical or dental services, research and experimentation in a laboratory, or similar activities; and

**(3)** The installation of specialized equipment, fittings, or fixtures that are generally only required for the provision of a service or the conduct of an activity prohibited by subsections (1) and (2) above.

## E. Manufactured Home

### Standards applicable to all manufactured homes:

A manufactured home that is to be used as a dwelling is allowed only:

**(1)** In a mobile home park in the R-MHP District in accordance with subsection 2102.14, provided that the manufactured home must be licensed in accordance with Chapter 32 of the County Code and bear a certification label or have other verification consistent with the requirements of the U.S. Department of Housing and Urban Development that the manufactured home is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards in effect on the date of manufacture;[502]

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[499] This carries forward standards in the definition for this use in Sect. 20-300 and applies them to the new stacked townhouse dwelling use, except the requirements to incorporate one-foot offsets in the façade plane and vary the architectural facades or treatment of materials have been deleted. Also, the maximum length of a building has been extended from 240 to 250 to allow for the width of brick and bay windows; excluding exterior utility closets is new.

[500] This carries forward Par. 2 of Sect. 3-A02. Change since 6/30/2020 draft: the requirement that the agricultural use cover at least 75 percent of the total land area is included in the R-A District standards.

[501] These are new standards for a new use.

[502] This new standard renders nonconforming any manufactured home in the R-MHP District that does not comply with federal regulations. Such a manufactured home would be subject to the provisions in the zoning ordinance governing nonconformities.

**(2)** In the R-A District in conjunction with an agricultural operation, provided that the manufactured home must be placed on a permanent foundation;[503]

**(3)** On railroad rights-of-way for the purpose of supplying temporary housing for personnel engaged in emergency repair work for a maximum period of 30 days, subject to the approval of the Zoning Administrator and the Health Department; [504] or

**(4)** As a temporary dwelling in accordance with section 4102.8.J.

## Group Living

### F. Congregate Living Facility[505]

**Standards when permitted by special exception:**

A congregate living facility that has the external form and character typical of a single-family detached dwelling must comply with the setback requirements for a single-family detached dwelling in the zoning district in which it is located. Any other congregate living facility must be located a minimum 100 feet from all lot lines that abut the R-1, R-2, R-3, or R-4 Districts and 45 feet from all other lot lines, or as determined by the Board.

### G. Group Household[506]

**Standards when permitted by special permit:**

A group household must provide a sufficient number of spaces to accommodate the parking needs of its residents.

### H. Religious Group Living[507]

**Standards when permitted by special permit:**

In the commercial and industrial districts, religious group living must be located in conjunction with and within the same structure as a religious assembly use.

[503] This carries forward Par. 2 of Sect. 3-A02 and Par. 3 of Sect. 3-A05, in accordance with State law, except the reference that the manufactured home comply with the requirements for a single-family detached dwelling is deleted. Change since 6/30/2020 draft: the requirement that the agricultural use cover at least 75 percent of the total land area is carried forward in the standards for the R-A District standards.
[504] This paragraph and the following paragraph carry forward Sect. 2-507, modified for readability. It deletes Par. C of Sect. 2-507 allowing a mobile home on a parcel of 100 acres or more as living quarters for a caretaker, watchman, or tenant farmer and his family in the R-A, R-C, R-E, or R-1 District. This provision is partially carried forward in Par. (1) above and is no longer needed in the other districts. Par. D of Sect. 2-507, which allows mobile homes as temporary dwellings for faculty, staff, and students as part of a church, private school of general or special education, child care center, or nursery school, is carried forward as a temporary use standard.
[505] This carries forward Sect. 9-307.
[506] This is a new standard. Change since 11/24/2020 draft: Deleted reference to staff since group household uses do not have staff.
[507] New standard.

### I. Residence Hall[508]

**Standards when permitted by special exception:**

**(1)** In the R-E, R-1, R-2, R-3, and R-4 Districts, a residence hall must have the external form and character of a single-family detached dwelling.

**(2)** In the commercial and industrial districts, a residence hall must be located in conjunction with a private school, a college or university, or a religious assembly use.

**(3)** The Board may approve a special exception for a residence hall when it finds the proposed use, together with all other similar uses within the area, will not modify or disrupt the predominant character of the neighborhood.

# 4. Public, Institutional, and Community Uses

## Community, Cultural, and Educational Facilities

### A. Adult Day Support Center[509]

**Standards applicable to all adult day support centers:**

**(1)** The adult day support center must provide a drop-off and pick up location that includes step-free access.

**(2)** If an outdoor recreation area is provided, it must be located outside the minimum front setback, unless specifically approved by the Board by special exception in accordance with subsection 8100.3.

**(3)** The adult day support center may not operate until a license has been granted by the appropriate State agency.

**Standards when permitted by right:**

**(4)** In industrial districts, an adult day support center is permitted by right if it complies with the following standards. Otherwise, an adult day support center requires special exception approval in accordance with subsection 8100.3.

**(a)** The adult day support center must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and

**(b)** Vehicular access to the adult day support center must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.

**Standards when permitted by special exception:**

**(5)** The adult day support center must have direct access to a street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center.

[508] This carries forward Sect. 9-312, except standard 2 has been added as a new requirement. Application submission requirements are relocated to Article 8, and the provision allowing the Board to impose conditions was deleted as unnecessary.
[509] Change since 6/30/2020 draft: This is a new use with new standards.

## B. Alternate Use of Public Facility[510]

### Standards when permitted by special exception:

The Board may approve a special exception to allow alternate use of a County public facility in accordance with the following standards:

**(1)** In approving the special exception, the Board will use any standards set out for the proposed use in this article as a guide for conditions of approval;

**(2)** If located within an existing structure, the use is not required to comply with the minimum lot size requirements or bulk regulations for the zoning district where the public facility is located; and

**(3)** If located within a residential district, the use must not adversely impact the adjoining residential community in terms of traffic, vehicular access, parking, lighting, signs, outdoor storage, length and intensity of outside activity, and general visual or noise impact.

## C. Child Care Center[511]

### Standards applicable to all child care centers:

**(1)** The outdoor recreation area required under Chapter 30 of the County Code must:[512]

- **(a)** Provide at least 100 square feet of usable outdoor recreation area for each child that may use the space at any one time;
- **(b)** Be designed or usable for active outdoor recreation purposes;
- **(c)** Occupy less than 80 percent of the combined total areas of the required rear and side yards;
- **(d)** Be located outside the minimum front setback, unless specifically approved by the Board by special exception in accordance with subsection 8100.3; and[513]
- **(e)** Not include areas covered by buildings or off-street parking.

**(2)** The child care center must be designed and located to allow the safe and convenient pick-up and drop-off of persons on the site.[514]

[510] This carries forward standards in Sect. 9-311, with the following changes: (1) the requirement of availability of excess space is not carried forward, (2) the limitation to uses allowed by special permit or special exception in the zoning district where the facility is located is carried forward in the use definition and not in these standards, (3) the reference to off-street parking is addressed in the general standards for uses, and (4) limitations on signs are not carried forward here but are addressed in Article 7: Signs.

[511] This carries forward Sect. 9-309, 8-308, 9-314, 10-203, and standards in the industrial districts in Article 5. Changes are noted in the footnotes below.

[512] This consolidates and reconciles inconsistencies in provisions from Sect. 9 309 and Par. 8.C of Sect. 10-203, and clarifies that the standards apply in all districts.

[513] Change from 6/30/2020 draft: Deleted “in commercial and industrial districts only” from Par. 1B of Sect. 9-309.

[514] This modifies the current standard to provide more specificity, and it extends its applicability to the industrial districts.

**Standards when permitted by right:**

**(3)** In industrial districts, a child care center is permitted by right if it complies with the following standards. Otherwise, a child care center requires special exception approval in accordance with subsection 8100.3.[515]

**(a)** The center must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and[516]

**(b)** Vehicular access to the child care center must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.

**Standards when permitted by special exception:**

**(4)** The child care center must have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center. [517]

## D. Club, Service Organization, or Community Center[518]

**Standards when permitted by special exception:**

**(1)** In reviewing an application, the Board will take into consideration factors such as safety, noise, and hours of operation and may impose conditions to ensure that the use will be compatible with and not adversely impact adjacent properties.

**(2)** In R districts and the residential areas of P districts, accessory rental of the facility to individuals or groups outside of the membership of the corporation, fraternal organization, association, or group for events, such as concerts, shows, wedding receptions, parties, or other similar activities, is not allowed unless specifically approved by the Board. In approving such accessory rental, the Board may impose conditions in accordance with subsection (1) above, including limitations on the number, size, days, and hours of such events.[519]

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[515] This carries forward multiple provisions in Article 5 (e.g., Sect. 5-105) and Sect. 10-202.2. References to state law and other County ordinances are not included here, but are addressed in the general standards for all uses. Prohibition on access from an arterial or collector street has been added for clarity.

[516] Change since 7/1/2019: Replaced 'park' with 'complex' throughout.

[517] The guidelines in Sect. 9-309 that identify street types based on the number of persons are not carried forward here, but may be maintained in a procedures manual or similar document for reference. We have removed this chart, as we typically use locational guidance in the Comprehensive Plan rather than this chart during analysis. Application requirements regarding trip generation and distribution are not included here but are addressed in Article 8: Administration and Procedures. This standard no longer applies to child care centers in the C-5 through C-8 Districts, as those no longer require special exception approval.

[518] This is a new standard that allows the Board to consider and condition accessory non-member events in residential districts. The use is not permitted to host these types of events if they are not expressly approved by the Board.

[519] This is a new standard that allows the Board to consider and condition accessory non-member events in residential districts. The use is not permitted to host these types of events unless they are expressly approved by the Board.

## E. College or University

### Standards when permitted by right:

In the C-1, C-2, and C-3 Districts, a college or university:[520]

**(1)** Must be located within an enclosed building or buildings; and

**(2)** May not include residential, athletic, or large-scale assembly-type facilities, unless permitted by special exception in accordance with subsection 8100.3.

## F. Community Swim, Tennis, and Recreation Club[521]

### Standards when permitted by special permit:

**(1)** This use must have a membership limited to residents of a designated area and their guests and must be under the control and direction of a board of managers composed, at least in part, of residents of the area. Additionally, the owner of the facility must be a nonprofit organization.

**(2)** A sports illumination plan must be submitted for outdoor facilities when required by Section 5109.

## G. Convention or Conference Center

### Standards when permitted by development plan:

In the PDC District, the minimum gross floor area of a convention or conference center is 100,000 square feet. [522]

## H. Religious Assembly

### Standards applicable to all religious assembly:

**(1)** The regulations that relate to religious assembly uses address land use matters only and do not affect an individual's right to determine and exercise their religious beliefs.

**(2)** The use of land, buildings, and facilities associated with a religious assembly use may be used for other accessory purposes in furtherance of the mission of the religious assembly use. These additional uses, such as child care centers or private schools, may require a special exception or special permit if specified in that district.[523]

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[520] These are new standards to ensure that a college or university located in the C-1, C-2, and C-3 Districts is compatible with other uses in the district. Special Exception approval requirement for athletic and large-scale assembly facilities has been added.

[521] This carries forward standards in Sect. 8-403. Language is modified to refer to "residents of a residential development" rather than the residents of the area to be served by the facility

[522] This carries forward the minimum gross floor area requirement in Sect. 6-202.

[523] Change since 7/1/2019 draft: Standards 1 and 2 have been added to incorporate Sect. 2-513, which has been carried forward and modified for clarity.

**Standards when permitted by right:**

**(3)** In commercial and industrial districts, any parsonage or rectory must be located in conjunction with, on the same lot, and within the same structure as a religious assembly use.[524]

## I. Religious Assembly [525]with Private School, Specialized Instruction Center, or Child Care Center

**Standards when permitted by right:**

**(1)** In industrial districts, a religious assembly with private school, specialized instruction center, or child care center is permitted by right if it complies with the following standards:

- **(a)** The facility must comply with all standards that apply to a private school, specialized instruction center, or child care center as principal use in the zoning district where it is located;
- **(b)** The facility must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
- **(c)** Vehicular access to the facility must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.

**(2)** In the I-2, I-3, I-4, and I-5 Districts, a specialized instruction center in conjunction with a religious assembly use is permitted by right.

**(3)** In the commercial and industrial districts, any parsonage or rectory must be located in conjunction with, on the same lot, and within the same structure as a religious assembly use.[526]

**Standards when permitted by special exception or special permit:**

**(4)** Except when all uses are permitted by right, a private school, specialized instruction center, or child care center may be approved in conjunction with a religious assembly use either by special exception in accordance with subsection 8100.3 or by special permit in accordance with subsection 8100.4, at the discretion of the applicant, provided that the private school or child care center complies with the applicable standards located in subsections 4102.4.B and 4102.4.I and with any other standards that apply to a private school, specialized instruction center, or child care center as principal use in the zoning district where it is located.[527]

[524] This standard is new.
[525] Change since 7/1/2019 draft: Language has been added to subsections (1) and (4) to clarify that the use must comply with all other applicable regulations.
[526] This standard is new.
[527] This carries forward current County practices based on the use being both a special exception and special permit use.

## J. School, Private[528]

### Standards when permitted by right:

**(1)** In industrial districts, a private school is permitted by right only if it complies with the following standards. Otherwise, a private school requires special exception approval in accordance with subsection 8100.3.[529]

- **(a)** The facility must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
- **(b)** Vehicular access to the facility must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.

### Standards when permitted by special exception:

**(2)** If a private school provides an outdoor recreation area, it must:

- **(a)** Be developable, designed, and usable for active outdoor recreation purposes;
- **(b)** Occupy less than 80 percent of the combined total areas of the required rear and side yards;
- **(c)** Be located outside the minimum front setback, unless specifically approved by the Board; [530] and
- **(d)** Not include any area covered by a building or required for off-street parking in accordance with Article 6.

## K. Specialized Instruction Center[531]

### Standards when permitted by special exception:

In the I-6 District, a specialized instruction center is only permitted by special exception when the use generally involves vocational training, such as a commercial driving school, mechanical and other trade schools, welding, automotive mechanic training, and similar industries.

[528] This carries forward provisions in Sect. 9-310 and multiple sections in Article 5 (e.g., Sect. 5-105). It does not carry forward the minimum lot area requirement based on a determination made by the Board because it is too general. It also does not carry forward the specific square footage requirements for outdoor recreation areas since there is no requirement in the licensing standards for private schools.
[529] This carries forward multiple provisions in Article 5 (e.g., Sect. 5-105). References to state law and other County ordinances are not included here, but are addressed in the general use regulations.
[530] Change from 6/30/2020 draft: Deleted "in commercial and industrial districts only."
[531] Change since 7/1/2019 draft: This standard is new.

# Funeral and Mortuary Services

## L. Cemetery[532]

**Standards when permitted by development plan:**

**(1)** In the PCC District, the use is limited to a columbarium or mausoleum for human or animal interment.

**Standards when permitted by special permit:**

**(2)** Any columbarium or mausoleum must be located a minimum of 50 feet from any lot line.

**(3)** A funeral home is allowed as an accessory use only if the cemetery has a minimum area of 75 acres.

## M. Crematory[533]

**Standards when permitted by special permit:**

A crematory must be located a minimum of 250 feet from any lot line.

## N. Funeral Home[534]

**Standards applicable to all funeral homes:**

**(1)** A funeral home may not include facilities for cremation.

**(2)** In residential districts, in the C-5 and PTC Districts, and in Village Centers in the PRC District, a funeral home may not contain facilities for the following:

- **(a)** Embalming;
- **(b)** Performance of autopsies or other surgical procedures;
- **(c)** Storage of funeral caskets and funeral urns, except those on display on the premises; or
- **(d)** Storage or parking of funeral vehicles in the front yard, unless it is within an enclosed accessory building.[535]

**(3)** In commercial and industrial districts, a columbarium is permitted within an enclosed building.[536]

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[532] This is carried forward from Sect. 8-204. Standards for this use in Sect.8-203 are included in the general use standards (e.g., compliance with state law) or deleted (minimum 50-foot setback from street line for interment site).

[533] This is carried forward from Sect. 8-204. The provision in that section pertaining to federal, state and local emission control standards is addressed in the general use standards.

[534] This translates into use standards the current definitions and use permissions for "funeral home" and "funeral chapel." Change since 7/1/2019 draft: The uses in (2) (a) through (d) have been expanded to be permitted in the I-2 and I-3 Districts, as these districts function similarly to the commercial office districts where these uses are already permitted.

[535] Change since 7/1/2019 draft: Revised from requiring funeral vehicles to be in a garage or accessory building that has no direct public street frontage.

[536] Change since 7/1/2019 draft: This is a new standard. Currently, a columbarium is only permitted in conjunction with a cemetery in residential districts.

**(4)** In residential districts, a funeral home must comply with the following additional standards:[537]

**(a)** A funeral home must front on and have direct access to an existing or planned collector or arterial street as defined in the Comprehensive Plan. For the purposes of funeral processions, adequate on-site stacking spaces must be provided;

**(b)** Buildings must be located at least 45 feet from all street lines and at least 40 feet from any lot line which abuts the R-A, R-C, R-E, R-1, R-2, R-3, or R-4 Districts;

**(c)** The minimum lot size is the minimum required for a single-family detached dwelling in the district, or 20,000 square feet, whichever is greater; and

**(d)** The external appearance of the funeral home and any accessory building must be residential in character.

## Health Care

### O. Adult Day Care Center[538]

**Standards when permitted by special exception:**

**(1)** The adult day care center must have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center.[539]

**(2)** The use must be located to readily and safely facilitate the drop-off and pick-up of all persons attending the adult day care center, to include step-free access.

**(3)** A safe, appropriately sized, and conveniently located outdoor area for use by persons receiving adult day care services must be provided.

**(4)** All applications for an adult day care center will be referred to the Health Care Advisory Board for its review in accordance with subsection 4102.4.R. The Health Care Advisory Board may submit a recommendation to the Planning Commission and Board of Supervisors at the public hearings.

**(5)** All services and facilities provided must be designed, located, and of a scale to support those persons receiving adult day care services.

**(6)** No adult day care center may operate until a license has been granted by the appropriate agency of the State of Virginia.

**(7)** In the I-4, I-5, and I-6 Districts, an adult day care center must be located in an office building complex, and all vehicular access must be provided by way of the internal circulation system of the complex. The use must be located within an office structure on the property and not as a freestanding building.

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[537] These standards are carried forward from Sect. 9-510. Language regarding stacking for funeral processions has been simplified.

[538] This carries forward Sect. 9-315.

[539] The guidelines in Sect. 9-315 that identify street types based on the number of persons are not carried forward here because locational guidance in the Comprehensive Plan is typically referenced instead during staff review. Application requirements regarding trip generation and distribution are located in submission requirements for special exceptions.

## P. Continuing Care Facility[540]

### Standards when permitted by development plan:

**(1)** The development of a continuing care facility and any secondary uses at the specified location must be in substantial conformance with the guidelines of the Comprehensive Plan for the application property and those properties surrounding the application site. The design of the facility, including the location, size, and height of buildings, and the nature and extent of screening, buffering, and landscaping should be compatible with the surrounding neighborhood.

**(2)** Development of a continuing care facility must satisfy the Comprehensive Plan guidelines for affordable accommodations associated with the continuing care facility use.

**(3)** All applications for a continuing care facility will be referred to the Health Care Advisory Board for its review in accordance with the standards in 4102.4.R. The Health Care Advisory Board may submit a recommendation to the Planning Commission and Board of Supervisors at the public hearings.

**(4)** In the PCC District, a continuing care facility must conform to the following additional standards:

**(a)** The facility must be located on a major thoroughfare or collector street and where adequate water and sewer service can be provided;

**(b)** Any kennel or veterinary hospital within a continuing care facility must be located within a completely enclosed building. The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards; and

**(c)** A drive-through pharmacy is permitted in association with a continuing care facility if it complies with the standards for a drive-through pharmacy when permitted by special exception in subsection 4102.5.EE.

## Q. Independent Living Facility[541]

### Standards applicable to all independent living facilities:

**(1)** In the PDC District, the total gross floor area of all independent living, assisted living, and nursing facilities may not exceed 50 percent of the gross floor area of all uses in the rezoned development area.[542]

### Standards when permitted by special exception:

**(2)** Housing and general care may be provided only for persons who qualify for the age-related exemptions of the Federal Fair Housing Amendments Act of 1988 (FFHA) or for persons with disabilities ("the residents").

**(3)** The following standards apply to live-in aides:

[540] This carries forward standards for continuing care facilities in Sections 6-206, 6-305, 6-406, 6-505, and 6-606.
[541] This carries forward Sect. 9-306, except the transitional screening requirement is addressed in Article 5.
[542] Change since 7/1/2019 draft: This carries forward Par. 9 of Sect. 6-206. The provisions of that paragraph for protecting the character of the development and adjacent properties are addressed by general standards.

**(a)** For the purposes of this Section, a live-in aide is any person who meets the definition set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Title 24, of the Code of Federal Regulations, Section 5.403 and 982.316, and is further subject to any applicable notices issued by HUD;

**(b)** A live-in aide may occupy any dwelling unit within the facility; and

**(c)** Live-in aides are not subject to the income limitations or the age and disability occupancy requirements set forth in this section. For the purposes of this section, the "annual household income" does not include the income of any live-in aide when determining the eligibility of the qualified resident.

**(4)** The owner or manager of the facility is responsible for both ensuring compliance with this occupancy criterion and reporting such information as required by the FFHA.

**(5)** The following standards apply to resident care providers:

**(a)** A resident care provider is any person who lives in a separate dwelling unit within the independent living facility, and who provides services that are determined to be essential to the care and well-being of one or more residents living within the same facility; and

**(b)** Resident care providers may be provided in independent living facilities located in single-family attached units or multifamily dwelling unit buildings, limited to not more than 25 percent of the total number of dwelling units within the facility. Such resident care providers are not required to meet the income limitations or age and disability occupancy requirements set forth in this Section; however, rental occupancy is limited to a maximum six-month term, subject to renewal for additional six-month maximum terms upon confirmation that the care provider continues to provide services to the primary resident(s) of the development. When a care provider is no longer providing care services to a resident, the provider must vacate the rental unit at the end of the lease term.

**(6)** Upon specific request by the Zoning Administrator, the owner or manager of the facility must provide a copy of any documents used to verify the occupancy qualifications of residents, live-in aides, or resident care providers.

**(7)** Independent living facilities must provide on-site staff and services that adequately and satisfactorily provide for the needs of the residents. This could include transportation, shopping, health, recreational, and other supportive services. The development must also provide specific facility maintenance and operating programs to ensure that the facility meets the needs of the residents and is compatible with the neighborhood. The Board may impose reasonable conditions upon any exception granted as may be necessary or expedient to insure the adequacy and ongoing provision and maintenance of such facilities and services.

**(8)** The intensity of the proposed use must be consistent with the scale of the surrounding neighborhood based on the total gross floor area, floor area ratio, and number of dwelling units[543].

**(9)** The use must front on, and have direct access to, a collector or arterial street.

**(10)** The density of the use must comply with the following standards:

[543] Change since 6/30/2020 draft: This standard has been made a requirement, and the plat submission requirements have been relocated to Article 8.

**(a)** The density of the use is based upon the density of the land use recommendation set forth in the Comprehensive Plan and as further modified by the corresponding multiplier and open space requirements in the table below. Where the Comprehensive Plan does not specify a density range in terms of dwelling units per acre, the density range is determined in accordance with subsection 5101.4.

| Comprehensive Plan Residential Density | Maximum Number of Units Per Acre [1] | Required Open Space |
|---|---|---|
| 0.2 unit per acre | 5 times units per acre | 75% |
| 0.5 unit per acre | 4 times units per acre | 70% |
| 1 unit per acre | 4 times units per acre | 65% |
| 2 units per acre | 4 times units per acre | 60% |
| 3 units per acre | 4 times units per acre | 55% |
| 4 units per acre | 4 times units per acre | 50% |
| 5 units per acre | 4 times units per acre | 35% |
| 8 units per acre | 4 times units per acre | 25% |
| 12+ units per acre | 4 times units per acre | 35% |
| PRC District | In accordance with an approved Development Plan | |

**Notes:**
[1] Excluding nursing facilities and assisted living facilities.

**(b)** For developments providing 100 percent of the dwelling units as ADUs, the density determined by the table above may be increased by an additional 20 percent.

**(c)** If all of the dwelling units are provided as follows: (i) not less than 70 percent of the units for residents whose annual household income does not exceed 50 percent of the Area Median Income for the Washington Standard Metropolitan Statistical Area as specified annually by the U.S. Department of Housing and Urban Development as adjusted for family size (the AMI); and (ii) not more than 30 percent of the units for residents whose annual household income does not exceed 30 percent of the AMI , then the density will be determined by the table above and may be increased by an additional 25 percent, as calculated using the high end of the residential density range set forth in the Comprehensive Plan. Any such development may be administered under the provisions of section 5101 or under the provisions of any other affordable housing program deemed equivalent by the Zoning Administrator in accordance with subsection 5101.2.D.

*Example:*

*A proposed independent living facility located where the Comprehensive Plan density recommendation is 5 dwelling units per acre would have a maximum number of dwelling units per acre of 20 (5 X 4) and required open space of 35% under the table above. If the site of the proposed facility is one acre, the maximum number of dwelling units would be 20. However, 25 dwelling units would be allowed if at least 18 of the units are provided for residents whose annual household income does not exceed 50 percent of the AMI and the remaining units are provided for the residents whose annual household income does not exceed 30 percent of the AMI.*

**(11)** Regardless of building construction type, all independent living facilities, whether approved through a rezoning or as a special exception, must provide affordable dwelling units when the multiplier set forth above is used or when the parking rate specified in Article 6, for independent living facilities is used. A minimum of 15 percent of the total number of dwelling units must be Affordable Dwelling Units (ADUs), administered in accordance with the provisions of Section 5101.

**(12)** As an accessory component, independent living facilities may include assisted living facilities and skilled nursing facilities designed primarily for the residents of the independent living facility. As an accessory use, the number of units or beds attributable to an assisted living or nursing facility component may not exceed 15 percent of the number of units in the independent living facility. These accessory components are not subject to review by the Health Care Advisory Board. The 15 percent limitation on accessory components does not apply to proffered rezonings and approved special exception applications or amendments thereto that were originally approved before December 5, 2018 for a percentage of accessory components of greater than 15 percent.

**(13)** All facilities of the development are to be solely for the use of the residents, employees, and invited guests, but not for the general public.

**(14)** In residential districts, the maximum building height is 50 feet, except that the maximum building height is 35 feet when the structure is designed to look like a single-family detached dwelling and utilizes the applicable residential district minimum yard requirements 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 is as set forth in the district in which they are located.

**(15)** For independent living units that are located in a structure designed to look like a single-family detached dwelling unit and located in the R-E, R-1, R-2, R-3, R-4, R-5, or 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 must be as follows:

- **(a)** 50 feet where the yard abuts or is across a street from an area adopted in the Comprehensive Plan for 0.2 to eight dwelling units per acre.
- **(b)** 30 feet 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 eight dwelling units per acre or any commercial or industrial use classifications.

**(16)** In any event, the Board may modify yard requirements in subsection (15) above to ensure compatibility with the surrounding neighborhood.

**(17)** The following additional standards also apply to any independent living facility that rents dwelling units to low income residents ("tenants") where at least 70 percent of the dwelling units are to be provided for residents whose annual household income does not exceed 50 percent of the AMI and not more than 30 percent of the dwelling units are provided for tenants whose annual income does not exceed 70 percent of the AMI:

**(a)** All occupancy is to be on a rental basis only. Maximum rental prices will be established in accordance with the following formula, based on the appropriate AMI. The base figure is 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% |

**(b)** The result of this calculation for each size dwelling unit is divided by 12, then multiplied by 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 are not subject to this calculation.

*Example*: [544]

*$126,000 (2020 AMI) x 70% (adjustment factor) x 50% (% AMI) = $44,100*

*$44,100 / 12 = $3,675*

*$3,675 x 25% = $919*

*Monthly Rent (Excluding Utilities)*

| Number of Bedrooms | Adjustment Factor | 50% AMI | 70% AMI |
|---|---|---|---|
| 0 bedrooms (efficiency/studio) | 70% | $919 | $1,286 |
| 1 bedroom | 85% | $1,116 | $1,562 |
| 2 or more bedrooms | 100% | $1,313 | $1,838 |

**(c)** The owner or manager is responsible for monitoring the income level of tenants at the time of initiation and renewal of any lease term and is responsible for any reporting of such information in accordance with the requirements of the FFHA, and must establish that any live-in aide or resident care provider continues to meet the applicable requirements of this Section. The owner or manager is also responsible for completing all verification of occupancy requirements set forth in 42 U.S.C. § 3607(b) and 24 C.F.R. § 100.307 annually. The results of all such monitoring and occupancy verification must be provided to the Zoning Administrator, or designee, on an annual basis to assure on-going compliance with the tenancy and income limits. Such report must include the dwelling unit number and address, date of lease renewal, term of lease renewal, and tenant's income. Should a tenant become over-qualified with regard to income at any time during a lease term, the tenant must vacate the unit at the end of the lease term in effect at the time of such over-qualification or within nine months of such over-qualification, whichever time period is longer.

[544] Change since 6/30/2020 draft: An example calculation and table has been added.

**(d)** Before the issuance of the first Residential Use Permit for any unit in the independent living facility, the owner must record a covenant, on a form provided and approved by the Fairfax County Department of Housing and Community Development, to address at a minimum the income limitations; rental price restrictions; the perpetuity of such controls; and any other relevant limits that are imposed by the Board.

**(e)** Such independent living facilities for low-income tenants are not subject to Section 5101, the ADU Program or the Board's policy for Workforce Dwelling Units.

## R. Medical Care Facility[545]

### Standards applicable to all medical care facilities:

**(1)** In the PDC District, the total gross floor area of all independent living facilities, assisted living, and nursing facilities may not exceed 50 percent of the gross floor area of all uses in the development.[546]

**(2)** In the PDH, PDC, PRC, PRM, and PTC District, a medical care facility is subject to the review procedures with the Health Care Advisory Board as outlined below.[547]

### Standards when permitted by special exception:

**(3)** The application for the special exception will be referred to the Health Care Advisory Board for a recommendation and report, which will be furnished to the Planning Commission and Board of Supervisors. In its development of a recommendation and report, the Health Care Advisory Board will, in addition to information from the applicant, solicit information and comment from such providers and consumers of health services, or organizations representing such providers or consumers and health planning organizations, as may seem appropriate; however, neither the Health Care Advisory Board nor the Board of Supervisors is bound by any such information or comment.[548]

**(4)** The Health Care Advisory Board and the Board of Supervisors must specifically consider whether:

**(a)** There is a demonstrated need for the proposed facility in the location, at the time, and in the configuration proposed. Such consideration will take into account other existing or approved facilities or services, and the present and projected availability of specialized treatment equipment;

**(b)** Any proposed specialized treatment or care facility can provide for a working relationship with a general hospital sufficiently close to ensure availability of a full range of diagnostic and treatment services; and

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[545] This carries forward Par. 3 of Sect. 9-303 and Sect. 9-308, except the standard that states that the Health Care Advisory Board may hold hearings and request deferral has been deleted, as it is unnecessary to state. In addition, the standard requiring access for service vehicles at the side or rear entrances has been deleted.

[546] Change since 7/1/2019 draft: Carries forward Par. 9 of Sect. 6-206. The provisions of that paragraph for protecting the character of the development and adjacent properties are addressed by general standards.

[547] Change since 7/1/2019 draft: Carries forward part of Par. 3 of Sect. 6-106 and similar provision in the other P Districts.

[548] Change since 7/1/2019 draft: Deleted requirement for application for state certificate to be filed at the same time.

(c) The proposed facility will contribute to, and not divert or subvert, implementation of a plan for comprehensive health care for the area proposed to be served; such consideration will take into account the experience of the applicant, the financial resources available and projected for project support and operation, and the nature and qualifications of the proposed staffing of the facility.

**(5)** A freestanding nursing facility must front on and have direct access to an existing or planned collector or arterial street as defined in the Comprehensive Plan.

**(6)** No building may be located closer than 45 feet to any street line or closer than 100 feet to any lot line which abuts the R-A, R-C, R-E, R-1, R-2, R-3, or R-4 Districts.

**(7)** In the R-E, R-1, R-2, R-3, R-4, and R-5 Districts, the minimum lot size is five acres.

**(8)** For hospitals, the Board of Supervisors may approve additional on-site signs when it is determined, based on the size and nature of the hospital, that additional signs are necessary to better serve the public and that such signs will not have an adverse impact on adjacent properties. All proposed signs are subject to the maximum area and height limitations for hospital signs set forth in Article 7. All requests must show the location, size, height, and number of all existing and proposed signs.

## Transportation

### S. Transportation Uses[549]

**Standards when permitted by special exception:**

All uses in the Transportation category must comply with the following standards:

**(1)** Except in the I-6 District, all maintenance, repair, and mechanical work, except that of an emergency nature, must be performed in an enclosed building; and

**(2)** All facilities must be located and designed so that their operation will not unreasonably impact adjacent residential areas, particularly with respect to noise levels.

### T. Airport[550]

**Standards when permitted by special exception:**

**(1)** Any area used by an aircraft under its own power must meet the following requirements:

(a) Be located at least 200 feet from any lot line;

(b) Be provided with an all-weather, dustless surface; and

(c) Be surrounded by a chain link fence. This fence must be at least six feet tall and must have at least one gate to effectively control access to the area.

**(2)** In the C-7, I-I, PDH, PDC, PRC, PRM, and PTC Districts, this use is limited to heliports.[551]

[549] This carries forward Sect. 9-404. General use standards require uses to comply with the dimensional standards of the district in which they are located unless otherwise stated in the regulations.
[550] This carries forward provisions from Sect. 9-404 that pertain specifically to airports.
[551] This carries forward the limitation to a heliport in the PRC-Town Center development area, and changes the PRC-Residential development area from allowing both airports and heliports to allowing only heliports.

## U. Transit Facility[552]

**Standards when permitted by right or by development plan or PRC plan:**

**(1)** A transit facility is permitted only with special exception approval in accordance with subsection 8100.3, except the following facilities are permitted by right or by development plan:

- **(a)** Regional rail transit facilities in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway and Dulles Toll Road, or an interstate highway are permitted in any zoning district, despite the permissions shown in Tables 4101.3 and 4101.4;
- **(b)** In the I-6 District, terminals (bus or railroad) and storage, maintenance, and inspection yards; [553]
- **(c)** In the PDH, PRC, PDC, PRM, and PTC Districts, all transit facilities, except terminals and storage, maintenance, and inspection yards; and
- **(d)** In the PCC District, bus stations.

**Standards when permitted by special exception:**

**(2)** Bus and railroad stations, except regional rail transit facilities, are allowed only in the R-E, R-1, C-6, C-7, C-8, I-2, I-3, I-4, I-5, and I-6 Districts, with special exception approval in accordance with subsection 8100.3.

**(3)** Regional rail transit facilities operated by WMATA must be established in accordance with the agreement between WMATA and the County. Regional rail transit facilities operated by WMATA are not subject to subsection 8100.7.

**(4)** Regional rail transit facilities are not required to comply with the minimum lot size requirements of the district in which they are located; however, any associated parking structures must comply with the bulk regulations of the zoning district where they are located.

**Standards for support facilities:**

**(5)** Support rail transit facilities include: (a) tracks, bridges, retaining walls, piers, and related infrastructure to support the tracks; (b) traction power substations; (c) tie-breaker stations; (d) train control rooms and communication rooms; (e) stormwater management facilities; (f) access easements; (g) temporary staging/construction yards related to the construction of rail transit facilities; and (h) other similar improvements that support the functioning and operation of rail transit facilities. If any such support facility is located within 200 feet of a rail transit facility, as measured from the perimeter of the regional rail transit facility to the perimeter of the support facility structure or paved area, or to the toe of slope for a stormwater management facility or an above-ground impoundment structure, the support facility requires special exception approval as part of the rail transit facility, in accordance with subsection 8100.3. A support rail

[552] Building on transit facilities regulations in Sections 2-516, 2-517, 9-404, and 9-405, this consolidates standards for all transit facilities. This use includes all transit facilities, including "electrically powered regional rail transit facilities," "accessory electrically powered regional rail transit facilities," and "regional non-rail transit facilities."
[553] This allows WMATA facilities by right in the I-6 District and as SE uses in other districts, and allows non-WMATA facilities by SE in other districts.

transit facility not so located is permitted by right on any lot in any zoning district if the support use conforms to the following standards:

**(a)** Support rail transit facilities are subject to the requirements of Va. Code Sect. 15.2-2232.

**(b)** A support rail transit facility is not required to comply with the lot size requirements, bulk regulations, or open space requirements of the district in which they are located, or the transitional screening provisions of Section 5108; however, the facility must be designed to minimize adverse impacts on adjacent properties to the greatest extent practical through site design and the use of landscaping, screening, and architectural techniques.

**(c)** Any building containing mechanical or electrical equipment associated with a support regional rail transit facility must be fully enclosed and must have similar architectural treatment on all sides.

**(d)** A freestanding traction power substation must not exceed 8,300 square feet of gross floor area or a maximum height of 30 feet. A freestanding tie breaker station must not exceed 850 square feet of gross floor area or a maximum height of 20 feet. A freestanding communication room must not exceed 350 square feet of gross floor area or a maximum height of 20 feet. A freestanding train control room must not exceed 700 square feet of gross floor area or a maximum height of 20 feet. The cumulative gross floor area of all equipment structures on a lot must not exceed 9,350 square feet. If such equipment facilities are co-located in a structure containing a traction power substation, the maximum height of the structure must not exceed 30 feet. If such facilities are co-located in a structure that does not contain a traction power substation, the maximum height of the structure must not exceed 20 feet. Support rail transit facilities located in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway, and Dulles Toll Road or an interstate highway are not subject to this subsection.

**(e)** No outdoor storage is permitted in association with any mechanical or electrical equipment structure. However, this provision does not preclude the use of temporary generators for emergency purposes, or other equipment that by its nature requires an outside location.

**(f)** Except for support rail transit facilities operated by WMATA, support rail transit facilities must be established, and may be modified, or altered, in accordance with subsection 8100.7. Support rail transit facilities operated by WMATA must be established in accordance with the agreement between WMATA and the County.

## Utility

### V. Solar Power Facility[554]

**Standards when permitted by special exception:**

**(1)** All solar panels, supporting structures, and equipment must comply with the minimum setback and maximum height standards of the district where they are located.

[554] These are new standards for a new use.

**(2)** The application must include a decommissioning plan in accordance with Section 8100.7.F(5) that describes the timeline and manner in which the facility will be decommissioned and the site restored to a condition similar to its condition before the facility was established.

**(3)** In the R-A District, a solar power facility must be located on the same property with an agricultural operation.[555]

## W. Utility Facility, Heavy[556]

### Standards when permitted by right:

**(1)** In the I-5 District, only supply yards for any public utility and incidental local office space and maintenance facilities are allowed by right.

### Standards when permitted by special exception:

**(2)** The use may be permitted by special exception only upon a finding by the Board that the facility is necessary where proposed to provide efficient utility service to consumers.[557]

**(3)** In the R-C, PRC, and I-I Districts, only regional sewage treatment and disposal facilities are allowed.

**(4)** In the R-E, R-1, and R-2 Districts, only electrical generating plants and facilities, and water purification facilities are allowed.

**(5)** In all districts except the I-5 and I-6 Districts, the following are prohibited:

- **(a)** Supply yards;
- **(b)** Storage of materials or equipment;
- **(c)** Repair or servicing of vehicles or equipment; and
- **(d)** Parking of vehicles except those needed by employees connected with the operation of the immediate facility.

## X. Utility Facility, Light[558]

### Standards applicable to new utility distribution or transmission poles:

**(1)** New utility distribution or transmission poles with attached facilities, including small cell facilities, that are not more than 50 feet in height, are permitted by right when they comply with subsection 4102.4.Y(5) for Zoning Administrator approval of an Administrative Review Eligible Permit.

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[555] Change since 6/30/2020 draft: New standard added limiting solar power facilities in the R-A District to those properties containing an agricultural operation.

[556] The standards carry forward provisions in Sections 9-202 and 9-204 (other provisions from these sections are carried forward in the general use standards), except supply yards have been changed from SE to permitted by right in the I-5 District.

[557] The reference to consumers "within the immediate area of the location" has been deleted because it is vague and undefined.

[558] This carries forward provisions in Sections 2-104 and 9-104 (other provisions from this section are carried forward in the general use standards). Change since 7/1/2019 draft: Added standards from Sect. 2-522. Change since 6/30/2020 draft: Minor edits for clarification.

**(2)** New utility distribution or transmission poles with attached facilities, including small cell facilities, that are more than 50 feet in height, require special exception approval by the Board subject to subsection 4102.4.X(6).

### Standards applicable to all other Light Utility Facilities:

#### General

**(3)** If located in a street right-of-way or in an easement less than 25 feet in width, the following light facility utility uses and structures are exempt from the Ordinance regulations:

- **(a)** Wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a government entity or a public utility including customary meter pedestals, distribution transformers and temporary utility facilities required during building construction, whether any such facility is located underground or aboveground.
- **(b)** This exemption does not include any substation located on or above the surface of the ground or any distribution facility.

**(4)** Light utility facility uses are not required to comply with the lot size requirements or the bulk regulations for the zoning district where they are located.

**(5)** Except in the I-5 or I-6 District, the following are prohibited:

- **(a)** Storage of materials or equipment;
- **(b)** Repair or servicing of vehicles or equipment; and
- **(c)** Parking of vehicles except those needed by employees connected with the operation of the immediate facility.

### Standards when all other light utility facilities are permitted by right:

**(6)** In all commercial districts and in the I-2 District, only telecommunication facilities, which are uses that transmit information by wire or radio, including telephone or telegraph central offices and repeat stations, are allowed by right.

### Standards when all other light utility facilities are permitted by special exception:

**(7)** If the proposed location is in an R district or the residential area of a P district, the use may be permitted only upon a finding by the Board that there is no alternative site in a commercial or industrial district that can provide satisfactory service within the following distances:

- **(a)** One mile of the proposed location for a proposed electric transformer substation or telecommunications central office; and
- **(b)** 500 feet of the proposed location for any other facility.

**(8)** In the R-A District, only telecommunication facilities, including central offices and repeat stations, utility transmission facilities, and water storage, control, and pumping facilities, may be approved.

**(9)** In the I-I District, only sewerage pumping facilities may be approved.

## Y. Wireless Facility[559]

### Standards applicable to all wireless facilities:

**(1)** The following standards apply to all wireless facilities:

**(a)** Except as may be permitted on a flagpole, commercial advertising is not allowed on any portion of a wireless facility or its associated support structure.

**(b)** Except for co-location on a light pole, signals, lights, or illumination are not permitted on wireless facilities or their support structures unless required by federal, state, or local law.

**(c)** All antennas, associated equipment, and structures must be removed within 120 days after those antennas or related equipment are no longer in use, at which point they will be deemed abandoned.

**(d)** Height is measured as follows:

***1.*** Hub site and equipment cabinet or structure height is the vertical distance between the lowest point of finished ground level adjacent to the structure and the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and the ridge for gable, hip and gambrel roofs.

***2.*** New structure and replacement pole height is the vertical distance between the lowest point of finished ground level adjacent to the structure and the highest point of the structure, including antennas.

### Standards when permitted by right with no Zoning Administrator approval:

**(2)** Wireless facilities and their associated support structures are permitted on any lot in any zoning districts when those facilities meet the following limitations, unless any applicable proffered condition, development condition, special permit or special exception condition expressly prohibits those facilities, regardless of whether they are on any list of permitted uses. In addition, wireless facilities and support structures, including those located within the right-of-way, are subject to Va. Code Sect. 15.2-2232. Wireless facilities and their associated support structures that do not meet the limitations in subsections (3), (4), (5), and (7) below require special exception approval.

**(3) Co-Location:**

**(a)** The antennas and associated mounting must be fully enclosed in a canister or other enclosure, be flush mounted, be screened by a wall, vegetation, or other existing structure, or provide other means of mitigating visual impacts.

**(b)** Related equipment cabinets or structures are subject to the following:

***1.*** When located on an existing utility pole or light pole, the equipment structures must not exceed 32 cubic feet in volume and must be designed to match or blend with the pole on which located, or provide other means of mitigating visual impacts.

***2.*** When located on all other existing structures, the equipment cabinets must be fully enclosed within the existing structure, designed to match or blend with

[559] Change since 7/1/2019 draft: Added standards from Sections 2-514, 2-519, 2-520, 2-522, 2-523, 9-105. Change since 6/30/2020 draft: Minor edits for clarification.

the structure on which they are located, or provide other means of mitigating visual impacts.

3. Any ground-mounted equipment that supports a co-location under this section on a light or utility pole is subject to subsection (5)(b) below.

4. All other ground-mounted equipment associated with an existing structure:

   a. May not exceed 12 feet in height or 500 square feet of gross floor area.

   b. Must meet the minimum setbacks of the zoning district in which located, or when located in a road right-of-way or utility easement, must be located a minimum of 10 feet from the right-of-way or easement line.

   c. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), the equipment must be screened by a solid fence, wall or berm eight feet in height, an evergreen hedge with an ultimate height of eight feet and a planted height of 48 inches, or an eight-foot-tall fence, wall, berm or landscaping combination. However, if a new equipment cabinet or structure is added to an existing fenced or screened area, the screening requirements for the new equipment cabinet or structure may be satisfied with the existing screening, if the screening meets the requirements listed above.

(c) Routine maintenance or the replacement of existing wireless facilities or associated support structures, including light poles, within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller is permitted, and eligible facilities requests are permitted in accordance with subsection (7) below. Co-location may occur on a replacement structure that meets the criteria below, or as may otherwise be reviewed and approved under subsection (7).

1. When located in zoning districts that are zoned for single-family dwellings and are residentially developed, vacant, or common open space and not located on a major thoroughfare, the replacement pole or standard cannot be more than 15 feet higher than the existing pole. The diameter of the replacement pole or standard must not exceed 30 inches.

2. When located in zoning districts that are zoned for single-family dwellings and are residentially developed, vacant, or common open space and located on a major thoroughfare, the height of a replacement pole or standard, including antennas, must not exceed 80 feet. However, if the height of the existing pole exceeds 80 feet, the replacement pole or standard cannot be more than 15 feet higher. The diameter of the replacement pole or standard must not exceed 30 inches.

3. When located in zoning districts that are zoned for multifamily dwellings and are residentially developed with buildings that are 35 feet or less in height, vacant, or common open space, the height of a replacement pole or standard, including antennas, must not exceed 100 feet. However, if the height of the existing pole exceeds 100 feet, the replacement pole or standard cannot be more than 15 feet higher. The diameter of the replacement pole or standard must not exceed 42 inches.

4. The height of a replacement pole or standard on property used for athletic fields must not exceed 125 feet, including antennas. The diameter of the replacement pole or standard cannot exceed 60 inches.
5. In all other instances, the height of a replacement pole or standard, including antennas, must not exceed 100 feet. However, if the height of the existing pole exceeds 100 feet, the replacement pole or standard cannot be more than 15 feet higher. The diameter of the replacement pole or standards must not exceed 60 inches.

**(4) Wireless Telecommunication Hub Sites:**

(a) The hub site must not exceed 12 feet in height or 750 square feet of gross floor area.

(b) The maximum permitted floor area ratio for the zoning district must not be exceeded.

(c) The hub site must meet the minimum setbacks of the district in which it is located, except that hub sites located in a utility transmission easement or street right-of-way may be located a minimum of 20 feet from the utility transmission easement or street right-of-way line.

(d) Hub sites are not subject to the fence and wall height limitations of subsection 4102.7.A(7). Hub sites located within a utility easement must be screened by a solid fence, wall or berm eight feet in height, an evergreen hedge with an ultimate height of at least eight feet and a planted height of at least 48 inches, or an eight foot tall fence, wall, berm, and/or landscaping combination. Hub sites located outside of a utility transmission easement are subject to the transitional screening requirements of Article 5 for a utility facility, light use. If a hub site is added to an existing fenced or screened enclosure that contains wireless equipment structures, the screening requirement for the hub site may be satisfied with the existing screening, if the screening meets the requirements listed above.

(e) A wireless telecommunication hub site that is located within an existing or principal or accessory structure is not subject to subsections (a) through (d) above.

**Standards when permitted by right with Zoning Administrator approval of an Administrative Review Eligible Permit:**

**(5)** New utility distribution or transmission poles ("new poles") and new structures that are not more than 50 feet in height with attached wireless facilities and are designed to support small cell facilities require zoning approval of an Administrative Review Eligible Project permit, subject to the following:

(a) Wiring, Cables, and Conduit Requirements

1. All wiring and cables must be firmly secured to the new pole or new structure.
2. All mounting brackets and wiring, cables, and conduits that are not located in a fully enclosed structure must be the same color as, or otherwise demonstrated to match or blend with, the new pole or new structure on which they are mounted.

***3.*** Spools or coils of excess fiber optic or cables or any other wires may not be stored on the new pole or new structure except completely within approved enclosures or cabinets.

**(b)** Equipment and Facilities

***1.*** All equipment and support structures located on the new pole or new structure:

***a.*** Must be the same color or material as the new structure and covered by rust-proof treatment or materials.

***b.*** Must be flush mounted to the new pole or new structure or supported by mounting brackets.

***c.*** The support brackets may not extend beyond the new structure by more than eight inches.

***d.*** Must not exceed 32 cubic feet in volume.

***2.*** Ground-mounted equipment associated with a new pole or new structure is subject to the following:

***a.*** In non-major-thoroughfare rights-of-way in districts zoned for single-family detached or attached dwellings, each provider is limited to one cabinet or structure that does not exceed four feet in height and a total of 50 cubic feet in volume. Ground-mounted equipment cabinets or structures must be located adjacent to the pole.

***b.*** In all other street rights-of-way, and on property located outside of the right-of-way and in districts that are zoned for single-family detached or attached dwellings and are residentially developed, vacant, or common open space:

(1) When located on the ground in a front yard or street right-of-way, each provider is limited to one cabinet or structure that does not exceed five feet in height or a total of 70 cubic feet in volume. The cabinet or structure must be located a minimum of 10 feet from all lot lines when located outside of a street right-of-way. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), ground-mounted equipment cabinets or structures must be screened by a solid fence, wall, or berm five feet in height, an evergreen hedge with an ultimate height of five feet and a planted height of 48 inches, or a five foot tall fence, wall, berm, or landscaping combination.

(2) When the related equipment cabinet or structure is located on the ground in a side or rear yard, each provider is limited to a cabinet or structure that does not exceed 12 feet in height or 300 square feet in gross floor area. The cabinet or structure must be located a minimum of 10- feet from all lot lines. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), ground-mounted related equipment cabinets or structures must be screened by a solid fence, wall, or berm eight feet in height, an evergreen hedge with an ultimate height of eight feet and a planted height of 48 inches, or an eight foot tall fence, wall, berm, or landscaping combination.

***c.*** When ground-mounted equipment cabinet or structure is located on property that does not meet subsection a. or b. above, each provider is limited to a cabinet or structure which does not exceed 12 feet in height or to allow equipment cabinets greater than 500 square feet in gross floor area. The cabinet or structure must be adjacent to the pole if located within the utility easement. When located outside of a utility easement, the cabinet or structure must meet the setback requirements of the district. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), ground-mounted equipment cabinets or structures must be screened by a solid fence, wall, or berm eight feet in height, an evergreen hedge with an ultimate height of eight feet and a planted height of 48 inches, or an eight-foot-tall fence, wall, berm, or landscaping combination.

***d.*** Equipment cabinets or structures must not obstruct any sight distance or visibility standards required by Fairfax County or the Virginia Department of Transportation or be located in any sidewalk or trail.

***e.*** Equipment located within an existing principal or accessory structure, or equipment designed as a bench, mailbox, light pole, or other structure exempt from the setback requirements under subsection 5100.2.D(1)(b) is not subject to this subsection 2.

***3.*** Any antennas and associated mounting must be enclosed in a canister or other enclosure or provide other means of mitigating visual impacts.

**(c)** All new poles and new structures under this section must be constructed of materials and colors designed to match or closely replicate existing utility poles within the same right-of-way or line of poles.

**(d)** The minimum horizontal distance between any new pole or new structure under this section and any other existing, or permitted but unconstructed, utility distribution or transmission pole is:

***1.*** When located in zoning districts that are zoned for single-family dwellings and are residentially developed, vacant, or common open space and not located on a major thoroughfare, not less than 300 feet.

***2.*** When located in all other areas, not less than 100 feet.

**(e)** The Zoning Administrator may disapprove an application for a new pole or new structure if it is proposed to be located in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning application proceeding as set forth in the Comprehensive Plan objectives and:

***1.*** The undergrounding requirement or objective existed at least three months before submission of the new structure application ;

***2.*** Co-location of wireless facilities is still permitted on existing utility poles, government-owned structures with government consent, existing wireless support structures, or buildings within that area;

***3.*** Replacement of existing utility poles and wireless support structures with poles or support structures of the same or smaller size within that area is permitted; and

*4.* Disapproval does not unreasonably discriminate between the applicant and other wireless service providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.

**(f)** Any application for a new pole or new structure that is proposed to be located in a Historic District is subject to review by the Architectural Review Board in accordance with Section 3101.

**Standards when permitted by special exception:**

**(6)** Projects that do not meet any other provisions of this subsection X are Standard Process Projects and are subject to the following standards, as well as subsections 4102.4.Y(5)(d) through 4102.4.Y(5)(f):

**(a)** Except for antennas completely enclosed within a structure, all antennas and their supporting mounts must be designed to match or blend with the structure on which they are mounted or provide other means of visual mitigation.

**(b)** If any additions, changes, or modifications are to be made to monopoles or towers, the Director has the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the USBC.

**(c)** Any antennas, equipment, and associated support structures that are clearly depicted on the special exception plat may be approved as part of the wireless facility and would not be subject to separate permit approval that would otherwise be required for such installations.

**Eligible Facilities Requests:**

**(7)** Once wireless facilities are approved in accordance with this Ordinance, any eligible facilities request for a modification of a wireless tower or base station that does not substantially change the physical dimensions of the tower or base station under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455) is subject to subsections (1), (2), and (3) above, except to the extent of any conflict with 47 C.F.R. § 1.6100(b)(7)(i)-(iv).

# 5. Commercial Uses

## Animal-related Services

### A. Animal Shelter or Kennel [560]

**Standards applicable to all animal shelters or kennels:**

**(1)** The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards.

[560] This carries forward standards in Sect. 9-530, as well as limitations on outdoor facilities located in multiple sections in the current regulations. Prohibiting outdoor facilities in the commercial and P districts is not carried forward; instead, the SE standards for outdoor facilities that currently apply in the residential and industrial districts are extended to the commercial districts. This section includes a new requirement that animals must be kept indoors between 10:00 p.m. and 7:00 a.m. The standard for noise and odor has been revised, consistent with small-scale production establishment.

**Standards when permitted by right or by development plan:**

**(2)** In the C-5, C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, a kennel or animal shelter must be located in a completely enclosed building. If any portion of the building or facilities include outdoor components, the use is allowed only by special exception in accordance with subsection 8100.3.

**(3)** In the PCC District, a kennel must be located in a completely enclosed building.

**Standards when permitted by special exception:**

**(4)** In the R-A, R-C, R-E, and R-1 Districts, a kennel or animal shelter that contains outdoor facilities for animals must comply with the following standards:

**(a)** The minimum lot size is two acres; and

**(b)** Outdoor facilities for the confinement, care, or breeding of animals must be located a minimum of 100 feet from all lot lines.

**(5)** Off-street parking and loading must be located at least 50 feet from any adjoining property in a residential district.

**(6)** The Board will consider the following in its review of an application for a special exception:

**(a)** The kinds and numbers of animals proposed to be kept;

**(b)** The proposed management techniques; and

**(c)** The proposed locations that the animals will be kept on the lot.

**(7)** In approving a special exception, the Board may impose conditions of approval, such as screening or minimum yard requirements, to prevent adverse impact, emission of noise, or emission of odor that would be detrimental to adjacent properties.

**(8)** All animals must be kept within a building or outdoor area surrounded by a fence, wall, or other barrier designed and maintained for secure confinement.

**(9)** All animals must be kept within a completely enclosed building between the hours of 10:00 p.m. and 7:00 a.m. This does not include leashed walking of animals. The Board may modify this standard considering factors such as lot size and proximity to existing and planned residential development.[561]

## B. Pet Grooming Establishment[562]

**Standards applicable to all pet grooming establishments:**

**(1)** All animals must be kept within a completely enclosed building.

**(2)** Animals may not be boarded overnight.

[561] Change since 6/30/2020 draft: The last sentence is new. Change since 11/24/2020 draft: Added "leashed" and deleted "boarded" since the standard would apply to all animals.
[562] These are new standards for a new use.

### C. Veterinary Hospital[563]

**Standards applicable to all veterinary hospitals:**

**(1)** The construction and operation of all facilities must be approved by the Health Department before any building permit or Non-rResidential Use Permit is issued.

**(2)** The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards.

**Standards when permitted by right:**

**(3)** In the C-3, C-4, and PCC Districts, a veterinary hospital must be located within a completely enclosed building.

**(4)** In the C-5, C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, a veterinary hospital must be located within a completely enclosed building. If any portion of the building or facilities include outdoor components, the use is allowed only by special exception in accordance with subsection 8100.3.

**Standards when permitted by special exception:**

**(5)** In the R-A, R-C, R-E, and R-1 Districts, the minimum lot size is one acre. If co-located with a kennel that has outdoor facilities, the minimum lot size for both uses combined is two acres.

## Food and Lodging

### D. Bed and Breakfast[564]

**Standards when permitted by special exception:**

**(1)** A bed and breakfast must be located within a single-family detached dwelling unit, which may include residential accessory structures. Any alterations of structures must not alter their exterior appearance from that of a dwelling or residential accessory structure.

**(2)** A bed and breakfast may not include a restaurant as an accessory use. However, breakfast and other light fare may be provided for guests.

**(3)** Accessory rental of the facility to individuals who are not staying overnight for events, such as wedding receptions, parties, or other similar activities is not allowed unless specifically approved by the Board. In approving such accessory rental, the Board may

[563] This carries forward provisions in Sect. 8-911 and in multiple locations under commercial, industrial, and planned development districts (e.g., Sect. 4-505). Standards pertaining to home professional offices (Sect. 8-907) which are currently referenced in Sect. 8-911, are not carried forward for this use. The standard for noise and odor has been revised, consistent with small-scale production establishment. Consistent with revisions to animal shelter or kennel, prohibiting outdoor facilities in the PDH, PDC, PRC, PRM, and PTC Districts is not carried forward.
[564] This carries forward Sect. 9-526 and the requirement in the current definition of "bed and breakfast" for location in a single-family detached dwelling unit. It does not include the requirement for the Board to determine that the use does not impact surrounding properties (Par. 1 of Sect. 9-526) because that standard is included in the general standards for a special exception.

impose conditions, including limitations on the number, size, days, and hours of such events.[565]

**(4)** All off-street parking and loading spaces must be located outside of minimum side and rear setbacks that abut an R district or a residential area of a P district.

**(5)** A maximum of three off-street parking spaces may be located within the minimum front setback, except the Board may authorize additional parking spaces within the front setback if the proposed additional parking spaces will not adversely affect the character of the surrounding residential area.

**(6)** All off-street parking and loading spaces must be screened to minimize adverse impacts on adjacent residential properties.

## E. Catering[566]

### Standards when permitted by right or by development plan:

**(1)** In the C-3, C-4, C-5, and PDH Districts, the maximum size of a catering establishment is 6,000 square feet of gross floor area.

**(2)** In the I-3 District, the maximum size of a catering establishment is 10,000 square feet of gross floor area.

**(3)** In industrial districts, retail sales may be permitted as an accessory use if the associated retail sales area is limited to ten percent of the gross floor area of the establishment.

## F. Hotel or Motel[567]

### Standards applicable to all hotels or motels:

**(1)** Any restaurant as an accessory use must be located within or structurally connected to the principal hotel or motel structure.

### Standards when permitted by special exception:

**(2)** In industrial districts, a hotel or motel must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.

[565] This is a new standard that allows the Board to consider and condition accessory events. The use is not permitted to host these types of events unless they are expressly approved by the Board.
[566] Catering is a newly-defined principal use. Catering establishments up to 5,000 square feet are currently defined as "business service and supply service establishments," which are not permitted as a principal use in C-3 and C-4. This draft allows catering in those districts, subject to the same size limit for "small-scale production establishments."
[567] This carries forward Sect. 9-512 and the standards pertaining to restaurants as an accessory use in the definition of the current use in Sect. 20-300. The requirement to be part of an industrial building or complex has been revised to allow an office complex, and to delete the minimum size of 100,000 square feet.

## G. Restaurant[568]

### Standards applicable to all restaurants:

**(1)** The accessory uses listed in subsections (a) and (b) below may be allowed in conjunction with a restaurant only while food service is available and are subject to the following standards:

**(a)** A maximum of 15 percent of the square footage of the area accessible to the public or 250 square feet, whichever is larger, as evidenced by submission of a floor plan, may be used for accessory entertainment, as determined by the Zoning Administrator. Entertainment may include dancing, live entertainment including recorded music with a DJ, or other similar uses. Any entertainment activity that exceeds these limitations is considered public entertainment; and[569]

**(b)** Accessory hookah and other smoking activities are not subject to the square footage limitations of subsection (a) above.[570]

### Standards when permitted by special exception:[571]

**(2)** The restaurant must have similar architectural features on all sides of the building if it is freestanding, or, if it is in-line, be architecturally compatible with the building group in which it is located.

**(3)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.

**(4)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

**(5)** Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

**(6)** In the I-3, I-4, I-5, and I-6 Districts, a restaurant must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the restaurant unless a building permit has been approved for the related building(s).

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[568] This carries forward provisions from Sections 8-703, 8-705, 9-505, 10-203, and 20-300, with modifications noted below. The provisions in Sect. 9-506 (commercial recreation restaurant standards) are not incorporated here and are proposed to be deleted.

[569] This modifies the standard in the current definition of "restaurant" (see Sect. 20-300), which limits space for dancing to 1/8 of the floor area available for dining and applies the new standard to all entertainment accessory uses and adds a requirement for Zoning Administrator determination and includes a reference to the new public entertainment use.

[570] This standard is new. Change since 6/30/2020 draft: Added "accessory" and deleted the reference to the smoking lounge principal use.

[571] This carries forward provisions from Paragraphs 1 and 5 of Sect. 9-505. Standards from Par. 1D and 5B of Sect. 9-505 are included in the general special exception criteria and are not carried forward separately in this section. Change since 7/1/2019 draft: Replaced in subsection (6) the reference to an industrial complex with a minimum of 30,000 sq. ft. with an office or industrial complex with an integrated and coordinated design.

## H. Restaurant, Carryout

### Standards when permitted by special exception:[572]

**(1)** The carryout restaurant must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(2)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.

**(3)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

**(4)** Parking and stacking spaces must be provided and located to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

**(5)** In the I-5 and I-6 Districts, a carryout restaurant must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the restaurant unless a building permit has been approved for the related building(s).

## I. Restaurant with Drive-Through[573]

### Standards applicable to all restaurants with drive-through:

**(1)** When located in the Highway Corridor Overlay District, access to the use must be designed to not impede traffic on public or private streets or travelways.[574]

### Standards when permitted by development plan:

**(2)** In the PTC District, the drive-through facility and stacking spaces must be located within a multistory building or parking structure.[575]

### Standards when permitted by special exception:

**(3)** The use must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(4)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.

**(5)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

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[572] This carries forward provisions from Sect. 9-505. Change since 7/1/2019 draft: Replaced in subsection (6) the reference to an industrial complex with a minimum of 30,000 sq. ft. with an office or industrial complex with an integrated and coordinated design.

[573] This carries forward provisions from Sections 7-608 and 9-505. Par. 1D of Sect. 9-505 is addressed in the general SE standards, and the requirement in Par. 6A(3) of Sect. 9-505 for three non-automobile-related uses in the PDH District is not carried forward. In addition, outdoor storage and display is changed from not allowed to allowed when shown on an approved special exception plat.

[574] Carried forward from Sect. 7-608. The access standard is revised consistent with the purpose of the Highway Corridor Overlay District.

[575] This carries forward Par. 10 of Sect. 6-505, except the requirement that the drive-through be identified on a final development plan is carried forward in the general use standards for planned districts.

**(6)** Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

**(7)** Any outdoor storage or display of goods offered for sale must be shown on the special exception plat.

**(8)** In the I-5 and I-6 Districts, the use must be part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the restaurant unless a building permit has been approved for the related building(s).[576]

**(9)** In the PDH District, a restaurant with drive-through must comply with the following additional standards:

**(a)** The use may be permitted only upon a finding by the Board that the planned development is of sufficient size to support the proposed use, and that the use is designed to serve primarily the needs of the residents of the development;

**(b)** The use must be designed and located so as to maintain the intended secondary nature of the use, and so that the associated impacts, including associated on-site and off-site vehicular traffic, noise, odors, and visual impact, will not adversely affect the residential character of the development and surrounding properties;

**(c)** All direct vehicular access to the use must be provided via the internal circulation system of a commercial area of the PDH development; and[577]

**(d)** The proposed development must provide clearly designated pedestrian facilities for safe and convenient access from surrounding residential and commercial uses.

### J. Retreat Center[578]

**Standards when permitted by special exception:**

All buildings must be located a minimum of 45 feet from all street lines and minimum of 100 feet from all lot lines that abut the R-E, R-1, R-2, R-3, or R-4 District.

## Office and Financial Institutions

### K. Alternative Lending Institution[579]

**Standards when permitted by right:**

**(1)** An alternative lending institution must be located within a shopping center building in which all uses are connected by party walls or partitions to form one continuous structure.

**(2)** An alternative lending institution must not be located:

**(a)** In a Commercial Revitalization District or a Commercial Revitalization Area; or

[576] Change since 7/1/2019 draft: Replaced the reference to an industrial complex with a minimum of 30,000 sq. ft. with an office or industrial complex with an integrated and coordinated design.
[577] The requirement that the PDH development contain at least three non-automobile-related commercial establishments is not carried forward (see Par. 9-505.6.A(3).
[578] This carries forward Sect. 9-305, except the current standard requires a minimum setback of 100 feet from all lot lines that abut the R-A through R-4 Districts.
[579] This carries forward Sect. 4-705 and 4-805.

**(b)** Adjacent to or across a public right-of-way from land upon which any of the following uses are located: public use, religious assembly, child care center, private school, or quasi-public park, playground, or athletic field.

**(3)** The daily hours of operation are limited to 8:00 a.m. to 6:00 p.m.

**(4)** No on-site storage or sale of vehicles is allowed.

## L. Drive-Through Financial Institution[580]

### Standards applicable to all drive-through financial institutions:

**(1)** When located in the Highway Corridor Overlay District, a drive-through financial institution must comply with the following additional standards:[581]

**(a)** Access to the use must be designed to not impede traffic on public or private streets or travelways; and

**(b)** Any outdoor storage or display of goods must be shown on the special exception plat.

### Standards when permitted by right or by development plan:

**(2)** In the C-5, C-6, C-7, and C-8 Districts, drive-through financial institutions are allowed only when located within a shopping center building that complies with the following standards:

**(a)** The building contains at least six other uses that are connected by party walls, partitions, or similar structural members to form one continuous structure; and

**(b)** The building is subject to an approved unified site plan, and vehicular access to the drive-through financial institution is provided only via the internal circulation system of the shopping center.

**(3)** In the PTC District, the drive-through facility and stacking spaces must be located within a multistory building or parking structure.[582]

### Standards when permitted by special exception:[583]

**(4)** The institution must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(5)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.

**(6)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

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[580] This carries forward provisions pertaining to drive-in financial institutions in Sections 4-505, 4-605, 4-705, 4-805, 6-505, 7-608, and 9-505.

[581] Carried forward from Sect. 7-608. The access standard is revised consistent with the purpose of the Highway Corridor Overlay District.

[582] This carries forward Par. 10 of Sect. 6-505, except the requirement that the drive-through be identified on a final development plan is carried forward in the general use standards for planned districts

[583] This carries forward provisions from Sect. 9-505, except Par. 1.D is carried forward in the general special permit and special exception standards, and outdoor storage and display of goods are changed from not allowed to allowed when shown on a special exception plat.

**(7)** Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

**(8)** In the C-3 and C-4 Districts, the use must not have a separate and exclusive curb cut access to an abutting highway.

**(9)** Any outdoor storage or display of goods must be shown on the special exception plat.

## M. Office[584]

### Standards applicable to all office:

**(1)** An office is permitted by-right in the C-5, C-6, C-7, and C-8 Districts if the total gross floor area devoted to the office use does not exceed the percentages of the maximum floor area permitted on the lot based on the maximum floor area ratio allowed in the district in accordance with Table 4102.1: Maximum Office Use Gross Floor Area.

**Table 4102.1: Maximum Office Use Gross Floor Area**

| District | Office Use Gross Floor Area as a Percent of FAR | Maximum Total FAR | Maximum Office Gross Floor Area as a Percent of Lot Area |
|---|---|---|---|
| C-5 | 30% | 0.30 | 9% |
| C-6 | 25% | 0.40 | 10% |
| C-7 | 50% | 0.80 | 40% |
| C-8 [1] | 50% | 0.50 | 25% |

**Notes:**
[1] See Section 3102 for standards applicable in Commercial Revitalization Districts.

**(2)** In commercial and industrial districts and in the PDC and PTC Districts,[585] an office may include laboratory facilities, pilot plants, prototype production, and the assembly, integration, and testing of goods and products, if the use complies with the following standards:[586]

**(a)** The mass production or manufacturing of goods or products for sale is not allowed, except as part of a production or processing facility.

**(b)** In commercial districts and in the PDC and PTC Districts, unless modified by the Board by special exception in accordance with subsection 8100.3:

***1.*** The use must occur only within a completely enclosed building; and

***2.*** The use of explosives classified as being in Division 1.1, 1.2, or 1.3 of the U.S. Department of Transportation Hazard Classification System is prohibited.

[584] This carries forward Sections 4-505, 4-605, 4-705, 4-805, 5-205, 5-305, 5-405, 9-515, and 9-509. The distinction between offices that allow display and sales of scientific, electronic, or medical equipment of a type not customarily retailed to the general public (allowed in the C-1 through C-4 District) and those that do not is not carried forward. Par. 1 of Sect. 5-I05 regarding rezoning to the I-I District is not carried forward.
[585] Scientific research and development has been subsumed into and is now allowed as part of the office use. This changes scientific research and development from an SE use to not allowed in R-E and R-1; from SE to by right in C-1 through C-4, C-7 and C-8, subject to use standards; and from not allowed to by right in C-5, C-6, and I-I. In the commercial districts the limits established in the standards may be exceeded with special exception approval.
[586] These standards are adapted from the SE standards for 9-509. Current distinctions on whether scientific research and development may include incidental assembly, integration, etc., are not carried forward.

**(c)** In commercial districts, uses that would be considered Biosafety level 4 under the United States Centers for Disease Control and Prevention regulations are permitted only by special exception in accordance with subsection 8100.3.

**Standards when permitted by special exception:**[587]

**(3)** The maximum percentage of office may be increased above that allowed in subsection (1) above up to 100 percent with special exception approval in accordance with subsection 8100.3. For the purpose of any increase in percentage approved by the Board, the maximum FAR means the maximum FAR permitted by right in the applicable zoning district, or as increased by special exception in accordance with 5100.2.E(4).

**(4)** An office with laboratory facilities, pilot plants, prototype production, and the assembly, integration, and testing of goods and products that does not conform to the standards in subsection (2)(b) or (2)(c) above, may be permitted as a special exception in accordance with subsection 8100.3.

## N. Office in a Residential District[588]

**Standards when permitted by special exception:**

**(1)** In the R -1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 Districts, an office must comply with the following standards:

**(a)** The office must be located only within a Community Business Center (CBC) as shown in the Comprehensive Plan or another area where such a use is specifically permitted in the Comprehensive Plan; and

**(b)** The office must be located in a single-family detached dwelling that was constructed before February 26, 1973, but not in any addition constructed after that date.

**(2)** In the R-30 District, an office must comply with the following standards:

**(a)** The office must be located only on the lower two floors of the primary building, or in an accessory structure as may be approved by the Board; and

**(b)** The aggregate floor area of all nonresidential uses on the site, including offices, must not exceed 15 percent of the total gross floor area.

**(3)** In residential districts, an office may not include laboratory facilities, pilot plants, prototype production, or the assembly, integration, or testing of goods or products.

[587] This carries forward provisions in Sect. 9-515 pertaining to offices and Sections 9-502 and 9-509 pertaining to establishments for scientific research and development. Change since 7/1/2019 draft: Revised to allow an increase up to 100 percent in order to allow flexibility for office uses that may be compatible with a retail setting.
[588] This is a new name for an existing use. These standards are carried forward from Sect. 9-515. Permissions for the use have been changed from SE to not allowed in the R-C and R-E Districts. The five-year time period has not been carried forward, as the Board already has the authority to determine the length of the SE validity at the time of approval.

## Personal and Business Services

### O. Massage Therapy Establishment[589]

**Standards for all massage therapy establishments:**

A massage therapy establishment is permitted in accordance with Chapter 28.1 of the County Code which requires massages to be performed by a licensed massage therapist; however, it may also provide the following massages excluded in Chapter 28.1-1-4:

**(1)** Massage administered to the scalp, face, neck, shoulders, arms, hands or feet;

**(2)** Massage administered to the upper body while the client is fully clothed and seated in a chair;

**(3)** Massage administered in a medical care facility, hospital, medical clinic, nursing facility or similar facility, or in the office of a physician, chiropractor, osteopath, physical therapist, or nurse, licensed by the State; and

**(4)** Massage at a massage therapy program that has been approved by the Virginia Board of Education or the Virginia State Council of Higher Education, only if the individual administering the massage is a student enrolled at the school and receives no compensation for the massage.

### P. Personal Service[590]

**Standards for all personal service uses:**

A garment cleaning establishment that includes the mechanical cleaning of garments, articles, or goods for retail customers may not exceed 3,000 square feet of gross floor area. A larger establishment or a linen or diaper cleaning service establishment is considered production or processing.

## Recreation and Entertainment

### Q. Campground[591]

**Standards when permitted by special permit:**

**(1)** The minimum lot size is 20 acres.

**(2)** Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.

**(3)** Except for light poles, all structures and camp sites must be located a minimum of 100 feet from all lot lines.

[589] Change since 6/30/2020 draft: This is a new use that combines the types of massages currently classified as office or as personal service.
[590] "Personal service establishments" and "garment cleaning establishments" have been consolidated. Provisions included in the current definition for "garment cleaning establishment" are carried forward.
[591] This carries forward Sections 8-603 and 8-605, except the requirement pertaining to Health Department requirements, which is subsumed in a general use standard.

**(4)** Accessory activities may include picnicking, boating, fishing, swimming, outdoor games, and other similar sports and activities, but not golf driving ranges or any mechanical amusement device.

**(5)** A sports illumination plan must be submitted for outdoor facilities when required by Section 5109.

## R. Commercial Recreation, Indoor[592]

### Standards applicable to all indoor commercial recreation uses:

**(1)** Indoor recreation uses that involve the discharge of a firearm must be located within a structure that is fully enclosed with steel plate and acoustical tiles, or other materials with comparable bullet-stopping and soundproofing capacities.[593]

### Standards when permitted by right:

**(2)** In the C-3 and C-4 Districts, indoor commercial recreation is allowed by right in a building that was existing on [*insert effective date of this Ordinance*]. Otherwise, indoor commercial recreation requires special exception or special permit approval in accordance with subsection (4) below.[594]

**(3)** In the C-5 District, the maximum size is 6,000 square feet of gross floor area. [595]

### Standards when permitted by special exception or special permit:

**(4)** When an application for an indoor commercial recreation use is not submitted in conjunction with an application for a rezoning or special exception, a special permit is required. When an application for an indoor commercial recreation use is submitted in conjunction with a rezoning or other action before the Board, the recreation use may be approved as either a special exception in accordance with subsection 8100.3 or a special permit in accordance with subsection 8100.4, at the discretion of the applicant.

## S. Commercial Recreation, Outdoor[596]

### Standards when permitted by special permit:

**(1)** The only outdoor commercial recreation uses permitted by special permit in the R-C, R-E, and R-1 Districts are ropes courses, paintball, firing ranges, skeet and trapshooting ranges, and similar uses. These uses are not permitted in any other districts where

[592] This carries forward Sections 8-503 and 9-504. Standards pertaining to amusement arcades in Sect. 9-504 and Sect. 4-705 are not carried forward. The setback in Sect. 8-503 is not carried forward for indoor uses. The option for an SE or SP is new.
[593] This is a new standard.
[594] This standard is new.
[595] This standard is carried from current C-5 District standards.
[596] This carries forward provisions from Sections 8-504, 8-603, 8-610, 9-527, 9-531, and 9-624, except distinctions between SP and SE use standards are not maintained for this use which consolidates several current uses, and all standards are consolidated as SE standards.

outdoor commercial recreation is permitted by special exception. These uses must comply with the following standards:[597]

**(a)** Off-street parking and loading spaces must be located at least 50 feet from any adjacent residentially-zoned property; and

**(b)** All structures associated with the use, except light poles, must be located a minimum of 100 feet from all lot lines.

**(2)** In approving a special permit for the use, the BZA may include conditions of approval addressing safety and noise factors.[598]

**(3)** The minimum lot area for ropes courses is ten acres.[599]

**(4)** The minimum lot area for paintball is 25 acres.[600]

**(5)** The minimum lot area for firing ranges and skeet and trapshooting ranges is 75 acres.

**(6)** Firing ranges must comply with the following standards:[601]

**(a)** Backstops having a minimum height of 20 feet are required behind all target lines;

**(b)** Supplemental barriers must be provided as needed to contain all projectiles within the boundaries of the range and to minimize noise exiting the site; and

**(c)** The owners, operators, tenants, or occupants of the site must implement appropriate environmental management practices for containing, controlling, and removing lead from the range in accordance with the latest edition of "Best Management Practices for Lead at Outdoor Shooting Ranges" from the U.S. Environmental Protection Agency (EPA).

**Standards when permitted by special exception:[602]**

**(7)** The only outdoor commercial recreation use permitted by special exception in the R-C, R-E, and R-1 Districts is a golf driving range. In these districts, the minimum lot size is 15 acres.[603]

**(8)** Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.[604]

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[597] This changes the permissions for baseball hitting ranges, archery ranges, commercial swimming pools, tennis courts and other courts from an SE or SP to not allowed in the R-E and R-1 Districts. Paintball is included here, as it has been interpreted to be most similar to trapshooting. Standards in Sect. 8 610 are carried forward, except compliance with state and county law is addressed in the general use standards. Change since 6/30/2020 draft: Language was added to clarify that ropes courses, paintball, firing ranges, skeet and trapshooting ranges, and similar uses are not permitted in any other districts where outdoor commercial recreation is permitted by special exception.

[598] Neighborhood compatibility has been removed from this list because it is included in the general standards.

[599] This is a new standard.

[600] This is a new standard.

[601] These are new standards

[602] Golf driving ranges are currently not allowed in the C-3, C-4, and I-2 Districts. This consolidated draft allows golf driving ranges in those districts, whereas the previous draft for the agricultural and commercial uses installment did not.

[603] This creates a new minimum acreage requirement in the R-C, R-E, and R-1 Districts.

[604] This carries forward a provision repeated in Sections 8-603, 9-527, and 9-531. This standard does not currently apply to Group 5 special permit uses ("commercial recreation parks," "commercial swimming pools, tennis courts, and similar courts," "miniature golf courses," and "skating facilities").

**(9)** Except for light poles, fences, barriers, and containment structures approved in accordance with subsection (13) below, all structures used in connection with the outdoor recreation use must be located a minimum of 100 feet from any lot line.[605]

**(10)** If the use involves mechanical or motorized rides, the following standards apply:[606]

- **(a)** The minimum lot size is five acres;
- **(b)** The use must have frontage on a public street of sufficient capacity to provide safe access and to convey the anticipated traffic associated with the proposed use, as shown by a traffic impact statement provided by the applicant;
- **(c)** All mechanical or motorized rides must be located a minimum of 200 feet from any adjoining residentially-zoned property, unless the applicant demonstrates to the Board's satisfaction that the existing topography of the site or the provision of noise attenuation measures will adequately mitigate any sound and visual impacts created by the use; and
- **(d)** In reviewing an application, the Board will take into consideration factors such as safety, noise, glare, and traffic and impose conditions to ensure that the use will be compatible with and not adversely impact the adjacent properties.

**(11)** Baseball hitting and archery ranges must have a minimum lot area of two acres.[607]

**(12)** Miniature golf as an ancillary use to a golf driving range must comply with the following standards:[608]

- **(a)** The miniature golf facility must be located and oriented to the interior of the site such that the use is not visible from any abutting roadway and must be adequately screened to mitigate impacts on adjacent properties. In the R-E and R-1 Districts, the use may not include the use of sound emitting features; and
- **(b)** In reviewing an application for a special exception, the Board will take into consideration factors such as noise, lighting, and traffic and impose any necessary conditions to ensure that the use will be ancillary to the principal golf driving range use and will also be compatible with and not adversely impact adjacent properties.[609]

**(13)** The Board may approve, in conjunction with the approval of a proffered rezoning or special exception for an outdoor sports facility, an increase in height or modification to the standards in subsection 4102.7.A(5) for containment structures for outdoor playing fields, courts, or driving ranges designed to preclude the flight of balls or other sports equipment onto adjacent property or right-of-way, in accordance with the following requirements:[610]

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[605] This carries forward a standard from 9-527 (outdoor baseball hitting and archery ranges) and applies it generally to outdoor commercial recreation uses.
[606] This carries forward Sect. 8-504.
[607] This provision is from Sect. 9-527.
[608] From Sect. 9-531. The minimum lot size in Par. 1 of Sect. 9-531 for this use of 20 acres in the R-E and R-1 District is established as part of the golf driving range standard in subsection (7) and is extended to the R-C District and made consistent with the golf course size standard of 15 acres.
[609] The reference to dust is deleted as not relevant.
[610] This carries forward Sect. 9-624, except it deletes application requirements and the restriction that a containment structure shall not be allowed for a privately-used playing field/court on a lot containing a single-family dwelling, since the standards are included in this draft under a commercial use.

**(a)** If a proposed containment structure is for a new facility, the use must be oriented and designed to minimize the height needed for the containment structure;

**(b)** The material for the containment structure is limited to support structures, netting that is at least 75 percent open in an evenly distributed pattern, and guy wires;

**(c)** To the extent practical, the containment structure must be designed so that, if it collapses, it will not fall onto adjacent property or right-of-way;

**(d)** Signs may not be affixed to containment structures;

**(e)** To the extent practical, containment netting must be removed when the facility is not in use due to seasonal changes or other factors; and

**(f)** A containment structure may be located on an adjacent lot, whether or not there is a principal use located on the lot.

## T. Entertainment, Adult

### Standards when permitted by special permit:[611]

An adult entertainment establishment must:

**(1)** Be located in the C-7 District within a regional shopping center;

**(2)** Abut only property that is not used or zoned for residential purposes; and

**(3)** Be located a minimum of 1,000 feet from all religious assemblies, schools, and other adult entertainment establishments.

## U. Entertainment, Public

### Standards applicable to all public entertainment uses:[612]

**(1)** In reviewing an application, the Board will take into consideration factors such as safety, noise, hours of operation, and traffic and may impose conditions to ensure that the use will be compatible with and not adversely impact adjacent properties.

**(2)** Food, beverage, and smoking activities may be offered in conjunction with the public entertainment use.[613]

**(3)** In the I-2, I-3, I-4, I-5, and I-6 Districts, a public entertainment use is only allowed in conjunction with a restaurant, craft beverage production establishment, or hotel or motel in those districts where the use is permitted.

## V. Golf Course or Country Club[614]

### Standards when permitted by special exception:

**(1)** A golf course or country club must have a minimum lot area of 15 acres.[615]

[611] This carries forward the current permissions for "adult mini motion picture theaters" and "commercial nudity establishments" and groups the uses under the use "adult entertainment." It carries forward standards from Sect. 8-904 and 8-906.
[612] These standards are new.
[613] Change since 6/30/2020 draft: Added smoking activities.
[614] This carries forward Par. 1 of Sect. 9-528.
[615] This carries forward Par. 1 of Sect. 9-528.

**(2)** Except for light poles, fences, barriers, and containment structures approved in accordance with subsection (5) below, all structures that are used in connection with a golf course or country club, must be located a minimum of 50 feet from all lot lines.

**(3)** Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.[616]

**(4)** A golf course may include an accessory driving range; however, when a driving range is not accessory to a golf course, it is an outdoor commercial recreation use.

**(5)** The Board may approve, in conjunction with the approval of a proffered rezoning or special exception for a golf course, an increase in height or modification to the standards in subsections 4102.7.A(5) for containment structures for golf courses designed to preclude the flight of balls onto adjacent property or right-of-way, in accordance with the following requirements:[617]

**(a)** If a proposed containment structure is for a new golf course, the facility must be oriented and designed to minimize the height needed for the containment structure;

**(b)** The material for the containment structure is limited to support structures, netting that is at least 75 percent open in an evenly distributed pattern, and guy wires;

**(c)** To the extent practical, the containment structure must be designed so that, if it collapses, it will not fall onto adjacent property or right-of-way;

**(d)** Signs may not be affixed to containment structures;

**(e)** To the extent practical, containment netting must be removed when the facility is not in use due to seasonal changes or other factors; and

**(f)** A containment structure may be located on a lot adjacent to a golf course, whether or not there is a principal use located on the lot.

## W. Health and Exercise Facility, Large

In the C-3 and C-4 Districts, a large health and exercise facility is allowed by right in a building existing on [*insert effective date of this Ordinance*]. Otherwise, a large health and exercise facility requires special permit approval in accordance with subsection 8100.4.

## X. Marina, Commercial[618]

### Standards when permitted by special exception:

**(1)** The minimum lot area is two acres.

**(2)** Structures, other than light poles, must be located a minimum of 100 feet from all nonriparian lot lines.

**(3)** Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.

[616] This carries forward Par. 3 of Sect. 9-528.
[617] This carries forward Sect. 9-624, except it deletes application requirements and the restriction that an increase in the height of a containment structure shall not be allowed for a privately-used playing field/court on a lot containing a single-family dwelling, since that does not apply to this use.
[618] This carries forward the standards in Sect. 9-513.

## Y. Marina, Private Noncommercial

### Standards applicable to all private noncommercial marinas:[619]

A private noncommercial marina must be under the control and direction of a board of managers composed, at least in part, of residents of the area intended to be served by the facility. Additionally, the owner of the private noncommercial marina must be a nonprofit organization having its membership limited to residents of the area.

## Z. Quasi-Public Park, Playground, or Athletic Field

### Standards when permitted by right:

**(1)** In the commercial and industrial districts, a quasi-public park, playground, or athletic field is allowed subject to the following:[620]

- **(a)** The use is allowed on an interim basis for up to five years; however, upon request by the property owner, extensions of up to five years each may be approved by the Board;
- **(b)** All structures and fields must be located a minimum of 100 feet from any adjoining residentially-zoned property;
- **(c)** The use of lighting or loudspeakers for the athletic field or related facilities is not allowed;
- **(d)** Transitional screening is required if determined necessary by the Director; and
- **(e)** Parking must be provided on-site. If the use is located on the same site as another use, the Director may allow existing off-street parking the serve the use if the hours of operation of the two uses do not coincide.

### Standards when permitted by special exception:

**(2)** All structures and fields must be located a minimum of 100 feet from any adjoining residentially-zoned property.

**(3)** The Board may approve, in conjunction with the approval of a proffered rezoning or special exception for a quasi-public park, playground, or athletic field, an increase in height or modification to the standards in subsection 4102.7.A(5) for containment structures for quasi-public park, playground, or athletic field designed to preclude the flight of balls onto adjacent property or right-of-way, in accordance with the following requirements:[621]

- **(a)** If a proposed containment structure is for a new quasi-public park, playground, or athletic field, the quasi-public park, playground, or athletic field must be oriented and designed to minimize the height needed for the containment structure;
- **(b)** The material for the containment structure is limited to support structures, netting that is at least 75 percent open in an evenly distributed pattern, and guy wires;

[619] This applies the SP standards in planned districts, where they now serve as a guide.
[620] This carries forward the use limitations repeated in multiple sections for this use in Articles 4 and 5.
[621] This carries forward Sect. 9 624, except it deletes application requirements and the restriction that an increase in the height of a containment structure shall not be allowed for a privately used playing field/court on a lot containing a single-family dwelling, since that does not apply to this use.

**(c)** To the extent practical, the containment structure must be designed so that, if it collapses, it will not fall onto adjacent property or right-of-way;

**(d)** Signs may not be affixed to containment structures;

**(e)** To the extent practical, containment netting must be removed when the outdoor sports facility is not in use due to seasonal changes or other factors; and

**(f)** A containment structure may be located on a lot adjacent to a quasi-public park, playground, or athletic field, whether or not there is a principal use located on the lot.

## AA. Smoking Lounge[622]

### Standards when permitted by right:

**(1)** Smoking lounges are permitted in the C-5, C-6, C-7, and C-8 Districts when established as a principal use.

### Standards when permitted by special exception or special permit:

**(2)** When an application for a smoking lounge is not submitted in conjunction with an application for a rezoning or special exception, a special permit is required. When an application for a smoking lounge is submitted in conjunction with a rezoning or other action before the Board, the use may be approved as either a special exception in accordance with subsection 8100.3 or a special permit in accordance with subsection 8100.4, at the discretion of the applicant.

**(3)** Accessory retail sales of smoking products not for consumption on the premises may be provided in conjunction with the lounge.

### Standards when permitted as an accessory use:

**(4)** Smoking lounges are permitted accessory uses in conjunction with restaurants (see subsection 4102.5.G) and public entertainment uses (see subsection 4102.5.U), subject to applicable use standards.

## BB. Zoo or Aquarium[623]

### Standards applicable to all zoos and aquariums:[624]

**(1)** The Animal Services Division of the Police Department must be granted access to the premises and any necessary records to review the operation of the zoo or aquarium on a quarterly basis and is authorized to conduct unannounced inspections of facilities during daylight hours.

**(2)** The keeping of animals, including wild or exotic animals as defined in Chapter 41.1 of the County Code, is allowed only if the Animal Services Division of the Police Department determines that the animal does not pose a risk to public health, safety, and welfare and that there will be adequate feed, water, shelter, veterinary care, and

[622] These are new standards for a new use.
[623] This consolidates provisions from Sections 6-106 and 8-612. Required compliance with federal, state, and county regulations is addressed in the general use standards.
[624] These standards currently apply only to the use as an SP use but are made generally applicable here.

space in the primary enclosure for the particular type of animal depending upon its age, size, and weight.

**Standards when permitted by special permit:**

**(3)** Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.

**(4)** If the use includes the keeping of animals outside of a completely enclosed building, it must comply with the following standards:[625]

**(a)** The minimum lot area is ten acres; and

**(b)** Except for light poles, all structures must be located a minimum of 50 feet from all lot lines.

## Retail Uses[626]

### CC. Convenience Store[627]

**Standards applicable to all convenience stores:**

**(1)** When located in the Highway Corridor Overlay District, a convenience store must comply with the following additional standards:[628]

**(a)** Access to the use must be designed to not impede traffic on public or private streets or travelways; and

**(b)** Any outdoor storage or display of goods must be shown on the special exception plat.

**Standards when permitted by right:**[629]

**(2)** A convenience store is allowed in the C-5, C-6, C-7, and C-8 Districts only if it is located within a shopping center building that complies with the following standards:

**(a)** The building contains at least six other uses that are connected by party walls, partitions, or similar structural members to form one continuous structure; and[630]

**(b)** The building is subject to an approved unified site plan, and vehicular access to the convenience store is provided only via the internal circulation system of the shopping center.

[625] This carries forward standards in Sect. 8-612, but makes them applicable only to a zoo or aquarium where animals are kept outside of a completely enclosed building.
[626] The use standards for pawnshops in current Sect. 9-522 were not carried over, as they are now included in general standards or other ordinances and regulations.
[627] This carries forward provisions in Sections 4-505, 4-605, 4-705, 4-805, 9-505, and 10-202.
[628] Carried forward from Sect. 7-608. The access standard is revised consistent with the purpose of the Highway Corridor Overlay District.
[629] This carries forward provisions in Sections 4-505, 4-605, 4-705, and 4-805.
[630] Limitations on the types of uses are not carried forward.

**Standards when permitted by special exception:**[631]

**(3)** The convenience store must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(4)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.

**(5)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

**(6)** Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

**(7)** In the C-5, C-6, and C-7 Districts, any outdoor storage or display of goods offered for sale must be shown on the special exception plat.

**(8)** In the I-5 and I-6 Districts, a convenience store must be part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the convenience store unless a building permit has been approved for the related building(s).

## DD. Drive-Through, Other[632]

**Standards when permitted by right:**[633]

**(1)** In the C-8 District, other drive-throughs are permitted by right only when located within a shopping center building that complies with the following standards:

**(a)** The building contains at least six other uses that are connected by party walls, partitions, or similar structural members to form one continuous structure; and

**(b)** The building is subject to an approved unified site plan, and vehicular access to the use is provided only via the internal circulation system of the shopping center.

**Standards when permitted by special exception:**[634]

**(2)** The use must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(3)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with pedestrian and vehicular circulation on adjacent properties.

**(4)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

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[631] This carries forward provisions in Sect. 9-505, except it changes outdoor storage and display of goods from not allow to allowed when shown on the special exception plat. Provisions from Par. 1D of Sect. 9-505 are addressed in the general SE standards. Change since 7/1/2019 draft: Replaced industrial complex with a minimum of 30,000 sq. ft., consistent with revisions throughout.

[632] This section carries forward provisions from Sections 4-805, 6-606, and 9-505, except Par. 1D of Sect. 9-505 is addressed in the general SE standards, and outdoor storage and display of goods offered for sale are changed from not allowed to allowed if shown on the special exception plat.

[633] This carries forward provisions in Sect. 4-805 for the current "automobile-oriented use."

[634] This carries forward provisions in Sect. 9-505.

**(5)** Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

**(6)** In the C-5, C-6, and C-7 Districts, any outdoor storage or display of goods offered for sale must be shown on the special exception plat.

## EE. Drive-Through Pharmacy

### Standards when permitted by right or by development plan:[635]

**(1)** In the C-5, C-6, C-7, and C-8 Districts, a drive-through pharmacy is only allowed by right when not abutting or across a local or collector street from land in a residential district.

**(2)** In the PTC District, the drive-through facility and stacking spaces must be located within a multistory building or parking structure.[636]

**(3)** In the PCC District, a drive-through pharmacy is allowed by right in association with a continuing care facility when designed to facilitate safe and efficient on-site vehicular and pedestrian circulation. Adequate parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the lot.

### Standards when permitted by special exception:[637]

**(4)** The drive-through pharmacy must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(5)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with pedestrian and vehicular circulation on adjacent properties.

**(6)** In the C-5, C-6, and C-7 Districts, any outdoor storage or display of goods offered for sale must be shown on the special exception plat.

**(7)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation and parking

**(8)** The site must include adequate parking and stacking spaces for the drive-through pharmacy which are located to facilitate safe and convenient vehicle and pedestrian access to all uses on the lot.

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[635] This carries forward provisions in Sections 4-505, 4-605, 4-705, 4-805, 6-106, 6-206, 6-305, 6-505, and 6-606. The standards regarding circulation, parking and stacking are not carried forward as they are too vague for by right site plan review and the substantive issues are addressed by other standards in the Ordinance and PFM.
[636] This carries forward Par. 10 of Sect. 6-505, except the requirement that the use be identified on an approved final development plan is carried forward in the general planned development standards in Sec. 4012.1.E.
[637] This carries forward provisions in Sect. 9-505, except Par. 1D of Sect. 9-505 is addressed in the general standards, and outdoor storage and display of goods offered for sale is changed from not allowed to allowed when shown on an approved special exception plat.

## FF. Drug Paraphernalia Establishment[638]

### Standards when permitted by special exception:

A drug paraphernalia establishment may not be located within 1,000 feet of the property line of:

**(1)** A parcel that is planned, zoned, or used for residential use;

**(2)** A park, religious assembly, public library, school (private or public use), or child care center; or

**(3)** Another drug paraphernalia establishment.

## GG. Garden Center

### Standards when permitted by right:

**(1)** Landscape contracting services are permitted as an accessory use in accordance with the following standards:[639]

**(a)** All outdoor storage and loading areas must be completely enclosed by screening; and

**(b)** There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or materials; or other vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor-trailer trucks.

### Standards when permitted by special exception:[640]

**(2)** The minimum lot area is five acres.

**(3)** All nursery stock sold must be grown or maintained on the premises.

**(4)** A garden center may also include the sale of items designed to maintain and preserve the life and health of nursery stock such as soil, mulch, plant food/nutrients, fertilizers, herbicides, insecticides, and limited related items.

**(5)** The sale of a wide range of products normally associated with a hardware, building supply, or craft store is not permitted. However, the Board may allow the retail sales of related items, in accordance with the following:

**(a)** Items may include landscaping materials, decorative garden features, materials for water gardens, supplies and non-powered tools for gardening, firewood, and similar items;

**(b)** Items may include artificial and dried plants and flowers and seasonal/holiday decorations, provided sales of such plants and decorations must be confined to one fully-enclosed structure and to an area, designated on the special exception

[638] This carries forward Sect. 9-508. It substitutes use names that replace current uses (e.g., "religious assembly" for "place of worship"). Change since 7/1/2019 draft: deleted "home child care facility" from (2) because it is already covered by the standards in (1).

[639] Because this use will be permitted by right in the C-5 through C-8 Districts, these standards are added based on the current use limitations for the C-8 District, which allow a contractor's office and shop.

[640] These standards are carried forward from Sect. 9-517. Provisions which are duplicative of other provisions in the Zoning Ordinance (e.g., use definition, general standards for approval of a special exception, general standards for accessory uses) have been removed.

plat, that does not exceed the following percentages of the total gross floor area designated on the plat for the sale of all retail items:

***1.*** 20 percent during the months of February through October; and

***2.*** 50 percent during the months of November through January;

**(c)** The following may not be sold:

***1.*** Electric or gasoline powered tools;

***2.*** Motorized equipment;

***3.*** Sheds and outdoor storage containers;

***4.*** Play houses or play sets;

***5.*** Indoor furniture or outdoor lawn or patio furniture;

***6.*** Hot tubs, spas, or pools;

***7.*** Barbecue grills;

***8.*** Propane fuel;

***9.*** Food (except in conjunction with an approved special event); or

***10.*** Clothing; and

**(d)** The Board may condition the location, size and extent of any areas or structures used for the retail sale of accessory items, to include a requirement for such sales areas to be within a fully enclosed structure.

**(6)** Off-street parking spaces and loading spaces must be located a minimum of 50 feet from lot lines abutting an R district or a residential area of a P district.

**(7)** All off-street parking areas, including aisles and driveways must be constructed and maintained with a dustless surface in accordance with the provisions of the Public Facilities Manual, unless a modification or waiver of the dustless surface requirement is approved by the Director.

**(8)** The lot must have frontage on an arterial street as defined in the Comprehensive Plan.

**(9)** Buildings and structures, other than light poles, must be located a minimum of 100 feet from lot lines abutting an R district or a residential area of a P district.

**(10)** Accessory uses may also include the following:

**(a)** Landscape contracting services utilizing nursery stock grown on the property and those accessory retail items permitted to be sold in accordance with the special exception approval, provided that all structures, equipment, vehicle storage and other areas dedicated to the landscape contracting services must be delineated on the special exception plat; and

**(b)** Special events, festivals, or classes. The Board may impose conditions on such activities, including conditions addressing the type and number of activities; the time of year during which such activities are allowed; the area of the site devoted to such activities; the use of lighting and public address systems; and parking.

**(11)** The Board may impose conditions and restrictions that it deems necessary to ensure the use will be compatible with the adjacent residential area, including conditions addressing:

**(a)** Location, size, height, and use of structures;

**(b)** Location and number of commercial vehicles and equipment;

**(c)** Lighting, public address systems, and hours of operation; and

**(d)** Location and type of nursery stock and materials and other items stored, displayed, or offered for sale outside. No storage, parking of equipment or vehicles used for landscape contracting services, display, or sales area may be located in any minimum setback.

**(12)** The Board may waive the requirements in subsections (2), (6), and (9) above, for a plant nursery that is accessory to a single-family detached dwelling that is the domicile of the nursery operator.

## HH. Retail Sales, General[641]

**Standards applicable to all general retail sales:**

**(1)** Live auctions are allowed only in the C-8 District.[642]

**Standards when permitted by special exception:**

**(2)** Retail sales may be allowed in the I-4, I-5, and I-6 Districts, subject to the following requirements:[643]

**(a)** A maximum of 60 percent of the gross floor area may be devoted to retail sales, display area, and any accessory office, with the remaining gross floor area devoted to warehousing;

**(b)** The Board must determine that the retail use is in conformance with the Comprehensive Plan for commercial and industrial development in the area and will be compatible with and not adversely impact the adjacent properties. The Board may impose conditions and restrictions that it deems necessary to ensure compatibility and to mitigate potential adverse impacts, including conditions addressing:

***1.*** Hours of operation;

***2.*** Site development or design standards; and

***3.*** Transitional screening and landscaping requirements;

**(c)** The structure must be designed to promote the character of the district through architectural design that is compatible with surrounding industrial uses;

**(d)** Parking for the retail and warehouse uses as required by Article 6, is provided on-site, or a cooperative parking arrangement in accordance with the provisions of Article 6, may be approved;

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[641] This carries forward provisions in Sections 5-105, 8-703, 8-704, and 9-524. The SE for "convenience center" in the R-2 through R-8 Districts in Par. 4 of Sect. 9-507 is not carried forward, as there have been no applications for this use. This use consolidates several uses, including "adult bookstore." The standards in this section do not preserve the differences in permissions between that use and other retail uses, consistent with how adult videos are currently treated. Standards for accessory retail in the I-I District in Par. 3 of Sect. 5-105 are not carried forward.

[642] This carries forward the current permissions, except the use is changed from SP to permitted by right.

[643] This carries forward Sect. 9-524. The reference to an establishment where retail sales are conducted only on weekends and holidays is deleted. The provision requiring public improvements needed as a result of the introduction of retail uses to industrial areas is not carried forward. The requirement in Par. 8 that all business, service, storage and display of goods be contained in completely enclosed facilities is also not carried forward.

**(e)** The site must be designed so that pedestrian and vehicular circulation are coordinated on-site and with adjacent properties. Vehicular access to the use must to the greatest extent possible be provided via the internal circulation system of the building or complex;

**(f)** The site must be designed to provide safe and convenient access and to minimize any potential conflicts between industrial service and delivery vehicles, passenger vehicles, and pedestrians;

**(g)** All refuse must be contained in completely enclosed facilities;

**(h)** The use is limited to 500 square feet of accessory outdoor storage and display in accordance with subsection 8100.7.D; however, additional storage and display may be permitted if designated on the special exception plat or site plan;[644]

**(i)** Outdoor storage and loading areas must be screened from the view from the first story of all abutting lots and right-of-way;[645] and

**(j)** There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or materials; or other vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor trailer trucks.[646]

## II. Retail Sales, Large[647]

### Standards applicable to all large retail sales:

**(1)** A special exception, special permit, conceptual development plan, final development plan, development plan, or proffered generalized development plan approved before May 22, 2007 that allows a retail sales establishment that is equal to or greater than 80,000 square feet of floor gross area is permitted, if the establishment is in substantial conformance with the approved plan, proffers, and conditions.

**(2)** For the purpose of this use, the words "replacement" and "enlargement," as used in subsection 8104.3.C, do not include any interior or exterior alteration, demolition, or reconstruction of any part of a building or use existing as of May 22, 2007, as long as any such change:

**(a)** Does not result in an increase in gross floor area (GFA) of more than 2.5 percent of the area of the footprint existing as of May 22, 2007;

**(b)** Is within the building footprint existing as of May 22, 2007 or are within an expanded footprint not to exceed 2.5 percent of the area of the footprint existing as of May 22, 2007; and

**(c)** Does not result in an increase in the building height existing as of May 22, 2007 other than that resulting from a roof replacement or roof redesign.

[644] Revised to reflect recent Zoning Ordinance Amendments and to reference approval on a development plan.
[645] This is a new standard based on Par. 4 of Sect. 4-805.
[646] This is a new standard based on Par. 5 of Sect. 4-805.
[647] This section carries forward provisions from Sections 4-605, 4-705, 4-805, and 9-533. Change since 7/1/2019 draft: The provisions from ZO-07-399 have been included.

**Standards when permitted by right or by development plan:**[648]

**(3)** In the C-6, C-7, and C-8 Districts, a large retail sales establishment is allowed only if it is located within a building that contains a minimum of 1,000,000 square feet of gross floor area and a minimum of six principal uses that are connected by party walls, partitions, or similar structural members to form one continuous structure.

**(4)** In the PTC District, a large retail sales establishment is permitted only when located in a multistory structure designed to contain at least one or more other permitted uses.[649]

**Standards when permitted by special exception:**[650]

**(5)** In the C-6, C-7, C-8, PDC, PRC and PTC Districts, the following standards apply:

- **(a)** The establishment must be compatible with and not adversely impact adjacent properties and the local area road system. The Board may impose conditions and restrictions to ensure compatibility and to mitigate adverse impacts, including conditions addressing:
  - ***1.*** Hours of operation and other operational restrictions;
  - ***2.*** Site development or design standards; and
  - ***3.*** Transitional screening and landscaping requirements;
- **(b)** Parking must be provided in accordance with Article 6 and must be designed to minimize impacts on adjacent properties through structured parking, the location and distribution of parking, landscaping techniques, or other methods. All required parking must be provided on-site;
- **(c)** The establishment must be designed so that pedestrian and bicycle circulation is coordinated on-site and with adjacent properties for the purpose of maximizing ease of inter-parcel and intra-parcel movement;
- **(d)** The establishment must be designed to provide safe and convenient access, and to minimize any potential conflicts between service and delivery vehicles, passenger vehicles, and pedestrians;
- **(e)** Outdoor lighting must be designed to minimize the impacts of glare, light trespass, and overlighting and to promote a safe and secure environment for pedestrian and vehicular traffic;
- **(f)** All structures must be designed to protect the character of the neighborhood in which they are located through the use of architectural design and site design methods. The layout and architecture must be designed to be compatible with surrounding buildings and to minimize the impacts of building bulk through variations in roof lines, variations in building setbacks, landscaping, enhanced architectural treatments to all sides of a building, windows, or other methods;
- **(g)** Where there is a significant contrast in topography between the site and adjacent properties, appropriate mitigation methods, such as screening, must be used to mitigate potential noise and visual impacts;

[648] This carries forward provisions from Sections 4-605, 4-705, and 4-805.
[649] This carries forward Par. 5.L of Sect. 6-502.
[650] This carries forward Sect. 9-533.

**(h)** All rooftop mechanical structures must be screened or fully enclosed within a structure so they are not visible from the ground level of adjacent properties;

**(i)** All business, service, storage, and display of goods must be conducted within a completely enclosed building, and all refuse must be contained in completely enclosed facilities. However, outdoor seating, service, storage, and display is allowed, subject to the following requirements:

***1.*** The area and extent of all outdoor seating areas and outdoor areas for the service, storage, and display of goods must be designated on the approved special exception plat. The Board may impose conditions on the location, size, and extent of any such areas or associated structures. No such storage, display, or sales area may be located in any minimum setback; and

***2.*** Except for outdoor seating areas, outdoor service, storage, and display areas[651] must be screened using structures, materials, and design elements that are compatible with those used in the principal structure. Screening methods must include one or a combination of the following: solid fences, walls, berms, or evergreen hedges; and

**(j)** In the PTC District, outdoor activities are limited to outdoor seating.

## Vehicle-related uses

### JJ. Car Wash[652]

**Standards when permitted by development plan:**

**(1)** In the PTC District, drive-through facilities and stacking spaces must be located within a multistory building or parking structure.[653]

**Standards when permitted by special exception:**

**(2)** The car wash must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(3)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.

**(4)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

**(5)** Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

[651] Currently, screening is not required for outdoor display area up to 250 square feet. This provision is not carried forward.
[652] This carries forward provisions in Sections 6-505 and 9-505. Requirements in Paragraphs 1D and 5B of Sect. 9-505 are addressed in the general SE standards. Change since 7/1/2019 draft: Replaced in subsection (7) the requirement for being in an industrial complex with a minimum of 30,000 sq. ft., consistent with the revisions throughout.
[653] This carries forward Par. 10 of Sect. 6-505.

**(6)** In the C-5, C-6, C-7, I-3, and I-4 Districts, any areas for outdoor storage or display of goods offered for sale must be shown on the special exception plat.[654]

**(7)** In the I-3, I-4, I-5, and I-6 Districts, a car wash must be part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the car wash unless a building permit has been approved for the related building(s).

## KK. Commercial Off-Street Parking[655]

### Standards applicable to all commercial off-street parking:

**(1)** In the C-3, I-2 and I-3 Districts, commercial off-street parking is allowed only as part of an office, commercial, or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.

**(2)** Commercial off-street parking must have safe and convenient access to a street, and ingress and egress must be provided only through driveway openings as approved by the Director in accordance with the Public Facilities Manual.

**(3)** A parking space that is located contiguous to a street must have a curb between the space and the street.

**(4)** A parking space that is located on the ground and is open to the sky may be located in any required yard, provided a parking space must be located a minimum distance of ten feet from front lot line(s), except as may be qualified by the provisions of Section 5108.

**(5)** All structures are subject to the bulk regulations of the zoning district in which they are located, except parking structures that are completely underground may be located in any required yard but must be located a minimum of one foot from all lot lines.[656]

**(6)** Commercial off-street parking must be used for the parking of passenger vehicles in operating condition and not for the storage of commercial vehicles such as buses or tractor-trailers. No motor vehicle repair work, except emergency service, is permitted in association with commercial off-street parking.[657]

## LL. New Vehicle Storage[658]

### Standards when permitted by right or by development plan:

**(1)** New vehicle storage is limited to new automobiles, motorcycles, sport utility vehicles, pick-up trucks, and vans.

**(2)** New vehicle storage may not include the following vehicles:

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[654] This provision is new. Currently, outdoor storage and display of goods offered for sale is not allowed.

[655] This carries forward Sect. 9-516, but makes the standards applicable to commercial off-street parking as a principal use where permitted, regardless of whether it is a special exception. References to other applicable provisions in this draft are located in the general standards. Change since 7/1/2019 draft: Replaced in subsection (1) the requirement for a minimum of 30,000 sq. ft., consistent with revisions throughout.

[656] This standard may be relocated to parking (Article 6) or bulk regulations.

[657] Change since 7/1/2019 draft: Added clarification that this use is intended for passenger vehicles and not for the storage of commercial vehicles.

[658] This carries forward Sections 4-305, 4-405, 4-605, 4-705, 4-805, 5-305, 5-405, and limitations in the use definition in Sect. 20-300. Standards relating to signs were not carried over because general signage standards apply.

**(a)** Vehicles designed primarily for the transportation of ten or more passengers[659];

**(b)** Trucks other than those allowed as a part of the vehicle sales and rental use type;

**(c)** Farm machinery or equipment;

**(d)** Construction machinery or equipment;

**(e)** Buses;

**(f)** Motor homes, recreational vehicles, trailers, or boats of any size;

**(g)** Manufactured homes; or

**(h)** Any other specialized vehicles.

**(3)** New vehicle storage is solely for the parking or storage of vehicles. The following are prohibited on-site in conjunction with new vehicle storage:

**(a)** Customers and clients;

**(b)** Sale of vehicles;

**(c)** Vehicle preparation; and

**(d)** Display of signs on the new vehicles, except invoices required by federal or state law.

**(4)** In the C-3, C-4, C-6, C-7, C-8, I-3, I-4, and PDC Districts[660], new vehicle storage is allowed only when located within a parking structure that is accessory to another use and in parking spaces that are in excess of the minimum number of required off-street parking spaces for the use to which the parking structure is accessory. The new vehicle storage must comply with the following requirements:

**(a)** The owner of the parking structure must submit a parking tabulation in accordance with subsection 8100.7 that demonstrates that excess parking spaces are available for the proposed new vehicle storage.

**(b)** The layout of the new vehicle storage may not hinder the internal vehicle circulation within the parking structure, and there must be no mechanical parking lift devices or fencing associated with the new vehicle storage.

**(c)** Transitional screening in accordance with Section 5108 is not required.

**(5)** In the PTC District, new vehicle storage is allowed only when located within a parking structure as a temporary use and must comply with the following requirements:[661]

**(a)** The owner must demonstrate to the Zoning Administrator that existing parking spaces are available for the new vehicle storage due to phasing of the development or tenant vacancies within the building. The Zoning Administrator will determine is such use is in substantial conformance with the approved final development plan as provided for in subsection 8100.2.E(3) and the approved parking plan;

**(b)** The layout of the new vehicle storage may not hinder the internal vehicle circulation within the parking structure, and there must be no mechanical parking lift devices or fencing associated with the new vehicle storage; and

[659] Change since 11/24/2020 draft: Added the number "ten," which was unintentionally omitted in the previous draft.
[660] Change since 7/1/2019 draft: The PDC District has been included here to carry forward Sect. 6-206(13).
[661] Change since 7/1/2019 draft: These PTC District standards from Sect. 6-505(15) have been added.

**(c)** No signs are allowed for the use or its associated vehicle sales, rental, and service.

## MM.Truck Rental Establishment[662]

### Standards that apply to all truck rental establishments:

**(1)** All rental trucks must be parked on-site.[663]

### Standards when permitted by special exception:

**(2)** A truck rental establishment is allowed only as an ancillary use to a principal use on a lot, and the following standards apply:

**(a)** The truck rental establishment is limited to the rental and minor servicing of trucks and trailers typically rented to individuals for the moving of personal belongings (i.e., rental moving vans and trailers);

**(b)** A truck rental establishment must have safe and convenient access to a street. The street frontage must be curbed, and ingress and egress must be provided only through driveway openings as approved by the Director in accordance with the Public Facilities Manual;

**(c)** The area used for the parking and storage of rental trucks and trailers may not exceed 10 percent of the total area of the site;

**(d)** All outdoor storage areas, including aisles and driveways, must be designated on the special exception plat, constructed and maintained with an approved surface in accordance with subsection 6100.2.C, and improved in accordance with construction standards presented in the Public Facilities Manual;

**(e)** All trucks and trailers that are stored outdoors must be in operating condition;

**(f)** All trucks and trailers must be stored on-site and only on the portion of the site designated on the special exception plat for the storage of rental trucks and trailers; and

**(g)** Rental trucks and trailers may not be parked or stored within 15 feet of the front lot line.

**(3)** Rental trucks and trailers are limited to vehicles with no more than two axles, a maximum box length of 17 feet, a maximum height of 12 feet, and those that do not require a commercial driver's license to operate.[664]

**(4)** In the I-4 District, a truck rental establishment is permitted by special exception only when associated with self-storage.[665]

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[662] This carries forward Sect. 9-525 and provisions from the definition of the use in Sect. 20-300. References to other applicable provisions in this draft are located in the general standards. The standards for Board determinations about lot characteristics are deleted here and addressed through the general standards.
[663] Change since 7/1/2019 draft: This is a new standard.
[664] Change since 7/1/2019 draft: based on current practice, this standard has been relocated to only apply to those rental establishments requiring special exception approval.
[665] Change since 6/30/2020 draft: This is a new standard that allows truck rental in association with self-storage with special exception approval.

## NN. Vehicle Fueling Station[666]

### Standards applicable to all vehicle fueling stations:

**(1)** A vehicle fueling station may not be used for the performance of major repairs; however, it may include accessory minor servicing and repair of vehicles, such as: the sales and servicing of spark plugs, batteries, distributors, brakes, and tires, but not recapping or regrooving; replacement of mufflers, tail pipes, fan belts, grease retainers, wheel bearings, and the like; greasing, lubrication, and radiator flushing; repair of carburetors, fuel, oil, and water pumps and lines; minor motor adjustments not involving removal of the head or crank case or racing the motor; and emergency wiring repairs.[667]

**(2)** Wrecked, inoperative, or abandoned vehicles may not be stored outdoors for a period of more than 72 hours. Dismantling, wrecking, or sale of such vehicles or their parts is not permitted. A maximum of two such vehicles in the C-3, C-4, C-5, and C-6 Districts, and the PDH, PDC, PRC, and PTC Districts, and four such vehicles in the C-7, C-8, I-3, I-4, I-5, and I-6 Districts, may be stored on the site at any one time.[668]

**(3)** A maximum of 50 square feet is allowed for accessory outdoor storage and display area for goods offered for sale.[669]

**(4)** The retail sales of food, beverages, and other frequently needed items for household consumption is allowed, in accordance with the following:[670]

- **(a)** The maximum gross floor area devoted to such sales is 2,500 square feet; and[671]
- **(b)** The preparation of food is not allowed, except for that allowed in a Limited Food-Service Establishment in accordance with Chapter 43.1 of the County Code or the use of microwave ovens by customers for purchased food items.

**(5)** In the PDH, PDC, PRC, and PTC Districts, vehicle and tool rental is not allowed.[672]

**(6)** In the PTC District, any vehicle repair or service must be located within a completely enclosed structure.[673]

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[666] This section carries forward and consolidates provisions from Sections 2-405, 6-106, 6-206, 6-505, 9-505, and 20-300. Requirements in Paragraphs 1D and 5B of Sect. 9-505 are addressed in the general SE standards. Provisions in Sections 6-106 and 6-206 requiring a vehicle fueling station to be located in a commercial center consisting of at least three commercial establishments that are not automobile related uses are not carried forward. The prohibition on the sale of alcoholic beverages and rental of video tapes and video cassette recorders in the current definition of "service station/mini-mart" is not carried forward.

[667] This carries forward and condenses provisions from the definition of "service station" and the special exception standards for the commercial and industrial districts.

[668] This carries forward provisions from the special exception standards for the commercial and industrial districts and the use limitations for PDH, PDC, and PTC, and extends it to the PRC District. The language prohibiting dismantling is extended to the P districts.

[669] This carries forward provisions from the definition of "service station" and "service station/mini-mart" in Sect. 20-300.

[670] This carries forward provisions from the definition of "service station/mini-mart" in Sec. 20-300.

[671] The allowance for up to 2,500 square feet of retail sales from the current service station/mini-mart use is extended to all vehicle fueling stations.

[672] This carries forward provisions in Sections 6-106, 6-206, and 6-505. Standards relating to signs were not carried over because general signage standards apply.

[673] This carries forward a provision in Sect. 6-505.

**(7)** Pump islands and associated canopies may be located in any required yard.[674]

**(8)** When located in the Highway Corridor Overlay District, access to the use must be designed to not impede traffic on public or private streets or travelways.[675]

### Standards when permitted by special exception:[676]

**(9)** The station must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

**(10)** The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.

**(11)** The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.

**(12)** Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.

**(13)** In the C-3, C-4, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, the following additional standards in Table 4102.2: Summary of Vehicle Fueling Standards apply:

**Table 4102.2: Summary of Vehicle Fueling Standards**
**(Subsections 13, 14, and 15)**
**✓ = standard applies**

| Standard | Zoning District | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | C-3 | C-4 | C-7 | C-8 | I-3 | I-4 | I-5 | I-6 |
| Must be part of an office building or complex containing a minimum GFA of 35,000 SF | ✓ | ✓ | | | | | | |
| No separate and exclusive curb cut access to the abutting highway | ✓ | ✓ | | | | | | |
| Limited to the servicing and retail sales of products used primarily by passenger vehicles | ✓ | ✓ | | | | | | |
| No vehicle or tool rental | ✓ | ✓ | | | | | | |
| Outdoor areas for uses such as vehicle or tool rental are limited to the area designated on the special exception plat | | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Must be part of an industrial building or complex containing a minimum GFA of 30,000 SF | | | | | ✓ | ✓ | ✓ | ✓ |
| No building permit may be approved for the station unless a building permit has been approved for the related industrial building | | | | | ✓ | ✓ | ✓ | ✓ |

## 00. Vehicle Repair and Maintenance, Light

### Standards applicable to all vehicle repair and maintenance, light:

**(1)** Any area for the storage of vehicles must be shown on an approved site plan and does not count as part of the minimum required parking.[677]

[674] This carries forward Sect. 2-504, except it does not include merchandise displayed on a pump island.
[675] This carries forward Par. 1 of Sect. 7-608. The access standard is revised consistent with the purpose of the Highway Corridor Overlay District.
[676] This carries forward provisions in Sect. 9-505 and other sections as noted.
[677] This is a new standard.

**Standards when permitted by right or by development plan:**

**(2)** In the C-6, C-7, and C-8 Districts, light vehicle repair and maintenance is allowed by right if it complies with the following standards:[678]

- **(a)** The use must be located within the main structure of a regional shopping center;
- **(b)** The regional shopping center and the building where the use is located must be subject to an approved unified site plan; and
- **(c)** Vehicular access to the use must be provided only via the internal circulation system of the regional shopping center.

**(3)** In the I-5 and I-6 Districts, light vehicle repair and maintenance is allowed by right if it complies with the following standards:[679]

- **(a)** The use is part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
- **(b)** The use does not have frontage or direct access to a street defined in the Comprehensive Plan as a major or minor arterial.

**(4)** In the PDH, PDC, and PTC Districts, the following standards apply:[680]

- **(a)** Vehicle rental, tool rental, outdoor storage, and outdoor display of goods offered for sale are not allowed; and
- **(b)** Wrecked, inoperative, or abandoned vehicles may not be stored outdoors for a period of more than 72 hours, and a maximum of two such vehicles may be stored on the site at any one time.

**(5)** In the PDH and PDC Districts, light vehicle repair and maintenance may be located only in a commercial center containing a minimum of three other commercial establishments.[681]

**(6)** In the PTC District, all vehicle repair and service must occur within a completely enclosed structure.[682]

## PP. Vehicle Sales, Rental, and Service[683]

**Standards when permitted by right:**

**(1)** Vehicle rental is allowed by right in the C-3, C-4, C-6, C-7, and C-8 Districts when the use complies with the following standards:

- **(a)** The maximum size is 2,500 square feet of gross floor area;
- **(b)** Rentals are limited to the rental of automobiles and passenger vans. Rental of trucks or other vehicles is not allowed;

[678] This carries forward provisions in Sections 4-605, 4-705, and 4-805.
[679] This carries forward provisions in Sections 5-505 and 5-605. Aggregate floor area limitations in conjunction with accessory service uses are not carried forward. Change since 7/1/2019 draft: Replaced requirement for a minimum of 30,000 sq. ft., consistent with revisions throughout.
[680] This carries forward provisions in Sections 6-106, 6-206, and 6-505. Standard relating to signs was not carried over because general signage standards apply.
[681] This carries forward provisions in Sections 6-106 and 6-206, but the reference to "automobile-related" uses is deleted.
[682] This carries forward provisions in Sect. 6-505.
[683] This section carries forward Sect. 9-518.

**(c)** A maximum of 15 rental vehicles may be stored on-site. Vehicles must be parked in parking spaces that comply with the design standards in the Public Facilities Manual; and

**(d)** Maintenance, refueling, and washing of the rental vehicles on-site are prohibited.[684]

**Standards when permitted by special exception:**

**(2)** Vehicle rentals, but not vehicle sales, are allowed in the C-3, C-4, I-3, I-4, and I-5 Districts and in the PRC District when shown on a development plan or with special exception approval as indicated in Table 4101.2, when the use complies with the following standards:[685]

**(a)** Rentals are limited to the rental of automobiles and passenger vans. Rental of trucks or other vehicles is not allowed;

**(b)** A maximum of 25 rental vehicles may be stored on-site. Vehicle storage is limited to that portion of the site designated on the special exception plat for the storage of rental vehicles; and

**(c)** Maintenance and refueling of the rental vehicles on-site are prohibited.

**(3)** In the PDC, PRM, and PTC Districts, vehicle sales and rental are allowed with final development plan or special exception approval. All vehicle display and storage must be located within an enclosed building or parking garage and any ancillary service establishment use must be located within a completely enclosed building.[686]

**(4)** Any sales room, rental office, or service facility must be entirely enclosed within a building.

**(5)** The use must have safe and convenient access to a street, and ingress and egress must be provided only through driveway openings as approved by the Director in accordance with the Public Facilities Manual.

**(6)** All structures are subject to the bulk regulations of the zoning district in which they are located, except structures that are completely underground may be located in any yard but must be located a minimum of one foot from all lot lines.

**(7)** Outdoor areas devoted to storage, loading, parking, and display are limited to the portion of the site designated for such activities. Such areas must comply with the following standards:[687]

**(a)** The areas must be located on the same lot with and ancillary to a sales room, rental office, or service facility;

**(b)** Except loading areas, if located on the ground and open to the sky, the areas may be located in any yard, provided, the areas must be located a minimum of ten feet from any front yard lot line, except as may be qualified by the provisions of Section 5108;

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[684] Change since 6/30/2020 draft: Subsection (1) is new to allow for "urban" car rental based on emerging trends.
[685] Change since 6/30/2020 draft: Deleted the reference to the C-6, C-7, and C-8 Districts, consistent with Par. 7 of Sect. 9-518.
[686] Change since 7/1/2019 draft: Revised to indicate that special exception approval does not require the use to be shown on the FDP.
[687] This extends the requirements to loading areas, whereas currently only subsection (a) applies to loading areas.

**(c)** If located contiguous to a street, the areas must have a curb between the area and the street;

**(d)** The areas, including aisles and driveways, must be constructed and maintained with an approved surface in accordance with subsection 6100.2.C(3)(a), and must be improved in accordance with construction standards presented in the Public Facilities Manual; and

**(e)** The storage or display of vehicles that are not in operating condition is not allowed.

### QQ. Vehicle Transportation Service

**Standards when permitted by right or by development plan or PRC plan:**

**(1)** In the C-6, C-7, C-8, PDC, PRC, PRM, and PTC Districts, a vehicle transportation service must comply with the following standards:[688]

**(a)** A maximum of five company vehicles are allowed on-site at any given time.

**(b)** Maintenance and refueling of vehicles on-site are not allowed.

**(c)** Except in the PTC District, transitional screening and barriers must be provided in accordance with use group #9, not use group #15.

**(2)** In the I-4 District, all storage of vehicles and activities associated with a vehicle transportation service must be conducted within a completely enclosed building.[689]

**Standards where permitted by special exception:**

**(3)** In a Commercial Revitalization District, a vehicle transportation service requires a special exception in the C-6, C-7, and C-8 Districts.

## 6. Industrial Uses

### Freight Movement, Warehousing, and Wholesale Distribution

### A. Data Center[690]

**Standards applicable to all data centers:**

**(1)** In all districts except the I-4, I-5, and I-6 Districts, all equipment necessary for cooling, ventilating, or otherwise operating the facility must be contained within an enclosed building where the use is located. This includes emergency power generators and other emergency power supply equipment.

**(2)** In the C-3 and C-4 Districts, the maximum size is 40,000 square feet in gross floor area. However, this size limit may be exceeded:

[688] This carries forward provisions in Sections 4-605, 4-705, 4-805, 5-405, 6-206, 6-305, 6-406, and 6-505 that pertain to this use. Change since 7/1/2019 draft: Carried forward use-specific transitional screening and barrier standard.
[689] This carries forward that portion of Sect. 5-405 that pertains to this use.
[690] These standards are new. Change since 6/30/2020 draft: Expanded the requirement to enclose emergency power generators and emergency power supply equipment from just the C-3 and C-4 Districts to all districts except the I-4 through I-6.

**(a)** If the use is located in a building existing on [*insert effective date of this Ordinance*]; or

**(b)** With special exception approval in accordance with subsection 8100.3.

**(3)** In the I-2 and I-3 Districts, the maximum size is 80,000 square feet in gross floor area. However, this size limit may be exceeded:

**(a)** If the use is located in a building existing on [*insert effective date of this Ordinance*]; or[691]

**(b)** With special exception approval in accordance with subsection 8100.3.

## B. Goods Distribution Hub[692]

### Standards when permitted by right or by development plan:

**(1)** Vehicles associated with the use are subject to the following standards:

**(a)** The use of semitrailers, including tractor or trailer units, or any vehicle that exceeds 28 feet in length to deliver goods from the facility is prohibited; and

**(b)** No more than five vehicles that exceed 21 feet in length may be stored on-site in surface parking lots. The on-site storage of semitrailers, including tractor trailer units, or any vehicle that exceeds 28 feet in length is prohibited.

**(2)** Except as otherwise provided in subsection (3) below, the goods distribution hub may not exceed is 6,000 square feet of gross floor area in the C-3, C-4, and C-5 Districts, or 10,000 square feet of gross floor area in the C-6, C-7, C-8, PDC, and PTC Districts.

**(3)** When located in a building existing on [*insert effective date of this Ordinance*], the maximum gross floor area of the goods distribution hub may exceed the maximum gross floor areas in subsection (2) above, up to a total of 80,000 square feet of gross floor area for the entire site, including all buildings in a shopping center, if a minimum of ten percent of the gross floor area of each building housing a goods distribution hub is used for retail sales or other activities characterized by in-person interaction with the public.

### Standards when permitted by special exception:

**(4)** The Board may approve a special exception for an increase in the size of a goods distribution hub above that specified in subsection (3) above, and for an increase in the number or size of delivery vehicles stored on-site specified in subsection (1)(b) above.

**(5)** Retail sales accessible to customers must be provided and arranged to maintain the commercial nature of the district.

**(6)** The layout and architecture must be designed to be compatible with surrounding buildings and to minimize the impacts of building bulk through variations in roof lines, variations in building setbacks, landscaping, enhanced architectural treatments to all sides of a building, windows, or other methods.

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[691] Change since 6/30/2020 draft: Added the ability to have a larger size with repurposing, consistent with the proposed standard for the C-3 and C-4 Districts.

[692] These standards are new. Change since 6/30/2020 draft: Added limits on the storage of vehicles; added provisions for repurposing of existing buildings; and added SE for an increase in size with repurposing and for storage of vehicles.

**(7)** The number, location, and screening of distribution vehicles stored on-site must be consistent with the commercial nature of the district.

**(8)** The use must comply with subsection (1)(a) above. The site must be designed to facilitate safe and efficient on-site circulation, parking, and stacking of vehicles.

## C. Self-Storage[693]

### Standards applicable to all self-storage:

**(1)** Incidental retail sale of storage-related items, including, but not limited to, boxes and packing tape, is permitted.[694]

**(2)** In the I-3 District, self-storage is permitted by right if it complies with the following: [695]

**(a)** Loading and unloading areas must be located, screened, or fully enclosed to minimize the potential for adverse impacts on adjacent property. All other activities associated with the use must be conducted completely indoors in a minimum three-story structure;

**(b)** No individual storage bay doors, storage items, or lighted hallways along the lengths of the building façades may be visible from the outside of the storage structure; and

**(c)** Incidental parking or storage of motor vehicles, including trucks, trailers, or moving vans, is not permitted, except for purposes of loading and unloading. Parking or storage of vehicles is allowed in conjunction with a self-storage facility if approved as part of a special exception for a storage yard in accordance with 4102.6.I.[696]

**(3)** In the PDC and PTC Districts, self-storage must comply with the following:

**(a)** Loading and unloading areas must be located, screened, or fully enclosed to minimize the potential for adverse impacts on adjacent property. All other activities associated with the use must be conducted completely indoors in a multistory structure;

**(b)** All storage must be within a building that is office-like in appearance and harmonious in color and design with that of the surrounding development so as to minimize any adverse visual impact;

**(c)** No individual storage bay doors, storage items, or lighted hallways along the lengths of the building façades may be visible from the outside of the storage structure;[697]

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[693] This carries forward Sections 9-514, 6-206.14, and 6-505.16, with modifications. The limitation to "dead storage" is not carried forward. The prohibition of loading docks in Sect. 9-514 is not carried forward. Instead, a new standard for loading and unloading areas is included.

[694] This is a new standard.

[695] These standards for the I-3 District are included because the permission is changed from SE to P. They are based on current SE standards and standards for the PDC and PTC Districts. Change since 6/30/2020 draft: Removed requirement to be "office-like in appearance" because of concerns that the standard was too subjective and would be difficult to apply to a by right use.

[696] Change since 6/30/2020 draft: The parking or storage of vehicles would now be permitted with special exception approval of a storage yard in the I-3 District.

[697] The prohibition on lighted hallways applicable to the PTC District has been added to the PDC District.

**(d)** The site must be designed to facilitate safe and efficient on-site circulation and parking;

**(e)** Signage must be in scale and harmony with the surrounding development so not to detract from the desired character of the area, as described in the purpose of the zoning district and any established development plans for the area; and

**(f)** Incidental parking or storage of motor vehicles, including trucks, trailers, or moving vans, is not permitted, except for purposes of loading and unloading. Truck, trailer, or van rentals may not be conducted from the site.

**Standards when permitted by special exception:**

**(4)** All storage must be within a completely enclosed building.

**(5)** Loading and unloading areas must be located, screened or fully enclosed to minimize the potential for adverse impacts on adjacent property.

**(6)** Incidental parking or storage of motor vehicles, including trucks or moving vans is not allowed, except for purposes of loading and unloading, or if approved as a part of a truck rental establishment.

## D. Warehouse[698]

**Standards when permitted by right:**

Retail sales to the general public are allowed as an accessory use, in accordance with the following limitations:

**(1)** In the I-4 District, a maximum of 25 percent of the gross floor area of the establishment or 5,000 square feet, whichever is smaller, may be used for retail sales.

**(2)** In the I-5 and I-6 Districts, retail sales may be permitted if a minimum of 60 percent of the gross floor area of the facility is devoted to warehouse use that is not display area.

## E. Wholesale Facility[699]

**Standards when permitted by right or by development plan:**

**(1)** Retail sales to the general public are allowed only as an accessory use. A maximum of 10 percent of the gross floor area of the establishment or 1,000 square feet, whichever is smaller, may be accessible to the general public for retail sales.

**(2)** In the I-2 and I-3 Districts, a wholesale facility may be permitted as incidental and accessory to a permitted, special exception, or special permit use.

**Standards when permitted by special exception:**

**(3)** In addition to the standard in subsection (1) above, all business, service, storage, and display of goods must be conducted within a completely enclosed building.

[698] Consolidates standards from Sections 5-405.3, 5-505.4, and 5-605.3.
[699] Consolidates standards from Sections 5-205.3, 5-305.3, 9-519, and the definition in Article 20.

# Industrial Services and Extraction of Materials

## F. Contractor's Office and Shop[700]

### Standards when permitted by right or by development plan:

**(1)** Retail sales to the general public are allowed only as an accessory use. A maximum of 10 percent of the gross floor area of the establishment or 1,000 square feet, whichever is smaller, may be accessible to the general public for retail sales.

**(2)** In the PTC District, a contractor's office and shop and all associated operations and activities, including the storage of materials and company vehicles, is permitted only when contained within a building or parking structure.

## G. Extraction Activity[701]

### Standards when permitted by special permit:

**(1)** Any extraction activity must comply with the following standards:

**(a)** The minimum lot area is 20 acres. This requirement, however, does not preclude the approval of a permit to enlarge or extend an existing extraction activity use onto contiguous land containing less than 20 acres;

**(b)** With the exception of stone quarrying and related grading activity, the grading, mining, excavating, removal of trees, and any other disturbance of natural vegetation is not permitted:

***1.*** Within 200 feet of contiguous property subdivided into residential lots of one acre or smaller not under the ownership or control of the applicant; or

***2.*** Within 250 feet of an occupied dwelling;

**(c)** Exceptions to the setbacks established in subsection (b) above for all uses except stone quarrying may be granted by the BZA if:

***1.*** The application includes a notarized letter, signed by the owner of the adjacent property, indicating approval of the encroachment; and

***2.*** The BZA determines that the ultimate grades of the proposed encroachment are suitable for future development of the property in accordance with the Comprehensive Plan for that area;

**(d)** All natural resource extraction, quarrying, and related operations must comply with provisions in subsection 5104.2 relating to erosion and sedimentation;

**(e)** No building or structure used in connection with such an operation, except buildings for office and administrative purposes only, may be located within 200 feet of (a) the right-of-way of any public street or (b) any adjoining property. Buildings devoted solely to office and administrative uses may be located not less than 100 feet from the right-of-way of a public street or adjoining property when specifically approved as part of the special permit;

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[700] Carries forward Sect. 6-505.17 and portions of the definition in Sect. 20-300. Standards for outdoor storage are included in Sect. 4102.1, General Standards.

[701] This carries over Sect. 8-105. Application requirements included in Sect. 8-103 through 8-104 are included in Article 8.

**(f)** In conjunction with all extraction activity uses except stone quarrying, no washing, crushing, processing or similar operation may be conducted within 200 feet of the right-of-way line of any public street or any adjoining residential property;

**(g)** In conjunction with a stone quarry, no washing, crushing, processing or similar operation may be conducted within 200 feet of the right-of-way of any public street or a safe distance to be established by the BZA from any adjoining occupied dwelling. No stone quarrying or related grading activity, except restoration work, may be permitted within 150 feet of contiguous property subdivided into residential lots of one acre or smaller, not owned or controlled by the applicant, or the right-of-way of any public street;

**(h)** An exception to the setbacks established in subsection (g) above may be granted by the BZA if the application for special permit approval includes a notarized letter, signed by the owner of the adjacent property, indicating approval of the encroachment;[702]

**(i)** The top of all open excavations having a depth of ten feet or more which creates a slope of 45 degrees or more from the horizontal edge and remains for a period of more than 24 hours, must be enclosed by a substantial fence erected at least 50 feet outside the excavation. The fence must have a minimum height of six feet and must effectively control access to the excavation;

**(j)** All operations are limited to the hours of 7:00 AM to 6:00 PM. However, the BZA may modify the hours to permit loading and delivery after 6:00 PM if the BZA determines the modification will not adversely impact the surrounding area;

**(k)** All settlement ponds used in connection with an operation, except those entirely within a fenced area required by subsection (i) above, must be enclosed by a chain link fence having a minimum height of six feet and having an arm extending 18 to 24 inches above the chain link portion of the fence that includes at least three strands of four barb barbed wire. The fence must have a locked gate at all access points;

**(l)** All vehicles used to transport excavated material must be loaded in a way that prevents the unintentional discharge of material from the vehicle. Trucks must be cleaned of all material not in the load-bed before entering the public streets;

**(m)** Existing trees and ground cover along public road frontage must be preserved, maintained, and supplemented by selective cutting, transplanting, and addition of new trees, shrubs, and other ground cover for the depth of the roadside setback;

**(n)** Roadside landscaping must be provided to reflect the purpose of the natural resource area and protect it from becoming an eyesore, to dampen noise from the operation of equipment, and to absorb dust that might result from the extraction activity; and

**(o)** Extraction activity is subject only to the following performance standards. They are not subject to subsection 5102.

***1.*** No blasting is permitted except in conjunction with a permit for stone quarrying;

[702] Par. 7 of Sect. 8-105 is not carried forward because it refers to quarries prior to the effective date of the 1978 Ordinance. Nonconforming provisions would continue to apply.

***2.*** Blasting vibration is limited to a maximum resultant peak particle velocity of 1.5 inches per second in the earth as measured at any occupied structure not on quarry property. In addition, the BZA may further limit such blasting vibration where it makes a finding that the density of population in the area warrants additional protection;

***3.*** Earth vibration produced from sources other than blasting must not exceed 0.05 inches per second at any occupied structure not on the property;

***4.*** The peak over-pressure (noise) from any blast is limited to 0.0092 pounds per square inch (130 decibels) at any occupied structure not on the property; and

***5.*** Airborne noise produced from sources other than blasting must not exceed, at any structure not on the property, 10dB(A) above the ambient in residential districts and/or 16dB(A) in commercial districts.

**(2)** Special permits for extraction activity are subject to the following procedural requirements:[703]

**(a)** The special permit application will be approved or denied after a complete application is filed by the applicant except as extended by the Zoning Administrator for good cause. This period will be suspended during any time when the application is returned to the applicant for the furnishing of further information;

**(b)** The BZA may grant a special permit for a stone quarry for a period not to exceed five years. Such special permit may be extended in accordance with the provisions of subsection 8100.4.D(3) for a period not to exceed five years. Only one such extension may be granted, and at the end of a ten-year period, a permit may be renewed in accordance with the provisions of subsection 8100.4.D(3);

**(c)** The BZA may grant a special permit for all other extraction uses, except a stone quarry, for a period not to exceed two years. Such permit may be extended in accordance with the provisions of subsection 8100.4.D(3) for not more than one additional two-year period;

**(d)** Natural resource related operations and uses approved under any previous ordinance for which an expiration date has been established, either by that previous ordinance or by a condition placed by the BZA, expire on such date and may only be renewed or extended in accordance with this Ordinance;

**(e)** The Zoning Administrator must make an annual inspection of each extraction use and must make a report of the findings to the BZA. The report must include the following:

***1.*** A statement of whether the operation complies with the requirements of the special permit;

***2.*** A statement of changes which have occurred in the vicinity since the granting of the application, such as new development in the area; and

***3.*** A statement on the condition of the roads in the area which might indicate the spillage of material from trucks; and

[703] Change since 7/1/2019 draft: This carries forward Sect. 8-104.

**(f)** As a result of the annual inspection, the Zoning Administrator may find it necessary, for the health, safety, and welfare of the general public, to recommend additional restrictions and limitations on such use. In such event, the Zoning Administrator must transmit the findings to the BZA which will hold a public hearing following notice in accordance with subsection 8100.1.B(1).

### H. Petroleum Products Storage Facility[704]

**Standards when permitted by special exception:**

The Board may approve a special exception if it determines that the proposed location of the facility is necessary for the rendering of efficient utility service to consumers within the immediate area.

### I. Storage Yard[705]

**Standards when permitted by special exception:**

**(1)** In the I-3 and I-4 Districts, a storage yard limited to vehicle storage is permitted by special exception only when associated with self-storage. The storage of semitrailers, including tractor or trailer units, is not permitted.

**(2)** The Board may impose additional conditions regarding the type of vehicles stored and the size, location, and screening of the outdoor storage area.

### J. Vehicle Storage or Impoundment Yard[706]

**Standards when permitted by right:**

**(1)** In the I-4 District, vehicle storage and impoundment facilities must be conducted only within a completely enclosed building.

**(2)** In the I-5 District, no more than five inoperative vehicles may be located outside.[707]

## Production of Goods

### K. Craft Beverage Production Establishment[708]

**Standards when permitted by right or by development plan or PRC plan:**

**(1)** Storage of materials used in the production process is permitted only within a completely enclosed structure.

**(2)** A maximum of 15 percent of the square footage of the area accessible to the public or 250 square feet, whichever is larger, as evidenced by submission of a floor plan, may be used for accessory entertainment, as determined by the Zoning Administrator. Entertainment may include dancing, live entertainment including recorded music with a

[704] This carries forward Paragraph 4 of Sect. 9-204.
[705] Change since 6/30/2020 draft: These are new standards.
[706] This carries forward Sect. 5-405.4.
[707] Change since 6/30/2020 draft: New standard to carry forward the current limitation in the definitions of automobile graveyard and junkyard. Change since 11/24/2020 draft: Replaced inoperable with inoperative.
[708] This carries forward Sections 4-505.11, 4-605.13, 4-705.15, 4-805.17, 5-305.8, 5-405.9, 5-505.10, 5-605.9, 6-206.16, 6-305.15, 6-406.14, 6-505.20.

DJ, or other similar uses. Any entertainment activity that exceeds these limitations is considered public entertainment.[709]

**(3)** In the C-5, C-6, C-7, C-8, PDC, PRC, PRM, and PTC Districts, craft beverage production establishments are permitted by right in accordance with the following:

**(a)** Production is limited to not more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually; however, the Board may approve other production limits in conjunction with the approval of a development plan for the PDC, PRC, PRM, or PTC District;

**(b)** In the C-5, C-6, C-7, and C-8 Districts, production activities and the area devoted to such activities must be accessory to an on-site tasting room; and

**(c)** In the PDC, PRC, PRM, and PTC Districts, the establishment must include an on-site tasting room.

**(4)** In the I-3, I-4, I-5, and I-6 Districts, craft beverage production establishments are permitted by right in accordance with the following:

**(a)** A tasting room, consisting of up to 30 percent of the total gross floor area of the establishment, for the consumption of products produced on-site may be permitted as an accessory use. Any food served must be as an accompaniment to those products produced on-site and is limited to pre-packaged food items or food items that require limited preparation or reheating;

**(b)** Parking for the portion of the establishment devoted to production activities must be provided in accordance with the parking requirements for a manufacturing establishment in accordance with subsection 6100.3.E. Parking for a tasting room must be provided in accordance with the requirements for a craft beverage production establishment in accordance with subsection 6100.3.E; and

**(c)** Retail sales may be permitted as an accessory use, as long as the associated retail sales area is limited to 10 percent of the gross floor area of the establishment.

## L. Production or Processing

### Standards when permitted by right:

**(1)** In the I-3 District, establishments for printing, food and beverage manufacturing, and bulk storage of flammable materials for resale are not allowed.[710]

**(2)** In the I-4, I-5, and PTC Districts, bulk storage of flammable materials for resale is not allowed.[711]

**(3)** In the I-3 through I-6 Districts, production or processing may include accessory retail sales as long as the retail sales area is limited to 10 percent of the gross floor area of the establishment or 1,000 square feet, whichever is smaller.[712]

[709] The standard for accessory entertainment with a restaurant is added to the craft beverage production use.
[710] This is carried forward from Sect. 5-302.5.
[711] This is carried forward from Sections 5-402.7, 5-502.7, and 6-502.11.
[712] This carries forward Sections 5-405.3.B , 5-505.4.B, and 5-605.3.B , extends the ability to have accessory retail sales to the I-3 district, and adds the 1,000 square foot supplement to the 10% retail limit to the I-5 and I-6 Districts.

## M. Production or Processing, Heavy[713]

### Standards when permitted by special exception:

The Board may establish additional yard requirements, landscaping and screening requirements, and other requirements in approving the special exception to ensure compatibility with the surrounding community.

## N. Small-Scale Production Establishment[714]

### Standards when permitted by right or by development plan or PRC plan:

**(1)** The maximum size of an individual small-scale production establishment is as follows, based on the district where it is proposed to be located:

| Zoning District | Maximum Gross Floor Area (square feet) |
|---|---|
| C-3, C-4, C-5, C-6 | 6,000 |
| C-7, C-8, I-3 | 10,000 |
| PDH, PDC, PRC, PRM | 10,000 or as modified by the Board in conjunction with the approval of a development plan |

**(2)** In the PDH District, the use may be located in commercial areas only as shown on an approved final development plan.

**(3)** The maximum size established in subsection (1) does not preclude the location of more than one establishment per lot.

**(4)** The use may not include the bulk storage of flammable materials for resale.

**(5)** Storage of materials and production activities must be located within a completely enclosed structure. The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards.

**(6)** A small-scale production establishment may not include heavy industrial activities as described in the definition of heavy production or processing.

**(7)** In the C-5, C-6, C-7, C-8, PDH, PDC, PRC, and PRM Districts, a small-scale production establishment must include accessory retail sales or another accessory component that provides direct interaction with the public. For food or beverage production, this requirement may be satisfied by an accessory carryout restaurant that is subordinate and incidental to the commercial production, and where the counter and customer waiting and seating areas do not exceed ten percent of the gross floor area of the establishment. This requirement may also be satisfied by a retail sales establishment or a restaurant or carryout restaurant that is established and parked as a separate principal use.

**(8)** In the I-3 District, retail sales may be permitted as an accessory use, if the associated retail sales area is limited to ten percent of the gross floor area of the establishment.

[713] This carries forward Par. 2 of Sect. 9-511.

[714] This carries forward standards in Sections 4-305, 4-405, 4-505, 4-605, 4-705, 4-805, 5-305, 6-106, 6-206, 6-305, and 6-406. Off-street parking requirements are in Article 6: Parking and Loading.

## Waste and Recycling Facilities

### O. Mixed Waste Reclamation Facility[715]

**Standards when permitted by special exception:**

All mixed waste reclamation facilities must comply with the siting, design, construction and operating standards of the Virginia Department of Environmental Quality Solid Waste Management Facility Standards for Materials Recovery Facilities.

### P. Recycling Center[716]

**Standards when permitted by-right:**

**(1)** No recycling center may receive, store, process or transfer any material other than source-separated nonputrescible or source-separated commingled nonputrescible metal, glass, paper, or plastic containers, corrugated cardboard, or other recyclable materials designated by the Director of the Department of Public Works and Environmental Services or designee.

**(2)** In the I-5 District, a recycling center may not have outdoor storage.

### Q. Solid Waste Disposal Facility[717]

**Standards when permitted by special exception:**

**(1)** The Board may approve a special exception if it determines that the proposed location of the facility is necessary for the rendering of efficient utility service to consumers within the immediate area.

**(2)** No land or building in the R-E, R-1, R-2, I-2, I-3, or I-4 Districts may be used for the storage of materials or equipment, for the repair or servicing of vehicles or equipment, or for the parking of vehicles except those needed by employees connected with the operation of the immediate facility.

**(3)** In the R-E, R-1, and R-2 Districts, this use is limited to landfills only.

**(4)** The following standards apply to all applications for special exception approval of landfills, including but not limited to those that are part of a solid waste treatment facility, which are not owned or operated by a public agency.

**(a)** A special exception for a landfill is not valid unless the Virginia Department of Environmental Quality approves the site for landfill use;

**(b)** Every special exception for a landfill is deemed to incorporate all other provisions of law related to the use as specific conditions;

**(c)** Unacceptable pollutants must not be introduced into surface or groundwater or otherwise cause a potential health hazard. This must be demonstrated through comprehensive soil and groundwater investigations and subsequent design methods to the satisfaction of the County;

[715] This carries forward Sect. 9-523.
[716] This carries forward Sections 5-505.3, 5-505.7, and 5-605.6.
[717] This carries forward Sect. 9-205 and the limitation of use to landfills only in the R-E, R-1, and R-2 Districts.

**(d)** All landfills are subject to any additional regulations adopted by the Board. The Board may limit the type of debris and materials to be deposited and may require a degree of soil compaction adequate to support ultimate use of the property in accordance with the Comprehensive Plan;

**(e)** The Board will establish the amount, per acre and total, of surety adequate to guarantee the planned restoration;

**(f)** The Director will make an annual inspection of each landfill and will make a report of the findings to the Board. The report must include the following:

***1.*** A statement of whether the operation is in compliance with all of the requirements of the special exception;

***2.*** A statement of changes that have occurred in the vicinity since the granting of the application, such as new development in the area; and

***3.*** A statement on the condition of roads in the area that might indicate the spillage of materials from trucks;

**(g)** As a result of the annual inspection, the Director may find it necessary, for the health, safety and welfare of the general public, to recommend additional restrictions and limitations on the use. If so, the Director will transmit the findings to the Board, which will hold a public hearing, following notice in accordance with subsection 8100.1.B(1);

**(h)** Upon completion of operations, the land must be left in a safe condition and in such a state that it can be used for development of the property in accordance with the Comprehensive Plan. Sufficient drainage improvements must be provided to prevent water pockets or erosion, and such improvements must be designed in accordance with plans and specifications approved by the Director in conformance with the Public Facilities Manual. Where restoration has not been accomplished, or where the restoration was not done in conformance with the approved restoration plan, the Director will take appropriate action, including demand for performance or payment by the surety on the bond; and

**(i)** No improvements may be constructed in or upon any landfill for a period of 20 years after the termination of the landfill operation without the approval of the Board. No such approval may be granted unless the applicant demonstrates that:

***1.*** Any residual post-construction settlement will not affect the appearance or structural integrity of the proposed improvement; and

***2.*** The nature and extent of corrosion-producing properties, the generation and escape of combustible gases and potential fire hazards of the constituent material, considering its state of decomposition, has been provided for adequately and will not create an unsafe or hazardous condition in or around any of said proposed improvements.

# 7. Accessory Uses[718]

## A. General Standards for Accessory Uses and Structures[719]

### (1) Generally Permitted

Unless qualified by another provision of this Ordinance, accessory uses and structures, as defined in Article 9, are permitted in any zoning district, subject to the standards in this subsection 4102.7.

### (2) Relation to Principal Use

(a) Accessory uses and structures are allowed only in connection with, incidental to, and on the same lot with a principal use or structure which is permitted within the district where the accessory use or structure is located.

(b) No accessory structure may be occupied or used unless the principal structure to which it is accessory is occupied or used.

(c) If an accessory structure is designed as a cohesive part of the principal building and has direct access to the principal building through an interior space that is fully enclosed, it is considered part of the principal building and must comply with the principal building setbacks, except as permitted to extend by subsection 5100.2.D(5).[720]

### (3) Must Comply with District Use Standards

All accessory uses and structures must comply with the use standards applicable in the zoning district where they are located.

### (4) Height[721]

All accessory uses and structures must comply with the maximum height regulations applicable in the zoning district where they are located, except as may be qualified by another ~~S~~subsection of this Zoning Ordinance. For the purposes of determining height, unless otherwise specified by another provision in this Ordinance, the height of an accessory structure is measured from the highest point of the structure to the lowest

[718]This section generally integrates provisions from Article 10 and Article 2. The category of accessory service uses is not carried forward, but is instead replaced by associated service use standards in Sect. 4102.G. Some provisions in Article 10 are located in other parts of the reorganized zoning ordinance (e.g., standards for off-street parking are located in Article 6: Parking and Loading, and standards for outdoor lighting are located in Article 5: Development Standards). Standards for "guest house or rooms for guest in an accessory structure" are not carried forward separately, consistent with the current interpretation that such a use or structure is allowed subject to the general standards for accessory uses and structures.

[719] This carries over Sect. 10-101 and Sect. 10-103, with some wording revised for clarity, as well as various other provisions from Article 10 and Article 2. Some provisions are not included in this section because they are located elsewhere in the reorganized zoning ordinance, such as outdoor lighting provisions and yard encroachment provisions (now located in Article 5). Change since 6/30/2020 draft: Several paragraphs have been reordered in this section.

[720] Change since 7/1/2019 draft: This standard is new to clarify when a structure is considered accessory for the purpose of setbacks and other regulations.

[721] The exceptions to the maximum height regulations in this section have been relocated to Sect. 5-100, Lot, Bulk, and Open Space Regulations.

point of finished ground level adjacent to the structure, as specified in the definition of grade in Article 9.

### (5) Rear Setback Coverage Limitations

The following limitations on coverage of the minimum rear setback apply to any lot developed with a single-family detached dwelling:[722]

**(a)** Unless otherwise approved in accordance with subsection (e) below, all accessory structures and uses may cumulatively cover no more than:

***1.*** 30 percent of the minimum rear setback on any lot located in a conventional residential district;

***2.*** 50 percent of the minimum rear setback on any lot located in a planned district and containing more than 5,000 square feet of land area, unless otherwise specified on an approved development plan or in a proffered or development condition; or

***3.*** 75 percent of the minimum rear setback for a lot located in a planned district and containing no more than 5,000 square feet of land area, unless otherwise specified on an approved development plan or in a proffered or development condition.

**(b)** Coverage of the minimum rear setback includes the following (see Figure 4102.1: Determining Coverage):

[722] This carries forward Par. 3 of Sect. 10-103. The illustrations are integrated from Appendix 2.

1. Any fully or partially roofed freestanding accessory structure, such as a garage, shed, gazebo, and other similar structure, including any horizontal projection;
2. Any other freestanding accessory structure, including any children's play equipment, sports court, pool and associated decking, and any other similar structure measured around the perimeter of the outermost horizontal extensions of the equipment, structure, or surface;
3. Any horizontal projection from the principal dwelling that touches the ground, such as a chimney, stair, stoop, HVAC equipment, patio, deck and other similar projection. However, any horizontal projection from the principal dwelling that does not touch the ground (other than the support posts for a deck), including an eave, bay window, open deck, or other similar projection is not included in the minimum rear setback coverage;
4. Any driveway, parking space, walkway and sidewalk greater than five feet in width, regardless of the surface or edging material used.

(c) Any portion of the minimum rear setback covered by an approved encroachment of the principal dwelling is not

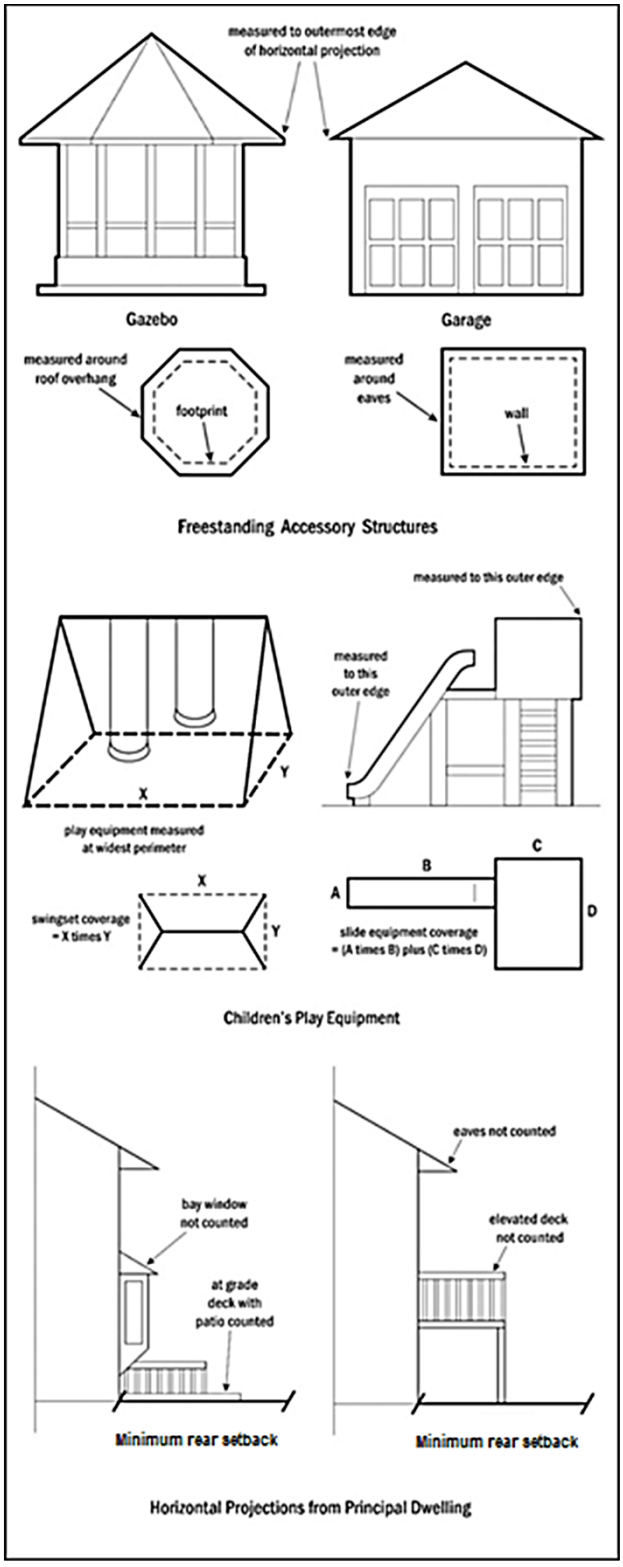



Figure 4102.1: Determining Coverage

included in the rear setback calculation (see Figure 4102.2: Approved Portions of Principal Dwelling).

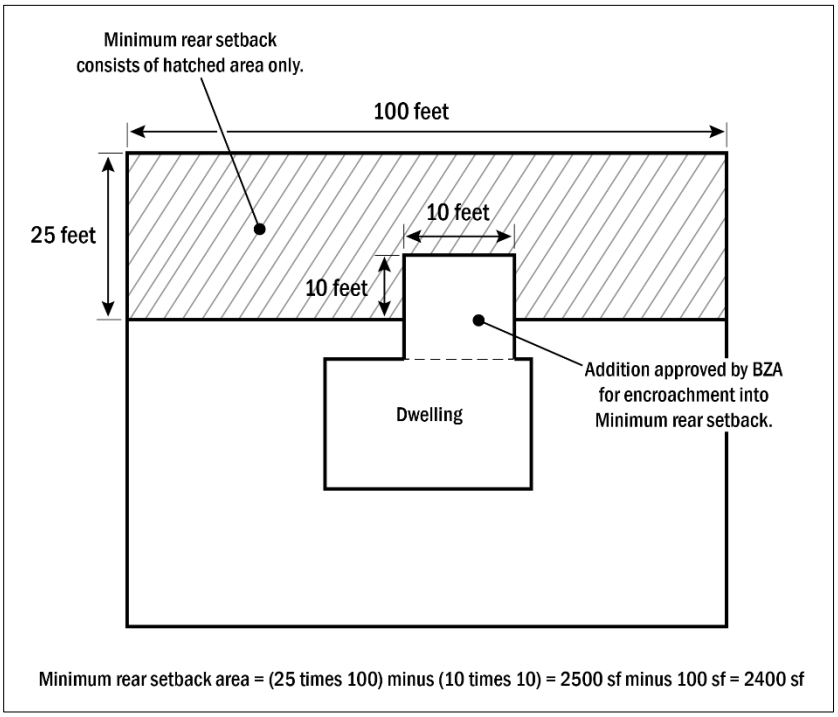



**Figure 4102.2: Approved Portions of Principal Dwelling**

**(d)** For purposes of this provision, for any single-family detached lot in a planned district that is not subject to a proffered condition establishing minimum rear setbacks, the minimum rear setback will be governed by the setbacks for a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the Zoning Administrator or the existing distance to the lot line established by the location of the dwelling on the lot, whichever is less.[723].

**(e)** An increase in the limitations on coverage of the minimum rear setback in subsection (a) above may be permitted by special permit in accordance with subsection 8100.4, except where the lot is located in a planned district that is subject to proffered yards, in which case an amendment to the development plan is required. Approval of the special permit by the BZA is subject to the following:[724]

***1.*** The maximum percentage of the minimum rear setback that may be covered by accessory structures and uses is 60 percent;

***2.*** All accessory structures and uses located on the property must be clearly subordinate in purpose, scale, use, and intent to the principal dwelling;

[723] Change since 7/1/2019 draft: Clarified that the setbacks for a cluster subdivision will be used, and added the minimum distance to the lot line, consistent with revisions in Article 5.
[724] This carries forward Sect. 8-926, except application requirements are located in Article 8.

3. The BZA determines that the existing or proposed accessory structures and uses on the property are harmonious with the surrounding off-site uses and structures in terms of the location, height, bulk, and scale of the surrounding structures, topography, existing vegetation, and the preservation of trees;
4. The BZA determines that the existing or proposed accessory structures and uses on the property will not adversely impact the use or enjoyment of any adjacent property;
5. The BZA determines that the proposed increase in the minimum rear setback coverage is appropriate to accommodate the existing or proposed accessory structures and uses on the lot. Specific factors to be considered include, but are not limited to, the location of the dwelling on the lot; the shape of the lot and its yards; the layout of existing or proposed accessory structures and uses; the availability of alternate locations for the existing or proposed accessory structures and uses outside of the minimum rear setback; the characteristics of the site, including the presence of steep slopes, floodplains, or Resource Protection Areas; the preservation of existing vegetation and significant trees; the location of a well or septic field; the location of easements; and the preservation of historic resources; and
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to, limitations on the maximum sizes or specific locations of existing or proposed accessory structures and uses, and landscaping or screening requirements.

### (6) General Standards for Freestanding Accessory Structures[725]

Unless otherwise specified, freestanding accessory structures, such as sheds, garages, gazebos, and treehouses and other recreational equipment, must comply with the following standards:[726]

#### (a) Location in Front Yard

1. On a lot that is larger than 36,000 square feet, accessory structures, except for composting, may be located in the front yard but may not be located in the minimum front setback as specified in the applicable zoning district regulations, except as listed in subsection 3 below.
2. On a lot that is 36,000 square feet or less, accessory structures may not be located in the front yard, except as listed in subsection 3 below.

[725] This carries forward and consolidates Paragraphs 10 and 12 of Sect. 10-104 and Par. 25 of Sect. 10-102, with revisions: (i) the reference to a statue in Par. 12C of Sect. 10-104 is replaced by a reference to the definition of landscaping; (ii) a new maximum height without SP approval for structures accessory to single-family dwellings; (iii) a new side and rear setback of 5 feet for structures between 8.5 – 12' in height; (iv) a revised rear setback for structures greater than 12 feet; (v) a new cumulative maximum square footage of 50% of the principal dwelling for all accessory structures on the lot without SP approval; (vi) a revised side setback for basketball standards and deletion of the hours; and (vii) deletion of the 200 sq. ft. size limit for sheds. Par. 1 of Sect. 10-104, which requires that wall and roof attachments comply with the bulk standards for the principal structure, is deleted.

[726] Change since 7/1/2019 draft: Pools have been deleted from this list and a new subsection (13) added below. Change since 6/30/2020 draft: added "treehouse" as an example of a freestanding accessory structure.

**3.** Only the following freestanding accessory structures or uses may be located in a front setback as specified in subsection 1 above, or a front yard as specified in subsection 2 above, unless otherwise allowed by another provision of this Ordinance:

***a.*** Landscaping (see Article 9);[727]

***b.*** Basketball standard, which may be located no closer than 15 feet to any front lot line or street line, and no closer than 12 feet to any side lot line or a distance equal to the minimum side setback, whichever is less (see Figure 4102.3: Basketball Standard Setbacks);[728] and

***c.*** Gardening not to exceed a maximum area of 100 square feet and located no closer than 15 feet to any front lot line or street line (see Figure 4102.4: Garden Setbacks). Composting is not permitted in any front yard.[729]

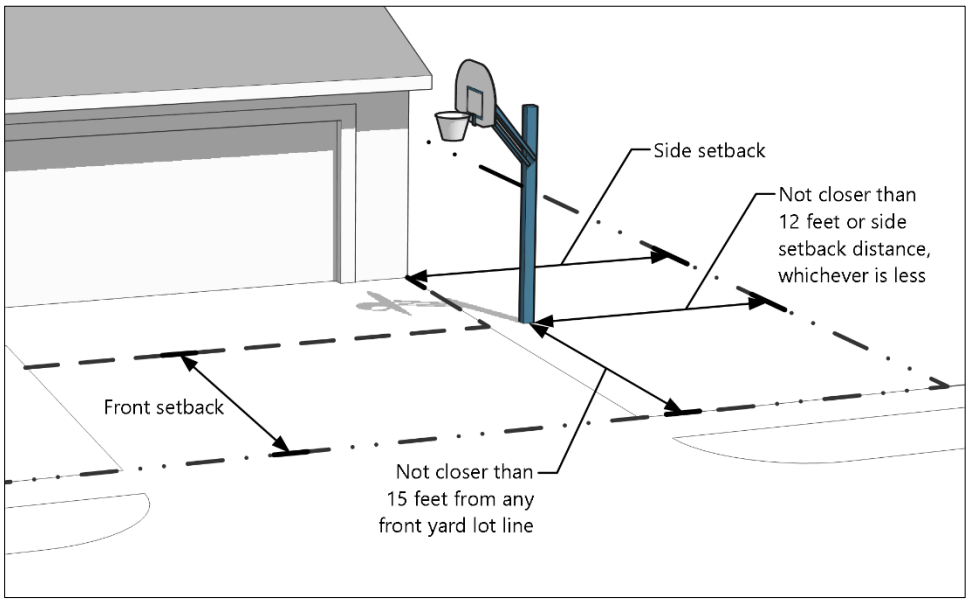



**Figure 4102.3: Basketball Standard Setbacks**

[727] This will include a link to the definition of landscaping, which includes structures such as fountains, statues, and ponds. Change since 11/24/2020 draft: Deleted flagpole because a separate section on flags and flagpoles is proposed as subsection (16).

[728] The regulations that do not allow the basketball standard to be used between 8:00 p.m. and 8:00 a.m. have not been carried forward. The noise ordinance regulations would apply. Change since 6/30/2020 draft: clarified that the 15' setback applies to all front yard lot lines, including corner and pipestem lots. Change since 11/24/20 draft: Revised to clarify that this setback applies to the front lot line or street line.

[729] Change since 7/1/2019 draft: The limitations on gardening area and composting in the front yard have been added. Change since 6/30/2020 draft: clarified that the 15' setback applies to all front yard lot lines, including corner and pipestem lots. Change since 11/24/20 draft: Revised to clarify that this setback applies to the front lot line or street line.

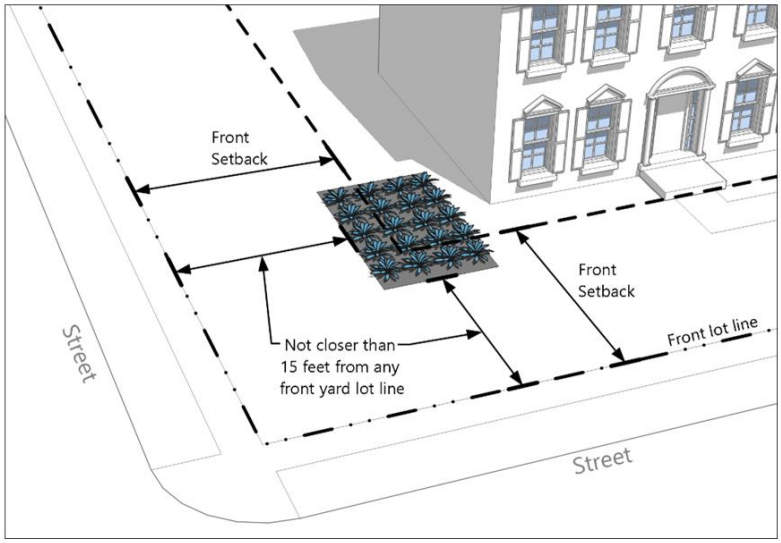



**Figure 4102.4: Garden Setbacks**

### (b) Location in Side or Rear Yard[730]

1. If the structure does not exceed eight and one-half feet in height, it may be located in any part of a side yard or rear yard, except as qualified by subsection 5100.2.D(4)(b).
2. If the structure is between eight and one-half feet in height and 12 feet in height ***[advertised range: 10 to 12 feet]***, it must be located a minimum of five feet from any side lot line and a minimum of five feet from any rear lot line. However, on a single-family attached lot, a freestanding structure up to 12 feet in height and located wholly underneath a deck is not subject to this five-foot setback and may be located in any part of a side or rear yard.[731]
3. If the structure is more than 12 feet in height ***[advertised range: 10 to 12 feet]***, it must be located at least:
   a. A distance equal to the minimum side setback from all side lot lines. For a single-family attached lot, for the purpose of freestanding accessory structures, the side setback that applies to peripheral (end) units also applies to interior units;[732] and
   b. A distance equal to or greater than its height from the rear lot line.
4. In the PDH, PDC, PRM, and PTC Districts where minimum setbacks are not proffered or shown on a final development plan, for the purpose of subsection 3.a above, the minimum side setback dimension is equal to the side setback of

[730] Standards have been significantly revised and clarified. Change since 7/1/2019 draft: The proposed change to allow an accessory structure to take the rear setback if it is less than a distance equal to its height in subsection (b)3 has been removed. The current height and location standard is carried forward.
[731] This is a new standard. It is clarified here and with Note [3] to the table that single-family attached lots are subject to the standards for freestanding accessory structures.
[732] Applying the height and location regulations to accessory structures to single-family attached units is new. Change since 7/1/2019 draft: This clarifies the setback requirements for freestanding accessory structures on single-family attached lots.

a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the Zoning Administrator, or the existing distance to the lot line established by the location of the dwelling on the lot, whichever is less.[733]

5. In the PRC District, where minimum setbacks are not proffered or shown on a development plan, for the purpose of subsection 3.a above, the minimum side setback dimension is eight feet from a side lot line.[734]

6. The requirements of subsections 1, 2, and 3 are summarized in Table 4102.3.

**Table 4102.3: Accessory Structure Height and Yard Requirements**

| Height of Accessory Structure | Setbacks Required |
|---|---|
| Up to 8.5 feet | Side: None |
| | Rear: None |
| Greater than 8.5 feet to 12 ***[10-12 advertised]*** feet | Side: 5 feet [1], [3] |
| | Rear: 5 feet [2] |
| Greater than 12 ***[10-12 advertised]*** feet | Side: Required side yard setback of district [3] |
| | Rear: Distance in height from rear lot line |

**Notes:**
[1] This setback does not apply in commercial and industrial districts if there is no minimum side setback for the district.
[2] This setback does not apply in industrial districts if there is no minimum required rear setback for the district.
[3] Although the side yard requirements do not apply to individual single-family attached units except at peripheral lot lines, the setbacks are required for freestanding accessory structures on single-family attached lots.

7. The transitional screening requirements of Section 5108, which include a specific width for open space and planting beds, are required and must be satisfied regardless of the accessory structure yard requirements presented above.

### (c) Maximum Height[735]

On lots 36,000 square feet in size or less, when accessory to a single-family dwelling, the height of an enclosed freestanding accessory structure may not exceed 20 feet ***[advertised range: 15 to 25 feet]***; however, the BZA may approve a special permit for an increase in height. Additional height restrictions may apply, depending on the location of the structure in the side or rear yard, in accordance with subsection (b) above.

[733] Change since 6/30/2020 draft: New subsection based on current interpretation. Added the ability for an accessory structure to be located the distance to the lot line established by the dwelling.
[734] Change since 6/30/2020 draft: New subsection based on current interpretation.
[735] Change since 7/1/2019 draft: Reduced from 25 feet to 20 feet. Also, now applies only to enclosed freestanding accessory structures and on lots greater than 36,000 square feet.

### (d) Maximum Cumulative Square Footage[736]

On lots 36,000 square feet in size or less, when accessory to single-family dwellings, the following applies:

1. The cumulative square footage of all enclosed freestanding accessory structures on a lot may not exceed 50 percent of the gross floor area of the dwelling unit; however, the BZA may approve a special permit for an increase in size; and
2. For the purpose of this subsection, enclosed freestanding accessory structures include all roofed structures containing three or more walls, and the cumulative square footage is measured from the perimeter of the exterior of the structure measured to the outermost edge of the horizontal projection, as demonstrated in Figure 4102.7.A(7)(d).

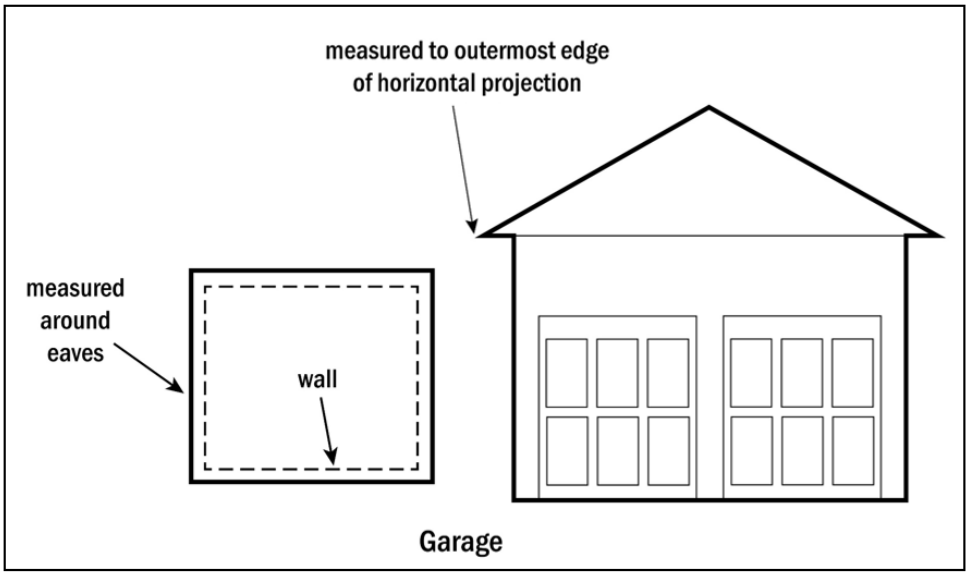



**Figure 4102.5: Enclosed Freestanding Structure Area Measurement**

## (7) Fences and Walls

Fences and walls must comply with the following standards:[737]

### (a) Materials

1. Barbed wire fences are prohibited in all zoning districts except on lots of at least five acres in the R-A, R-C, R-E, and R-1 Districts.[738] However, barbed wire strands may be used to enclose storage yards, other similar industrial or commercial uses, or swimming pools where the strands are restricted to the

[736] Change since 7/1/2019 draft: Replaced exception from certain districts (R-A, R-C, and R-E) to a minimum lot size (36,000 square feet) and added special permit option.
[737] This carries forward Par. 5 of Sect. 10-103 and Par. 3 of Sect. 10-104.
[738] This increases the minimum lot size in Par. 5A of Sect. 10-103 for barbed wire fences from two to five acres.

uppermost portion of the fence and do not extend lower than a height of six feet.[739]

2. Electric fences are not allowed on lots of two acres or less that are located within a subdivision, as defined in Chapter 101 of the County Code, The Subdivision Ordinance.

### (b) Height

1. Unless otherwise allowed by subsection (c) below, the maximum allowed height for a fence or wall is as established in Table 4102.4: Maximum Allowed Fence or Wall Height.

**Table 4102.4: Maximum Allowed Fence or Wall Height**

| Yard where Fence or Wall Located | Location, Size, or Use of Lot | Material Fence or Wall Composed of | Maximum Allowed Height of Fence or Wall (ft.) |
|---|---|---|---|
| Front, Side, or Rear | Lot of 2 or more acres located in R-A, R-C, R-E, or R-1 Districts | No requirement | 7 |
| | Any Industrial use | No requirement | 8 |
| Front | All uses | No requirement | 4 |
| | Residential corner lot that abuts a major thoroughfare [1] | Solid wood or masonry located flush to the ground | 8 |
| Side or Rear | All uses | No requirement | 7 |
| | Reverse frontage lot [2] or where the side or rear lot line is within 150 feet of a major thoroughfare and abuts common or dedicated open space located between the lot and the major thoroughfare | Solid wood or masonry located flush to the ground | 8 |

**Notes:**

[1] The driveway entrance to the lot must be from a street other than the major thoroughfare, and the principal entrance of the dwelling must face a street other than the major thoroughfare. Additionally, the lot must not be contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare. The fence may not extend into the front yard between the dwelling and a street other than the major thoroughfare.

[2] The Director may approve a privacy fence or wall if it does not obstruct the view of traffic from an intersecting street and maintains the minimum sight distance acceptable to the Virginia Department of Transportation for the permitting of entrances onto a thoroughfare of the class involved. [740]

2. Posts, not wider than six inches by six inches, finials, post caps, lighting fixtures, or similar decorative features as determined by the Zoning Administrator, may exceed the maximum or approved height of any fence or wall by not more than nine inches, provided such features are spaced an average distance of six or more feet apart and a minimum distance of three feet apart.

3. For a public use, a fence or wall which is to be provided in conjunction with the use may be of such height and location as approved by the Board.

4. A fence or wall that is an integral part of any accessory use, such as a tennis court or swimming pool, may exceed the maximum height in Table

[739] Reference to storage areas changed to storage yards to clarify this applies to a specific land use, not an area on a lot containing other uses.

[740] Change since 7/1/2019 draft: This provision was relocated from the Development Standards Draft. It is carried forward from Sect. 2-413, but is shortened substantially to simply rely on the Virginia Department of Transportation standard.

4102.7.A(11)(b) above, if it conforms to the height and yard requirements for a freestanding accessory structure in subsection (5) above.

### (c) Allowed Increases in Height

***1.*** Table 4102.5: Allowed Increases in Maximum Fence or Wall Height, summarizes the types of approval needed and the applicable standards for increases in fence, wall, gate, or gatepost height.

**Table 4102.5: Allowed Increases in Maximum Fence or Wall Height**

| Yard where Fence or Wall Located | Increase in Maximum Height Permitted | Type of Approval | Applicable Standards |
|---|---|---|---|
| Any Yard | Five Percent | Administrative | 4102.7.A(7)(c)2 |
| Front | Up to a maximum fence or wall height of six feet | Special Permit OR Special Exception | 4102.7.A(7)(c)3 |
| Side or Rear | No limit | Special Permit OR Special Exception/ Rezoning | 4102.7.A(7)(c)4 |
| **Structures with Additional Permissions** | **Maximum Height Permitted** | **Type of Request** | **Applicable Standards** |
| Noise Barriers | No limit | Special Permit OR Special Exception/ Rezoning | 4102.7.A(7)(c)5 |
| Containment Structures | No limit | Special Permit OR Special Exception/ Rezoning | 4102.7.A(7)(c)6 |

***2.*** In any yard, the Zoning Administrator may approve up to a five percent increase in fence or wall height for an existing fence or wall which does not comply with the requirements in Table 4102.4: Maximum Allowed Fence or Wall Height, if the following requirements are met:

- ***a.*** The fence or wall is not subject to a height increase in accordance with subsections 3 or 4 below;
- ***b.*** The fence or wall must meet the sight distance requirements of subsection 5100.2.D(4)(b);
- ***c.*** The increase in fence or wall height is due to variations in topography on the site or of the fence materials;
- ***d.*** Any existing noncompliance was done in good faith and through no fault of the property owner; and
- ***e.*** The fence or wall height increase must not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.

***3.*** In any front yard, the Board may approve, in conjunction with a proffered rezoning, PRC plan, or another special exception, or the BZA may approve a special permit, to allow a fence or wall height greater than the maximum

height allowed by Table 4102.4: Maximum Allowed Fence or Wall Height, if the following requirements are met:[741]

***a.*** The fence or wall height may not exceed six feet;

***b.*** The fence or wall must meet the sight distance requirements contained in subsection 5100.2.D(4)(b);

***c.*** The Board or BZA determines that the proposed fence or wall height increase is warranted based on the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, concerns related to safety or noise, or other similar factors;

***d.*** The Board or BZA determines that the proposed fence or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale, and any historic designations;

***e.*** The Board or BZA determines that the proposed fence or wall height increase will not adversely impact the use or enjoyment of other properties in the immediate vicinity; and

***f.*** The Board or BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping, fence, or wall design requirements.

***4.*** In any side or rear yard of a lot with a nonresidential use, the Board may approve, in conjunction with a proffered rezoning, PRC plan, or another special exception, or the BZA may approve, in conjunction with another special permit, a fence or wall height greater than the maximum height allowed by Table 4102.4: Maximum Allowed Fence or Wall Height, subject to the following: [742]

***a.*** The Board or BZA, as applicable, determines that the proposed fence or wall is in character with the existing development on the site, is needed to support the use, is harmonious with the surrounding development, and will not adversely impact the use or enjoyment of any nearby property; and

***b.*** The Board or BZA, as applicable, may impose such conditions as it deems necessary to satisfy these criteria.

***5.*** For noise barriers, the Board may approve, in conjunction with a proffered rezoning or another special exception, or the BZA may approve, a fence or wall height greater than the maximum height allowed by Table 4102.4: Maximum Allowed Fence or Wall Height, where the noise barriers are designed to reduce adverse impacts of highway noise on properties located adjacent to major

[741] This carries forward Sect. 8-923, except application requirements are located in Article 8. Change since 7/1/2019 draft: Added PRC plan.

[742] Carried forward from Par. 3H of Sect. 10-104. Change since 7/1/2019 draft: Added PRC plan. Change since 6/30/2020 draft: added the requirement that this only applies to lots with a nonresidential use and that the fence height is needed to support the use.

thoroughfares, or noise impacts of commercial and industrial uses on adjacent properties, in accordance with the following:[743]

*a.* A noise impact study must be submitted with the application. The study must demonstrate the need for such a barrier and the level of mitigation to be achieved, and must 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;

*b.* The Board or BZA, as applicable, must 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; and

*c.* Before establishment, the noise barrier is subject to the provisions of subsection 8100.7 or other appropriate submission as determined by the Director.

*6.* For containment structures, an increase in fence or wall height may be approved by the Board or BZA in accordance with subsection 4102.4.F; subsection 4102.5.S; subsection 4102.5.V; or subsection 4102.5.Z.[744]

### (8) Gates and Gateposts

Gates and gateposts may be located within any required minimum front setback as follows:[745]

**(a)** Four gateposts no taller than ten feet.

**(b)** Two gates no taller than eight.

**(c)** Gates and gateposts no taller than four feet must not exceed 15 percent of the width of the lot.

### (9) Trellises

When located in the minimum front setback, a maximum of two trellises no more than eight feet in height and four feet in width are permitted.[746]

### (10) Solid Waste and Recycling Storage Containers

Solid waste and recycling storage containers may be located in any yard, provided they comply with the following standards:[747]

[743] This carries forward Par. 3F of Sect. 10-104 and Sect. 8-919.
[744] This carries forward Par. 3E of Sect. 10-104.
[745] This carries forward Par. 4 of Sect. 10-104, and the maximum height of gateposts is changed from unlimited to ten feet.
[746] Change since 7/1/2019 draft: Carries forward Par 4A of Sect. 10-104, which had previously been proposed for deletion.
[747] This carries forward Par. 11 of Sect. 10-104.

**(a)** Containers may not be located in any required parking space, parking aisle, open space, or landscaped area;[748] and

**(b)** If located in a minimum front setback, the containers must be located at least 15 feet from the front lot line and be screened from view from the abutting street by either plantings or solid fencing. The height of the solid fencing may not exceed the height of the containers by more than one foot.

### (11) Limitation on Motor Vehicle Fuel Storage Tanks

In residential districts, motor vehicle fuel storage tanks are not allowed as accessory to a dwelling.[749]

### (12) Shipping Containers[750]

Shipping or sea cargo containers are subject to the following standards:

**(a)** On a lot developed with a residential dwelling, shipping containers are not permitted, except as temporary storage during construction on the lot with an active building permit.

**(b)** On a lot developed with non-residential uses, shipping containers are subject to all other applicable regulations, including the General Standards for Freestanding Accessory Structures in subsection 4102.7.A(6) above.

### (13) Vehicle Storage[751]

**(a)** Inoperative motor vehicles, as defined in Chapter 110 of the County Code, are permitted if kept within a fully enclosed structure or if kept completely screened from view in accordance with the County Code.

**(b)** Any vehicles covered by a tarp are considered outdoor storage.

**(c)** In R districts and the residential areas of P districts, a maximum of two vehicles ***[advertised range: 0 to 3 vehicles]*** may be kept under a fitted vehicle cover specifically designed for this purpose.

### (14) Television and Satellite Dish Antennas

Except as may be qualified by subsection 5100.2.D(4)(b), conventional television antennas and satellite dish antennas designed to send and receive television or video programming, voice, or data services with a diameter or diagonal measurement of 39 inches (one meter) or less may be located in any yard.[752]

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[748] Change since 6/30/2020: Removed "driveway."
[749] This carries forward Par. 14 of Sect. 10-102.
[750] Change since 6/30/2020 draft: New standards based on current interpretations.
[751] Change since 6/30/2020 draft: This carries forward Par. 13 of Sect. 10-102 and has been relocated from Article 6. Subsections (b) and (c) are new. Change since 11/24/2020 draft: Added "specifically designed for this purpose" to subsection (c).
[752] This carries forward Par. 13 of Sect. 10-104, with reference to voice and data services added.

### (15) Amateur Radio Antenna Structures

(a) 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 residential district as follows:[753]

1. Structures 75 feet or less in height must not be located closer to any lot line than a distance equal to one-fifth of their height.
2. Structures greater than 75 feet in height must not be located closer to any lot line than a distance equal to their height.

(b) Roof-mounted antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may extend up to five feet above the applicable maximum building height in the district where it is located.[754]

### (16) Flags and Flagpoles[755]

(a) On a lot developed with a single-family dwelling or manufactured home, the height of a flagpole is limited to 25 feet. On a lot developed with a principal use other than a single-family dwelling or manufactured home, the height of a flagpole is limited to 60 feet ***[Advertised range: 20 to 80 feet]***.

(b) ~~Freestanding F~~flagpoles, whether freestanding or attached to another structure, may be located no closer than five feet from any front lot line or street line and are subject to the side and rear setback regulations in subsection 4102.7.A(6)(b).

(c) On a lot developed with a single-family dwelling or manufactured home, two **[*Advertised range: two to three*]** flags are permitted per lot**.** Each flag is limited to a maximum of 24 square feet ***[Advertised range: 15 to 40 square feet].*** Flags that are smaller than two square feet are exempt from these limitations.

**(d)** On a lot developed with a principal use other than a single-family dwelling or manufactured home, a maximum of three flags are permitted per lot. Each flag is limited to a maximum of 96 square feet ***[Advertised range: 96 to 216 square feet].***

### (17) Swimming Pools[756]

A swimming pool is considered a freestanding accessory structure and is subject to the applicable height and setback limitations outlined in this section. The following additional limitations may also be applicable:

(a) Pool equipment is subject to subsection 5100.2.D(5); and

(b) Pools and all associated decking, surrounding aprons, and associated structures are subject to the rear setback coverage limitations below.

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[753] This carries forward Par. 5 of Sect. 10-104.

[754] Change since 7/1/2019 draft: added an allowance for roof-mounted radio antenna to extend five feet into the maximum building height.

[755] Change since 11/24/2020 draft: New subsection regulating flags and flagpoles. Change since 1/19/2021 draft: Added manufactured home to single-family dwelling limits, and clarified that the 5-foot front setback applies whether the flagpole is freestanding or attached.

[756] Change since 7/1/2019 draft: Pools were deleted from paragraph (6) above and this section included here. It carries forward a provision from Sect. 10-103.B(2) that includes pools and associated structures to the rear setback coverage limitations.

## B. Accessory Living Unit[757]

### Standards when permitted by administrative permit:

[***Advertised to allow the Board to consider requiring special permit approval for all accessory living units***.]

**(1)** An accessory living unit is permitted only in association with a single-family detached dwelling unit, and no more than one accessory living unit is permitted on a single-family lot.

**(2)** An accessory living unit must be wholly contained within the structure of a single-family detached dwelling unit and must have direct access to the principal dwelling through an interior space that is finished, temperature controlled, and fully enclosed.

**(3)** Any new external entrance proposed for an accessory living unit must be located on the side or rear of the dwelling. Any proposed garage or carport must be located directly adjacent to any existing garage or carport, and the associated driveway and curb cut must be the same as that which serves the principal dwelling.

**(4)** The accessory living unit must not exceed 800 square feet of gross floor area ***[advertised range: 500 to 1,200 square feet]*** or 40% of the gross floor area of the principal dwelling, whichever is less. A larger size may be allowed by special permit in accordance with subsection 8100.4. For the purpose of determining the size of an accessory living unit approved either by administrative permit or special permit, regardless of the definition in Article 9, gross floor area includes the area of any basement or cellar having a structural headroom of six feet six inches or more, but does not include a garage. [758]

***[Advertised option: Allow the size limit to be exceeded if the accessory living unit is in the basement or cellar.]***[759]

**(5)** The accessory living unit may not contain more than two bedrooms.

**(6)** The occupancy of the accessory living unit and the principal dwelling unit must be in accordance with the following:

**(a)** One of the dwelling units must be owner occupied.

**(b)** One of the dwelling units must be occupied by:

***1.*** A person 55 years of age or over; or

***2.*** A person with a disability.[760]

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[757] This carries forward Sect. 8-918, except (i) accessory living units that are located within the principal dwelling and comply with the standards may be approved by administrative permit, (ii) application requirements are located in Article 8, (iii) reference to the Board policy has been deleted, and (iv) standards for carports, garages, driveways, and curb cuts have been added. The special permit standard relating to a review of parking has been replaced with a standard requiring one designated parking space. Additional changes are noted below. Change since 7/1/2019 draft: A standard requiring the owner to allow inspection of the property has been relocated to subsection 4102.1.I that applies to all uses requiring administrative permit.

[758] The maximum size is revised to be based on square footage instead of a percentage. Change since 7/1/2019: The standard "and must be subordinate to" has been replaced with "must be less than 40%, whichever is less." Change since 6/30/2020 draft: Clarified size as "gross floor area" and for the purpose of ALUs how that will be calculated.

[759] Change since 6/30/2020 draft: Added advertised option for an ALU to occupy an entire basement.

[760] The standard for disability is revised to reference a new definition based on the Fair Housing Act.

***[Advertised to allow the Board to consider removing the age and disability requirements in (b)1 and 2.]***

**(c)** The accessory living unit may be occupied by no more than two people.

**(d)** The principal single-family dwelling unit may be occupied by not more than one of the following:[761]

***1.*** Two or more persons related by blood or marriage and any number of their natural children, foster children, stepchildren, adopted children, or children in kinship care;

***2.*** One or two persons with their dependent children, including natural children, foster children, stepchildren, adopted children, or children in kinship care, functioning as a single household; or

***3.*** A group of not more than four persons not related by blood or marriage, functioning as a single household.

**(e)** An accessory living unit occupied by a person with a disability must provide for reasonable access and mobility, such as:

***1.*** Uninterrupted access to at least one entrance; and

***2.*** Accessibility and usability of at least one full bathroom.

***[Advertised to remove this requirement if the Board removes the age and disability requirements in (b)1 and 2.]***

**(7)** As specified in Article 6, a dwelling with an accessory living unit must provide the number of on-site parking spaces required for the principal dwelling unit, plus one additional space. Only one space serving the lot must provide convenient access to the street.[762]

**(8)** An accessory living unit must meet all applicable regulations for building, safety, health, and sanitation, and the construction of an accessory living unit is not deemed to be a subdivision of the lot on which the dwelling is located. If the dwelling is served by well or septic system, the applicant must obtain approval of the Health Department prior to approval of an administrative permit or special permit for the accessory living unit.[763]

**(9)** The accessory living unit must have a working multi-purpose fire extinguisher and smoke and carbon monoxide detectors (when required for a fireplace or gas service) that are interconnected with the principal dwelling.[764]

**(10)** Before occupancy of the accessory living unit, the owner must record a copy of the administrative permit among the land records of Fairfax County. The permit must contain a description of the property and must be indexed in the Grantor Index in the name of the property owner(s).[765]

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[761] The standards for occupancy of an accessory living unit are revised, consistent with the dwelling unit occupation standards for all Household Living uses. A reference to kinship care is included and defined in Article 9, the standard for two single parents or guardians from Sect. 2-502 is revised and added to this use, and "functioning as a single household" is added to subsection (d)3.

[762] Change since 6/30/2020 draft: Added option for requiring an additional parking space for an ALU.

[763] Change since 6/30/2020 draft: The last sentence is new.

[764] Change since 6/30/2020 draft: Added this provision, which is a current standard applied to short-term lodging.

[765] This standard revises Par. 10 of Sect. 8-918.

**(11)** An administrative permit for an accessory living unit may be issued to the owner for an initial period of two years from the date of approval. An administrative permit may be extended for succeeding periods of up to five years by the Zoning Administrator based on the applicant's record of compliance with the standards in this subsection. [766]

**(12)** If the standards above are no longer being met, the accessory living unit may not be occupied as a dwelling unit and the property must meet the occupancy limitations of a single-family dwelling in accordance with subsection 4102.3.A. This standard does not require the removal of any kitchen or other facilities.[767]

**Standards when permitted by special permit:**

**(13)** The accessory living unit must conform to all applicable standards for an administrative permit above, except that the BZA may approve a special permit for an accessory living unit to modify one or more of the standards as identified in the subsections below:

- **(a)** Subsection (2), to permit an accessory living unit in a freestanding structure, but only on a lot of at least two acres;
- **(b)** Subsection (3), to modify the location of any external entrance and access from the street;
- **(c)** Subsection (4)(a), to exceed the maximum size for an interior accessory living unit; and
- **(d)** Subsection (7), when the required on-site parking is not provided.

**(14)** The area devoted to a detached accessory living unit must not exceed 1,200 square feet of gross floor area ***[advertised range: 700 to 1,500 square feet]*** and must be clearly subordinate to the principal dwelling.[768]

**(15)** The BZA may require the provision of off-street parking spaces in addition to the requirements specified in Article 6 for a single-family detached dwelling.

**(16)** The County may inspect the property during reasonable hours and in accordance with subsection 8106.2.D.

**(17)** Upon the approval of a special permit, the owner will record a copy of the BZA's resolution of approval, including all accompanying conditions among the land records of Fairfax County. The resolution must contain a description of the property and must be indexed in the Grantor Index in the name of the property owner(s).

**(18)** A special permit for an accessory living unit may only be issued to the owner and approved for an initial period of two years from the date of approval. The special permit may be extended for succeeding periods of up to five years based on the applicant's record of compliance, in accordance with subsection 8100.4.D(3).

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[766] Change since 6/30/2020 draft: Reduced initial renewal period for the administrative permit and special permit (see below) from five years to two years to improve monitoring and enforcement.

[767] This standard is new.

[768] The maximum size of an accessory living unit in a detached structure is revised to be based on square footage instead of a percentage. Change since 7/1/2019 draft: The language "and must be clearly subordinate to the principal dwelling" is new.

## C. Caretaker Quarters[769] *[Advertised option: Delete this use if the Board removes the age or disability requirement for accessory living units]*

**Standards when permitted by special permit:**

**(1)** The minimum lot size is two acres.[770]

**(2)** Caretaker quarters located in a structure detached from the principal dwelling must comply with the applicable zoning district bulk regulations for single-family detached dwellings.

**(3)** Before ~~the establishment~~occupancy of caretaker quarters, ~~a restrictive covenant~~the owner must ~~be recorded~~ record a copy of the BZA's resolution of approval, including all accompanying conditions among ~~in~~ the land records ~~and attached to the deed of the property, which states that the structure cannot be used for any other use~~of Fairfax County. The resolution must contain a description of the property and must be indexed in the Grantor Index in the name of the property owner(s).[771]

**(4)** The gross floor area of a caretaker quarters, including any cellar space, must not exceed 800 square feet ***[advertised range: 700 to 1,200 square feet]***.[772]

**(5)** The BZA may impose such conditions as it deems necessary, including, but not limited to, a time limit.[773]

**(6)** The owner must allow inspections of the property by County personnel during reasonable hours upon prior notice.

**(7)** A special permit for caretaker quarters may only be issued to the owner and approved for an initial period of two years from the date of approval. The special permit may be extended for succeeding periods of up to five years based on the applicant's record of compliance, in accordance with subsection 8100.4.D(3).[774]

## D. Child Care Center for Occasional Care[775]

Child care provided to any child may not exceed four hours in any 24-hour day or ten days in any month.

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[769] Permissions have been changed from accessory to special permit, and standards from existing interpretations have been codified. Documentation requirements are located in Article 8.

[770] For this consolidated use, the minimum lot size for "servants quarters" is carried forward, and the minimum lot size for "quarters of a caretakers, watchman or tenant farmer" is reduced from 20 acres to two acres. Change since 7/1/2019 draft: The minimum acreage for caretaker quarters in association with agriculture is being considered as a part of a separate amendment.

[771] This standard is based on a long-standing Zoning Administrator interpretation. Change since 1/19/21 edits: This standard has been revised to remove mention of a restrictive covenant and to match the language used in accessory living units.

[772] This is a new standard.

[773] This is a new standard.

[774] Change since 6/30/2020 draft: Revised renewal consistent with proposed revisions to ALUs.

[775] This carries forward Par. 32 of Sect. 10-102 and portions of the definition of this use in Article 20.

## E. Donation Drop-off Box[776]

**Standards when permitted by right or by development plan or PRC plan:**

**(1)** The locations of donation drop-off boxes are limited to the following:

- **(a)** The C-5, C-6, C-7, and C-8 Districts where the lot size is a minimum of 40,000 square feet;
- **(b)** Residential zoning districts where the principal use of the property is not residential;
- **(c)** Commercial areas of P districts when located with a principal use and when shown on an approved development plan; and
- **(d)** Where specifically identified on a development plan that is approved in conjunction with a special permit or special exception for another use, or a proffered rezoning.

**(2)** The owner or operator of the donation drop-off box must obtain written permission from the property owner, lessee, or their authorized agent to place the donation drop-off box on the property. When requested by Fairfax County, the property owner, lessee, donation drop-off box operator or owner, or their authorized agent must make such written consent available for review.

**(3)** Donation drop-off boxes are not allowed in the following locations:

- **(a)** Minimum front setback;
- **(b)** Required open space, transitional screening yards, landscaped areas, private streets, sidewalks or trails, or required parking spaces;
- **(c)** Any location that blocks or interferes with vehicular, bicycle, or pedestrian circulation;
- **(d)** Any location that blocks or interferes with the sight distance provisions of subsection 5100.2.D(4)(b); or
- **(e)** Any location prohibited by applicable building and fire code regulations for fire protection and in order to ensure safe ingress and egress and access to utility shut-off valves.

**(4)** Donation drop-off boxes must be screened from view from the first-story window of any neighboring residential use.

**(5)** A maximum of two donation drop-off boxes are permitted on any one lot, and they must be located within in a contiguous area of not more than 120 square feet.

**(6)** No individual drop-off box may exceed dimensions of seven feet in height, six feet in width, or six feet in length.

**(7)** Donation drop-off boxes must be weather-proof, constructed of painted metal, plastic, or other similarly noncombustible material, properly maintained in good repair and in a manner that complies with all applicable USBC and Fire Code regulations, and secured from unauthorized access.

**(8)** All donated items must be collected and stored in the donation drop-off box.

[776] This carries forward Par. 34 of Sect. 10-102, with wording clarified and the requirement that the location not interfere with vehicular or pedestrian circulation was extended to bicycles.

**(9)** Each donation drop-off box must be emptied as needed or within 48 hours of a request by the property owner or authorized agent. Items and materials including trash may not be located outside or in proximity to a donation drop-off box for more than 24 hours and must be removed by the property owner, operator of the donation drop-off box or their authorized agent.

**(10)** Donation drop-off boxes must display the following information in a permanent and legible format that is clearly visible from the front of the container:

**(a)** The specific items and materials requested;

**(b)** The name of the operator or owner of the container, together with a telephone number where the owner, operator or agent of the owner or operator may be reached at any time;

**(c)** The entity responsible for the maintenance of the container and the removal of donated items, including any abandoned materials and trash located outside the donation drop-off box; and

**(d)** A notice stating that no items or materials may be left outside of the donation drop-off box and the statement, "Not for refuse disposal. Liquids are prohibited."

## F. Electric Vehicle Charging[777]

### Standards when permitted as an accessory use:

**(1)** An electric vehicle charging space as an accessory use is permitted in accordance with the following standards:

**(a)** The space must not interfere with vehicular, bicycle, or pedestrian circulation, including fire lanes and access to the site.

**(b)** When accessory to any residential development:

***1.*** Electric vehicle charging is allowed only for the residents and their guests; and

***2.*** Unless located in a parking structure, chargers are limited to Level 1 or Level 2 facilities as defined by the U.S. Department of Energy.

**(c)** When accessory to any nonresidential or mixed use development:

***1.*** The space must be located in a parking structure or parking lot that serves a principal use; and

***2.*** The minimum height of the dispenser is three feet.

**(d)** When located in a surface parking lot and not mounted on the exterior of the principal structure, or when located on the top level of a parking structure open to the sky:

***1.*** The maximum height of the dispenser and any associated transformer, switchgear, or other similar items is nine feet;

***2.*** A canopy is not permitted in association with an electric vehicle charging space located in a surface parking lot unless it supports a solar collection system. Any

[777] These are new standards for new use, based on a current Zoning Administration interpretation. Standards addressing lighting are included in Article 5. Change since 7/1/2019 draft: The standards have been revised as outlined in a memorandum to the Board dated February 4, 2020, to, among other changes, delete the requirement for reserved parking spaces to be excluded from the minimum parking calculations.

canopy supporting a solar collection system must comply with height and setback requirements for a freestanding accessory structure in 4102.7.A(6) and cannot include signage or illumination on the sides of the canopy;[778]

***3.*** On the top level of a parking structure, a canopy may be allowed if it does not include signage or illumination on the sides of the canopy;

***4.*** Electric vehicle charging spaces and related equipment cabinets or structures must not be located in any required transitional screening yard. The location of plantings required for parking lot landscaping may be modified for electric vehicle charging spaces but the parking lot landscaping requirements must be met in accordance with Section 5108.5; and[779]

***5.*** Related equipment, including transformers, switchgear, and other similar items must be screened with a fence, wall, berm, evergreen landscaping, or any combination. Any landscaping used for screening purposes must be maintained.

**(e)** Each dispenser is permitted to have digital display area up to one square foot in size. Digital display areas greater than one square foot are regulated as signs and are subject to Article 7.

**(2)** Accessory electric vehicle charging spaces must be in conformance with any zoning approvals.

**(3)** An electric vehicle charging space that does not conform to the standards in subsection (1) above is considered a vehicle fueling station.

## G. Family Health Care Structure[780]

### Standards when permitted by administrative permit:

**(1)** Family health care structures are allowed only on lots zoned for and developed with single-family detached dwellings, subject to approval of a permit issued by the Zoning Administrator, and the following provisions.

**(2)** Occupancy of the structure is limited to one mentally or physically impaired person, who is a Virginia resident and requires assistance with two or more activities of daily living ~~activities~~ as defined in Va. Code Sect. 63.2-2200, or, in the case of a married couple, two occupants, one of whom is mentally or physically impaired and the other requires assistance with one or more daily living activities.

**(3)** The property must be owned or occupied by an adult caregiver who provides care for a mentally or physically impaired person and the property must be used as the caregiver's primary residence. The adult caregiver must be related by blood, marriage, or adoption

[778] Change since 6/30/2020 draft: clarifies that canopies supporting solar collection system are subject to the freestanding accessory structure provisions and not the nine-foot height limitation.
[779] Change since 11/24/2020 draft: Revised to clarify that the location of trees may be modified as long as the landscaping requirements continue to be met.
[780] This carries over Sect. 10-102.27, except the allowed signage is addressed in Article 7: Signs. Change since 7/1/2019 draft: application requirements are included here. Change since 6/30/2020 draft: relocated ability of the Zoning Administrator to revoke the permit and requirement to allow for inspections to general provisions applicable to all administrative permits.

to or the legally appointed guardian of the physically or mentally impaired person(s) occupying the family health care structure.

**(4)** Only one family health care structure is permitted on a lot.

**(5)** Family health care structures are limited to a maximum of 300 square feet of gross floor area and must meet the minimum yard requirements for single-family detached dwellings of the zoning district in which it is located. When located in a Planned Development district, the family health care structure is 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 Planned Development district, the family health care structure will be deemed an alteration to a single-family dwelling unit and subject to subsection 8100.2.E(3)(f).

**(6)** Family health care structures may not be installed on a permanent foundation.

**(7)** Family health care structures are subject to the Industrialized Building Safety Law and the USBC.

**(8)** 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 must comply with all applicable Health Department requirements.

**(9)** Evidence of compliance with these provisions must be provided to the Zoning Administrator on an annual basis.

**(10)** Family health care structures must be removed from the property within 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.

**(11)** The following materials must be submitted with an application to the Zoning Administrator:

- **(a)** The name and contact information of the proposed caregiver, and the relationship of the caregiver to the physically or mentally impaired proposed occupant.
- **(b)** Address of the property.
- **(c)** 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 Va. Code Sect. 63.2-2200, by a physician licensed in the State.
- **(d)** Three copies of a plat drawn to a designated scale of not less than 1” = 50’, which may be prepared by the applicant, that contains the following information:
  1. The dimensions of the lot, the boundary lines of the lot, and the land area;
  2. 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
  3. The signature and certification number, if applicable, of the person preparing the plat.

## H. Garage Sale or Yard Sale[781]

In R districts and the residential areas of P districts, garage sales and yard sales are limited to two per calendar year for each lot.

## I. Home-Based Business[782]

### Standards when permitted by administrative permit:

**(1)** A home-based business must be conducted by the person to whom the home-based business permit is issued and must be located within the dwelling that is their primary residence or in an accessory structure located on that same lot.

**(2)** A home-based business may only include the following uses:[783]

- **(a)** General retail sales, where the sale and delivery of items occurs exclusively online or off-site;
- **(b)** Health and exercise facility, small;
- **(c)** Household repair and rental service, limited to repairing small household items such as musical instruments, sewing machines, radios, and watches;
- **(d)** Office;
- **(e)** Personal service, limited to a barbershop or hair salon, sewing, or tailoring. A hair salon may not include other services such as nail, facial, or massage services;
- **(f)** Music, photography, and art studios;
- **(g)** Small-scale production, limited to items created on-site and home-based food production, where the sale and delivery of items occurs exclusively online or off-site; and
- **(h)** Specialized instruction center.

**(3)** The premises must have the exterior appearance of a dwelling or residential accessory structure. There must be no exterior evidence that the property is used in any way other than for a dwelling. No sign is allowed, other than yard signs as permitted under

[781] This carries forward Par. 9 of Sect. 10-102, with clarification that limits apply per lot.

[782] This carries forward and consolidates Sections 8-905 and 8-907, and Part 10-300, with numerous changes. The non-exclusive list of possible home occupations in Sect. 10-302 was dated and was not carried forward, and the list of prohibited uses was revised. Limitation on mechanical or electrical equipment from 10-304.4 was not carried forward as outdated and difficult to enforce. Reference to outdoor lighting standards in Article 14 was deleted as unnecessary, as they apply by law. Reference to BZA review of area for impacts of home professional offices from Sect. 8-907.4 was deleted as outdated and very subjective to enforce. Reference to secondary use in the PDH, PRC, and PTC districts not carried forward because this use is by definition secondary to a dwelling use. Limitations on numbers of customers and clients have been significantly revised. Other changes are noted below. Change since 7/1/2019 draft: A standard requiring the owner to allow inspection of the property has been relocated to subsection 4102.1.I that applies to all uses requiring administrative permit. Provisions prohibiting stock in trade on the premises that had previously not been carried forward were replaced with a size limitation on the area devoted to the home-based business.

[783] Change since 7/1/2019 draft: "repair of household items" has been added as an exemption to the prohibition of personal and business services; "sale of items sold exclusively online or off-site" has been added as an exemption to the prohibition of retail sales; and "except for items that are handcrafted on the premises" has been added to the prohibition of industrial uses. Change since 6/30/2020 draft: The uses have been revised to list the allowed uses instead of the prohibited categories.

subsection 7100.4.D. The home-based business must take place entirely within enclosed structures.[784]

**(4)** Outside display or storage of goods, equipment, or materials used in connection with the home-based business is not allowed.

**(5)** The total area used for the home-based business, including storage, is limited to a maximum size of 400 square feet ***[advertised range of 200 to 750 square feet].***[785]

**(6)** Only one commercial vehicle is permitted per dwelling unit, subject to subsection 4102.1.B(2).

**(7)** The delivery or distribution of products or materials related to the home-based business must be from vehicles that do not exceed a maximum length of 28 feet. The use of semitrailers, including tractor or trailer units, for delivery or distribution is not permitted.[786]

**(8) Employees:**[787]

Employees on-site are limited to persons who occupy the dwelling as their primary residence, except that in a single-family detached dwelling, one employee who does not occupy the dwelling as their primary residence is also allowed. This exception applies regardless of the number of home-based businesses or home day care facilities operating on the lot. ***[Advertised to allow the Board to consider one employee for all dwelling unit types]***[788]**.** A nonresident employee, whether paid or not, may work on-site only between the hours of 7:00 AM to 6:00 PM.[789]

**(9) Customers or clients:** [790]

**(a)** A maximum of two ***[advertised range: zero to four]*** customers or clients are permitted on-site at any given time.

**(b)** A cumulative maximum of six ***[advertised range: zero to eight]*** customers or clients are permitted on-site in any one day, including all home-based businesses and short-term lodging.

**(c)** If a home day care facility is established on-site, visits to the site by customers or clients of the home-based business are not allowed.

**(d)** General retail sales and small-scale production uses are not permitted to have on-site customers or clients. However, for items created on-site, customers may visit the dwelling to view samples only.[791]

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[784] The last sentence was added for clarity. Change since 7/1/2019 draft: Added reference to subsection in Article 7 (Signs) for yard signs. As required to maintain content neutrality, the allowance for yard signs cannot prohibit specific speech.

[785] Change since 7/1/2019 draft: This is a new standard that has been added in response to comments received for discussion.

[786] Change since 7/1/2019 draft: This paragraph is new.

[787] Standards have been significantly revised.

[788] Change since 6/30/2020 draft: An option to allow the Board to consider an employee for all dwelling unit types has been added.

[789] Hours revised from 8:00 to 5:00pm for a home professional office, to mirror the hours for a home day care.

[790] New standards to allow limited customers or clients for all home-based businesses, which are currently only allowed for schools of special education and horseback riding lessons.

[791] Change since 6/30/2020 draft: New standard.

**(e)** If the home-based business has on-site customers or clients, one designated off-street parking space must be made available for the customer or client parking.[792]

**(f)** The hours during which customers or clients may visit the premises are limited to 8:00 AM to 9:00 PM.

**(g)** Customers or clients are permitted by appointment only, with a minimum of 15 minutes between appointments. Scheduled appointments may not overlap.

**(h)** Customers or clients include all persons who come to the dwelling for business services.[793]

**(10)** A permit for a home-based business is valid for the original applicant only and is not transferable to any other resident, address, or occupation. Upon termination of the applicant's residency, the home-based business permit becomes null and void.

**Standards when permitted by special permit:**

**(11)** The home-based business must conform to all applicable standards above, except that the BZA may approve a special permit for a home-based business to modify one or more of the standards as identified in the subsections below:

**(a)** Subsection (3) to allow outdoor activities such as swimming or soccer lessons;[794]

**(b)** Subsection (5)to allow a larger area;

**(c)** Subsection (8)to allow more employees or different work hours; and

**(d)** Subsection (9) to allow more customers or clients.

**(12)** The BZA may require the provision of off-street parking spaces in addition to the requirements specified in Article 6.

**(13)** The BZA must determine that the proposed business, together with all other nonresidential uses in the area, will not modify or disrupt the predominantly residential character of the area.[795]

## J. Home Day Care Facility[796]

**Standards when permitted as an accessory use:**

**(1)** The maximum number of people under the care of a provider permitted at any one time, in addition to the provider's own children, is:

**(a)** Seven children when the facility is located in a single-family detached dwelling;

**(b)** Five children when the facility is located in a single-family attached, stacked townhouse, or multifamily dwelling, or a manufactured home; or

[792] Change since 6/30/2020 draft: The requirement to designate a parking space has been revised to only apply if there are onsite customers or clients.
[793] Change since 7/1/2019 draft: This paragraph is new.
[794] Change since 6/30/2020 draft: New special permit for outdoor activities, based on current interpretations that have allowed outdoor activities with home occupations.
[795] Standards for special permit approvals have been simplified. Change since 7/1/2019 draft: a special permit option has been included to exceed the new maximum size limitation.
[796] This carries forward Par. 6 of Sect. 10-103 and Sect. 8-305, with clarification that older adults may also be cared for under this use. Reference to stacked townhouse has been added to Par. (1)(b).

**(c)** Three persons who are aged or infirm or persons with disabilities receiving supportive services, health monitoring, protection, or supervision during part of a 24-hour day.

**(2)** A home day care facility must be operated by the provider within the provider's primary residence. Except during emergency situations, the provider must be on the premises while the home day care facility is in operation, subject to the following exceptions:[797]

**(a)** A day care provider may operate in a dwelling other than the provider's own if the dwelling is the primary residence of at least one of the people being cared for by the provider. This day care provider will comprise the one nonresident person allowed by subsection (3) below.

**(b)** A substitute care provider may operate a home day care facility in the absence of the provider for a maximum of 240 hours per calendar year.

**(3)** One nonresident person, whether paid or not for their services, may be involved in the home day care use on the property at any one time. The hours of the nonresident person's involvement are limited to 7:00 AM to 6:00 PM, Monday through Friday.

**(4)** There must be no exterior evidence 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 subsection 4102.7.A are allowed. No sign is allowed, other than yard signs as permitted under subsection 7100.4.D.[798]

**(5)** An increase in the number of children permitted under subsection (1) above or the involvement of more than one nonresident person or an extension of the hours of attendance of such nonresident person as provided for under subsection (3) above may be permitted by special permit in accordance with subsection 8100.4.

**(6)** The care of more than three aged, infirmed, or handicapped adults is considered to be an adult day care center and is subject to the applicable permissions and standards.

**Standards when permitted by special permit:**[799]

**(7)** A home day care facility as a special permit use must comply with the standards in subsections (2) and (4) above.

**(8)** A maximum of 12 children may be cared for in a home day care facility at any one time, excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use or an expansion of the hours and days for the nonresident person's involvement in the use beyond the hours and days permitted under subsection (3) above.

**(9)** The BZA will review access to the site and all existing and proposed parking, including the availability of on-street parking and any alternative drop off and pick up areas located in proximity to the use, to determine if the proposed 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.

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[797] "Licensed or permitted home child care provider" has been removed, as the general standard requires conformance with all applicable state or county licensing requirements.
[798] Change since 7/1/2019 draft: The last sentence is new, to reference the yard sign allowance for all residences. As required to maintain content neutrality, the allowance for yard signs cannot prohibit specific speech.
[799] This carries forward Sect. 8-305, except application requirements are located in Article 8.

**(10)** The BZA may require the provision of landscaping and screening based on the specifics of each application.

## K. Keeping of Animals[800]

### Standards when permitted as an accessory use:

**(1)** The keeping of animals allowed under Chapter 41.1 of the County Code is allowed as an accessory use on any lot if the animals are not for the purpose of commercial breeding, boarding, or any other activity meeting the definition of a kennel or animal shelter.[801] However, up to four companion animals not owned by the resident are allowed to be sheltered, fed, and watered in exchange for a fee, subject to the animal unit limitations set forth below.[802]

**(2)** The keeping of dogs, except as kennel, is allowed as an accessory use on any lot in accordance with the following standards:

**(a)** The total number of dogs on-site must comply with the limits shown in the table below. These limits apply regardless of the ownership of any of the dogs. Only dogs six months or older in age are counted towards these limits.[803]

| Maximum Number | Minimum Lot Size |
|---|---|
| 2 | No requirement |
| 3 | 10,000 square feet |
| 4 | 12,500 square feet |
| 6 | 20,000 square feet |
| More than 6 | 25,000 square feet plus 5,000 square feet for each dog above 7 |

**(3)** The keeping of livestock or poultry, excluding roosters, is allowed as an accessory use on any lot of two acres or more in size. Roosters are only permitted as part of a bona fide agricultural operation. The keeping of permitted livestock or poultry must be in accordance with the following:

**(a)** The number of livestock kept on a given lot may not exceed the ratio of one animal unit per one acre, with an animal unit identified as follows:

| Number of Livestock | Equivalent Animal Unit |
|---|---|
| 2 head of cattle | 1 animal unit |
| 5 sheep | 1 animal unit |
| 3 horses | 1 animal unit |
| 5 swine | 1 animal unit |
| 5 goats | 1 animal unit |
| 5 llamas | 1 animal unit |
| 5 alpacas | 1 animal unit |

[800] This carries forward and integrates Sections 2-512, 8-917, and 10-102.31, except application requirements in Sect. 8-917 are omitted. Change since 7/1/2019 draft: the references to and the definition of "commonly accepted pets" has been removed from this subsection. The Department of Animal Sheltering will make these determinations per Chapter 41.1 of the County Code.

[801] Change since 7/1/2019 draft: Language "provided such pets are for personal use and enjoyment" is deleted.

[802] This language comes from the definition of a boarding establishment in Sect. 3.2-6500 of the Virginia Code. Change since 7/1/2019 draft: Language "commonly accepted pets" is deleted and reference to Chapter 41.1 is simplified.

[803] This brings forward the permissions for the number of dogs, except three dogs are reduced to requiring a 10,000 square-foot lot rather than a 12,000 square-foot lot based on special permit approvals since 2008.

***1.*** Horses includes ponies, mules, burros, and donkeys.

***2.*** In determining the number of livestock permitted, only horses six months or older in age and cattle, sheep, goats, and swine one year or older in age are counted.

***3.*** In determining the number of livestock permitted, combinations of animals are allowed, provided that the ratio of one animal unit per one acre is maintained.

**(b)** The number of domestic fowl kept on a given lot must not exceed the ratio of one bird unit per one acre, with a bird unit identified as follows. Only fowl two months or older in age are counted towards these limits.

| Number of Fowl | Equivalent Bird Unit |
|---|---|
| 32 chickens | 1 bird unit |
| 16 ducks | 1 bird unit |
| 8 turkeys | 1 bird unit |
| 8 geese | 1 bird unit |
| 2 ostriches or emus[804] | 1 bird unit |

**(4)** The keeping of honeybees in four beehives or less is allowed as an accessory use on any lot. On any lot of 10,000 square feet in size or larger, more than four beehives may be kept, provided there is an additional lot area of 2,500 square feet for each hive. In all instances, there must be one adequate and accessible water source provided on-site and located within 50 feet of the beehive(s). In addition, if the main entrance of the hive faces and is within ten feet of any lot line, there must be a flight path barrier, consisting of a fence, structure, or plantings not less than six feet in height, located in front of the hive. The beekeeper is not required to reside on the property. These limitations do not relate to solitary bees or their structures, which are regulated as freestanding accessory structures.[805]

**(5)** The keeping of racing, homing, or exhibition (fancy) pigeons is allowed as an accessory use on any lot 10,000 square feet or more in size.

**(6)** Structures for the housing of animals must set back from lot lines as follows:

**(a)** Barns and other structures used for the confining or sheltering of livestock and poultry must be located at least 100 feet from all lot lines when used in connection with an agricultural operation and must be located at least 50 feet from all lot lines when used as permitted by this section. Additional provisions governing the location of hog pens are set forth in Chapter 41.1. of the Code.[806]

**(b)** Structures used for the confining or sheltering of horses or ponies must be located at least 40 feet from front and side lot lines and at least 20 feet from rear lot lines.

**(c)** Barns used for the purposes of subsection (a) or (b) above are excluded from the maximum height regulations.

**(d)** Cages, lofts, hives, pens, and other structures that are eight and one-half feet or less in height and that are used for the keeping of homing, racing, or exhibition (fancy) pigeons or honeybees must be located at least three feet from all lot lines.

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[804] This codifies an existing interpretation.

[805] Change since 7/1/2019 draft: Replaced "landing platform" with "main entrance" and added the last sentence to clarify that these provisions do not apply to solitary bees such as Mason bees.

[806] The sentence in Par. 3 of Sect. 10-102 stating that a barn or other agricultural structure may not be used for retail sales is not carried forward, as it is unnecessary.

Any such structure that exceeds eight and one-half feet in height must be located on the lot in accordance with subsection 4102.7.A.[807]

**(e)** Doghouses, runs, pens, rabbit hutches, cages, and other similar structures for the housing of dogs and other commonly accepted pets must be located on the lot in accordance with subsection 4102.7.A, except a structure, run, or pen for three or more dogs must be located at least 25 feet from all lot lines.

**Standards when permitted by special permit:[808]**

**(7)** The BZA may approve a special permit to modify the provisions of subsections (1) through (6) above, in accordance with the following:[809]

**(a)** In reviewing an application, the BZA must consider the following:

***1.*** The kinds and numbers of animals proposed to be kept;

***2.*** The characteristics of those animals;

***3.*** The proposed management techniques; and

***4.*** The location that such animals will be kept on the lot.

**(b)** The BZA may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on any adjacent property and no emission of noise or odor detrimental to other property in the area.

**(c)** Such modification may be approved if it is established that the resulting use will be harmonious and compatible with the adjacent area.

**(d)** The BZA may not approve a special permit to allow roosters.[810]

**(8)** The BZA may not approve an activity meeting the definition of a riding or boarding stable or a kennel as an accessory use of property.

## L. Limited Riding or Boarding Stable[811]

**Standards when permitted by right:**

**(1)** On lots containing two to less than five acres, up to five horses may be boarded, and on lots containing five or more acres, up to eight horses may be boarded. Boarding of horses in excess of these numbers is deemed a riding or boarding stable and requires special exception or special permit approval.

**Standards when permitted by administrative permit:**

**(2)** Riding lessons are permitted on lots containing a minimum of two acres, subject to approval by the Zoning Administrator and this subsection 4102.7.L. Each permit is revocable by the Zoning Administrator because of the failure of the owner or operator

[807] Height limit increased from seven feet.
[808] Change since 7/1/2019 draft: Language deleted: "The BZA may not approve the keeping of wild, exotic, or vicious animals. The keeping of wild, exotic, or vicious animals is subject to Chapter 41.1 of the County Code."
[809] Change since 6/30/2020 draft: This standard has been modified to make it clear that the BZA may not permit the keeping of animals prohibited by Chapter 41.1 of the County Code or to allow more animals to be temporarily sheltered, fed, and watered for a fee.
[810] Change since 6/30/2020 draft: added language to clarify that roosters cannot be approved by a special permit.
[811] This carries forward Sect. 10-302.8, 10-304.12, and 10-305.

of the use covered by the permit to observe all requirements of the permit and the Zoning Ordinance.

**(3)** Riding lessons are subject to the following standards. Riding lessons that do not comply with these standards are deemed a riding or boarding stable and require special exception or special permit approval in those districts where permitted.

**(a)** On lots containing a minimum of two acres but less than five acres, no more than two students are allowed at any given time and up to eight students are allowed in any one day.

**(b)** On lots containing five acres or more, a maximum of four students are allowed at any given time and up to eight students are allowed in any one day.

**(c)** The primary residence of the permit applicant must be located on the same lot where the horseback riding lessons are given; however, the applicant is not required to conduct the horseback riding lessons or care for the horses that are kept, boarded, or maintained on the property.

**(d)** The hours of horseback riding lessons are limited to 7:00 AM to 7:00 PM. During that time, one nonresident person, whether paid or not for their services, may assist with the horseback riding lessons or care for the horses.

**(e)** All horses used in the horseback riding lessons must be kept on the property and no horses may be transported or ridden onto the property for the lessons.

**(4)** If there is a lighted outdoor riding ring or riding area, the use of outdoor lighting for such areas is limited to 7:00 AM to 7:00 PM.

**(5)** A Conservation Plan approved by the Northern Virginia Soil and Water Conservation District must be submitted for the property, and all activity on the property must conform to that Plan.

## M. Residence for Manager or Employee[812]

### Standards when permitted by administrative permit:

**(1)** An accessory residence for a manager or employee is only allowed if it is located within the principal structure.

### Standards when permitted by special exception or special permit:

**(2)** A residence for manager or employee may be located in a structure detached from the principal structure only if it is approved in conjunction with approval of another SE or SP use and if it complies with the applicable bulk regulations for a principal structure set forth in the specific district in which it is located. Any locational requirements set forth as additional standards for a special exception or special permit use are not applicable to detached structures occupied by dwelling units.

[812] Change since 7/1/2019 draft: Added the standards from Sect. 2-501. Change since 6/30/2020 draft: Changed permission from accessory to now require an administrative permit.

## N. Sawmilling[813]

### Standards when permitted by special permit:

**(1)** Sawmilling operations are limited to timber grown on the same property.

**(2)** A permit issued for a sawmilling operation must not exceed two years in duration. The permit may be extended in conformance with the provisions of subsection 8100.4.D(3) for up to two successive periods of two years each, but the sawmilling operation may not exist for more than a total of six years.

**(3)** No structure and no storage of lumber, logs or timber may be located closer than 100 feet to any lot line. No structure housing or enclosing a saw may be located closer than 400 feet to any lot line that abuts a residential district.

**(4)** The mill may operate only one saw at any one time, and no blade may exceed 48 inches in diameter.

**(5)** There may be a maximum of five employees per shift, and no more than one shift is permitted in any 24-hour period.

**(6)** The on-site stockpile is limited to not more than 100 unsawn logs and not more than 8,500 board feet of sawn lumber at any one time.

**(7)** The hours and days of operation will be established by the BZA, except that the operation may not occur between 8:00 PM and 8:00 AM.

**(8)** The BZA may require screening, planting, fencing, preservation of trees, entrances, design of structures, or any other requirement that will minimize impacts of the sawmilling use on the surrounding area.

## O. Short-Term Lodging[814]

### Standards when permitted by administrative permit:

**(1)** Short-term lodging is permitted in a dwelling or manufactured home only upon the Zoning Administrator's issuance of a permit in accordance with subsection 4102.1.I.

- **(a)** An application for a short-term lodging permit must be submitted to the Zoning Administrator on a form furnished by the County.[815]
- **(b)** The permit will be valid for two years from the date of issuance.

**(2)** A dwelling or manufactured home used for short-term lodging must:

- **(a)** Comply with the requirements of the applicable version of the USBC or Virginia Manufactured Home Safety Regulations, as determined by the Building Official;
- **(b)** Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service);

[813] These carry forward Sect. 8-910.
[814] This carries forward Sect. 10-105. Definitions are relocated to Article 9: Definitions and Ordinance Interpretation. Change since 7/1/2019 draft: A standard requiring the owner to allow inspection of the property has been relocated to a section that applies to all uses requiring administrative permit.
[815] Fee amount is listed with other fees in Article 8.

**(c)** Have a plan posted inside the door to each sleeping room showing the exit pathway from the sleeping room to the nearest exit from the dwelling or manufactured home; and

**(d)** Have one designated off-street parking space available for lodgers, which the operator has the authority to reserve for short-term lodging purposes.

**(3)** A short-term lodging operator must:

**(a)** Be a permanent resident of the property hosting the short-term lodging use, as demonstrated at the time of application for a permit to operate short-term lodging;

**(b)** Obtain written consent from the owner of the property for the short-term lodging use;

**(c)** Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or manufactured home prohibit short-term lodging; and

**(d)** Designate at least one person who consents to serve as an authorized agent for the short-term lodging operator. Contact information (name, address, telephone, and email address) for the authorized agent(s) must be provided on the application for a short-term lodging permit, posted in a prominent location within the area made available for short-term lodging, and provided in any written material given to lodgers during their overnight stay.

**(4)** The short-term lodging use is subject to the following use limitations:

**(a)** A dwelling or manufactured home may be used for short-term lodging for no more than 60 nights per calendar year.

**(b)** The maximum number of lodgers per night may not exceed six adults, except where the USBC requires fewer occupants.

**(c)** All lodgers occupying a short-term lodging must be associated with the same rental contract. The maximum number of rental contracts per night is one.

**(d)** Events and activities, including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation, are prohibited in association with any short-term lodging.

**(e)** All advertisements for short-term lodging, posted on any platform online or in any other format, must include the short-term lodging permit number and identify the location of the parking space required by subsection (2)(d), above, and any other available parking or public transportation options.

**(f)** A short-term lodging operator must maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.

**(g)** Short-term lodging is prohibited in a detached accessory structure, accessory living unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.

**(h)** The Zoning Administrator's issuance of a permit does not invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners' association by-law.

### P. Solar Collection System[816]

**Standards when permitted as an accessory use:**

**(1)** A solar collection system mounted on the roof of a building or on another type of structure such as a light pole may extend up to five feet above the applicable maximum building height in the district where it is located.

**(2)** Any accessory structure supporting a solar collection system, such as a canopy, must comply with height and setback requirements for freestanding accessory structures in 4102.7.A(5).

### Q. Wayside Stand[817]

**Standards when permitted by right:**

**(1)** A wayside stand is permitted only on a lot containing at least two acres and during the crop-growing season.

**(2)** A wayside stand may not exceed 400 square feet in gross floor area and must be removed after the crop-growing season.

**(3)** Wayside stands may only be used for the sale of agricultural products grown on the same property. Plants that are balled, burlapped, and bedded are not considered as having grown on the same property.

**(4)** Wayside stands are not subject to the location requirements set forth in subsection 4102.7.A, but must be located a minimum distance of 25 feet from any lot line.

**(5)** Wayside stands must be located to allow adequate off-street parking spaces and safe ingress and egress to the adjacent street.

## 8. Temporary Uses

### A. General Standards for Temporary Uses[818]

**(1)** Upon application as provided for in subsection 8100.1.A(1), the Zoning Administrator may issue an administrative permit for any temporary use, except where Table 4101.3 or Table 4101.4 requires that the temporary use be approved by special exception or special permit.

**(2)** The application for an administrative permit for any temporary use must be filed at least 30 days[819] before the proposed use is to take effect, unless the Zoning Administrator

[816] These are new standards. Change since 7/1/2019 draft: Standards have been clarified and refined.
[817] This carries over Sect. 10-102(30) and 10-104(8). Some wording revised for clarity. Change since 11/24/2020 draft: Deleted reference to the sale of home-based business products for consistency with HBB standards. Additional revisions to this use may be included in a separate pending amendment.
[818] This carries forward Sect. 8-803.
[819] Change since 7/1/2019 draft: Application submission is currently three weeks. The previous draft had recommended six weeks, but based on further review of processing times, this has been reduced to 30 days.

approves a lesser time period. The application forms must provide such information as the Zoning Administrator finds to be reasonably necessary for the proper administration of this Section.

**(3)** The Zoning Administrator will review the submission, including, as applicable, the proposed use and activities, location, site layout, hours, parking, traffic access, sanitation, safety, and other items. The Zoning Administrator may issue the administrative permit if the application complies with the standards for the use in question, the general standards in subsection 4102.1.F, and will protect adjoining properties from adverse effects of the activity.[820]

**(4)** In the case of an appeal from the revocation of an administrative permit for a temporary use, the aggrieved party may request a meeting with the Zoning Administrator to present grounds for appeal. The Zoning Administrator will meet with the aggrieved party within two business days of the date upon which the appeal is received. Within a business day of the date of the meeting, the Zoning Administrator will then inform the aggrieved party, in writing, of his decision to affirm, modify, or rescind the revocation of the administrative permit.[821]

## B. Community Garden[822]

**(1)** A community garden may be permitted as either a principal use or an accessory use subject to any associated proffers or development conditions.

### Standards when permitted without an administrative permit:

**(2)** A community garden may be permitted as an accessory use, for the exclusive use and enjoyment of members of a homeowner association, condominium association, or non-residential development, without approval of an administrative permit, if the operation conforms to the provisions of subsections (3)(a) – (j) below.

**(3)** A community garden may also be permitted on property owned and controlled by the County, Park Authority, or Fairfax County Public Schools, subject to compliance with all other applicable regulations.

### Standards when permitted by administrative permit:

**(4)** A community garden may be permitted as a principal use in any district, subject to the following:

**(a)** The land area for the community garden cannot exceed two acres in size, unless approved by special permit in accordance with 8100.4.

**(b)** The cumulative area of all associated structures is limited to 250 square feet, except as may be approved by the BZA in accordance with subsection (5) below. All

[820] Change since 11/24/2020 draft: Edited for clarity.
[821] Change since 6/30/2020 draft: Replaced 48 hour and 24 hours with business days; the specific provisions pertaining to the Zoning Administrator's revocation of an administrative permit for a temporary use were not carried forward. A general standard in 4102.1.I allows the Zoning Administrator to revoke any administrative permit if the owner or operator fails to meet all requirements or conditions at any point.
[822] Change since 7/1/2019 draft: This carries forward Sect. 8-813. Change since 11/24/2020 draft: Revised to use the singular, "garden" and edited subsection (3) for consistency with the proposed language for food trucks.

accessory structures must comply with the applicable location regulations in 4102.7.A(5).

**(c)** A community garden may not be located closer than 15 feet to the front lot line and 25 feet from all other lot lines.

**(d)** Designated composting areas may not be located in the front setback, must be screened from adjoining residential property with either a fence or other adequate screening material, and must be maintained in a manner that protects adjacent properties from nuisance odors, runoff, and pests.

**(e)** Adequate parking and safe ingress and egress to the adjacent street must be provided.

**(f)** Only practices and equipment commonly used in residential gardening may be used. No lighting is allowed.

**(g)** The hours of operation are limited from 7:00 a.m. to dusk.

**(h)** A community garden and the surrounding area must be maintained in good condition. When the operation ceases, the land or area must be restored, and all structures associated with the community garden must be removed from the property.

**(i)** The operation of a community garden cannot create an erosive condition, as identified in Chapter 104 of the County Code. A Conservation Plan approved by the Northern Virginia Soil and Water Conservation District is recommended for gardens of not more than 5,000 square feet in area and is required for gardens greater than 5,000 square feet in area. All activity in and around the garden must adhere to the recommendations of the Plan to preclude the development of erosive conditions.

**(j)** This administrative permit is valid for a period of two years and may be renewed on a biennial basis with approval of the Zoning Administrator. Any subsequent expansion or change of permit holder may require submission of a new application as determined by the Zoning Administrator.

#### Standards when permitted by special permit:

**(5)** The BZA may approve a special permit for the following:

**(a)** A community garden larger than two acres up to a maximum size of five acres.

**(b)** Accessory structures exceeding the 250 square foot cumulative square footage above.

**(6)** A special permit application must be filed at least 90 days before the permit is to take effect.

## C. Construction Site Office and Storage[823]

#### Standards when permitted by administrative permit:

**(1)** An administrative permit may be issued for a period beginning no earlier than 30 days before the commencement of actual construction and terminating no later than 20 days

[823] This carries over and consolidates Sections 8-805 and 8-806. The timeframe is based on Sect. 8-806 instead of Sect. 8-805, so the special permit for additional time is no longer needed.

after completion of the last building to be constructed in the project. All buildings, materials, supplies, and debris must be completely removed from the temporary use site before the administrative permit expires.[824]

**(2)** The use must be located within the recorded subdivision that it serves or on the same lot where the construction project is located.

**(3)** No portion of the use may be located closer than 50 feet to any right-of-way line of any public street existing before the recording of the subdivision served by the use or existing before the commencement of the construction project.

**(4)** No portion of the use may be located closer than 150 feet to any pre-existing dwelling not owned or leased by the owner of the subdivision or construction project served by the use.

**(5)** If the use is to be used in connection with the construction of 100 or more single-family detached dwellings, then the distances specified in subsections (3) and (4) above are doubled.

**(6)** All areas of the use site and access roads to the use must be treated or maintained to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way. The use site must be maintained in a clean and orderly manner, and building material and construction residue and debris must not be permitted to accumulate.

**(7)** The use may commence no earlier than 30 days before the beginning of actual construction.

**(8)** When the use is located in or adjacent to a residential district, the Zoning Administrator may require that appropriate screening or fencing measures be provided.

## D. Farmers Market[825]

**(1)** A farmers market may be permitted on property owned and controlled by the County, Park Authority, or Fairfax County Public Schools, subject to compliance with all other applicable regulations. An administrative permit is not required.

### Standards when permitted by administrative permit:

**(2)** A farmers market may be permitted subject to the following conditions:

**(a)** Adequate parking and safe ingress and egress to the adjacent street must be provided.

**(b)** No storage of vehicles, canopies, display items or produce is permitted when the market is not in operation. Additionally, no permanent structures are allowed; however, canopy tents, fabric canopies primarily attached to vehicles, temporary portable shelving, portable tables, bins, hanging racks, and similar display items are not deemed structures.

**(c)** Sales are limited to agricultural products and items made from farm products, including vendor-produced food, beverage, and other value-added items.

[824] Standard has been simplified by deleting allowed days from specific events and referencing the permit expiration date.

[825] Change since 7/1/2019 draft: Added per recently adopted amendment. Change since 11/24/2020 draft: Revised for consistency with the proposed language for food trucks.

(d) The hours of operation are limited to daylight hours.

(e) The administrative permit is valid for a period of two years and may be renewed on a biennial basis with approval of the Zoning Administrator. Any subsequent expansion or change of permit holder or renewal of a farmers market permit may require submission of a new application as determined by the Zoning Administrator.

## E. Food Truck[826]

**(1)** Food trucks may be permitted on property owned and controlled by the County, Park Authority, or Fairfax County Public Schools or in conjunction with the approval of an administrative permit for a special event and are not subject to the standards in subsections (2) through (7) below. The use must comply with all applicable regulations, including the Health Department and the Department of Cable and Consumer Services requirements.

**Standards when permitted by administrative permit:**

**(2)** A food truck may not be operated without a food truck location permit and an annual food truck operation permit (see subsection (4) below).

**(3)** Food trucks are permitted as an accessory use in the following locations:

(a) In a planned district, but only in commercial areas;

(b) In any industrial or commercial district;

(c) On any construction site with an active building permit and ongoing construction activity; and

(d) In conjunction with any approved nonresidential use in a residential district or a residential area of a planned district, limited to 12 times per calendar year per approved location. This time limitation may be exceeded with special exception approval in accordance with subsection 8100.3, special permit approval in accordance with subsection 8100.4, or as specifically permitted with an approved final development plan or executed proffers.

**(4)** Food trucks may be operated from an approved location, subject to the following procedures:

(a) The owner of property on which a food truck may be located must file a food truck location permit application with the Zoning Administrator on forms furnished by the County.

(b) Each year, the owner or operator of any food truck doing business in the County must file a food truck operation permit application with the Zoning Administrator on forms furnished by the County. The permit application must be accompanied by the written consent of the private property owner or authorized agent authorizing the food truck to be located on their approved food truck location and by a copy of the property owner's food truck location permit. If a food truck operates on more

[826] This carries forward Sect. 2-510, reorganized and with wording revised for clarity. Availability expanded to non-residential uses in residential districts and limits on frequency at such locations were added. Fee amount is listed with other fees in Article 8. Change since 11/24/2020 draft: Revised subsection (1) for clarity. Added "per approved location" in (3)(d).

than one site, only one food truck operation application is required to be obtained from the Zoning Administrator for such food truck, provided that the property owner on any additional sites has obtained a food truck location permit for that site, the food truck operator has written consent from the property owner or authorized agent to operate on that site, and the food truck is operating in conformance with that approval. The operation of any food truck is subject to all Health Department and Department of Cable and Consumer Services permits/licenses.

**(c)** Upon the finding that the application complies with the standards set forth in subsection (5) below, the Zoning Administrator will approve the permit application, setting forth conditions that protect the public health, safety and welfare and adequately protect adjoining properties from any adverse impacts of the food truck, which may include, but are not limited to, hours of operation, location, parking, vehicular access, and safety requirements.

**(5)** All food trucks must be located and operated in compliance with the following standards:

**(a)** Food trucks must be located on private property with the written consent of the property owner or authorized agent holding an approved food truck location permit.

**(b)** Food trucks may only be permitted in conjunction with a principal use consisting of a minimum of 25,000 square feet of gross floor area or on a construction site with an active building permit and on-going construction activity. This standard does not apply to food trucks operated in conjunction with approved nonresidential uses in residential districts in accordance with subsection (3)(d) above.[827]

**(c)** Food trucks may only operate for a maximum of four hours in any one day at any one location, including set-up and break-down.

**(d)** A maximum of three food trucks are permitted at any one location at the same time, provided that additional food trucks may be permitted in conjunction with administrative permits or other special events regulated by any proffered condition, development condition, special exception or special permit.

**(e)** Food trucks may not be located in any fire lane, travel lane, entrance/exit, or any required parking space.

**(f)** Food trucks must be located on a level, paved, or gravel surface with safe pedestrian access.

**(g)** The vicinity around the food truck must be kept clean and free of debris.

**(h)** Trash receptacles must be provided.

**(6)** Any food truck location permit or food truck operation permit is revocable by the Zoning Administrator because of the failure of the property owner or the food truck operator to comply with any of the provisions of this subsection 4102.8.E.

**(7)** All other sale of goods or services from any vehicle other than a food truck are subject to all the regulations for the zoning district in which the sale is conducted, but this

[827] Change since 6/30/2020 draft: Language was added to clarify that the minimum area requirement does not apply to food trucks operated on the site of a nonresidential use in residential districts.

regulation does not prohibit any vending from vehicles on public streets that is not otherwise prohibited by law.

**(8)** Each food truck must be in substantial conformance with any proffered condition, development plan, special exception, or special permit for the site on which it operates. If any proffered condition, development plan, special exception or special permit approval specifically precludes food trucks or otherwise regulates food trucks, including the location, hours of operation, or number of food trucks, the zoning approval will govern that aspect of the food truck location or operation in lieu of the standards in this Section 4102.8.E. Unless otherwise specified in any zoning approval, all provisions of this Section 4102.8.E apply.

**Standards when permitted by special exception or special permit:**

**(9)** The Board or BZA, as applicable, in conjunction with the approval for a nonresidential use in a residential district or a residential area of a planned district, may allow food trucks in excess of twelve times per calendar year.

## F. Interim Off-Street Parking in Metro Station Area[828]

**Standards when permitted by special exception:**

In order to address Metro Station parking deficiencies, the Board may approve a special exception to allow a privately-operated off-street parking lot as a temporary use within a specified distance of a Metro Station in accordance with the requirements in this section. The temporary parking lot use is intended only as an interim use to serve a public need and not as a transitional use to a higher density or intensity development than currently is planned.

**(1)** The parking lot may be used only to provide ground surface parking of motor vehicles for the general public. Motor vehicle repair work, except emergency service, is prohibited.

**(2)** Accessible off-street parking spaces and related access aisles and accessible routes must be provided in accordance with Article 6. All other provisions of Article 6 do not apply; instead, the parking lot must comply with the following standards:[829]

**(a)** The Director may approve a temporary surfacing material in accordance with the following requirements:

***1.*** Pavement must be placed from the edge of existing pavement for a minimum distance of 25 feet into the interior of the site at each entrance and exit to prevent the parking area surfacing materials from entering the abutting street.

***2.*** Temporary paved sidewalks must be provided within and adjacent to the parking area at all locations where significant pedestrian traffic is anticipated.

***3.*** Safe and convenient pedestrian access must be provided from the parking area to the station entrance.

***4.*** The surfacing material must be maintained in good condition at all times.

[828] This carries forward Sect. 9-520. Change since 7/1/2019 draft: Deleted requirement for lighting as that will be determined as part of the review. Edited for clarity.
[829] Reference to accessible aisles and routes has been added.

**(b)** The parking lot must provide adequate aisle clearance and safe and convenient access to a street.

**(c)** All parking spaces must be delineated.

**(d)** Subject to subsection (e) below, parking spaces and parking kiosks may be located in any minimum setback, unless the setback abuts a Residential district.

**(e)** Parking spaces must be located at least ten feet from all public rights-of-way and private streets.

**(3)** In addition to the submission requirements set forth in Section 8101, the application for the proposed parking lot must include the following:

**(a)** Demonstration that the proposed temporary off-street parking, and related site improvements, will not preclude the subsequent development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and the Comprehensive Plan; and

**(b)** Plans for grading and stormwater drainage. Grading that would not be allowed for the permanent development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and/or the Comprehensive Plan, is prohibited.

**(4)** In approving the special exception, the Board may impose conditions and restrictions it deems necessary to assure that the off-street parking area will be compatible with and not adversely impact the adjacent area or adversely impact the site itself in a manner that would hinder future development in accordance with the existing zoning and Comprehensive Plan. Conditions may include, but are not limited to the following:

**(a)** Limits on the size and location of the parking lot to ensure retention of natural site features, including vegetation, that should be preserved and maintained until evaluation as part of the establishment of the permanent use of the property;

**(b)** The imposition of speed limits; and

**(c)** The provision of dust control measures

**(5)** The Board may approve the special exception for a period of up to three years from the date of approval of the Non-~~r~~Residential Use Permit. The special exception may be renewed in accordance with subsection 8101.3. Once established, the parking lot use may be continued for the duration of the special exception unless one-year written notice of intent to cease the use is given to the Board. No approvals to permit the commencement of land-disturbing activity contrary to the temporary parking use may be issued during the life of the special exception or the one-year notice period, whichever is applicable.

**(6)** In Residential districts, the following requirements apply in addition to subsections (1) through (5) above:

**(a)** The minimum lot size is five acres.

**(b)** More than 50 percent of the proposed parking area must be located within a 1,500-foot radius of a Metro Station platform entrance.

**(c)** The number of off-street parking spaces allowed within the vicinity of any one Metro Station may not exceed the number of Metro Station parking spaces temporarily displaced during construction on the Metro Station site.

**(d)** At a minimum, Transitional Screening 3 is required at the outer boundaries of the lot where the lot abuts or is across the street from a Residential district. Adequate landscaping and screening must be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity. The Board may require the preservation of existing natural screening and plant materials.

**(e)** The Board must impose a time limitation on the special exception to ensure that the use will not be operational before the displacement or after the re-establishment of the Metro Station parking spaces; however, the special exception may be renewed in accordance with the provisions of subsection 8101.3.

**(7)** In commercial and industrial districts, and on land in residential districts that is designated for commercial or industrial development, the following requirements apply in addition to subsections (1) through (5) above:

**(a)** More than 50 percent of the proposed parking area must be located within a 2,000-foot radius of a Metro Station platform entrance.

**(b)** The number of temporary off-street parking spaces allowed within the vicinity of any one Metro Station must not exceed the difference between the ultimate number of Metro Station parking spaces planned for the station and the number existing at the time the application is filed; however, in the case of an in-line station serving temporarily as a terminus, the Board may allow an appropriate portion of the future Metro Terminal Station's parking allocation to be temporarily located in the vicinity of the in-line station, if the applicant demonstrates that there is presently a need for the additional parking spaces.

**(c)** The provisions of Section 5108 do not apply. Adequate landscaping and screening must be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity. The Board may require the preservation of any natural screening and plant materials.

## G. Model Home Sales and Leasing Office[830]

### Standards when permitted by administrative permit:

**(1)** An administrative permit may be issued for a period not to exceed two years. The office use is allowed only until the end of the two-year period or until all units in the development are sold or leased, whichever occurs first. This permit may be extended if approved by the Zoning Administrator based on the continued existence of units that have not had an initial sale or lease executed at the end of the two-year period.

**(2)** The model home sales and leasing office must be incidental to and located within the recorded subdivision that it serves or on the same lot where the sales project is located.

**(3)** If located in a permanent structure, such structures must comply with all of the requirements of this Ordinance, including the applicable zoning district regulations.

[830] This carries forward Sect. 8-808 and Sect. 2-509. Limit on sleeping accommodations was deleted. Provision for extension of the permit has been added.

## H. Portable Storage Container[831]

### Standards when permitted as an accessory use:

**(1)** Portable storage containers are allowed as a temporary use only on lots containing a dwelling and may be located in any yard.

**(2)** Portable storage containers are permitted for the following time periods:

- **(a)** On a lot containing 36,000 square feet or less and developed with a single-family detached dwelling, for a period not to exceed 30 consecutive days within a six-month period.
- **(b)** On a lot containing more than 36,000 square feet and developed with a single-family detached dwelling, for a period not to exceed 60 consecutive days within a six-month period.
- **(c)** On lots developed with single-family attached, stacked townhouse, or multiple family dwellings, for a period not to exceed seven consecutive days within a six-month period.
- **(d)** Where a dwelling has been damaged by casualty, a period of time established in accordance with subsection (7) below.

**(3)** Portable storage containers must not exceed eight and one-half feet in height.

**(4)** Portable storage containers must not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.

**(5)** Portable storage containers must 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 or pedestrian circulation, and must 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.

**(6)** Portable storage containers are also subject to the sight distance provisions of subsection 5100.2.D(4)(b).

### Standards when permitted by administrative permit:

**(7)** An administrative permit may be issued for a period longer than set forth in subsection (2) above, but only in accordance with all of the following:

- **(a)** Only in instances where a dwelling has been destroyed or damaged by casualty and only when such dwelling is to be rebuilt or repaired.
- **(b)** An administrative permit may be issued for a period not to exceed six months or for the period of an active building permit, whichever is shorter. This permit may be extended by the Zoning Administrator if construction of the dwelling is being diligently pursued.

[831] This carries forward Sections 8-812, 10-102.28, and 10-104.15. The general special permit option for a longer timeframe has been replaced with an administrative procedure.

## I. Special Event

### Standards when permitted by administrative permit:[832]

**(1)** An administrative permit may be issued for a period not to exceed 21 days. Any request for a longer period of time may be approved by special permit in accordance with subsection 8100.4.

**(2)** An administrative permit may not be issued unless adequate provision is made for off-street parking and loading requirements.

**(3)** Outdoor display of goods and merchandise must be located within the designated area on a plan submitted with the application.

**(4)** The following events must be sponsored by a charitable, educational, or nonprofit organization operating within the County:

**(a)** Open-air markets, such as craft fairs or flea markets; and

**(b)** Seasonal sales located on sides used for nonresidential uses in residential districts.

**(5)** Seasonal sales located in commercial districts are subject to the following:[833]

**(a)** These events are limited to 21 days with 30 days between events; ~~and~~

**(b)** If limited to the timeframe in (a) above, this use is exempt from site plan or minor site plan requirements per subsection 8100.7.D; and~~.~~

~~**(b)**~~**(c)** This use is subject to the NonRUP fee listed in Table 8102.[834]

**(6)** The sale of used merchandise, such as furniture, household goods, or other similar items, is only permitted with an open-air market.

**(7)** The outdoor display of automobiles, manufactured homes, trailers, camping equipment, boats, antiques, and similar large items may not include the sale of such items in conjunction with and on the site of the display.

**(8)** The Zoning Administrator may not issue an administrative permit for a carnival or circus where the proposed activity will:

**(a)** Occur within two miles of any other carnival or circus for which an administrative permit has been previously obtained; and

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[832] This carries forward Sect. 8-804. Provisions applicable to circuses, carnivals, and fairs have been made generally applicable to all special events, except time and geographic spacing requirements, and Par. (3) now covers both owners and operators. Requiring a determination of good repute and that the principal administrative offices of the sponsor be located in the County were not carried forward. Change since 7/1/2019 draft: Deleted statement that the organization must submit to the Health Department. Organizations are required to comply with the Health Department but that is not enforced as part of the Zoning Ordinance. Approvals will continue to refer applicants to the Health Department. Change since 6/30/2020 draft: business promotional activity (currently known as promotional activities of retail merchants) has been consolidated with this use. With the consolidation, a requirement that these events be sponsored by a non-profit has only been applied to open-air markets and seasonal sales, and the limitation on these types of events to 14 days within a 3-month period has been removed. Standards related to location of outdoor display, as well as limitations on the sale of certain used items, have been carried forward.

[833] Change since 6/30/2020 draft: This standard has been added to bring forward current regulations for 21-Day Non-~~r~~Residential Use Permits.

[834] Change since 1/19/2021 draft: Added a reference to the current NonRUP fee for seasonal sales in commercial districts.

**(b)** Commence within a time period of three weeks from the ending date of any other carnival or circus within a two-mile radius for which an administrative permit has been previously obtained.[835]

**(9)** The Zoning Administrator will notify the Animal Services Division of the Police Department upon receipt of an application for an administrative permit involving the display or exhibition of animals. In addition to the requirements of this Ordinance, the property owners or operators of any special event such as a carnival, circus, animal exhibition, or any other similar event that involves the exhibition of animals[836] must obtain a County license in accordance with the provisions of Chapter 25 of the County Code, and a permit in accordance with the provisions of Chapter 41.1 of the County Code.

**Standards when permitted by special permit:**

**(10)** An application for any such approval by the BZA must be filed 120 days before the date on which the permit is to take effect.[837]

**(11)** A special event as a special permit use must comply with the standards in subsections (1) through (9) above.

## J. Temporary Dwelling or Manufactured Home[838]

**Standards when permitted by administrative permit:**

**(1)** A temporary dwelling or manufactured home may be allowed where a single-family detached dwelling has been destroyed or damaged by fire or other disaster to an extent that the dwelling is uninhabitable, if the destroyed or damaged dwelling is to be rebuilt or repaired, and subject to the following:

**(a)** An administrative permit may be issued for a period not to exceed nine months or for the period of an active building permit, whichever is shorter. This permit may be extended by the Zoning Administrator if construction of the dwelling is being diligently pursued.

**(b)** A temporary dwelling or manufactured home may be allowed only on a lot where a single-family detached dwelling is permitted by the provisions of this Ordinance.

**(c)** Occupancy of a temporary dwelling or manufactured home is allowed only if appropriate sanitary facilities are provided as approved by the Health Department.

**(d)** Occupancy of a temporary dwelling or manufactured home must terminate when the construction of the dwelling is completed or when the administrative permit expires, whichever occurs first.

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[835] Change since 7/1/2019 draft: Corrected standard to reference carnival or circus uses, consistent with the current standards.
[836] Change since 7/1/2019 draft: Specific examples replaced by more general reference to event that involves the exhibition of animals.
[837] The submission timeframe is changed from 90 days to 120 days.
[838] This carries forward Sect. 8-809 and Par. D of Sect. 2-507. The general special permit option for a longer timeframe has been replaced with an administrative procedure.

**(e)** Additional conditions and requirements may be imposed by the Zoning Administrator to mitigate any impacts of the temporary dwelling or manufactured home on surrounding properties.[839]

**(f)** An administrative permit for a temporary dwelling or manufactured home may be issued in a residential district.

**(g)** An administrative permit for a temporary dwelling or manufactured home may be issued in the commercial or industrial districts only if the single-family detached dwelling was occupied as a nonconforming dwelling use before the damage or destruction in accordance with Section 8104.

**Standards when permitted in conjunction with a special exception or special permit use:**

**(2)** Manufactured homes may be allowed as temporary dwellings for faculty, staff, or students in conjunction with the approval of a special exception or special permit for a child care center; religious assembly; religious assembly with private school, specialized instruction center, or child care center; or private school. These manufactured homes must be connected to public sewer or an approved septic field, public water or an approved well, and to electricity and must be subject to the regulations of the zoning district in which they are located. In approving the special exception or special permit, the Board or BZA, as appropriate, may impose conditions of approval to ensure that the use will be compatible with the use of adjacent properties, including limitations on location and duration and landscaping and screening requirements.[840]

[839] Requirement for any standards proposed by the Zoning Administrator to be sent to the BZA for action was deleted as unnecessary.

[840] Carried forward from Par. 1D of Sect. 2-507. Added the religious assembly with private school, etc. use. Change since 7/1/2019 draft: specialized instruction center has been removed.

# Article 5 - Development Standards[841]

## 5100. Lot, Bulk, and Open Space Regulations[842]

### 1. General Dimensional Standards[843]

**A.** The dimensional standards for residential, commercial, industrial, planned, overlay, and commercial revitalization districts are identified for each district as follows:

**(1)** Standards for Residential Districts in Section 2102.

**(2)** Standards for Commercial Districts in Section 2103.

**(3)** Standards for Industrial Districts in Section 2104.

**(4)** Standards for Planned Districts in Section 2105.

**(5)** Standards for Overlay and Commercial Revitalization Districts in Article 3.

**B.** Setbacks or open space provided on any lot for the purpose of complying with this Ordinance may not be reduced in width or area to less than what is required by this Ordinance, and may not be used to satisfy the setback or open space requirements for any other lot, unless it is specified in this Ordinance.[844]

### 2. Lot and Bulk Regulations[845]

#### A. Lot Size Regulations[846]

**(1)** In this Ordinance, lot size regulations may be expressed in terms of:

**(a)** Minimum lot area;

**(b)** Minimum lot width; and

**(c)** Minimum district size, which is only applicable to proposed rezonings and amendments thereto, and cluster subdivisions.[847]

**(2)** The minimum lot area and lot width requirements for conventional subdivision lots and cluster subdivision lots in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts, are set forth in subsection 5100.2.O. The minimum lot area and lot width requirements for affordable

[841] Most of the text has been edited for clarity and readability, often without footnote; however, reorganization of material and content changes are footnoted throughout.
[842] These standards include further details and explanation of measurement of the various dimensional standards established in the zoning districts. In subsequent drafts, specific dimensional standards may be relocated from the zoning districts tables to this section, or vice versa. References to "yard" were replaced with "setback" throughout.
[843] New section.
[844] Carried forward from 2-410.
[845] Carried forward from Part 4 of Article 2, with revisions as noted. Qualifying lot standards were separated from qualifying setback standards.
[846] From Sect. 2-306. Relocated from new Article 2. Did not carry forward Par. 3 of Sect. 2-306 because it is unnecessary and confusing, except as indicated with "may be" (not all districts have a minimum district size).
[847] Added that district size only applies to rezonings and cluster subdivisions. Change since 8/9/2019 draft: Added amendments to rezonings so that district size will apply to a PCA to remove land.

dwelling unit developments in the R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, and R-30 Districts are set forth in the same section.

**(3)** No parcel may be rezoned to a given district unless it meets the applicable minimum district size, except:[848]

**(a)** By the Board acting on its own motion; or

**(b)** As a part of a rezoning or special exception, by the provisions of subsection 5100.2.K.

**(4)** All uses are subject to the lot size requirements specified for a given district. The minimum lot size requirement for non-residential uses in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts is the greater of either the average or minimum lot area of conventional subdivision lots. However, minimum lot size requirements for a specific use set forth in this Ordinance will apply.

**(5)** The computation of minimum lot area or minimum district size includes ordinary transmission lines in the public right-of-way or easements totaling less than 25 feet in width, but excludes any land area that is encumbered by a covenant, easement, or interest that allows the establishment of power distribution facilities, including high power transmission lines, ground transformer stations, and natural gas, petroleum, or other transmission pipelines.

## B. Bulk Regulations[849]

**(1)** Bulk regulations control the size of structures and the relationship of structures and uses to each other and to open areas and lots lines.[850] They are expressed in terms of the following which are further defined in Article 9:[851]

**(a)** Maximum building height;

**(b)** Minimum setbacks; and

**(c)** Maximum floor area ratio.

**(2)** No structure or part of a structure may be built, moved, used, occupied, or arranged for use on a lot that does not meet all minimum bulk regulations presented for the zoning district in which it is located, except as may be qualified by the provisions of this Ordinance.

[848] Par. 4A and 4B of Sect. 2-306 are not carried forward. A waiver of district size is allowed by special exception (5100.2.K).
[849] From current Sect. 2-307. Relocated from new Article 2. "Minimum yard requirements" were revised to "setbacks" throughout.
[850] Change since 10/11/2019 draft: This language is carried forward from the definition of bulk regulations in Article 20.
[851] The term angle of bulk plane and the related term effective building height have been deleted.

## C. Height Regulations[852]

**(1)** Maximum building height applies to all structures in the zoning district except those structures or features listed below and those structures assigned a different maximum height elsewhere in this Ordinance.[853]

**(2)** The height limitations of this Ordinance do not apply to accessory structures such as barns, silos, birdhouses, flues, or roof structures such as chimneys, spires, cupolas, gables, mechanical penthouses, domes, television antennas, water towers, water tanks, smoke-stacks, or other similar roof structures and mechanical equipment unless:

**(a)** The structure(s) on a building roof cumulatively occupies an area greater than 25 percent of the total roof area; or

**(b)** The structure is not used for a purpose accessory to the principal[854] use of the building.

**(3)** HVAC units on building roofs are subject to the height limitations unless the units are located in a penthouse or are completely screened on all four sides and the penthouse or screening designed as an integral architectural element of the building.

**(4)** Freestanding accessory structures must be located in accordance with subsection 4102.7.

**(5)** A parapet wall, cornice, or similar projection may exceed the height limitations by a maximum of three feet if the projection does not extend more than three feet above the roof level of the building.

**(6)** Rooftop guardrails required by the USBC for safety reasons are excluded from building height limits.

**(7)** The BZA may approve a special permit for the modification of grade as it applies to the height measurement of a single-family dwelling that is located within or in proximity to a floodplain and when the structure must be elevated to meet all applicable floodplain regulations. Any applicant seeking approval of a grade modification must demonstrate that the requested increase in grade is the minimum amount required to meet the floodplain regulations.[855]

**(8)** The Board may approve a special exception for an increase in building height above the maximum height permitted in accordance with the following:[856]

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[852] Carried forward from 2-506, "Structures Excluded from Maximum Height Regulations," except deleted "scenery lofts" and applied the height exemption generally to birdhouses rather than only to purple martin birdhouses. Change since 11/24/2020 draft: Deleted flagpoles and monuments from subsection (2).

[853] From Par. 3 of Sect. 2-307.

[854] Revised from "main use."

[855] Change since 10/11/2019 draft: This carries forward Sect. 8-925.

[856] Change since 10/11/2019 draft: This carries forward Sect. 9-607, except the C-5 District has been added and the references to Group 3 and Category 3 uses have been updated with references to specific uses and use categories, with the following changes: a) Almost all of the uses in the new community, cultural, and educational facilities category would be carried forward from the current uses, so the remaining ones have been added, including community swim, tennis, and recreation club; convention or conference center; public use; and the current Group 4 uses that have been consolidated with private clubs and public benefit associations in the new club, service organization, or community center use; b) Almost all of the uses in the new health care category would be carried forward from the current uses, so the remaining one, continuing care facility, has been added; c) Retreat center

(a) The special exception may be approved:

1. In the C-3, C-4, C-5, C-6, C-7, C-8, I-2, I-3, I-4, I-5, I-6 Districts, and the Sully Historic Overlay District for any use; and
2. In any zoning district, for a residence hall, stadium or arena, or any use in the community, cultural, and educational facilities category or the health care category.

(b) An increase in height may be approved only if:

1. The increase will be in harmony with the Comprehensive Plan;
2. The resultant height will not be detrimental to the character and development of adjacent lands; and
3. The remaining regulations for the zoning district can be satisfied.

(c) An increase in height up to 60 feet may be approved in the Sully Historic Overlay District and within 500 feet of the Sully Historic Overlay District perimeter boundary. The applicant must demonstrate that the proposed structure is compatible with and is not detrimental to the Sully property in terms of mass, scale, color, and visual impacts, and the increase in height is in compliance with Federal Aviation Administration standards. Rooftop structures excluded from the maximum height regulations in accordance with subsection 5100.2.C and those portions of the roof excluded from the building height calculations in accordance with the definition are subject to approval under this subsection. The Board may consider, among other factors, changes to existing topography, existing vegetation, building lighting, and signage when determining the impact of an increase to the height of a structure. The actual building height may not exceed 65 feet as measured from the grade to the top of any roof or rooftop structure.

## D. Setback Regulations

### (1) Minimum Setbacks

Minimum setbacks are subject to the following:[857]

(a) Minimum setbacks are specified for each zoning district, except as may be further qualified by other provisions of this Ordinance.

(b) Minimum setbacks apply to all buildings and structures as they relate to the lot lines and public streets except as provided in subsection 5100.2.F(2) and for the following: [858]

1. Underground utility equipment;
2. Mailboxes;
3. Bus shelters;

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and quasi-public park have not been carried forward; and d) Private school of special education is currently a Category 3 use which has been split into specialized instruction center (which is within the community, cultural, and educational facilities category) and health and exercise facility. Health and exercise facility has not been carried forward for this SE.

[857] From Par. 4 of Sect. 2-307

[858] Change since 10/11/2019 draft: Included exceptions from Sect. 2-104 but did not separately list telephone booths and pedestals.

4. Street lights;
5. Public bicycle shelters; and
6. Any similar structures or devices that are in the public interest and are in harmony with and do not adversely impact the surrounding area as determined by option of the Zoning Administrator.

**(c)** Minimum side setbacks do not apply to interior units of single-family attached dwellings and stacked townhouses. Minimum setback requirements for freestanding accessory structures are included in subsection 4102.7.A(5).[859]

**(d)** The minimum distance between single-family detached dwellings without individual lots and groups of single-family attached or stacked townhouse dwellings or multifamily structures may not be less than the sum of the minimum setbacks for the individual structures, determined as if a lot line were located between the structures drawn perpendicular to the shortest line between them.

**(e)** The Board may modify or waive the minimum setback or privacy yard requirements for single-family attached dwelling units in conjunction with the approval of a rezoning or a special exception. A modification or waiver may be approved only if it will further the intent of this Ordinance, and the implementation of the Comprehensive Plan and other adopted policies.[860]

**(f)** The Board as part of the approval of a rezoning or another special exception, or the BZA as part of the approval of another special permit, may modify any setback requirement for a property with an existing structure or use, including but not limited to principal and accessory structures and off-street parking spaces but only in accordance with the following:[861]

1. It must be demonstrated that the existing structure or use complied with the minimum setbacks in effect when the use was established and that the setbacks have not been further reduced, unless the reduction was the result of condemnation or acquisition for public purposes by any governmental agency.
2. The Board may impose conditions as it deems necessary, including landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

### (2) Requirements When Setbacks are not Proffered in Certain Planned Districts[862]

The following standards are applicable to dwellings in the PDH, PDC, PRM, and PTC Districts where minimum setbacks are not proffered or shown on a final development plan:

[859] The reference to setback requirements for freestanding accessory structures on single-family attached lots is new.
[860] Change since 10/11/2019 draft: This carries forward Sect. 9-613. The reference to a waiver of lot width in the title of Sect. 9-613 is not carried forward, as that waiver is part of Sect. 9-610 which is carried forward in a separate provision.
[861] Change since 10/11/2019 draft: This carries forward Sect. 9-625. Change since 11/24/2020 draft: Added same provisions from Sect. 8-921.
[862] Change since 6/30/2020 draft: These provisions have been relocated from subsection (1) into this separate subsection (2).

**(a)** Any alteration to a single-family detached or single-family attached dwelling unit is subject to the setbacks for a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the Zoning Administrator, or the existing distance to the lot line established by the location of the dwelling on the lot, whichever is less. An alteration that is not in substantial conformance with the approved final development plan will be allowed only after amendment of the final development plan.[863]

**(b)** If a dwelling is destroyed or damaged by natural disaster, the reconstructed dwelling is subject to the setbacks for a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the Zoning Administrator, or the distance to the lot line established by the location of the previous dwelling on the lot, whichever is less. A reconstructed dwelling that is not in substantial conformance with the approved final development plan will be allowed only after amendment of the final development plan.[864]

**(c)** Freestanding accessory structures on lots with no proffered setbacks are subject to the provisions of subsections 4102.7.A(6)(b)4 and 5.

### (3) Setback Requirements for Open Land[865]

The minimum setbacks specified in the zoning district apply to lots that are occupied by a permitted use that does not have structures, unless otherwise specified in this Ordinance. Front, side, and rear setbacks are not required on lots used for agricultural purposes, open public areas, or open space, except that structures associated with these uses may not be located in the minimum setbacks.

### (4) Corner Lots[866]

The following regulations apply to corner lots:

#### (a) Lot Lines and Yards

1. The two yards lying between the principal building and the intersecting streets are both deemed to be front yards.
2. The shorter street line is deemed to be the front lot line, regardless of the location of the principal entrance or approach to the main building, and the rear yard is opposite the front lot line.

#### (b) Rear Setback[867]

The rear yard must meet the minimum rear setback for the district or as proffered; however, the rear setback for structures that lawfully exist as of [*insert effective date of this Ordinance*] and future additions to these structures on lots designed for single-family detached dwellings in the R-E, R-1, R-2, R-3, R-4, R-5, and R-8

[863] Change since 10/11/2019 draft: This carries forward Par. 7 of Sect. 16-403. The provision, "or the existing distance to the lot line established by the location of the dwelling on the lot, whichever is less" is new.
[864] Change since 6/30/2020 draft: This applies the same standard for alterations to destroyed and rebuilt dwellings.
[865] Carried forward from 2-411.
[866] Relocated from definition of "yard, front."
[867] Change from 10/11/2019 draft: New section to clarify the previously proposed change in rear setback for corner lots and to recognize previous approvals.

Districts may continue to equal the dimension for the minimum side setback in effect before adoption of this Ordinance.

### (c) Sight Distance Requirements on Corner Lots[868]

Sight distance on corner lots must be maintained in accordance with the following standards:

1. The sight distance triangle is formed by the by the street lines of a lot and a line drawn between points established in accordance with the following (see Figure 5100.1 below):
   a. For a lot having an interior angle of 90 degrees or more at the street corner: Points must be 30 feet from the property lines extended.
   b. For a lot having an interior angle of less than 90 degrees at the street corner: Points must be 30 feet from the property lines extended, plus one foot for every ten degrees or fraction by which such angle is less than 90 degrees.
2. Sight distance must be maintained between two horizontal planes, one of which is three and one-half feet, and the other ten feet above the established grade of either street[869] (see Figure 5100.1 below).
3. This sight distance triangle must be maintained clear of structures and plantings, except for a post, column, or trunk of a tree (not to include branches or foliage) equal or lesser than one foot in diameter.
4. The Board may modify the sight distance requirements on a corner lot in conjunction with the approval of a rezoning or special exception application, based on an evaluation of the specific development proposal which may consider compliance with sight distance requirements of the Virginia Department of Transportation and a specific sight distance analysis or any other relevant design guidelines that would demonstrate safe and adequate vehicular, bicycle, or pedestrian movements at an intersection.

[868] Carried forward from 2-505.
[869] Change from 10/11/2019 draft: The provision "If no grade has been officially established, sight distance must be maintained above the average elevation of the existing surface of either street at the center line" has been deleted, as it is not currently used.

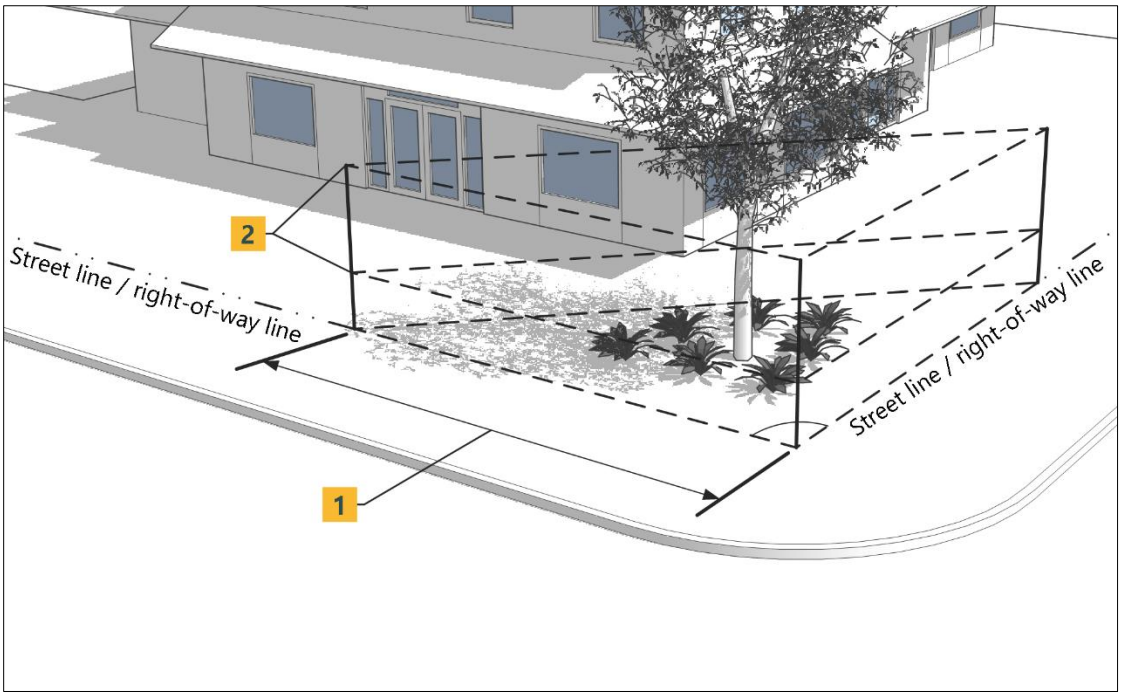



**Figure 5100.1: Sight Distance Requirements**

### (5) Permitted Extensions into Minimum Required Setbacks[870]

#### (a) Extensions in Planned Districts

Unless minimum setbacks are proffered or shown on a development plan or PRC plan, the minimum setback in the P Districts, for the purpose of extensions into the minimum required setback, is one-half the distance of the setback that has been established by the location of the principal structure.[871]

#### (b) General Extensions

***1.*** Awnings, cornices, canopies, eaves, or other similar architectural features may extend up to three feet into any minimum required setback if the feature is not located within two feet of any lot line and is at least ten feet above finished ground level. Permanent canopies over fuel pump islands that have supports located on the pump islands may extend into minimum required setbacks but may not extend into any required transitional screening areas or overhang travel lanes, service drives, or sidewalks.

[870] Carried forward from 2-412, except "leaders" has been deleted, and the provision allowing carports to extend 5 feet into a required side setback has not been carried forward. The fire safety structures have been updated.
[871] The second sentence of Sect. 2-412 about setbacks in P districts is carried forward, and the PCC District was added. The third sentence of Sect. 2-412 is not included, as setbacks between buildings are not carried forward except where specifically noted elsewhere. Change since 10/11/19 draft: This provision was relocated from 5100.D.1 because it only applies to extensions.

2. Sills and similar ornamental features may extend up to 12 inches into any minimum required setback.[872]

3. Open fire escapes, smokeproof enclosures, uncovered stoops and any stairs, heating, ventilation, and air conditioning (HVAC) equipment, pool pumps, generators, and similar required features and equipment[873] whether attached or detached may extend up to five feet into any minimum required setback if the individual feature is not more than ten feet in width and is not located within five feet of any lot line.

4. Bay windows and chimneys may extend up to three feet into any minimum required setback if the feature is not more than ten feet in width and is not located within five feet of any lot line, including any eaves or foundations (see Figure 5100.2). A minimum of 50 percent of the surface area of a bay window must consist of glass (see Figure 5100.3). If the bay window does not contain a foundation, the structural support beneath the window does not count toward the surface area.[874]

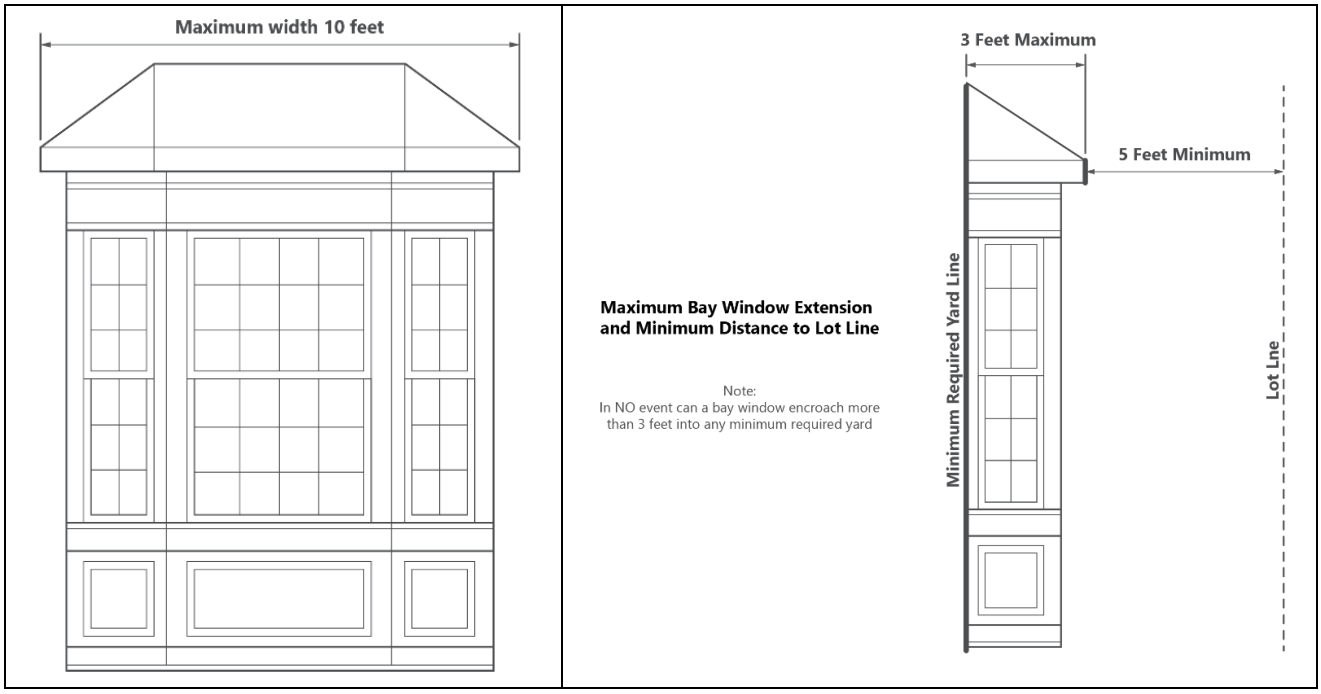



**Figure 5100.2: Bay Window Extension into Required Setback**

[872] Change since 10/11/2019 draft: the term "belt courses" has been deleted.
[873] Replaces "air conditioners and heat pumps."
[874] Change since 10/11/19 draft: Graphics updated for clarity.

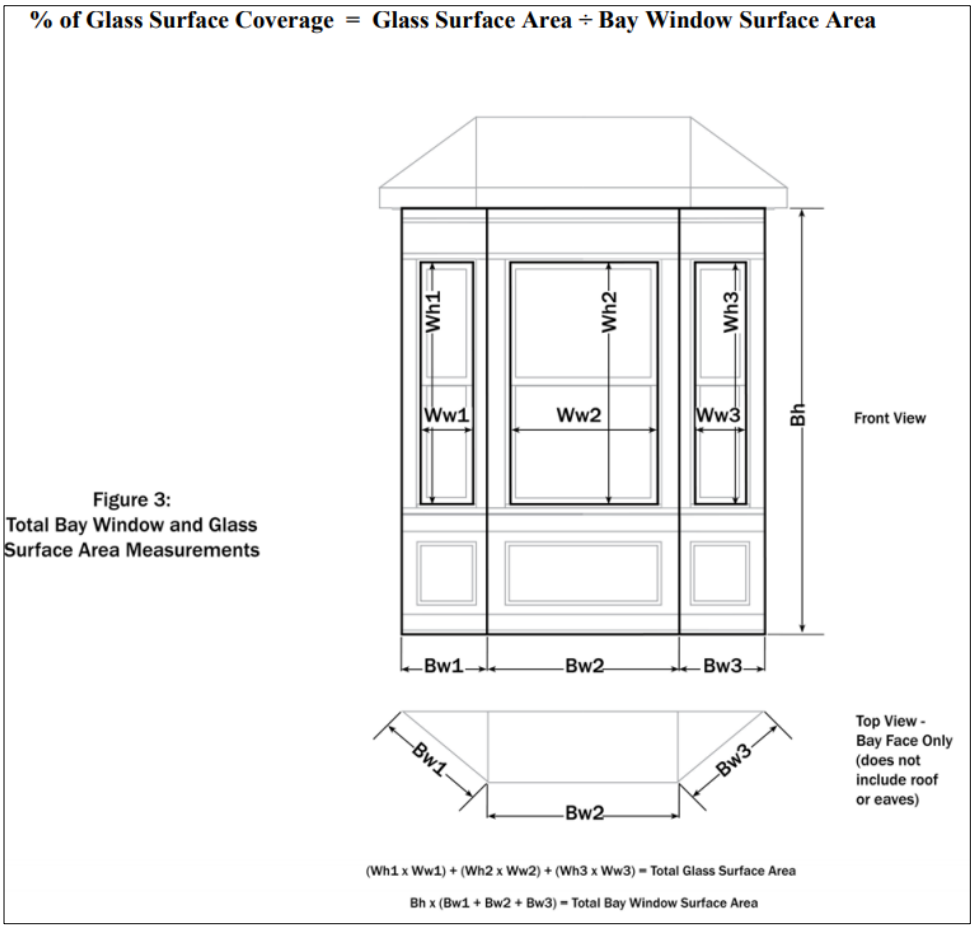



Figure 3:
Total Bay Window and Glass Surface Area Measurements

**Figure 5100.3: Bay Window Glass Surface Coverage**

5. Any accessibility improvement under the ADA may extend into any minimum required setback, except that it may not obstruct sight distance.[875]

### (c) Extensions for Decks or Patios[876]

Table 5100.1 below summarizes the extensions allowed for decks or patios by structure type. For the purposes of this table, the following applies:

1. Height is measured from the lowest point of finished ground level adjacent to the structure to the highest part of the deck floor.[877]
2. "Not closer than" is in reference to location from the lot line.
3. The extension that is most restrictive applies.
4. An attached or detached deck or patio is permitted to encroach into any setback if it is less than or equal to eight inches above finished ground level. A deck or patio greater than 8 inches above finished ground level is subject to

[875] Revised to reference the ADA and to include an exception for sight distance.
[876] A new separate definition for patio has been added.
[877] Change since 10/11/2019 draft: Clarified that height is measured to the lowest point of finished ground level, which is the same way freestanding accessory structure height is measured.

the permitted extensions in Table 5100.1.[878] The standards in subsections 7 and 8 below do not apply to detached decks or patios; any screening or design features on detached decks or patios are subject to the applicable regulations for fences or freestanding accessory structures.[879]

5. A deck may have an 'open-work' railing or wall if it is not over four feet in height and at least 50 percent of the railing or wall area is open in an evenly distributed pattern.[880]
6. The area beneath a deck may be enclosed by a privacy screen that is not solid.[881]
7. A deck may include a privacy screen that is not solid located above the deck on not more than two sides extending from the dwelling. The privacy screen may extend up to eight and one-half feet in height from the deck floor.
8. A deck may include design features such as pergolas, trellises, and overhanging planters at or above the railing. These features may extend up to eight and one-half[882] feet in height from the deck floor and be a maximum of three feet deep.

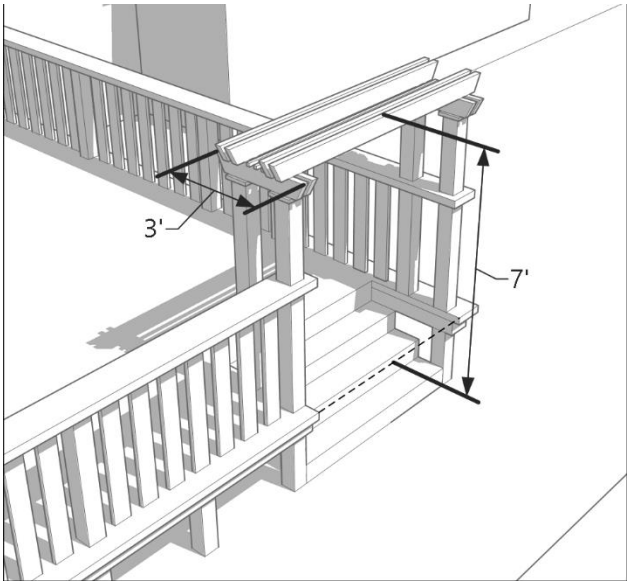



**Figure 5100.4: Deck Design Features**

[878] Change since 10/11/2019 draft: This new standard allows decks and patios less than or equal to 8 inches to extend into any setback. Under current provisions, a deck or patio at this height can only encroach into any setback if detached from the principal structure by more than one foot.
[879] Change since 6/30/2020 draft: The last sentence was added for clarity.
[880] Relocated from the definition of a deck.
[881] The allowance for lattice and other deck modifications in this paragraph and the following paragraphs are new. Change since 10/11/2019 draft: The term “lattice” has been revised to “a privacy screen that is not solid,” the height of screening and other modifications has been decreased from eight feet to seven feet, and a dept of three feet has been added to deck modifications.
[882] Change since 10/11/2019 draft: The maximum height of deck features has been increased from seven feet to eight and one-half feet.

***9.*** A roofed deck is any deck that is completely or partially enclosed by an overhanging feature that exceeds the three-foot depth permitted in subsection 8 above.[883]

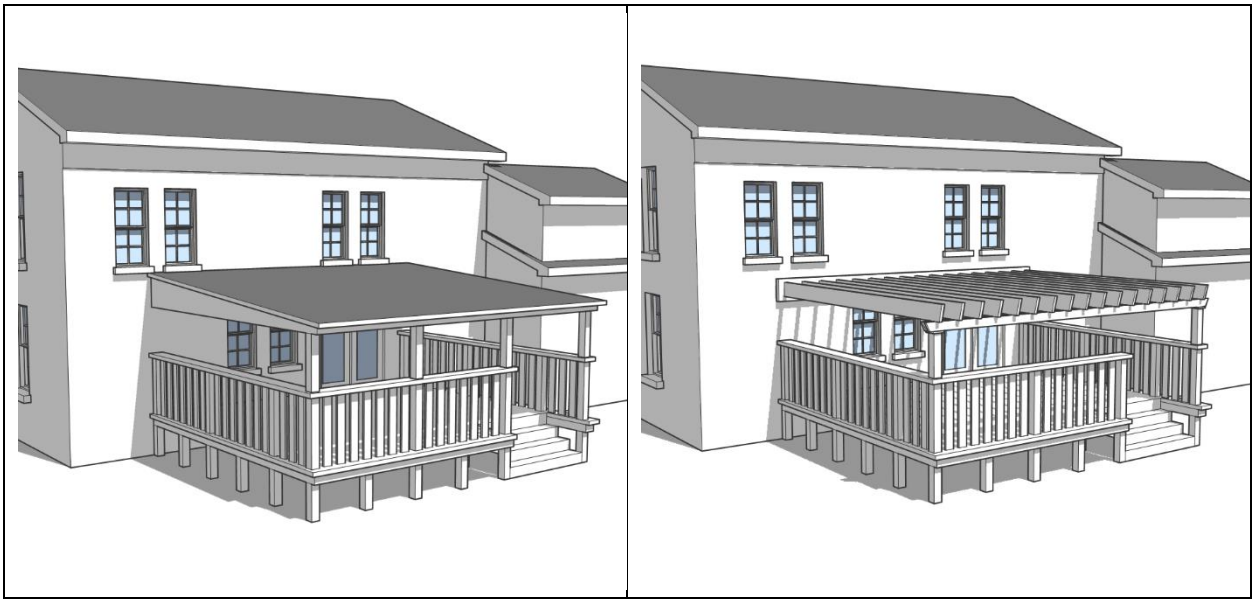


**Figure 5100.5: Roofed Deck Examples**

***10.*** Accessory structures such as storage sheds, gazebos, and fireplaces located on decks or patios are not considered design features and are subject to the freestanding accessory structure regulations in subsection 4102.7.A(5).

[883] Change since 10/11/2019 draft: Added for clarification.

**TABLE 5100.1: Permitted Extensions for Decks or Patios**

| Attached to Single-Family Detached Dwelling | | | | |
|---|---|---|---|---|
| | Height Less than or Equal to Four Feet | | Height Greater than Four Feet | |
| **Setback** | Open | Roofed | Open | Roofed |
| Front | 6 feet into setback, but not closer than 14 feet | No extension | No extension | No extension |
| Side | 5 feet into setback, but not closer than 5 feet | No extension | No extension | No extension |
| Rear | 20 feet into setback, but not closer than 5 feet | 12 feet into setback, but not closer than 5 feet | 12 feet into setback, but not closer than 5 feet | No extension |
| **Attached to Single-Family Attached Dwelling** | | | | |
| | Height Less than or Equal to Three Feet | | Height Greater than Three Feet | |
| **Setback** | Open | Roofed | Open | Roofed |
| Front | No extension | No extension | No extension | No extension |
| Side (End Units) | 5 feet into setback, but not closer than 5 feet | No extension | No extension | No extension |
| Rear | Decks on interior units can extend to rear lot line; end units not closer than 5 feet | 12 feet into setback, but not closer than 5 feet | 12 feet into setback, but not closer than 5 feet [1] | No extension |
| **Stacked Townhouse, Multifamily, Industrial, Commercial, or Institutional Structures** | | | | |
| **Width** | Height Less than or Equal to Three Feet | | Height Greater than Three Feet | |
| Less than 10 feet | 6 feet into any setback | | 3 feet into any setback | |
| Greater than 10 feet | No extension | | | |

**Notes:**
[1] If the rear yard is 17 feet or less and abuts open space or a utility easement with a minimum width of 10 feet, the deck or patio may encroach to no closer than 2 feet.

1

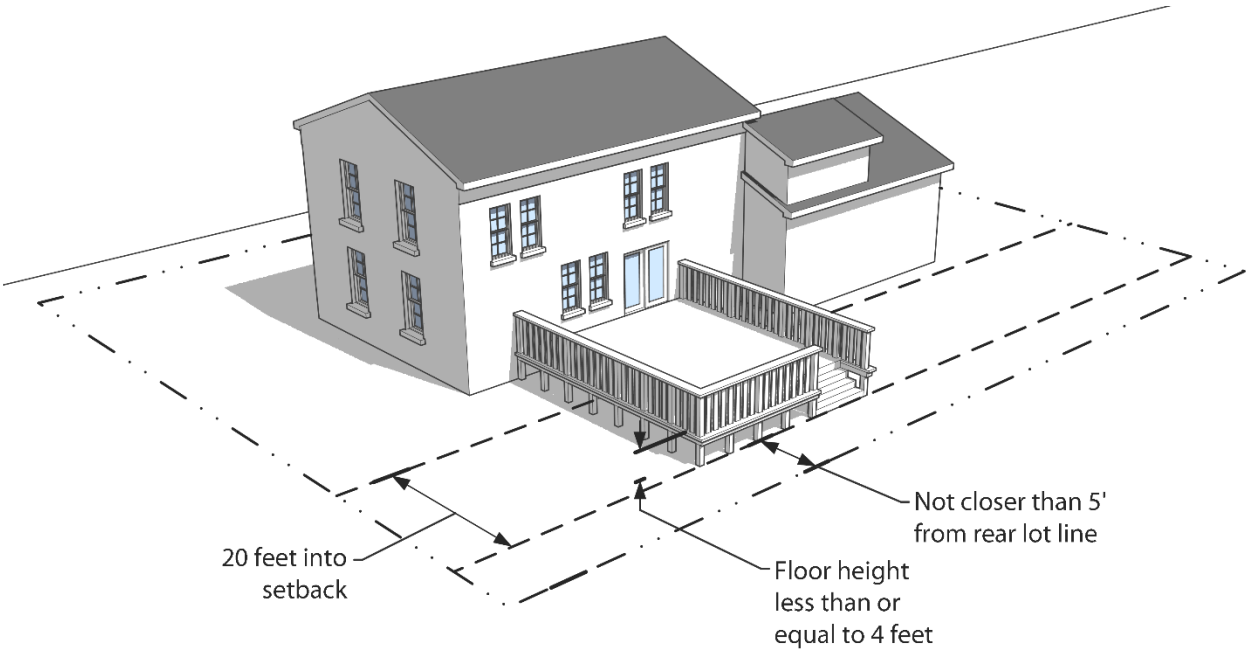



**Figure 5100.6: Deck Extension into Setback**

### (d) Setback Reduction for Reconstruction of Single-Family Detached Dwellings Destroyed by Casualty

***1.*** The Board may approve a special exception to allow an extension into minimum setbacks for the reconstruction of single-family detached dwellings that are subject to subsection 8104.3 and are destroyed by casualty, in accordance with the following requirements:

- ***a.*** The application must be filed within two years of the date of the casualty;
- ***b.*** The single-family detached dwelling must have been in a habitable condition immediately before the casualty;
- ***c.*** The casualty cannot have been intentionally caused by the owner or owner's agent;
- ***d.*** The resulting gross floor area of the reconstructed dwelling must not exceed 125 percent of the gross floor area of the dwelling that existed immediately before the casualty;
- ***e.*** The setback after reconstruction may not be reduced by more than 25 percent or be less than five feet if the structure that existed before the casualty encroached into the minimum setback; and
- ***f.*** The Board may allow the enlarged or relocated reconstructed dwelling to extend into a minimum setback, if the enlargement or relocation does not result in a reduction of any setback by more than 25 percent or a setback of less than five feet.

***2.*** The Board may allow extensions of uncovered stairs, stoops, and ramps that are necessary for access or the safety of the occupants into the yards beyond that permitted by subsections 1.e and 1.f above. These features are not allowed within three feet of any property line, except as an accessibility improvement, as defined by Section 9102.

### (6) Setbacks for Residential Reverse Frontage Lots[884]

**(a)** The minimum front setback for any residential reverse frontage lot along a major thoroughfare applies to the yard in front of the principal entrance or containing the approach to the primary building on the lot. The opposing yard is deemed to be the rear yard and is subject to the rear setback requirements.

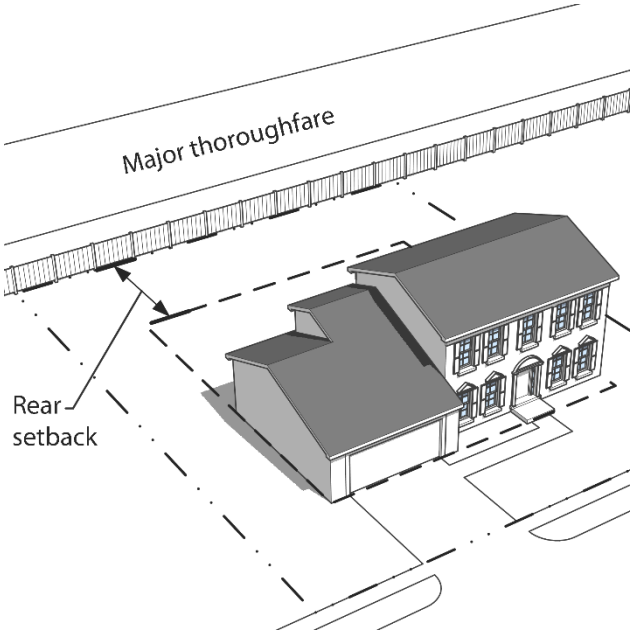



**Figure 5100.7: Rear Setback on Reverse Frontage Lot**

**(b)** Accessory uses, including fences, may be permitted within the rear and side yards of residential reverse frontage lots in accordance with subsection 4102.7 and subject to the minimum sight distance requirements as stated above.

### (7) Setbacks on Through Lots[885]

**(a)** The minimum front setback on a through lot, applies to the two yards lying between the principal building and the two or more abutting public streets, except as qualified in subsection (6) above for residential lots having reverse frontage, and when one of the public streets is an alley.

[884] Carried forward from 2-413. Change since 10/11/2019 draft: The provision allowing the Director to approve a privacy fence in the rear and side yards of a residential reverse frontage lot has been relocated to Article 4 with other fence standards.
[885] Relocated from current definition of "yard, front."

**(b) Special Permit for Accessory Structures on Through Lots**[886]

The BZA may approve an existing or proposed freestanding accessory structure in the front yard of a through lot that serves as a functional rear yard if the BZA determines all of the following:

1. The structure meets the minimum required front setback;
2. The structure is in character with the existing on-site development in terms of the location, height, bulk, and scale of the existing structure(s) on the lot; and
3. The structure is harmonious in scale and topography with the surrounding off-site development and existing vegetation and significant trees, as determined by the Director, are preserved in a manner characteristic of surrounding off-site development. The proposal may not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.

**(8) Setbacks from Specific Highways and Railroad Tracks**[887]

The following minimum distances must be maintained between all principal buildings and rights-of-way.

**(a)** All principal buildings must be setback from the rights-of-way of interstate highways, the Dulles International Airport Access Highway, and the combined Dulles International Airport Access Highway and Dulles Toll Road, as follows:

1. Principal residential buildings - 200 feet
2. Commercial and industrial buildings - 75 feet

**(b)** Principal residential buildings[888] must be setback a minimum of 200 feet from all railroad tracks, except for those tracks associated with regional rail transit facilities.

**(c)** The setbacks required in this subsection do not apply to a minor adjustment of lot lines in accordance with subsection 5100.2.J(1)(b).

**(d)** The Board may approve deviations from the provisions of subsections (a) and (b) above in conjunction with the approval of a rezoning or the BZA may approve a variance if it finds that the deviations will further the intent of this Ordinance, the Comprehensive Plan, and other adopted County policies.

**(e)** The setbacks required in this subsection may be modified by the Zoning Administrator to not less than those required by the zoning district for:

1. A lot that has been recorded before August 14, 1978; and
2. Where the setbacks required in this subsection would prevent development of the lot in accordance with the provisions of this Ordinance.[889]

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[886] Change since 10/11/2019 draft: This is a new special permit option.
[887] Carried forward from 2-414. Deleted "abutting" from the title so the requirements would apply to all lots within the specified distances. Added a reference to variance approval in subsection (c). Change since 10/11/2019 draft: Added exemption for minor lot line adjustments, consistent current interpretation.
[888] Modified from "dwellings" to be consistent with previous standard.
[889] Change since 10/11/2019 draft: Restored the exception for when the setbacks negate the use of the lot (with edited language to this effect) and added an allowance for modification by the Zoning Administrator.

### (9) Setbacks from the Floodplain[890]

Setbacks from the edge of a floodplain are specified in Section 5105.

### (10) Setbacks on Lots Abutting Outlots Contiguous to Streets[891]

**(a)** When a lot abuts an outlot that is contiguous to a street, the minimum distance between the principal structure on the building lot and the street line of the outlot must be equal to or greater than the minimum required front setback for the district in which the lot is located.

**(b)** The applicable minimum required front setback must be maintained between the principal structure on a lot and the street line if two or more contiguous outlots are located between the building lot and street line. In addition, the minimum setback of the lot abutting the outlot must be equal to or greater than the applicable minimum required setback for the district in which the building lot is located.

**(c)** The Board may modify the requirements in subsections (a) and (b) above, in conjunction with the approval of a rezoning or special exception if it determines that the modification will have minimal adverse impacts on adjacent properties.

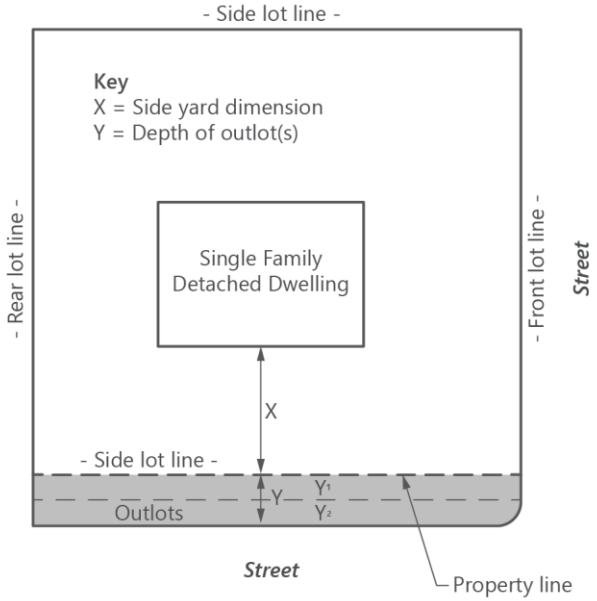
**(d)** The provisions in subsections (a) and (b) above, do not apply to the following:

***1.*** Lots that existed before February 24, 2010, and that were created or are validated in accordance with the Subdivision Ordinance.

***2.*** All special permit, special exception, and proffered rezoning applications and their amendments, containing outlots that abut a street, when approved before February 24, 2010.

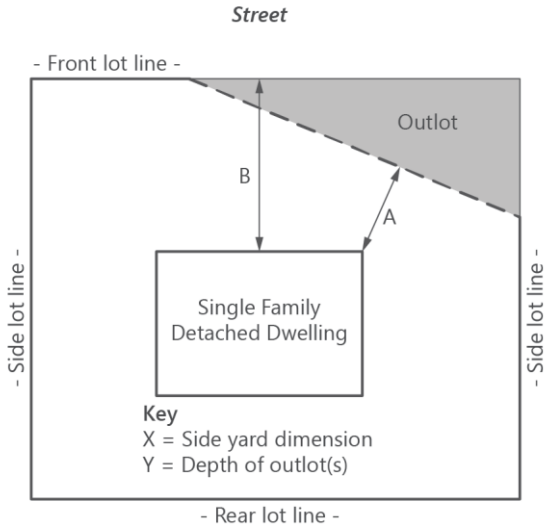
[890] Reference to relocated Sect. 2-415.

[891] Carried forward from 2-423. Change since 10/11/2019 draft: Added provisions relating to previous approvals from ZO 10-421.




Notes: (1) X+Y (or X+Y¹&Y²) - must be equal to or greater than the front setback of the district in which located.
(2) X - must be equal to or greater than the side setback of the district in which located.

**Figure 5100.8: Outlot Setback Measurements (I)**




Notes: (1) A - must be equal to or greater than the side setback of the district in which located.
(2) B - must be equal to or greater than front setback of the district in which located.

**Figure 5100.9: Outlot Setback Measurements (II)**

### (11) Reductions in Setback Requirements

#### (a) Acquisition, Condemnation, or Dedication for Public Purposes

1. On lots where a yard is reduced below the minimum setback by condemnation or by acquisition for public purposes by any governmental agency, the Director will approve a 20 percent reduction of the minimum setback from the new lot line created by the condemnation or acquisition.[892]
2. The dedication of land for a service drive, bus turnout, or bus shelter to the County or to the Virginia Department of Transportation does not affect the applicable minimum setback requirements. The minimum setback is established from the lot line as it existed before such dedication, except in no instance may a building be erected closer than 15 feet from the nearest street line. This subsection does not apply to lots that contain a single-family detached dwelling unit.[893]

#### (b) Design Guidelines for Specified Areas in the Comprehensive Plan

The Board, in conjunction with the approval of a rezoning or special exception, or by the Director in approving a site plan, may reduce the minimum setback requirements if:

1. The development is located in an area where specific design guidelines have been established in the Comprehensive Plan, such as in Community Business Centers, Commercial Revitalization Areas, and Transit Station Areas; and
2. The reduction is in accordance with the Comprehensive Plan.[894]

#### (c) Errors in Building Location – Zoning Administrator Authorized Reductions[895]

The Zoning Administrator may approve a reduction in the minimum setback requirements when a building or freestanding accessory structure (whether existing or partially constructed) does not comply with the minimum setback requirements applicable at the time such building or accessory structure was erected. A reduction may be approved in accordance with the following provisions:

1. The Zoning Administrator determines that:
   a. The error does not exceed ten percent of the applicable measurement;
   b. The noncompliance was done through no fault of the property owner, or was the result of an error in the location of the building or structure after the issuance of a building permit, if required;
   c. It will not impair the purpose and intent of this Ordinance;
   d. It will not be detrimental to the use or enjoyment of other property in the immediate vicinity;

[892] Carried forward from 2-417.
[893] Carried forward from 2-420.
[894] Carried forward from 2-418. Did not carry forward the sentence "Yard requirements in a Commercial Revitalization District and any allowable reductions thereof, shall be in accordance with the provisions of that district" since those are covered in Article 3.
[895] Carried forward from 2-419, except the finding that a noncompliance was done "in good faith" has been removed.

*e.* It will not create unsafe conditions regarding other properties or public streets;

*f.* Compliance with the minimum setback requirements would cause the owner unreasonable hardship; and

*g.* It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district.

*2.* In approving such a reduction or modification under the provisions of this subsection, the Zoning Administrator may allow only the minimal reduction necessary to provide reasonable relief and may prescribe conditions such as landscaping and screening measures to assure compliance with the intent of this Ordinance.

*3.* The Zoning Administrator may not waive or modify the criteria necessary for approval as specified in this subsection.

*4.* The BZA, in accordance with (d) below, can grant a reduction or modification in the minimum setback requirement if the error in building location is greater than ten percent of the applicable measurement.

*5.* The BZA may grant a reduction of the minimum setback requirements or a modification of the accessory structure location requirements due to an error in building location that is no greater than ten percent of the applicable measurement if the reduction or modification is requested in conjunction with:

*a.* The approval of a special permit for another use or application for a variance on the property; or

*b.* The approval of a special permit for an error in building location on the property that exceeds ten percent.

### (d) Errors in Building Location – BZA Authorized Reductions[896]

The BZA may approve a special permit to allow a reduction to the minimum setback requirements for any building or a modification to the location regulations of any freestanding accessory structure existing or partially constructed that 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.* The BZA must determine that:

*a.* The error exceeds ten percent of the applicable measurement; or

*b.* The error is up to ten percent of the applicable measurement and the reduction or modification is requested in conjunction with the approval of another special permit or application for a variance on the property;

*c.* The noncompliance was done through no fault of the property owner, or was the result of an error in the relocation of the building after the issuance of a building permit, if one was required;

*d.* It will not impair the purpose and intent of this Ordinance;

[896] Carried forward from Sect. 8-914, except the finding that a noncompliance was done "in good faith" has been removed, and the submission requirements are located in Article 8: Administration and Procedures.

*e.* It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;

*f.* It will not create an unsafe condition regarding other properties or public streets;

*g.* Compliance with the minimum setback requirements or location regulations would cause the owner unreasonable hardship ; and

*h.* It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

*2.* The BZA reduction or modification must be the minimum amount necessary to provide reasonable relief, and the BZA may prescribe conditions to assure compliance with the intent of this Ordinance, including landscaping and screening measures.

*3.* The modification may not result in the placement of a detached accessory structure in a front yard if that location is not otherwise permitted in that yard.[897]

### (e) Special Permit Approval for Reduction of Setback Requirements[898]

The BZA may approve a special permit to allow a reduction of setback requirements subject to the following:

*1.* Only the following setback requirements are subject to special permit approval:

*a.* Minimum required setbacks in the residential, commercial, industrial, and planned development districts set forth in Article 2 if (i) no proffered conditions or development conditions related to setbacks apply; and (ii) no setbacks are depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat, or variance plat.

*b.* Setback regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Section 5100.2.L(2).

*c.* Accessory structure location requirements set forth in subsection 4102.7.A(5).

*d.* Regulations on permitted extensions into a minimum setback as set forth in subsection 5100.2.D(5).

*2.* The required setback must not be reduced by more than 50 percent, as measured from the lot line to the closest point of the proposed structure.

*3.* The resulting setback approved under a., b., and c. above must not be less than five feet.

[897] Change since 10/11/2019 draft: this is a new standard that has been added to clarify that the restriction of accessory structures not permitted in front yards of certain lot sizes cannot be modified.
[898] Carried forward from Sect. 8-922, except the submission requirements are located in Article 8: Administration and Procedures.

4. The reduction may not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
5. There is a principal structure and use that complied with the minimum setback requirements in effect when the use or structure was established.
6. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether that addition complies with the minimum setback requirements or is the subject of a subsequent setback reduction special permit. If a portion of a single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction may be removed. The gross floor area of a single-family dwelling for the purpose of this subsection is deemed to include the floor area of any attached garage.
7. The resulting gross floor area of an existing accessory structure and any addition to it must be clearly subordinate in purpose, scale, use, and intent to the principal structure on the site.
8. The BZA must determine that the proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development. The proposal may not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA must determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include the following:
    a. The layout of the existing structure;
    b. Availability of alternate locations for the addition;
    c. Orientation of the structure(s) on the lot;
    d. Shape of the lot and the associated setback designations on the lot;
    e. Environmental characteristics of the site, including presence of steep slopes, floodplains or Resource Protection Areas;
    f. Preservation of existing vegetation and significant trees as determined by the Director;
    g. Location of a well or septic field;
    h. Location of easements;
    i. Preservation of historic resources; and
    j. Any additional relevant site considerations.[899]

[899] Replaces the BZA consideration of the specific factors "including, but not limited to."

***10.*** The BZA may impose conditions it deems necessary to satisfy these criteria, such as a maximum gross floor area, floor area ratio, lot coverage, landscaping, and screening requirements.

### (f) Special Permit Approval for Certain Additions to Existing Single-Family Detached Dwellings[900]

The BZA may approve a special permit for certain additions to an existing single-family detached dwelling when the existing dwelling extends into a minimum setback by more than 50 percent or is closer than five feet to a lot line in accordance with the following:

***1.*** Only the following yard requirements may be modified:

- ***a.*** Minimum required setbacks specified in the residential district that are not subject to proffered conditions, development conditions, or depicted on any approved special exception plat, special permit plat, variance plat, or proffered generalized development plan.
- ***b.*** Yard regulations for pipestem lots and lots contiguous to pipestem driveways as required by subsection 5100.2.L.
- ***c.*** Regulations on permitted extensions into minimum required setbacks as permitted by subsection 5100.2.D(5).

***2.*** The applicant must demonstrate that the existing single-family detached dwelling complied with the minimum required setbacks in effect when the dwelling was constructed and that the yards have not been further reduced, except by condemnation or by acquisition for public purposes by any governmental agency.

***3.*** When the existing single-family detached dwelling and the proposed addition extend into a minimum required yard by more than 50 percent of the minimum required setback or are closer than five feet to a lot line, no portion of the proposed addition may extend closer to the lot line associated with such yard than any portion of the existing dwelling. The eaves or other extensions associated with the addition may not extend beyond the point of the existing single-family detached dwelling that is closest to the affected lot line.

***4.*** The total gross floor area resulting from an addition to an existing single-family detached dwelling may be up to 150 percent of the total gross floor area of the dwelling that existed at the time of the first expansion request. The total gross floor area resulting from any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether that addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. No more than 50 percent of the gross floor area of an existing single-family detached dwelling at the time of the first yard reduction may be removed. For the purpose of this subsection, the gross floor area of a single-family dwelling includes the floor area of any attached garage.

[900] Carried forward from Sect. 8-924.

5. The BZA determines that the proposed addition is in character with the existing on-site development in terms of the location, height, bulk, and scale of the existing structure(s) on the lot.
6. The BZA determines that the location, height, bulk, and scale of the proposed addition is harmonious with the surrounding off-site uses and structures, and its development preserves existing vegetation and significant trees, as determined by the Director, characteristic of surrounding off-site uses and structures.
7. The property is not in violation of any provision of this Ordinance.
8. The BZA determines that the proposed addition will not adversely impact the use and enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.

## E. Maximum Density and Intensity[901]

### (1) General

(a) The maximum density and intensity are specified in Article 2 for each zoning district.

(b) The maximum density and intensity specified for a given zoning district may not be exceeded, except as otherwise permitted by this Ordinance. Maximum density means the number of dwelling units per acre, except in the PRC District where it means both the number of dwelling units per acre and the number of persons per acre.[902] Maximum intensity means floor area ratio which is determined by dividing the gross floor area of all buildings on a lot by the area of the lot.

### (2) Density Penalty

(a) Maximum density is calculated based on the gross area of the lot, except when 30 percent or more of the area of the lot is comprised of any or all of the following features:

1. Floodplains and adjacent slopes in excess of 15 percent grade;
2. Quarries;
3. Marine clays; and
4. Existing water bodies, unless a water body is a proposed integral design component of an open space system for a development, in which case total density credit is calculated including the area of the water body.

(b) If 30 percent or more of the area of a lot is comprised of any or all of the features in subsection 2(a) above, the permitted density for that area is 50 percent of the maximum. That area may be used for open space, parks, schools, rights-of-way, utility easements, or other uses as may be presented in the following subsections. The density penalty of this subsection does not apply in the PRC District or to floor area ratio.

[901] From current Sect. 2-308.
[902] Change since 8/9/2019 draft: Clarified that density in the PRC District includes both du/ac and persons/ac.

| Example: Density Penalty Calculations | |
|---|---|
| Site Area [1] | 38.28 ac |
| A. Floodplains and adjacent steep slopes (and not marine clay) | 18.3 ac |
| B. No quarries exist on-site | n/a |
| C. Areas of marine clays (and not floodplain) | 12.2 ac |
| D. No bodies of water exist outside the floodplain | |
| Site area consisting of features in A-D above | 30.5 ac |
| Percent of site consisting of features in A-D above | 79.7% |
| Percent of site consisting of features in A-D above that is in excess of 30% | 49.7% |
| Zoning District: R-2, maximum density 2 du/ac: | |
| 49.7% of 38.28 ac = 19.02 ac @ 50% of maximum density (1 du/ac) = 19.02 du | |
| 50.3% of 38.28 ac = 19.26 ac @ 100% of maximum density (2 du/ac) = 38.53 du | |
| 19.02 + 38.53 = 57.54 = 57 total dwelling units allowed | |
| **Notes:** [1] Total existing site area, including areas that may be dedicated in the future. | |

### (3) Density Credit for Major Utility Easements[903]

The Board may approve a special exception to allow density credit for a major utility easement in accordance with the subsection (5) below, and the following:

**(a)** The granting of an easement was not made in exchange for monetary compensation unless the Board determines that:

***1.*** The easement is for a major utility facility providing regional benefit;

***2.*** The location of the easement impacts the property;

***3.*** Monetary compensation is appropriate under the circumstances; and

***4.*** The proposed location for the easement is determined to significantly benefit the public interest.

**(b)** The easement is necessary for the installation or improvement of a public facility in accordance with the Comprehensive Plan.

**(c)** If the public facility requires approval under Va. Code Sect. 15.2-2232, the approval must be obtained before or concurrent with the granting of density credit under this subsection.

### (4) Increase in Floor Area Ratio [904]

The Board may approve a special exception to allow an increase in the maximum permitted FAR for all uses in the C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, in accordance with the maximum FAR set forth in the respective zoning district as shown below:

[903] Change since 10/11/19 draft: Added this section from current Sec. 9-617.
[904] Change since 10/11/19 draft: Added this provision from current Sec. 9-618.

| Zoning District | Maximum FAR for District | Maximum FAR with SE |
|---|---|---|
| C-6 | 0.40 | 0.50 |
| C-7 | 0.80 | 1.0 |
| C-8 | 0.50 | 0.70 |
| I-3 | 0.40 | 0.50 |
| I-4 | 0.50 | 0.70 |
| I-5 | 0.50 | 1.0 |
| I-6 | 0.50 | 1.0 |

**(5) Density or Floor Area Ratio Credit[905]**

**(a)** No density or floor area ratio credit may be calculated for an area within a lot that is in a major utility easement or right-of-way acquired after August 14, 1978, unless: (i) the Board grants a special exception in accordance with subsection 8100.3, and (ii) the Board or an authority or other governmental organization appointed by the Board owns the easement. The foregoing does not apply to areas planned or zoned to the PRC District.

**(b)** For the purpose of this subsection, a major utility easement or right-of-way is one having a width of 25 feet or more that is located entirely outside of a right-of-way.

**(c)** In cases where an area within a lot is needed by the County for a public park, school site, other public facility site, mass transit facility or street improvement, or public street right-of-way and there are no encumbrances to the title to that area that would interfere with its use, density or floor area ratio credit is calculated on that area severed for those purposes in accordance with the following:

***1.*** Density or floor area ratio credit was approved before recordation of the dedication or conveyance among the County's land records by:

***a.*** An approved a rezoning or special exception application included the dedication or conveyance;

***b.*** The dedication or conveyance is part of an approved subdivision plat under Chapter 101 of the County Code, or site plan under subsection 8100.7; or

***c.*** The County Executive or designee when the dedication or conveyance is not proposed as part of the approval of a rezoning, special exception, subdivision plat, or site plan.

***2.*** Such approval must be based upon the following:

***a.*** The area to be dedicated or conveyed is necessary for the public facility site or use, and is suitable in location, size, shape, condition, and topography;

***b.*** The area to be dedicated or conveyed, except for the area dedicated for public streets other than major thoroughfares, is in accordance with the Comprehensive Plan. Where the proposed public facility site or use requires approval under Va. Code Sect. 15.2-2232, such approval must be obtained before any credit may be granted; and

[905] Carried forward from Sect. 2-308, except "areas where a planned residential community is delineated on the Comprehensive Plan on the effective date of this Ordinance" has been shortened to "planned.".

*c.* The area to be dedicated or conveyed will be deeded to the County, and the dedication or conveyance will not be made in exchange for monetary compensation.

*3.* A plat of dedication showing the land area to be severed, the resultant lot, and its appropriate density or floor area ratio allocation must be submitted to and approved by the Director before the dedication or conveyance. That plat and an irrevocable dedication or conveyance to the County must be recorded among the land records of the County. Any subsequent reallocation of the density or floor area ratio credit requires the approval by the Director of a revised plat, which must also be recorded among the land records of the County. Density or floor area ratio credit approved after February 28, 1995 in accordance with this subsection runs in perpetuity with the land remaining. Density or floor area ratio credit approved before February 28, 1995 was approved for that one time and does not apply to any future development that is not consistent with the development approved at the time of the granting of the credit.

## F. Limitations on Subdivision of Lots[906]

**(1)** Subdivisions are only permitted where the resultant lots meet the minimum provisions of this Ordinance, except for a minor adjustment of lot lines or consolidation of lots as may be permitted under subsection J below.

**(2)** Zoning Ordinance regulations do not apply to internal subdivision lines if:[907]

**(a)** The entire property and its existing and proposed development are subject to one site plan;

**(b)** All Zoning Ordinance requirements (aside from those pertaining to internal subdivision lines) are satisfied within the context of this one site plan;

**(c)** Minimum setback requirements are met between buildings, at peripheral lot lines, and adjacent to all existing and proposed streets;

**(d)** Cross-use easements and joint maintenance agreements for public and private improvements are provided to the satisfaction of the County Attorney and the Director; and

**(e)** The property owner(s) records an instrument in the Fairfax County land records notifying future owners that the property will always be subject to one site plan.

## G. Limitation on the Number of Dwelling Units on a Lot[908]

**(1)** A maximum of one dwelling unit on any one lot is permitted. A dwelling unit may not be located on the same lot with any other principal building. This provision does not preclude:

**(a)** Multifamily dwelling and stacked townhouse units as permitted by this Ordinance;

[906] Carried forward from 2-401.
[907] Change since 10/11/2019 draft: Added to codify the "Yates Rule," a long-standing interpretation.
[908] Carried forward from 2-501. The second paragraph regarding a dwelling for a proprietor or employee is not carried forward, but the links to caretaker quarters and residence for manager or employee in Article 4 are added.

**(b)** Accessory uses or associated service uses as permitted by the provisions of Article 4;

**(c)** Accessory living units in accordance with subsection 4102.7.B;

**(d)** Single-family attached dwellings in a rental development;

**(e)** Condominium development as provided for in Section 8105; or

**(f)** Wireless facilities and associated support structures in accordance with subsection 4102.4.Y.

## H. Shape Factor Limitations[909]

**(1)** To provide for the orderly subdivision of land and to avoid irregularly-shaped lot configurations, lots located in the R-E, R-1, R-2, R-3, R-4, R-5, or R-8 Districts and the single-family portions of a PDH, PDC, or PRC District may be subdivided if the following shape factor limitations are met:[910]

**(a)** All lots must have a shape factor less than or equal to 35, except as follows:

***1.*** Lots with shape factors greater than 35 but less than 50 may be permitted with special exception approval by the Board in accordance with subsection (3) below.

***2.*** This requirement does not apply to lots designated as open space.

***3.*** This requirement may be modified by the Board for lots depicted on an approved development plan in a PRC District, lots depicted on an approved final development plan in a PDH or PDC District, and lots located in a cluster subdivision approved under the provisions of 5100.2.O.[911]

**(b)** Lots located within the R-2, R-3, or R-4 Districts that are approved by the Director for cluster development, or lots that are subject to a waiver of the minimum lot width requirements approved by the Board in accordance with 5100.2.K, must exclude the pipestem portion of a pipestem lot from the shape factor computation. The lot perimeter includes the width of the pipestem portion of the lot at the point where it joins the main portion of the lot.

**(2)** All lots In the R-C District must have a shape factor less than or equal to 60, except for lots designated as open space, or lots developed under the cluster provisions of 5100.2.O,. Lots with shape factors greater than 60 but less than 100 may be permitted by special exception in accordance with subsection (3) below. Lots in the R-C District that were recorded on or before September 21, 2016, are not subject to the shape factor requirement.[912]

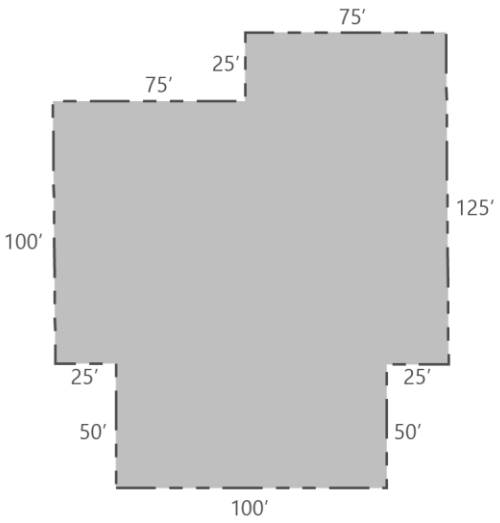
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[909] New heading. Carries forward Sect. 2-401 and Sect. 9-626.

[910] Condensed the standard and did does not carry forward "and used for any use permitted in the zoning district in which located under this Ordinance pursuant to a Building Permit," since the uses on the property is regulated by Article 4.

[911] Combines Paragraphs 2A and B of Sect. 2-401. Reconciles an inconsistency between Par. 2 and 2A for the P districts by adding a reference to Board modification.

[912] Change since 10/11/2019 draft: The last sentence carries forward the provisions relating to previous approvals approved with ZO 16-455.




$$\frac{\text{Perimeter}^2}{\text{Area}} = \text{Shape factor}$$

Example:

Perimeter = 650′
Area = 21875 sq. ft.

$$\frac{\text{Perimeter}}{\text{Area}} = \frac{650^2}{21{,}875} = \frac{422{,}500}{21{,}875} = 19.3$$

**Figure 5100.10: Shape Factor Calculation**

**(3)** The Board may approve a special exception for a modification of the shape factor limitations set forth above in accordance with subsection 8100.3. The applicant must provide sufficient justification for the increase in shape factor to show compliance with the following requirements:

**(a)** the Board may approve a lot with a shape factor greater than 35, but less than 50 in the R-C, R-E, R-1, R-2, R-3, R-4, R-5, and R-8 Districts, if: (i) it determines that a portion of the property is required for a wastewater or stormwater management facility or a stream valley trail as an outlot within the proposed subdivision; and (ii) there is no alternative location on the property being subdivided for the proposed facility or trail.

**(b)** The Board may approve a lot with a shape factor greater than 60, but less than 100 in the R-C District, if it determines that the increase in shape factor results in a development that minimizes the impact on existing vegetation, topography, historic resources, or other environmental features.

## I. Subdivided Parcels not included on Individual Lot[913]

Any area of a subdivided parcel that is not included as a part of an individual lot for a single-family dwelling unit, including areas established to meet the open space requirements of this Ordinance, must be recorded with the instruments of subdivision, covenants, or other restrictions and designate the proposed use of such areas.

[913] New heading name; carries forward from Sect. 2-402.

## J. Permitted Reductions in Lot Size Requirements for Certain Existing Lots[914]

**(1)** Any lot recorded before March 1, 1941, or any lot that met the requirements of the Zoning Ordinance in effect at the time of recordation, is not required to meet the minimum lot area, lot width, or shape factor requirements of the district, provided the lot meets all other regulations of this Ordinance.[915] This exemption does not apply to any lot that is rezoned or subdivided, unless it is:

**(a)** A subdivision resulting from a voluntary dedication by the owner, or a condemnation or acquisition of a portion of the subdivision for public purposes by any governmental agency; or

**(b)** A subdivision for a minor adjustment of lot lines approved by the Director in accordance with Chapter 101 of the County Code and the following:

***1.*** The subdivision consolidates land area of contiguous lots, or rearrange lot lines to reallocate land area between contiguous lots such that the reconfigured lots contain either the same lot area that existed before the adjustment of the lot lines or a greater area than existed before the adjustment of the lot lines, resulting in a reduced number of lots; and

***2.*** No additional lots or outlots are created, there is no increase in the maximum density, and the resultant lot lines do not create any new or increase any existing noncompliance regarding minimum lot area, lot width, shape factor, or minimum setback requirements; or

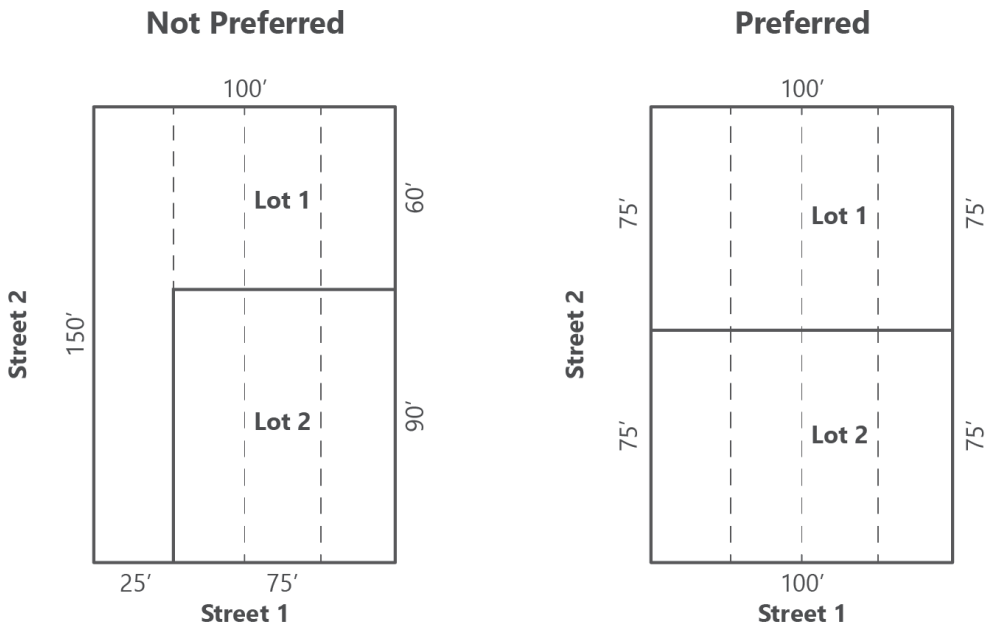
***3.*** A minor lot line adjustment may occur between corner lots and contiguous lots that changes the road frontage or orientation of the lots if: (a) no additional lots or outlots are created, (b) the number of lots that do not comply with the current minimum lot width requirements is not increased, (c) the amount of the lot width noncompliance is not increased, and (d)the adjustment of lot lines does not create or increase any existing noncompliance regarding minimum lot area, shape factor, or minimum setback requirements.

***4.*** A minor lot line adjustment may occur between lots located in different subdivisions, subject to subsections 1 through 3 above. This provision applies even if one of the existing lots is subject to the provisions of this section and the other existing lot meets the requirements of the current Ordinance. In addition, the adjustment of lot lines must be in substantial conformance with any prior zoning approvals.

***5.*** Subsection 1 above does not apply if the minor lot line adjustment results in no additional lots or outlots, does not increase density, and all of the resulting lots meet the current lot area, lot width, and shape factor.

[914] Carried forward from 2-405. Change since 10/11/2019 draft: Subsections (b)4 and 5 added for clarification of current practice. Deleted references to district size, consistent with the other proposed change to only apply district size for the purpose of rezonings.

[915] Did not carry forward the statement that the lot "may be used for any use permitted in the zoning district in which located under this Ordinance." Uses are regulated by Article 4.




**(2)** Any lot that did not meet the requirements of the Zoning Ordinance in effect at the time of recordation is not required to meet the minimum lot area, lot width, and shape factor requirements of the district if:

**(a)** The lot is depicted in a metes-and-bounds description or on a subdivision plat not approved by the County, and the description or plat was recorded among the land records of Fairfax County before March 25, 2003;

**(b)** The lot described in the metes-and-bounds description or on the plat was identified as a separate lot on the Fairfax County Real Property Identification Map and was taxed as a separate parcel on or before March 25, 2003;

**(c)** The lot contained a principal structure on March 9, 2004 that was:

***1.*** Occupied or had been occupied at any time within five years before March 9, 2004; or

***2.*** Under construction in accordance with a building permit, and a Residential or Nonresidential Use Permit was issued within 12 months after March 9, 2004; and

**(d)** Except for the minimum lot area, lot width, and shape factor requirements of the district, all other regulations of this Ordinance must be satisfied, including the bulk and permitted use regulations applicable to the underlying zoning district.

## K. Waiver of Minimum Lot Size Requirements[916]

**(1)** The Board may approve a waiver of the following lot size requirements in conjunction with a rezoning or special exception:

[916] Carried forward from 9-610. Change since 10/11/2019 draft: The standards have been revised and separated to be either applicable to applications that either create or do not create a new lot.

(a) R districts, but not cluster subdivision other than the R-1 Cluster – minimum district size or lot width requirements;[917]

(b) C districts – minimum lot area or lot width requirements; and

(c) I districts – minimum district size, lot area, or lot width requirements.

**(2)** The Board must make the following findings to approve an application to waive lot size requirements that does not involve the creation of a new lot:

(a) The lot width or area has not been reduced after August 14, 1978, to a width or area less than required by this Ordinance;

(b) Granting the waiver will not have an adverse effect and will be compatible with[918] the existing and planned development of properties and area roadways; and

(c) The remaining provisions of this Ordinance are satisfied.

**(3)** The Board must make the following findings to approve an application to waive lot size requirements that involve the creation of a new lot:

(a) The waiver results in a development that: (i) preserves existing topography, historic resources, environmental features; (ii) preserves quality vegetation or replaces existing vegetation with species that are suited to post-development conditions on the site; (iii) results in less impervious surface than the maximum impervious surface allowed without approval of the waiver; (iv) maintains or improves stormwater management systems; and (v) mitigates other similar impacts. [919]

(b) Granting the waiver will not have any adverse effect and will be compatible with the existing and planned development of properties and on area roadways.[920]

## L. Pipestem Lots and Setbacks[921]

**(1)** The Director may approve pipestem lots either as a single lot or in a group of up to five lots when necessary to achieve more creative planning and preservation of natural property features or to provide for affordable dwelling unit developments, but only in accordance with the provisions of the Public Facilities Manual and at least one of the following:

(a) Affordable dwelling unit developments required under Section 5101 below;

(b) Residential cluster subdivisions approved under 5100.2.O;

(c) When shown on an approved proffered generalized development plan in the R-5 or R-8 District;[922]

[917] Change since 10/11/19 draft: Added reference to cluster subdivision provisions.
[918] Change since 10/11/2019: added "and will be compatible with."
[919] Change since 10/11/2019 draft: This standard has been revised to add the option to "preserve or replace vegetation" and to provide for "less impervious surface than what could be built without the approval of a waiver" rather than "reduced impervious surface."

[920] Change since 10/11/2019: added "and will be compatible with." Change since 6/30/2020 draft: Replaced "or" with "and" in (2)(b) and (3)(b).
[921] Carried forward from 2-406.
[922] Reconciled inconsistencies by removing the R-12 District where single-family detached dwellings are not permitted, and the exception from meeting lot width requirements.

**(d)** When shown on an approved final development plan in the PDH or PDC District;

**(e)** When shown on an approved PRC plan in the PRC District; or

**(f)** In conjunction with the approval of a special exception waiving minimum lot width requirements in accordance with 5100.2.J.

**(2)** Setbacks for pipestem lots and lots contiguous to pipestem driveways are as follows:[923]

**(a)** The minimum front setback on a pipestem lot is 25 feet. The setback is measured from the lot line or the edge of the pipestem driveway pavement, whichever results in a greater setback. The minimum front setback in an affordable dwelling unit development is the lesser of either 25 feet or the requirement of the applicable district.

**(b)** On a lot contiguous to a pipestem driveway serving more than one pipestem lot, in addition to the minimum front setback requirements of the district, the area contiguous to the pipestem driveway must also meet a minimum required front setback of 25 feet as measured from the lot line formed by the pipestem or the edge of the pipestem driveway pavement, whichever results in a greater setback. Such lot configuration is not deemed a corner lot. In an affordable dwelling unit development, the lesser of 25 feet or the minimum front setback requirement of the district applies.

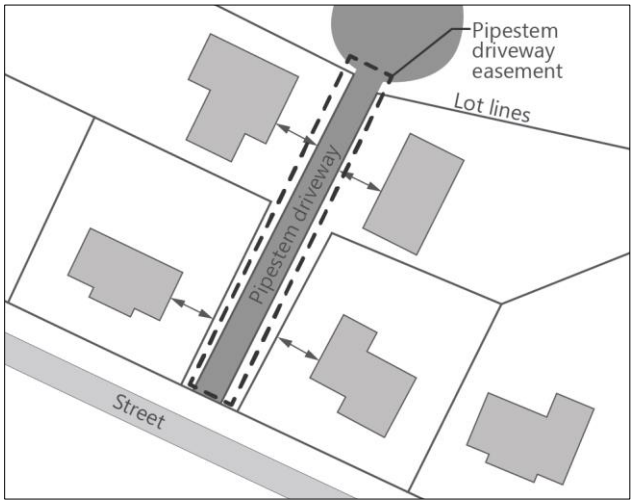



**Figure 5100.11: Setback Measurement on Pipestem Lots**

**(3)** Lots with pipestem driveways that were created by a variance granted by the BZA before [*insert effective date of this Ordinance*], will be treated as "pipestem lots" for the purpose of this Ordinance.[924]

[923] Carried forward from 2-416.

[924] Change since 10/11/2019 draft: Added "prior to the effective date of this Ordinance." With the addition that a variance may not be granted where there is an SE or SP process, no new pipestem lots will be created by variance.

## M. Residential Access to Public Street[925]

All dwelling units must have access to a public street dedicated to VDOT, except as provided by Section 5107, Private Streets.

## N. Limitation on Driveways for Uses in C and I Districts[926]

A driveway for a use in any C or I district is prohibited in any R district or a residential area of a P district unless the use served by the driveway is also allowed in the R district in which the driveway is located; or unless the driveway is approved by the Board by special exception in accordance with subsection 8100.3. For the purpose of this subsection, a travel lane is not a driveway. The Board must determine the following:

**(1)** The proposed driveway will not unduly impact the use or development of adjacent properties in accordance with the Comprehensive Plan; and

**(2)** No other means of access is reasonable available; or

**(3)** The proposed access will result in a minimized traffic impact on the streets in the vicinity.

## O. Cluster Subdivisions[927]

### (1) Where Permitted

**(a)** The Director may approve cluster subdivisions in the R-2 District with a minimum district size of two acres or greater and in the R-3 and R-4 Districts with a minimum district size of three and one-half acres or greater in accordance with Chapter 101 of the County Code.

**(b)** The Board may approve cluster subdivisions in the R-C, R-E, and R-1 Districts, and the R-3 and R-4 Districts with a minimum district size of two acres or greater but less than three and one-half acres, by special exception in accordance with this section.

### (2) Post-July 1, 2004 Rezoning and Special Exceptions

**(a)** Applications after July 1, 2004, are subject to the following:

***1.*** New cluster subdivisions are not permitted by special exception in the R-2 District or in the R-3 and R-4 Districts with a minimum district size of three and one-half acres or greater;

***2.*** The Board may approve a proffered rezoning to the R-2 District, or a proffered rezoning to a R-3 or R-4 District with a minimum district size of three and one-half acres or greater, for the development of a cluster subdivision without bonus density when the application is for a rezoning to a residential district with a higher permitted maximum density than the existing zoning district. In conjunction with Board approval of that 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

[925] Carried forward from 2-407, renamed heading.
[926] Carried forward from 2-511 and 9-616.
[927] Carried forward from 2-421.

the County Code must be met without modification or waiver. The provisions of 8100.2.D apply to such approved proffered rezoning.

***3.*** 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 with a minimum district size of two acres but less than three and one-half acres, 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 property.

***4.*** The Board may approve a rezoning to a PDH District for a development wholly or partially containing single-family detached dwellings without bonus density, if the application is for rezoning to a PDH District that has a higher permitted maximum density than the permitted maximum density of the existing zoning of the property or is a rezoning from a district that permits cluster development with Director approval. Rezoning to a PDH District for a development containing single-family detached dwellings is prohibited if the existing zoning of the property has the same permitted maximum density as the requested PDH District and the existing zoning permits cluster development with Board approval. In addition, rezoning to a PDH District is prohibited if the application request is from the R-5 District to the PDH-5 District or from the R-8 District to the PDH-8 District for development containing single-family detached dwellings.

### (3) Pre-July 1, 2004 Cluster Subdivisions[928]

**(a)** Cluster subdivisions in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts that were approved by proffered rezoning by the Board before July 1, 2004, continue to be subject to the proffered rezoning approval. Amendments to those proffered rezonings may be filed and considered in accordance with the provisions of 8100.2.D. Minor modifications to those subdivisions may be permitted in accordance with 8100.5.

**(b)** Special exceptions for cluster subdivisions in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts that were approved by the Board before July 1, 2004 and established remain valid and are subject to the special exception approval, including any approved development conditions. Amendments to special exceptions for these cluster subdivisions may be filed and considered in accordance with subsections 8100.3.D(5) and 5100.2.O. Minor modifications to those subdivisions may be permitted in accordance with subsection 8100.3.D(3)(b).

**(c)** Cluster subdivisions in the R-E, R-1, R-2, R-3, and R-4 Districts that were approved administratively by the Director before October 20, 1987, or that are subject to the provisions adopted under Zoning Ordinance Amendment ZO 87-150 for previous approvals, may continue under any conditions of such approval. Any modification to the subdivision may be approved by the Director, in accordance with the requirements of this section and Chapter 101 of the County Code.

[928] Removed "except that no amendment may be filed or approved that permits the cluster subdivision to be enlarged, expanded, increased in density, or relocated," as this is in conflict with the State Code.

### (4) Standards for a Cluster Subdivision[929]

The Board may approve a cluster subdivision in an R-C, R-E, or R-1 District or a cluster subdivision in a R-3 or R-4 District which has a minimum district size of two acres or greater but less than three and one-half acres if it is in conjunction with the approval of a rezoning or as a special exception and complies with the provisions of this section. Special exceptions for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 or R-4 Districts that were approved by the Board before July 1, 2004, will remain valid and are subject to the approved special exception, including any imposed development conditions. Amendments to a special exception for these cluster subdivisions must be reviewed in accordance with subsection 8100.3 and the following.

**(a)** It must be demonstrated by the applicant that the location, topography, and other physical characteristics of the property are such that the cluster development will:

***1.*** Preserve the environmental integrity of the site by protecting and promoting the preservation of features such as steep slopes, stream valleys, desirable vegetation, or farmland, and either:

***a.*** Produce a more efficient and functional development; or

***b.*** Provide land necessary for public or community facilities.

***2.*** Be in accordance with the Comprehensive Plan and the established character of the area. To accomplish this end, the cluster subdivision must be designed to maintain the character of the area by preserving, where applicable, rural views along major roads and from surrounding properties through the use of open space buffers, minimum yard requirements, varied lot sizes, landscaping, or other measures.

**(b)** The maximum density specified for the applicable district must not be increased and the other applicable regulations or use limitations for the district must not be modified or changed; however, the Board may approve a modification to the minimum lot size or setback requirements if it can be concluded that the modification is in keeping with the provisions of this section and the applicable zoning district. No lot may extend into a floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area unless approved by the Board based on a determination that:

***1.*** The floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area, by reason of its size or shape, has no practical open space value;

***2.*** The amount of floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area on the lot is minimal;and

***3.*** The lot otherwise meets the required minimum lot area specified for the district in which located.

**(c)** A cluster subdivision plat may be approved if it conforms with the plat approved by the Board and complies with the provisions of this section and the cluster subdivision provisions presented in the zoning district regulations.

**(d)** In the R-C District, in addition to subsection (4)(a) above, the applicant must demonstrate that the cluster subdivision and the use of its open space is designed

[929] From Sect. 9-615, renamed from "provisions for a cluster subdivision." The submission requirements are located in Article 8: Administration and Procedures.

to achieve runoff pollution generation rates no greater than would be expected from a conventional R-C District subdivision of the property.

## P. Compliance with Other Applicable Regulations and Standards[930]

No structure is allowed if it is precluded by any provision of the County Code or is subject to any applicable requirements of the USBC that conflict with the zoning approval.[931]

## Q. Major Underground Utility Easements[932]

**(1)** A major underground utility easement is one which contains a transmission pipeline that carries products such as natural gas, petroleum, or other fuels.[933] After June 27, 1995, no land area that is encumbered by any major underground utility easement and that is located outside of a public right-of-way may be obstructed, restricted, or impeded in any manner by any new structure, building, plantings, stockpiling of material, or use except for the following when approved by the Director. The approval may include the imposition by the Director of conditions related to maintaining the structural integrity of the transmission pipeline.

- **(a)** Transmission pipelines and appurtenant structures and facilities, to include temporary structures used in conjunction with the maintenance or repair of the underground utility lines.
- **(b)** Aboveground utility crossings and underground crossings of franchised cable television lines and crossings of underground utilities including, but not limited to storm drains, water and sanitary sewer lines, liquid petroleum lines, gas lines, electric and telephone cables, as specified in subsection 4102.4.X(3)(a).
- **(c)** Erosion and sediment controls.
- **(d)** Temporary equipment crossings if the transmission pipelines are adequately protected from any adverse impacts caused by such crossing.
- **(e)** Crossings of railroad tracks, private streets, driveways, trails, sidewalks, and public rights-of-way if those facilities will not adversely impact the structural integrity of transmission pipelines.
- **(f)** Trails as shown on the Comprehensive Plan if the trails will not adversely impact the structural integrity of transmission pipelines.
- **(g)** Open play areas and athletic fields that do not contain any permanent structures other than fencing, backstops, benches, bleachers, scoreboards, and other similar accessory structures, if the installation or removal of those structures will not require the use of mechanical equipment of any type and the facilities will not adversely impact the structural integrity of transmission pipelines.
- **(h)** Off-street surface parking facilities in accordance with the provisions of the Public Facilities Manual if the facilities will not adversely impact the structural integrity of transmission pipelines.

[930] Carried forward from 2-422.
[931] Did not carry forward "including but not limited to, any fire rating wall and limits on the percentage of wall openings."
[932] Carried forward from 2-515.
[933] Change since October 11, 2019 draft: Incorporated current definition in Article 20.

**(i)** Garden or landscaping with low growing plants or ornamental type shrubbery, with no vegetation having a maximum expected height of more than four feet, if no mechanical equipment of any type will be used in the planting or removal of such vegetation.

**(j)** Accessory structures such as playground equipment, children's playhouses, doghouses, fences, storage structures, and other similar structures that do not require approval of a building permit, if the installation or removal of those structures will not require the use of mechanical equipment of any type and the structures will not adversely impact the structural integrity of transmission pipelines.

**(k)** Any vegetation required by this Ordinance must be planted and maintained in such a manner that will not obstruct, restrict, or impede any major underground utility easement.

**(2)** This Section is not construed to restrict measures necessary to identify the location of a transmission pipeline facility as required by the County or to restrict an operator or agent of a transmission pipeline facility from providing maintenance or emergency service to the underground facilities.

## R. Lots Bordered by Access Easements[934]

**(1)** The following apply when a lot is bordered by or contains an access easement:

**(a)** If the lot is bordered by a public or private street on one side and an access easement on another side, it is not considered a corner lot or a through lot unless the access easement serves more than five existing or potential lots or dwelling units based on the existing zoning or Comprehensive Plan.

**(b)** If the access easement provides the only access to five or fewer existing or potential lots or dwelling units based on the existing zoning or Comprehensive Plan, the setback from the access easement is 25 feet, measured from the edge of pavement or face of the curb within the easement and not from the easement line itself.[935]

**(c)** If the access easement serves or has the potential to serve more than five lots, the setback from the easement is the front setback of the applicable district, measured from the lot line or the edge of pavement or face of the curb within the easement and not from the easement line itself, whichever results in a greater setback.[936]

[934] Carried forward from Interpretation 16 of the Zoning Ordinance. Change since 11/24/2020 draft: Clarified to address lots that contain an access easement and how the setback is measured in subsection (c).
[935] Change since 10/11/2019 draft: Language changed from ". . . serves five or fewer . . ." to ". . . provides the only access to five or fewer . . ."
[936] Change since 10/11/2019 draft: This paragraph was added for clarity.

# 3. Open Space Requirements[937]

## A. Open Space Requirements, Generally

**(1)** The open space requirements for any given district are minimums, and the required open space must be located on the same lot as the primary use, unless otherwise specifically required elsewhere in this Ordinance. Open space requirements are generally presented as a percent of the gross area of the lot.

**(2)** No part of required open space may later be reduced below the minimum requirements of this Ordinance or used in any manner contrary to this Ordinance. Open space may not be disturbed in any manner without the approval of the Director.

**(3)** Calculation of open space area is based on the following rules:

**(a)** Land not contained in lots and streets that is needed by the County for parks, recreational areas, or stream valleys, and is suitable in location, size, shape, condition, and topography for the needed purposes as determined by the Director, must be deeded to the County for those purposes. This land is referred to as dedicated open space and is given full credit in satisfying the open space requirement for a given district.

**(b)** Fifty percent of the area within a lot that is dedicated to the County for a school site is credited toward satisfying the open space requirement of the applicable district.

**(c)** Land not contained in lots and streets that is not needed by the County for those purposes set forth in subsections (a) and (b) above, may be conveyed to a nonprofit organization as provided for in Section 5106 with the approval of the Director. That land is referred to as common open space and is given full credit in satisfying the open space requirement for a given district.

**(d)** In cluster subdivisions, at least 75 percent of the minimum required open space or one acre, whichever is less, must be provided as a contiguous area of usable open space. For cluster subdivisions in which the required open space will approximate five acres in area, the open space must be usable open space as defined in Article 9, based on location, dimension, and topography, unless a waiver is approved in accordance with subsection B below.

**(e)** Open space in a major utility easement or right-of-way is subject to the following:

***1.*** Fifty percent of the area that lies within a major utility easement or right-of-way may be calculated as open space if the remaining rights of the easement or right-of-way are dedicated for recreational or open space use.

***2.*** Lands that lie within a major utility easement or right-of-way may not constitute more than 30 percent of the total land area needed to satisfy the open space requirement for a given district.

[937] From current Sect. 2-309, revised for clarity and to update cross-references. This material was relocated from the previous draft Article 2 – Zoning Districts. Article 2, Part 7 was relocated to Section 5106, Common Open Space. The requirement for a minimum 50-foot dimension has been replaced with a reference to usable open space.

***3.*** For the purpose of this provision, a major utility easement or right-of-way is one having a width of 25 feet or more that is located entirely outside a street right-of-way.

**(f)** Open space credit may not be given for lands that are included in or reserved for the right-of-way of any street, for any mass transit facility, or for any public facility except as qualified above.

**(g)** In the administration of these provisions, the Director has the authority to determine whether lands qualify as open space and whether those lands are common open space, dedicated open space, landscaped open space, or recreational open space.

**(h)** The Board may waive the open space requirement presented for a given zoning district in accordance with the provisions of 5100.3.B.

**(i)** Any area required for interior parking lot landscaping must not comprise more than 25 percent of the total required open space.[938]

### B. Waiving Open Space Requirements[939]

The Board may waive the open space requirement presented for a given zoning district or the open space requirement set forth in subsection A above for cluster subdivisions in the R-C, R-E, and R-1 Districts and cluster subdivisions in the R-3 and R-4 Districts that have a minimum district size of two acres or greater but less than three and one-half acres, in conjunction with the approval of appropriate proffered conditions or as a special exception, if the following criteria are satisfied:

**(1)** The waiver will further the intent of this Ordinance and the Comprehensive Plan and other adopted policies;

**(2)** It is established that the resultant development will be compatible with adjacent development; and

**(3)** The provisions of Section 5108, Landscaping and Screening, are satisfied.

# 5101. Affordable Dwelling Unit Program[940]

## 1. Purpose[941]

The Affordable Dwelling Unit (ADU) Program is established to assist in the provision of affordable housing for persons of low and moderate income. The program is designed to promote a full range of housing choices and to require the construction and continued existence of affordable dwelling units that are integrated and dispersed within the development.

[938] Relocated from the definition of open space.
[939] Change since 10/11/19 draft: Added from current Sec. 9-612.
[940] Carried forward from Sect. 2-800, with revisions as noted. This section would benefit from substantive changes as part of a second phase of zMOD amendments, and if possible, the addition of an on-line calculator to enable applicants to determine the ADU requirements for specific development proposals before applications for a specific project are submitted to the County.
[941] Carried forward and condensed from Sect. 2-801.

## 2. Applicability[942]

The requirements of the Affordable Dwelling Unit Program apply to any site or portion thereof at one location, which is the subject of an application for rezoning, PRC plan, special exception, site plan, or subdivision plat approval, which includes 50 or more dwelling units at an equivalent density more than one unit per acre and is located within an approved sewer service area, except as may be exempt under the provisions of subsection 5101.3 below.[943]

An owner or applicant may not avoid the requirements of this section by submitting piecemeal applications for rezoning, PRC plan, special exception, site plan, or subdivision plat approval for less than 50 dwelling units at any one time. However, an owner or applicant may submit a site plan or subdivision plat for less than 50 dwelling units if the owner or applicant agrees in writing that the next application for the site or portion thereof will meet the requirements of this section when the total number of dwelling units in the current application and the next application has reached 50 or more. This written statement must be recorded in the Fairfax County land records and must be indexed in the names of all owners of the site or portion thereof.

### A. Site or Portion Thereof

**(1)** For purposes of this Ordinance, "site or portion thereof at one location" includes all adjacent undeveloped land of the property owner or applicant, the property lines of which are contiguous or nearly contiguous at any point, or the property lines of which are separated only by a public or private street, road, highway or utility right-of-way or other public or private right-of-way at any point, or separated only by other land of the owner or applicant, which separating land is not subject to the requirements of this section.

**(2)** Sites or portions thereof at one location includes all land under common ownership or control by the owner or applicant, including, but not limited to, land owned or controlled by separate partnerships, land trusts, or corporations in which the owner or applicant (to include members of the owner or applicant's immediate family) is a partner, beneficiary, or is an owner of one percent or more of the stock, and other such forms of business entities. Immediate family members include the owner or applicant's spouse, children, and parents. However, in instances in which a lending institution, such as a pension fund, bank, savings and loan, insurance company or similar entity, has acquired, or acquires an equity interest by virtue of its agreement to provide financing, such equity interest will not be considered in making determinations of applicability.

### B. Submission and Application Information

**(1)** The submission of an application for rezoning, PRC Plan, special exception, site plan, or subdivision plat approval must include an affidavit with the following information:

**(a)** The names of the owners of each parcel of the sites or portions thereof.

[942] Subsections A through F carried forward from Sect. 2-802; Subsection G carried forward from 2-816, with revisions as noted.

[943] Change since 10/11/2019: Added for clarification the reference to the PRC plan. The provisions of this section would apply at the time of site plan approval regardless, and before 2007, a PRC plan was administratively approved like a site plan.

**(b)** The Fairfax County Property Identification Map Number, parcel size and zoning district classification for each parcel which is part of the site or portion thereof.

**(2)** The County will process site plans or subdivision plats proposing the development or construction of affordable dwelling units within 280 days after the receipt of the application, if the plans and plats substantially comply with all ordinance requirements when submitted. The calculation of the review period includes only that time the plans or plats are under review by the County and does not include time the applicant is making revisions or modifications necessary to comply with the requirements of this Ordinance.

### C. Independent Living Facilities

Affordable dwelling units are required in accordance with for independent living facilities approved by special exception or as part of a rezoning.

### D. Compliance with Federal, State and Other Local Laws[944]

**(1)** The Zoning Administrator may determine that a development satisfies the requirements of the Affordable Dwelling Unit Program if the number of affordable dwelling units that are provided under federal, state or other local programs results in the same or more number of units that are required under subsection 5101.4 and are subject to terms and restrictions equivalent to the requirements of this section.

**(2)** The rent and sale prices for affordable dwelling units provided under federal, state, or other local programs must be in accordance with the rules and regulations governing those programs, and the units must be marketed in accordance with those rules and regulations. The rent and sale prices must not exceed those set forth in this section.

## 3. Developments Exempt from the Affordable Dwelling Unit Program[945]

The requirements of this section do not apply to the following:

**A.** Any multifamily dwelling unit structure which is constructed of Building Construction Types 1, 2, 3 or 4, as specified in the VUSBC.

**B.** Applications for rezoning or special exception or amendments to such rezoning or special exception approved before July 31, 1990, or applications for rezoning or amendments to rezonings approved before January 31, 2004, for elevator multifamily dwelling unit structures that are four stories or more in height and constructed of Building Construction Type 5 (combustible) as specified in the VUSBC, which either:

**(1)** Include a development plan or special exception plat which contains a lot layout; or

**(2)** Include a proffered or approved total maximum number of dwelling units or FAR; or

**(3)** Include a proffered or approved unit yield per acre less than the number of units per acre otherwise permitted by the applicable zoning district regulations; or

**(4)** Fully satisfy the provisions of subsection 5101.2.D.

**C.** Applications for a proffered condition amendment, development plan amendment, PRC plan, or special exception amendment, which deal exclusively with the following issues or combinations of those issues:

[944] Carried forward from Sect. 2-816, relocated to applicability section for internal consistency.
[945] Carried forward from Sect. 2-803, with revisions as noted.

**(1)** Building relocation, ingress or egress, storm water drainage, or other engineering or public facilities issues;

**(2)** The preservation of historic structures;

**(3)** Child care centers;

**(4)** Changes in the size of units, reductions in the number of units, or changes in dwelling unit type which propose no increase in density over the previously approved density;

**(5)** The addition of a special exception use or special permit use; and

**(6)** An amendment to add land area with no additional dwelling units.

**(7)** Despite the definition of "site or portion thereof at one location" in subsection 5101.2.A, for additional dwelling units to a previously exempt development, the previously approved development continues to remain exempt if density for the new units is calculated only over the new land area. The entire development is subject to this section if the density calculation for the new dwelling units includes the total land area.[946]

**D.** Conversion to condominium of developments which were built in accordance with site plans filed or preliminary subdivision plats approved on or before July 31, 1990.

**E.** Site plans filed and preliminary subdivision plats approved on or before July 31, 1990, and not exempt under A, B, or C above:

**(1)** Provided that one or both of the following conditions are met:

**(a)** The site plan was approved within 24 months of the return of the initial submission to the applicant or agent; and a building permit(s) for the structure(s) shown on the approved site plan was issued in accordance with subsection 8100.7.F(3); and the structure(s) was constructed in accordance with such building permit(s); or

**(b)** The preliminary plat was approved and a final plat was approved and recorded in accordance with the provisions of Chapter 101 of the County Code, Subdivision Ordinance.

**(2)** Site plans may be revised or resubmitted in order to comply with the requirements of this section at the owner's option. The revision or resubmission will be processed expeditiously in accordance with the provisions of subsection 5101.2.B(2) above.

**F.** Site plans for elevator multifamily dwelling unit structures that are four stories or more in height and are to be constructed of Building Construction Type 5 (combustible) as specified in the VUSBC filed on or before January 31, 2004, if:

**(1)** The site plan is approved within 12 months of the return of the initial submission to the applicant or agent;

**(2)** The site plan remains valid;

**(3)** A building permit(s) for the structure(s) shown on the approved site plan is issued; and

**(4)** The structure(s) is in fact constructed in accordance with such building permit(s).

**G.** Any independent living facility for low income residents approved in accordance with subsection 4102.4.Q in which 100 percent of the dwelling units are provided for residents whose annual household income is 50 percent of the median income for the Washington Metropolitan Statistical Area (WMSA) for not less than 70 percent of the dwelling units and 30 percent of the WMSA for not more than 30 percent of the units. This development may be

[946] Revised to clarify how this provision is applied.

administered under these provisions or under the provisions of any other affordable housing program deemed equivalent by the Zoning Administrator.

**H.** If the total number of dwelling units approved by the Board or the total number of dwelling units shown on the subsequent site plan or subdivision plat is less than the total number approved and provides for a density at or below the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling developments, then no affordable dwelling units are required and the applicable zoning district regulations for affordable dwelling unit developments do not apply.

**I.** If the building construction changes from Type 5 to Types 1, 2, 3 or 4, as specified in the VUSBC, as demonstrated by the applicant and confirmed by the County, no affordable dwelling units are required; however, no density bonus may be realized and the applicable zoning district regulations for affordable dwelling unit development do not apply.

## 4. Affordable Dwelling Unit Calculations[947]

**A.** For rezoning, PRC plan, and special exception applications approved after March 31, 1998, or for proffered rezoning applications approved before that date, which specifically provide for the applicability of an amendment to this section:

**(1)** If the application requests approval of single-family detached dwelling units, single-family attached, or stacked townhouse dwelling units, the lower and upper end of the density range set forth in the Comprehensive Plan applicable to the application property is increased by 20 percent for purposes of calculating the potential density which may be approved by the Board.

**(2)** If the application requests approval of non-elevator multifamily dwelling unit structures; or elevator multifamily dwelling unit structures which are three stories or less in height, the lower and upper end of the density range set forth in the Comprehensive Plan applicable to the application property is increased by 10 percent for purposes of calculating the potential density which may be approved by the Board. However, at the applicant's option, the range set forth in the Comprehensive Plan is increased by 20 percent for purposes of calculating maximum potential density.

**(3)** For the purposes of administration of this Section 5101, where the Comprehensive Plan does not specify a density range in terms of dwelling units per acre, the density range is determined in accordance with subsection 5101.4.D below.

**(4)** Required affordable dwelling units must comply with the following:

**(a)** If the total number of dwelling units approved by the Board or the total number of dwelling units shown on the subsequent site plan or subdivision plan is less than the total number approved by the Board, results in a density above the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling unit developments, affordable dwelling units must be provided in accordance with the following formulas:

Where:
A = Approved Density, the dwelling units per acre approved by the Board or as shown on the approved site plan or subdivision plat.

[947] Carried forward from Sect. 2-804.

L = Low End of Density Range, the lower limit of the density range specified in the Comprehensive Plan in terms of dwelling units per acre or calculated in subsection D below before application of the permitted density increase for affordable dwelling unit developments.
H = High End of Density Range, the upper limit of the Comprehensive Plan in terms of dwelling units per acre or calculated in subsection D below before application of the permitted density increase for affordable dwelling unit developments.

Notes:
[1] The numbers 5.0, 6.25 and 12.5 in the formulas below and in subsection 5101.4.B(4) represent absolute numbers, not percentages.
[2] The denominators in the formulas express the adjusted density range of the Comprehensive Plan in accordance with the applicable density bonus.

***1.*** For developments with a 20 percent density bonus:

$$ADU\% = 12.5 \text{ x } \frac{\text{A}-\text{L}}{1.2(\text{H}-\text{L})}$$

***2.*** For multifamily dwelling unit developments with a 10 percent density bonus and for the multifamily dwelling unit component of a mixed unit development with a 10 percent density bonus:

$$ADU\% = 6.25 \text{ x } \frac{\text{A}-\text{L}}{1.1(\text{H}-\text{L})}$$

**(b)** The affordable dwelling unit requirement may not exceed either:

***1.*** 6.25 percent for those development for which a ten percent increase in density has been applied to the density range specified in the Comprehensive Plan; or 12.5 percent for those developments for which a 20 percent increase in density has been applied.

**B.** Rezoning applications approved after January 31, 2004, which request approval of elevator multifamily dwelling unit structures that are four stories or more in height and are to be constructed of Building Construction Type 5 (combustible) as specified in the USBC, are subject to the following:

**(1)** The lower and upper end of the density range set forth in the Comprehensive Plan applicable to the application property is increased by 17 percent for purposes of calculating the potential density which may be approved by the Board.

**(2)** For the purposes of administration of this Section 5101, the applicable density range is determined in accordance with subsection 5101.4.D when one is not specified in the Comprehensive Plan in terms of dwelling units per acre.

**(3)** The provision of affordable dwelling units or, in the case of a modification approved by the ADU Advisory Board, the conveyance of land, contribution to the Fairfax County Housing Trust Fund or combination thereof, as provided for in subsection 5101.8.E(3) below, satisfies the development criteria for the provision of affordable housing.

**(4)** Required affordable dwelling units must comply with the following:

**(a)** If the total number of dwelling units approved by the Board or if the total number of dwelling units shown on the subsequent site plan or subdivision plat is less than the total number approved by the Board, results in a density which is at or below the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling developments, then no affordable dwelling units are required and the applicable zoning district regulations for affordable dwelling unit developments do not apply.

**(b)** If the total number of dwelling units approved by the Board or if the total number of dwelling units shown on the subsequent site plan or subdivision plat is less than the total number approved by the Board, results in a density which is above the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling unit developments, affordable dwelling units for which the rental or sales price is controlled in accordance with the provisions of this section must be provided in accordance with the following formulas:

***1.*** For developments with 50 percent or less of the required parking for multifamily dwelling units provided in the above- or below-surface structures:

$$ADU\% = 6.25 \text{ x } \frac{\text{A}-\text{L}}{1.17(\text{H}-\text{L})}$$

***2.*** For developments with more than 50 percent of the required parking for multifamily dwelling units provided in above- or below-surface structures:

$$ADU\% = 5.0 \text{ x } \frac{\text{A}-\text{L}}{1.17(\text{H}-\text{L})}$$

***3.*** The terms uses in these formulas are as described in subsection 5101.4.A(4)(a) above.

**(c)** The requirement for affordable dwelling units may not exceed either 6.25 percent in accordance with subsection (a)1 above or 5.0 percent in accordance with subsection (a)2 above, as applicable, for those developments in which a 17 percent increase in density has been applied to the density range specified in the Comprehensive Plan.

**C.** The requirement for affordable dwelling units, as calculated in accordance with the above subsections, is rounded down when the fractional unit is less than 0.5 and is rounded up when the fractional unit is greater than 0.5 to produce an additional affordable dwelling unit.[948]

**D.** Where the Comprehensive Plan does not specify a density range in terms of dwelling units per acre, the following applies:

**(1)** If the plan specifies an upper density limit in terms of dwelling units per acre, but there is no lower density limit, then the low end of the density range is 50 percent of the upper density limit specified in the plan.

[948] Carried forward from Par. 7 of Sect. 2-804

**(2)** If the plan specifies a maximum number of dwelling units for an area, but no density range in terms of dwelling units per acre is specified, the density range is determined as follows:

**(a)** The upper density limit is equal to the maximum number of dwelling units specified in the plan divided by the land area covered by the plan recommendation, and

**(b)** The lower density limit is equal to 50 percent of the upper density limit calculated above.

**(3)** If the plan specifies a square footage or floor area ratio (FAR) range for residential uses for a specific area, but no density range in terms of dwelling units per acre:

**(a)** The dwelling unit per acre density range for single-family dwelling unit developments and multifamily dwelling unit developments that do not have an elevator, or have an elevator and are three stories or less in height, is determined by dividing the residential square footage specified in the Comprehensive Plan by an average dwelling unit size for the proposed dwelling unit type within the development.

**(b)** The dwelling unit per acre density range for multifamily dwelling unit developments consisting of four stories or more with an elevator, the dwelling unit per acre density range is determined by multiplying the residential square footage specified in the Comprehensive Plan by 85 percent, and dividing that product by an average dwelling unit size for the proposed dwelling unit type within the development.

**(4)** If the plan specifies only a maximum square footage or FAR, and does not specify residential density, the residential density range is determined as follows:

**(a)** The upper density limit is equal to the maximum number of dwelling units calculated in subsections A, A(4)(b), or C as applicable, divided by the land area covered by the plan recommendation, and

**(b)** The lower density limit is equal to 50 percent of the upper density limit calculated in accordance with subsection (a) above.

## E. Opt-In Provisions[949]

**(1)** Any developer may provide affordable dwelling units in any residential development in the R-2 through R-30 and P Districts that does not otherwise require affordable dwelling units under this section. Development is subject to the applicable zoning district regulations for affordable dwelling unit developments as modified by the following:

**(a)** For single-family detached, single-family attached, and stacked townhouse dwelling unit developments, a density bonus of up to 20 percent may be approved by the County, if not less than 12.5 percent of the total number of dwelling units are provided as affordable dwelling units.

**(b)** For multifamily dwelling unit structures that do not have an elevator, or have an elevator and are three stories or less in height:

[949] From Par. 5 of Sect. 2-802

1. A density bonus of up to ten percent may be approved by the County, if not less than 6.25 percent of the total number of dwelling units are provided as affordable dwelling units; or
2. A density bonus of between ten and 20 percent may be approved by the County, if not less than 12.5 percent of the total number of dwelling units are provided as affordable dwelling units.

(c) For multifamily dwelling unit structures that have an elevator and are four stories or more in height:

1. If 50 percent or less of the required parking is provided in parking structures, a density bonus up to 17 percent may be approved by the County, if not less than 6.25 percent of the total number of dwelling units are provided as affordable dwelling units; or
2. If more than 50 percent of the required parking is provided in parking structures, a density bonus of up to 17 percent may be approved by the County, if not less than five percent of the total number of dwelling units are provided as affordable dwelling units.

(d) The affordable dwelling units must comply with all applicable provisions of this section and be of the same dwelling unit type as the market rate units constructed on the site to qualify for consideration of a density bonus.

(e) The Affordable Dwelling Unit Advisory Board does not have authority to modify the percentage of affordable dwelling units required under this subsection 5101.2, nor to allow the construction of affordable dwelling units that are of a different dwelling unit type from the market rate units on the site.

**(2)** For developments that were rezoned before July 31, 1990:[950]

(a) For single-family dwelling unit developments which are not otherwise exempt under subsection 5101.3 above, the total maximum number of dwelling units permitted under the approved density, exclusive of additional units allowed in accordance with this subsection may be increased by up to 20 percent.

1. If a 20 percent increase in density is obtained, not less than 12.5 percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.
2. If a density increase of less than 20 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 20 to 12.5 ratio between the density increase and the affordable dwelling units.
3. If no density increase is achieved, no affordable dwelling units are required.

(b) For developments consisting of non-elevator multifamily dwelling unit structures, or elevator multifamily dwelling unit structures which are three stories or less in height, which are not otherwise exempt under subsection 5101.3 above, the total maximum number of dwelling units permitted under the approved density, exclusive of additional units allowed in accordance with this subsection may be increased by up to 20 percent.

[950] The required ADUs in subsections 1 and 2 are the same.

1. If a 20 percent increase in density is obtained, not less than 12.5 percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.
2. If a density increase of less than 20 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 20 to 12.5 ratio between the density increase and the affordable dwelling units.
3. If no density increase is achieved, no affordable dwelling units are required.

**(3)** For developments, which were rezoned before January 31, 2004 and are not otherwise exempt under subsection 5101.3 above, for elevator multifamily dwelling unit structures that are to be four stories or more in height and constructed of Building Construction Type 5 (combustible) as specified in the USBC:

**(a)** The total maximum number of dwelling units permitted under the approved density applicable to the property, exclusive of additional units allowed in accordance with this subsection 5101.4.E, may be increased by up to 17 percent.

1. For developments with 50 percent or less of the required parking for multifamily dwelling units provided in above- or below-surface structures:
   a. If a 17 percent increase in density is obtained, not less than 6.25 percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.
   b. If a density increase of less than 17 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 17 to 6.25 ratio between the density increase and the affordable dwelling units.
   c. If no density increase is achieved, no affordable dwelling units are required.
2. For developments with more than 50 percent of the required parking for multifamily dwelling units provided in above- or below-surface structures:
   a. If a 17 percent increase in density is obtained, not less than five percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.
   b. If a density increase of less than 17 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 17 to five ratio between the density increase and the affordable dwelling units.
   c. If no density increase is achieved on the property, no affordable dwelling units are required.

# 5. Additional Development Regulations[951]

## A. Compliance with Zoning District Regulations[952]

Any development that provides affordable dwelling units on-site or that includes bonus market rate dwelling units on-site in accordance with the provisions of this section must comply with the respective zoning district regulations, including but not limited to bulk regulations, unit type, open space, and lot size regulations, which apply to affordable dwelling unit developments.

## B. Integration and Dispersion of Affordable Dwelling Units[953]

**(1)** In affordable dwelling unit developments where the dwelling unit type for the affordable dwelling unit is different from that of the market rate units, the affordable dwelling units must be integrated within the developments as determined either by the Board in conjunction with a rezoning, PRC plan, special exception, or other development plan approval or by the Zoning Administrator in conjunction with a by right subdivision or site plan approval.

**(2)** In affordable housing developments where the affordable dwelling units are provided in a dwelling unit type that is the same as the market rate dwelling units, the affordable dwelling units must be dispersed among the market rate dwelling units as determined by the Board or the Zoning Administrator.

## C. Required Bedroom Mix[954]

In multifamily dwelling developments, the number of bedrooms in affordable dwelling units must be proportional to the bedroom mix of market rate units, unless the owner elects to provide a higher percentage of affordable dwelling units with a greater bedroom count.

## D. Provisions for Manufactured Home Parks[955]

To encourage the redevelopment of manufactured home parks to house low and moderate income families in Fairfax County, in conjunction with the review and approval of a rezoning application and proffered generalized development plan, the Board may grant an increase in the number of mobile homes or dwelling units per acre permitted in the R-MHP District by a factor of 50 percent. Where deemed necessary, as part of that approval for the provision of moderately-priced housing units, the Board may waive other regulations of the R-MHP District and the provisions of subsection 5100.2.E(2) related to lots comprised of marine clays.

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[951] This section consolidates several short freestanding sections from different locations in Art. 2-800.
[952] Carried forward from Sect. 2-805, with revisions as noted.
[953] Relocated from Sect. 2-801 (purpose and intent).
[954] Relocated from Sect. 2-806 because this concerns project design rather than site plan or plat designation and is a site plan designation.
[955] Carried forward from Sect. 2-820. Revised name from “mobile home parks.”

### E. Affordable Dwelling Unit Specifications[956]

**(1)** The Fairfax County Redevelopment and Housing Authority ("the Authority") has the authority to develop specifications for the prototype affordable housing products both for sale and rental, which specifications must be reviewed and approved by the Affordable Dwelling Unit Advisory Board before becoming effective. All building plans for affordable dwelling units must comply with the specifications.

**(2)** Any applicant or owner may voluntarily construct affordable dwelling units to a standard in excess of such specifications, but only 50 percent of any added cost for exterior architectural compatibility upgrades (such as brick facade, shutters, bay windows, etc.) and additional landscaping on the affordable dwelling unit lot may be included within recoverable costs, up to a maximum of two percent of the sales price of the affordable dwelling unit, with the allowance for additional landscaping not to exceed one-half of the above-noted two percent maximum.

### F. Limitations on Building Permits and Residential Use Permits[957]

In the administration of the Affordable Dwelling Unit Program, the design and construction specifications established in both rental and sales prices must be structured to make the units affordable to households whose incomes do not exceed 70 percent of the median income of the Washington Standard Metropolitan Statistical Area.

**(1)** In any development, except for one that is comprised solely of rental multifamily units, building permits may be issued for all of the dwelling units in the development; however, Residential Use Permits ("RUPs") may not be issued for more than 75 percent of the total number of units in the development until RUPs have been issued for at least 75 percent of the affordable dwelling units in the development. Additionally, in accordance with subsection 5101.8 below, the required Notice of Availability and Sales Offering Agreement must be submitted before the issuance of the first RUP for any affordable dwelling unit in the development.

**(2)** A development which is comprised solely of rental multifamily units is not subject to the limitations on the issuance of RUPs contained in this section, except in accordance with subsection 5101.8.B below, which requires execution of a Notice of Availability and Rental Offering Agreement before the issuance of the first RUP for the development.

## 6. Designation of Affordable Dwelling Units on Subdivision/Site Plans[958]

**A.** Approved site plans and record subdivision plats for all development except rental multiple-family developments under single ownership must designate the specific lots or units which are the affordable dwelling units required in accordance with this section.

**B.** Approved site plans or building plans for all multifamily developments must note the number of affordable dwelling units by bedroom count and the number of market rate dwelling units by bedroom count, and that notation is a condition of the approved site plan and building plan to demonstrate compliance with 5101.5.C.

[956] Carried forward from Sect. 2-809, with revisions as noted. Did not carry forward the final paragraph that describes the purpose of the program.
[957] Carried forward from Sect. 2-808, with revisions as noted.
[958] Carried forward from Sect. 2-806, with revisions as noted.

**C.** Affordable dwelling units included on approved site plans and recorded subdivision plats are deemed to be features shown for purposes of Va. Code Sect. 15.2-2232, and do not require further approvals ~~pursuant Va. Code Sect. 15.2-2232~~under that statute in the event ~~T~~the Authority acquires or leases such units.

**D.** For multiple section developments where all the required affordable dwelling units will not be provided in the first section of the development, the site plan or record subdivision plat for the first section and all subsequent sections must contain a notation identifying in which section(s) the affordable dwelling units will be or have been provided and a total of all affordable dwelling units for which such site plan(s) or subdivision plat(s) have been approved.

## 7. Condominium Developments[959]

### A. Developments Initially Constructed as Condominiums

If a development is initially built as a condominium and the development is subject to the requirements of this Section 5101, the affordable dwelling units required under this section must be specifically identified on the approved site plan and building plans, and designated in the recorded condominium declaration.

### B. Developments Initially Constructed as Rental Projects

If a development was initially built as a rental project under single ownership and was subject to the requirements of this section and is later converted to a condominium:

**(1)** The provisions of subsection 5101.4 above apply.

**(2)** The affordable dwelling units required under this section must be specifically identified by unit number in the recorded condominium declaration.

**(3)** The sales price for the affordable dwelling units being converted will be established by the County Executive under this section. If the owner of the condominium conversion elects to renovate the affordable dwelling units, the Affordable Dwelling Unit Advisory Board will consider the reasonable cost of labor and materials associated with the renovation, and costs will be factored into the Advisory Board's recommendation to the County Executive regarding the permissible sales prices for the renovated affordable dwelling units.

**(4)** For any condominium conversion development for which an application for registration of a condominium conversion was filed with the Virginia Real Estate Commission in accordance with ~~Va. Code Sect. 55-79.89, as amended~~state law, after February 28, 2006, the affordable dwelling units may not be retained as rental units within a condominium conversion development if such units are also subject to condominium conversion.

**(5)** For any condominium conversion development for which the initial sale of individual units occurred on or after February 28, 2006, the term of sales price control for affordable dwelling units must be for a period of 30 years and the units must be priced in accordance with the provisions of this subsection. Upon any resale or transfer of an affordable dwelling unit within the initial 30-year period of sales price control, the sales prices for each subsequent resale or transfer for each such affordable dwelling unit to a

[959] Carried forward from Sect. 2-807, with revisions as noted.

new owner must be controlled for a new 30-year period commencing on the date of the resale or transfer. Each initial 30-year control period and each subsequent 30-year control period may be referred to as the renewable sale price control period or control period.

**(6)** For any condominium conversion development for which an application for registration of the condominium conversion was filed with the Virginia Real Estate Commission in accordance with ~~Va. Code Sect. 55-79.89, as amended~~state law, on or before February 28, 2006, the affordable dwelling units may be retained as rental units within the development. The condominium declaration and an amended covenant associated with the affordable dwelling units must specifically set forth:

- **(a)** The term of sales price control for affordable dwelling units for condominium conversion developments for which the initial sale of individual units occurred before February 28, 2006 must be for a period of 20 years from the date of issuance of the first RUP for the affordable dwelling units required for the development.
- **(b)** All rental affordable dwelling units within the development must be transferred to the same entity or individual.
- **(c)** The affordable dwelling units must be rented in accordance with the rental provisions of the ADU Program, including but not limited to, pricing and monthly reporting, and no additional condominium or homeowner association fees may be assessed to the tenants of the affordable dwelling units.
- **(d)** Parking for the affordable dwelling units must be provided in accordance with the applicable provisions of the Zoning Ordinance with at least the minimum number of required spaces retained and made available for use by the affordable dwelling unit tenants.
- **(e)** The affordable dwelling units must be provided in substantially the same bedroom mix as the market rate units in the development.
- **(f)** The tenants of the rental affordable dwelling units must have access to all the site amenities that were provided when the affordable dwelling units were originally established in the development.

**(7)** All other covenants set forth in the original covenants and all regulations set forth in the Zoning Ordinance must remain in full force and effect.

**(8)** The rental tenant occupants of the affordable dwelling units subject to the condominium conversion must have the right to purchase the dwelling unit they occupy at the sales price established by the County Executive. The Authority must have the right to purchase any or all of the affordable dwelling units that are not purchased by those rental tenant occupants at the sales price established for those units by the County Executive under this section and in accordance with subsection 5101.8.C(2)(b) below.

# 8. Administration of ADU Program

## A. For-Sale Affordable Dwelling Units[960]

### (1) Administrative Authority

The sale of affordable dwelling units is regulated by the Authority. The Authority may adopt reasonable rules and regulations to assist in the regulation and monitoring of the sale and resale of affordable dwelling units, which may include giving a priority to persons who live or work in Fairfax County.

### (2) Initial Right to Purchase

**(a)** The Authority has an exclusive right to purchase up to one-third of the for-sale affordable dwelling units within a development for a 90-day period beginning on the date that a complete Notice of Availability and ADU Sales Offering Agreement, submitted by the owner, is executed by the Redevelopment and Housing Authority.

***1.*** The notice must be in writing and may be sent by the owner at any time after the issuance of a building permit for affordable dwelling unit and approval of the sales price for the unit by the County Executive, but must occur before the issuance of the first RUP for any affordable dwelling unit in the development. The notice must advise the Authority that a particular affordable dwelling unit or units are or will be completed and ready for purchase, and must include specific identification of the unit or units being offered; the number of bedrooms, floor area, and amenities for each unit; the approved sales price for each unit, and evidence of issuance of a building permit(s) for the unit(s).

***2.*** If the Authority elects to purchase a particular affordable dwelling unit, the Redevelopment and Housing Authority will so notify the owner in writing and an all -cash closing must occur within 30 days from the end of the respective 90-day period, provided a RUP has been issued for the unit before closing.

**(b)** The remaining two-thirds of the for-sale affordable dwelling units within a development and any units that the Authority does not elect to purchase must be offered for sale exclusively for a 90-day period to persons who meet the income criteria established by the Redevelopment and Housing Authority, and who have been issued a Certificate of Qualification by the Redevelopment and Housing Authority. This 90-day period begins on the date that a complete Notice of Availability and ADU Sales Offering Agreement, submitted by the owner, is executed by the Redevelopment and Housing Authority.

***1.*** The written notice may be sent by the owner at any time after the issuance of a building permit for the affordable dwelling unit and approval of the sales price for the unit by the County Executive. The Notice of Availability must:

***a.*** Be in the form prescribed by the Redevelopment and Housing Authority;

***b.*** Advise the Authority that a particular affordable dwelling unit or units are or will be completed and ready for purchase;

***c.*** Include the information described in subsection B1 above; and

[960] Carried forward from Sect. 2-810, with revisions as noted.

*d.* Provide marketing materials concerning the units and the development to be used in the sale of the units.

*2.* After the first 30 days of the 90-day period referenced in this subsection, the Authority may elect to purchase up to one-half of the affordable dwelling units offered under this subsection by giving written notice of its election to do so for those units then available within the 90-day period, which notice must provide for an all cash closing within 30 days from the end of the 90-day period, provided a RUP has been issued before closing.

**(3) Sale of Remaining Units to Nonprofit Housing Groups**

**(a)** After the first 60 days of the 90-day period(s) referenced in subsection (2) above, the affordable dwelling units not sold must be offered for sale to nonprofit housing groups, as designated by the County Executive, subject to the established affordable dwelling unit prices and the requirements of this section. The nonprofit housing groups have a 30-day period within which to commit to purchase the units. This 30-day period begins on the date of receipt of written notification from the owner, sent by registered or certified mail, advising them that an affordable dwelling unit is or will be ready for purchase.

**(b)** The notice must state the number of bedrooms, floor area and amenities for each unit offered for sale. The written notice may be sent by the owner any time after the commencement of the 90-day period referenced in subsection (2) above.

**(c)** If a nonprofit housing group elects to purchase a particular affordable dwelling unit, it must so notify the owner in writing and an all -cash closing must occur within 30 days after the end of the 30-day period, provided a RUP has been issued for the unit before closing.

**(4) Sale to General Public**[961]

After the expiration of the time period(s) referenced in subsections (2) and (3) above, the affordable dwelling units not sold may be offered to the general public as for sale units subject to established affordable dwelling unit prices and the requirements of this section.

**(5) Sales Prices**

**(a)** A schedule of County-wide cost factors and the cost calculation formula used to determine sales prices will be established and may be amended periodically by the County Executive, based upon the following:

*1.* A determination of all ordinary, necessary, and reasonable costs required to construct the various affordable dwelling unit prototype dwellings by private industry in Fairfax County;

*2.* Consideration by the County Executive of written comment from the public, the Authority, and the Affordable Dwelling Unit Advisory Board; and

[961] The provision, "or may be offered as rental units subject to the requirements of this Part to persons who meet income requirements hereunder" from Par. 5 of Sect. 2-810 is not carried forward because it hasn't been utilized and conflicts with other provisions of the Ordinance.

***3.*** Other information which may be available, such as the area's current general market and economic conditions.

**(b)** Sales prices include, among other costs, a marketing and commission allowance of 1.5 percent of the sales price for the affordable dwelling unit, provisions for builder-paid permanent mortgage placement costs and buy-down fees, and closing costs, except pre-paid expenses required at settlement, but do not include the cost of land.

**(c)** There will be a semiannual review and possible adjustment in affordable dwelling unit sales prices which will then be applied to the affordable dwelling unit sales prices initially established by the County Executive adjusted according to the percentage change in the various cost elements as indicated by the U.S. Department of Commerce's Composite Construction Cost Index or such other comparable index or indices selected by the County Executive and recommended by the Affordable Dwelling Unit Advisory Board.

**(d)** The sales prices for affordable dwelling units within a development must be established so that the owner/applicant does not suffer economic loss as a result of providing the required affordable dwelling units. "Economic loss" means that the owner or applicant of a development fails to recoup the cost of construction and certain allowances determined by the County Executive for the affordable dwelling units in accordance with this section, exclusive of the land acquisition cost and cost voluntarily incurred, but not authorized under this section, upon the sale of an affordable dwelling unit.

**(e)** For the purposes of this section, the "annual household income" does not include the income of any live-in aide when determining the eligibility of the qualified household, provided such live-in aide meets the standards set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Article 24, of the Code of Federal Regulations, Section CFR 5.403 and 982.316, and is further subject to Public and Indian Housing Notices PIH 2008-20 and 2009-22 and any future applicable notices issued by HUD.

## B. Rental Affordable Dwelling Units[962]

### (1) Administrative Authority

The Authority may adopt reasonable rules and regulations to assist in the regulation and monitoring of the rental of affordable dwelling units, which may include giving a priority to persons who live or work in Fairfax County.

### (2) Initial Right to Lease

**(a)** The Redevelopment and Housing Authority or its designee has an exclusive right to lease up to one-third of the rental affordable dwelling units within a single-family detached or attached dwelling unit development during the control period.

***1.*** For the initial rentals of units within a single-family detached or attached dwelling unit development or multifamily dwelling development, the owner must send the Redevelopment and Housing Authority a Notice of Availability

[962] Carried forward from Sect. 2-811, with revisions as noted.

and ADU Rental Offering Agreement in a form prescribed by the Authority, to advise that a particular affordable dwelling unit or units are or will be completed and ready for rental. The written notice may be sent by the owner any time after the issuance of a building permit for the affordable dwelling units which are being offered for rental. The Notice of Availability and ADU Rental Offering Agreement must be submitted to and executed by the Authority before the issuance of the first RUP for any dwelling within the development. The notice must state the number of bedrooms, floor area, amenities and rent for each unit offered for rental. If the Authority elects to assume control for a particular affordable dwelling unit, the Redevelopment and Housing Authority will notify the owner in writing within 30 days from the execution of the notice by the Redevelopment and Housing Authority.

***2.*** For multifamily dwelling developments, for 30 days after execution of the Notice of Availability described in subsection 1 by the Authority, up to one-third of the rental affordable dwelling units, which units must be of proportional bedroom count to the market rate units in the multifamily development, must be made available to households meeting owner's normal rental criteria, other than income, having state or local rental subsidies, and certified as eligible by the Authority at rents affordable to households with incomes up to 50 percent of the Washington Standard Metropolitan Statistical Area median income. If the name of a qualifying tenant is not made available to the owner by the Authority, at the end of the 30-day notice period, the owner may rent the unit(s) to households with income up to 50 percent of the median income for the Washington Standard Metropolitan Statistical Area at a rent affordable to such a household.

**(b)** At the owner's option, the Authority may lease additional rental units at the affordable dwelling unit or market rent as appropriate.

**(c)** The remaining two-thirds of the for-rent affordable dwelling units within a development, which units must be of proportional bedroom count to the market rate units in the multifamily development, must be offered to persons who meet the established income criteria.

***1.*** Any affordable dwelling units required under this section that are not leased by the Authority must be leased for a lease period of between six months and one year to tenants who meet the eligibility criteria established by the Authority. The lease agreements for those units must include conditions that:

***a.*** Require the tenant to occupy the unit as his or her domicile,

***b.*** Prohibit the subleasing of the unit;

***c.*** Require continued compliance with the eligibility criteria established by the Authority; and

***d.*** Require the tenant to annually verify under oath, on a form approved by the Authority, his or her annual income and other facts that the landlord may require in order to ensure that the tenant continues to meet the eligibility criteria established by the Authority.

**(3) Continued Tenant Eligibility Required**

**(a)** Eligible tenants must continue to meet the income criteria established by the Authority in order to continue occupancy of the affordable dwelling unit. However, a tenant who no longer meets such criteria may continue to occupy an affordable dwelling unit until the end of the lease term. Affordable dwelling units not leased by the Authority may not be subleased.

**(b)** By the end of each month, the owner of a development containing rental affordable dwelling units leased to individuals other than the Authority must provide the Authority with a statement verified under oath which certifies the following as of the first of such month:

***1.*** The address and name of the development and the name of the owner.

***2.*** The number of affordable dwelling units by bedroom count, other than those leased to the Authority, which are vacant.

***3.*** The number of affordable dwelling units by bedroom count which are leased to individuals other than the Authority. For each such unit, the statement must contain the following information:

***4.*** The unit address and bedroom count.

***5.*** The tenant's name and household size.

***6.*** The effective date of the lease.

***7.*** The tenant's (household) income as of the date of the lease.

***8.*** The current monthly rent.

***9.*** That to the best of owner's information and belief, the tenants who lease affordable dwelling units meet the eligibility criteria established by the Authority.

***10.*** The owner must provide the Authority with a copy of each new or revised annual tenant verification obtained from the renters of affordable dwelling units in accordance with subsection 5101.8.B(2)(c) above.

**(4) Rental Prices and Cost Factors**

**(a)** For single-family detached or attached dwelling units, County-wide rental prices are established initially by the County Executive, based upon the following:

***1.*** A determination of all ordinary, necessary, and reasonable costs required to construct and market the required number of affordable dwelling rental units by private industry in the area;

***2.*** Consideration by the County Executive of written comments from the public, the Authority, and the Affordable Dwelling Unit Advisory Board;

***3.*** Other information which may be available, such as the area's current general market and economic conditions; and

***4.*** Consideration will be given to reasonable and customary allowances in the rental industry for construction, financing, and operating costs of the rental units.

**(b)** For multifamily dwelling units, County-wide rental prices are established by the County Executive in accordance with the following:

1. Two-thirds of the affordable units in multifamily dwelling unit structure developments, which are not otherwise exempt under subsection 5101.3 above, are established according to the formula below which is based on 65 percent of the median income for the Washington Standard Metropolitan Statistical Area.
2. This base figure will be adjusted by the following factors for different multifamily dwelling unit sizes based on the number of bedrooms in the dwelling unit:

| Number of Bedrooms | Adjustment Factor |
|---|---|
| Efficiency (0 bedroom) | 70% |
| 1 Bedroom | 80% |
| 2 Bedroom | 90% |
| 3 Bedroom | 100% |

3. The result of this calculation for each size multifamily dwelling unit is then divided by 12, then multiplied by 25 percent and rounded to the nearest whole number to establish the rent for the unit, excluding utilities.
4. One-third of the affordable units in multifamily dwelling unit structure developments, which are not otherwise exempt under subsection 5101.3 above, are established according to the following formula which is based on 50 percent of the median income for the Washington Standard Metropolitan Statistical Area. This base figure will be adjusted by the same factors set forth in subsection 2 above and the results of this calculation for each size dwelling unit is then divided by 12, then multiplied by 25 percent and rounded to the nearest whole number to establish the rent for the unit, excluding utilities.
5. Rental prices for affordable dwelling units in independent living facility projects which have a monthly charge that combines rent with a service package will be established on a case by case basis after consideration of written comments from the public, the Authority, and the Affordable Dwelling Unit Advisory Board.

**(c)** Rental prices for affordable dwelling units must be established so the owner/applicant does not suffer economic loss on the development solely as a result of providing rental affordable dwelling units.

**(d)** There will be a semiannual review and possible adjustment in affordable dwelling unit rental prices which will then be applied to the affordable dwelling unit rental prices initially established by the County Executive, adjusted according to the percentage change in the various cost elements as indicated by the U. S. Department of Commerce's Composite Construction Cost Index or such other comparable index or indices that are selected by the County Executive and recommended by the Affordable Dwelling Unit Advisory Board. In setting adjusted rental prices, the County Executive may establish different rental classifications and prices which reflect the age and condition of the various rental developments within Fairfax County. Rental prices for multifamily dwelling units will be adjusted in accordance with the formulas set forth in subsection (b) above.

**(e)** For the purposes of the subsection, the “annual household income” does not include the income of any live-in aide when determining the eligibility of the

qualified household, provided such live-in aide meets the standards set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Article 24, of the Code of Federal Regulations, Section CFR 5.403 and 982.316, and is further subject to Public and Indian Housing Notices PIH 2008-20 and 2009-22 and any future applicable notices issued by HUD.

## C. Covenant, Price, and Financing Control of Affordable Dwelling Units[963]

### (1) Term of Affordable Dwelling Unit Price Control

Except as qualified by this section, subsequent price control of affordable dwelling units must comply with the following:

**(a)** For affordable dwelling units for which the initial sale or rental occurred before March 31, 1998, the prices for subsequent resales and re-rentals must be controlled for a period of 50 years after the initial sale or rental transaction for the respective affordable dwelling unit, provided that the control period may be amended upon recordation of a revised covenant. The revised covenant is subject to the following:

***1.*** For individual affordable dwelling units conveyed before March 31, 1998, the owner may modify the existing covenant recorded with that conveyance by recording a revised covenant in the form prescribed by the Redevelopment and Housing Authority. If the recordation of such modified covenant occurs before February 28, 2006, the 15-year control period with respect to for sale units and the 20-year control period with respect to rental units is deemed to have commenced on March 31, 1998. If the recordation of the modified covenant occurs on or after February 28, 2006, the renewable sales price control period of 30 years applies with respect to for sale units and the 30-year control period with respect to rental units applies and is deemed to have commenced on March 31, 1998. Any revised covenants hereafter recorded that reduce the control period from 50 years must expressly provide that the terms and conditions of other previously recorded covenants continue to apply, as amended to include terms and conditions in accordance with the terms required by this subsection (3).

**(b)** For affordable dwelling units for which the initial sale/rental occurred on or after March 31, 1998, and before February 28, 2006, the prices for subsequent resales must be controlled for a period of 15 years and re-rentals must be controlled for a period of 20 years after the initial sale or rental transaction for the respective affordable dwelling unit; or

**(c)** For affordable dwelling units for which the initial sale occurred on or after February 28, 2006, the price for subsequent resales must be controlled for a period of 30 years after the initial sale. However, upon any resale or transfer to a new owner of such affordable dwelling unit within the initial 30-year period of control, the prices for each subsequent resale or transfer to a new owner must be controlled for a new 30-year period commencing on the date of such resale or transfer of the affordable dwelling unit. Each initial 30-year control period and

[963] Carried forward from Sect. 2-812, with revisions as noted.

each renewable subsequent 30-year control period may be referred to as a sales price control period. For any affordable dwelling unit that is owned for an entire 30-year control period by the same individual(s), the price control term will expire and the first sale of the unit after such expiration must be in accordance with subsection (6) below; or

**(d)** For affordable dwelling units for which the initial rental occurred on or after February 28, 2006, the prices for later re-rental must be controlled for a period of 30 years after the initial rental.

### (2) Covenants Required for For-Sale Affordable Units

In developments containing affordable dwelling units offered for sale, Affordable Dwelling Unit Program covenants applicable to the affordable dwelling units, running in favor of and in the form prescribed by the Authority, must be recorded simultaneously with the final subdivision plat or, in the case of a condominium, recorded simultaneously with the condominium declaration. All initial and any subsequent or revised Affordable Dwelling Unit Program covenants thereafter recorded must expressly provide the following:

**(a)** The dwelling unit may not be resold during any sales price control period set forth in this subsection 5101.8.C for an amount that exceeds the limits set by the County Executive and, before offering the dwelling unit for sale, the sales price must be approved by the Department of Housing and Community Development.

**(b)** Each time the unit may be offered for resale during any sales price control period set forth in this subsection 5101.8.C it must first be offered exclusively through the Authority. The owner of each such unit to be resold must provide the Authority with written notification sent by certified mail that the affordable dwelling unit is being offered for sale. The Authority has the exclusive right to purchase the unit at a purchase price that does not exceed the control price of the unit at that time as established in accordance with this Part.

**(c)** The Authority will notify the owner in writing within 30 days after receipt of the written notification from the owner advising whether or not the Authority will enter into a contract to purchase the unit on the form approved by the and subject to certain conditions, such as acceptable condition of title and acceptable physical and environmental conditions. An all cash closing must occur within 90 days after receipt by the Authority of the written notification of the owner offering the unit for sale, if all the such conditions of the contract are satisfied. The Authority may either take title to the affordable dwelling unit and amend and restate the covenants applicable to that unit to make the covenants consistent with the then current provisions of this section or may assign the contract of purchase to a qualified homebuyer with a condition of the assignment being that the amended and restated covenants would be recorded and effective as express terms of the deed of resale. Affordable dwelling units so acquired or contracted for purchase by the Authority must be resold to qualified homebuyers in accordance with the Affordable Dwelling Unit Program.

**(d)** For the initial sale of an affordable dwelling unit after the expiration of any sales price control period set forth in this subsection 5101.8.C, it must first be offered exclusively to the Authority for 60 days. Regardless of whether or not the Authority

purchases the unit, one-half of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) below) must be contributed to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County.

**(e)** The unit is subject to the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance.

**(f)** For the initial and revised covenants recorded before July 2, 2002:

***1.*** The covenants are senior to all instruments securing permanent financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest. However, the covenants may provide that, in the event of foreclosure, the covenants are released.

***2.*** Any or all financing documents must require the lender to provide to the County Executive and the Authority written notice of any delinquency or other event of default under a mortgage and that the Authority has the right for a 60-day period to cure such a default.

**(g)** For any individual affordable dwelling unit initially conveyed between July 2, 2002 and February 28, 2006 and the resale of any individual affordable dwelling unit conveyed between July 2, 2002 and February 28, 2006, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002, and for initial and revised covenants recorded between July 2, 2002 and February 28, 2006:

***1.*** The covenants are senior to all instruments securing financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest, except that the covenants are released in the event of foreclosure by an Eligible Lender, as such term is defined in Section 9102, as and only to the extent provided for in subsection 5101.8.C(8)(b) below.

***2.*** Any and all financing documents must require every Eligible Lender and every other lender secured by an individual for sale affordable dwelling unit to provide to the County Executive and the Authority written notice of any delinquency or other event of default under the deed of trust or mortgage and that the Authority has the right to cure such delinquency or other event of default within a period of 90 days immediately after receipt by the Authority of the notice.

***3.*** No sale, transfer or foreclosure affects the validity of the covenants except as expressly set forth in the provisions of the Affordable Dwelling Unit Program as set forth in this section.

***4.*** Each Eligible Lender and any other lender secured by an interest in the affordable dwelling unit must provide written notice of foreclosure to the County Executive and the Authority at least 90 days before foreclosure.

***5.*** The unit is subject to all of the provisions set forth in subsection 5101.8.C(8)(b) below and includes those provisions.

***6.*** The total aggregate amount of principal and accrued interest for all financing secured by an individual for sale affordable dwelling units may not exceed the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) below). Any financing in excess of the owner's purchase price (as adjusted in

accordance with subsection 5101.8.C(5) below) may not be secured by any interest in the applicable individual for sale affordable dwelling unit.

**(h)** For any individual affordable dwelling unit initially conveyed on or after February 28, 2006, the resale during the sales price control period of any individual affordable dwelling unit conveyed on or after February 28, 2006 and for the conversion of rental affordable dwelling units to condominiums on or after February 28, 2006, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before February 28, 2006, and for initial and revised covenants recorded on or after February 28, 2006:

***1.*** The covenants are senior to all instruments securing financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest, except that the covenants are released in the event of foreclosure by an Eligible Lender, as that term is defined in subsection 5101.8.C(8)(b) below, as and only to the extent provided for in subsection 5101.8.C(8)(b) below.

***2.*** Any and all financing documents must require every Eligible Lender and every other lender secured by an individual for sale affordable dwelling unit to provide to the County Executive and the Authority written notice of any delinquency or other event of default under the deed of trust or mortgage and that the Authority has the right to cure such delinquency or other event of default within a period of 90 days immediately after the Authority receives notice.

***3.*** No sale, transfer or foreclosure affects the validity of the covenants except as expressly set forth in the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance.

***4.*** Each Eligible Lender and any other lender secured by an interest in the affordable dwelling unit must provide written notice of foreclosure to the County Executive and the Authority at least 90 days before foreclosure.

***5.*** The unit is subject to all of the provisions set forth in subsection 5101.8.C(8)(b) below and includes those provisions.

***6.*** The total aggregate amount of principal and accrued interest for all financing secured by an individual for sale affordable dwelling units may not exceed the owner's purchase price (as adjusted in accordance with subsection D below). Any financing in excess of the owner's purchase price (as adjusted in accordance with subsection D below) may not be secured by any interest in the applicable individual for sale affordable dwelling unit.

***7.*** Upon any resale or transfer to a new owner of such affordable dwelling unit within the initial 30-year control period, the prices for each subsequent resale or transfer to a new owner must be controlled for a new 30-year period commencing on the date of that resale or transfer of the unit.

**(3) Buyer's Notice of Covenants and Restrictions**[964]

**(a)** At the time of the initial sale of an individual affordable dwelling unit, which sale occurs on or after March 31, 1998, the owner or applicant must provide in the sales contract for each affordable dwelling unit offered for sale a copy of the

[964] Unnumbered sections of Sect. 2-812 have been numbered.

recorded covenant running with the land in favor of the Redevelopment and Housing Authority. The owner or applicant must include in the deed for each affordable dwelling unit sold an express statement that the affordable dwelling unit is subject to the terms and conditions of the Affordable Dwelling Unit Program covenants recorded in accordance with this section with a specific reference to the deed book and page where such covenants are recorded.

**(b)** At the time of the initial sale or any resale of an individual affordable dwelling unit, which sale or resale occurs on or after July 2, 2002, the owner or applicant must also include in the deed for each affordable dwelling unit sold an express statement that the total aggregate amount of indebtedness that may be secured by the affordable dwelling unit is limited and that other terms and conditions apply, including but not limited to a right for the Authority or a nonprofit agency designated by the County Executive to acquire the affordable dwelling unit on certain terms in the event of a pending foreclosure sale, as set forth in the Affordable Dwelling Unit Program covenants or in the Affordable Dwelling Unit Program set forth in the Fairfax County Zoning Ordinance, as it may be amended.

### (4) Authority's Right to Purchase Units or Qualify Purchasers

**(a)** The owner of each affordable dwelling unit to be resold during any sales price control period and, subject to the provisions of subsection 5101.7.B(6) above, for the conversion of rental affordable dwelling units to condominium affordable dwelling units, must provide the Authority written notification sent by certified mail that the affordable dwelling unit is being offered for sale.

**(b)** The Authority has the exclusive right to purchase that unit at a purchase price that may not exceed the control price of the unit at that time, as established in accordance with this section and such owner must sell the unit to the Authority if requested.

**(c)** Within 30 days after receipt of the written notification from the owner that the affordable dwelling unit is being offered for sale, the Authority must notify the owner in writing whether or not the Authority will enter into a contract to purchase the unit on the form approved by the Authority and subject to certain conditions, such as acceptable condition of title and acceptable physical and environmental conditions.

**(d)** An all-cash closing must occur within 90 days after receipt by the Authority of the written notification of the owner offering the unit for sale if all conditions of the contract are satisfied.

**(e)** The Authority may either take title to the affordable dwelling unit and amend and restate the covenants applicable to that unit to make the covenants consistent with the then current provisions of this section or may assign the contract of purchase to a qualified homebuyer with a condition of the assignment being that the amended and restated covenants would be recorded and effective as express terms of the deed of resale.

**(f)** Affordable dwelling units acquired or contracted for purchase by the Authority must be resold to qualified homebuyers in accordance with its Affordable Dwelling Unit Program.

**(g)** If the Authority does not elect to purchase an available affordable dwelling unit, for the first 60 days individual affordable dwelling units are offered for resale, the units must first be offered exclusively through the Authority to persons who meet Authority's criteria, and who have been issued a Certificate of Qualification by the Authority. Upon the expiration of the 60-day period, the unit may be offered for sale to the general public to persons who meet income requirements hereunder and at the current controlled price as set in accordance with subsection 5101.8 above.

### (5) Sales Price and Adjustments

**(a)** Affordable dwelling units offered for sale during any control period may not be offered for a price greater than the original selling price plus a percentage of the unit's original selling price equal to the increase in the U. S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive following consideration of the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the Authority in accordance with its regulations to be:

***1.*** Substantial and appropriate replacements or improvements of existing housing components; and/or

***2.*** Structural improvements made to the unit between the date of original sale and the date of resale, plus an allowance for payment of closing costs on behalf of the subsequent purchaser which must be paid by the seller.

**(b)** Those features deemed to be substantial and appropriate replacements or improvements of housing components and structural improvements are as set forth by the Authority.

**(c)** No increase in sales price is allowed for the payment of brokerage fees associated with the sale of the unit, except that:

***1.*** An increase of 1.5 percent of the resale price is allowed for marketing and transaction costs for units purchased and resold by the Authority; and

***2.*** Resales by other owners are allowed an increase of 1.5 percent of the sales price as a fee to be paid to a real estate broker or agent licensed to conduct residential real estate transactions in the State who meets the qualifications determined by the Redevelopment and Housing Authority and who serves as a dual agent for both the qualified buyer and the seller in the resale of the affordable dwelling unit in accordance with sales procedures approved by the Authority. The 1.5 percent fee must be paid to that real estate broker or agent by the seller at the time of settlement of the resale of the affordable dwelling unit as part of the disbursement of settlement proceeds.

### (6) Initial Sale After End of Price Control Period

**(a)** The Authority has the exclusive right to purchase an affordable dwelling unit at the initial sale after the end of any control period. The owner of each unit must provide the Authority with written notification sent by registered or certified mail that the unit is for sale. If the Authority elects to purchase such unit, the Authority will so notify the owner in writing within 30 days of receipt of the written

notification from the owner and the all-cash closing must occur within 60 days after receiving notification.

**(b)** Whether or not the Redevelopment and Housing Authority elects to purchase such unit, one-half of the amount of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price plus a percentage of the unit's selling price equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive following consideration of the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the Authority in accordance with its regulations to be (a) substantial and appropriate replacements or improvements of existing housing components; and/or (b) structural improvements made to the unit between the date of the owner's purchase and the date of resale must be contributed to the Fairfax County Housing Trust Fund to promote housing affordability in the County as part of the disbursement of settlements proceeds.

**(c)** The equity interest of the Fairfax County Housing Trust Fund applies to each affordable dwelling unit. Notice of the Trust Fund's equity interest may be evidenced by a document recorded among the land records of Fairfax County, Virginia, encumbering any affordable dwelling unit.

**(d)** Net sales price excludes closing costs such as title charges, transfer charges, recording charges, commission fees, points and similar charges related to the closing of the sale of the property paid by the seller.

**(e)** All amounts necessary to pay and satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the unit, other than the equity interest of the Fairfax County Housing Trust Fund, must be paid by the seller. Any such amounts required to be paid by the seller may not reduce the amount, as determined in accordance with this subsection, required to be contributed to the Trust Fund in accordance with this subsection 5101.8.C(6).

### (7) Covenants Required for Rental Affordable Units

**(a)** In the case of a rental project having received zoning approval before February 28, 2006, where such approval includes a proffered condition or approved development plan that addresses affordable dwelling units in accordance with this section, first RUP for the development will not be issued and no offering for rent of any affordable dwelling units is permitted until the owner records a covenant running with the land in favor of the Authority which provides that for 20 years from the date of issuance of the first RUP for the affordable dwelling units required under this section, which date must be later specified in the covenant, that:

***1.*** No affordable dwelling unit may be rented for an amount that exceeds the limits set by the County Executive;

***2.*** The project is subject to the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance;

***3.*** The covenant is senior to all instruments securing permanent financing; and

4. The covenant is binding upon all assignees, mortgagees, purchasers and other successors in interest.

**(b)** In the case of a rental project that receives zoning approval on or after February 28, 2006, or that received zoning approval before February 28, 2006 where such approval does not include a proffered condition or approved development plan that addresses affordable dwelling units in accordance with this section, before the issuance of the first RUP for the development and the offering for rent of any affordable dwelling units, the owner must record a covenant running with the land in favor of the Authority which provides that for 30 years from the date of issuance of the first RUP for the affordable dwelling units required under this section, which date must be later specified in the covenant, that:

1. No affordable dwelling unit may be rented for an amount that exceeds the limits set by the County Executive
2. The project is subject to the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance
3. The covenant is senior to all instruments securing permanent financing; and
4. The covenant is binding upon all assignees, mortgagees, purchasers and other successors in interest.

**(c)** For initial and revised covenants recorded:

1. Before July 2, 2002, the covenants must provide that in the event of foreclosure, the covenants are released;
2. Between July 2, 2002, and February 27, 2006, the covenants terminate in the event of the foreclosure sale of a rental project by an Eligible Lender, in accordance with subsection 5101.8.C(8)(b) below;
3. After February 28, 2006, the covenants remain in full force and effect in the event of the foreclosure sale of a rental project by an Eligible Lender, in accordance with 5101.8.C(8)(b) below. Additionally, before the issuance of the first RUP for any of the dwelling units within the development, the owner must provide the Notice of Availability and Offering Agreement required by subsection (a) above.

### (d) Continual Applicability of Rental Rate Limits

Rentals after the initial rental during the 20- or 30-year control period, as applicable, may not exceed the rental rate established by the County Executive under subsection 5101.8.B(4)(d) above.

### (e) Option for Rezoning and Payment[965]

1. For multifamily dwelling re-rentals that were initially rented before February 28, 2006:
   a. All of the relevant provisions of this section apply for the 20-year control period except as described below:
   b. After the initial ten years and provision of 120 day written notice to the Authority and the tenants of the affordable dwelling units, the owner may

[965] Relocated from 2-812.9 to this location to be closer to rental ADU requirements since it only applies to rentals.

elect to file a rezoning application and comply with the approved rezoning, or pay to the Fairfax County Housing Trust Fund an amount equivalent to the then fair market value of the land attributable to all bonus and affordable dwelling units and provide relocation assistance to the tenants of the affordable dwelling units in accordance with the requirements of Article 4 of Chapter 12 of the County Code.

*c.* If the requirements above are satisfied, the units previously controlled by this section as affordable dwelling units are released fully.

*2.* For multifamily dwelling re-rentals that were initially rented on or after February 28, 2006, all of the relevant provisions of this section apply for the 30-year control period; however, no early release of the covenants after the initial ten years is available.

**(8) Requirements for Affordable Dwelling Unit Financing**

The financing of affordable dwelling units provided in accordance with this section must comply with the following:

**(a)** For initial and revised covenants recorded before July 2, 2002, the covenants must provide that:

*1.* The covenants are senior to all instruments securing permanent financing, and are binding upon all assignees, mortgages, purchasers and other successors in interest. However, the covenants may provide that, in the event of foreclosure, the covenants are released.

*2.* Any and all financing documents must require the lender to provide to the County Executive and the Authority written notice of any delinquency or other event of default under a mortgage and the Authority has the right for a 60-day period to cure such a default.

*3.* Any and all financing documents must provide that, in the event of foreclosure of projects and units subject to the requirements of this section that are comprised of rental or for sale affordable dwelling units, the lender must give written notice to the Authority of the foreclosure sale at least 30 days before the foreclosure sale and in the case of individual for sale affordable dwelling units, the Housing Authority has the right to cure the default.

**(b)** For any individual affordable dwelling unit initially conveyed on or after July 2, 2002 and the resale of any individual affordable dwelling unit conveyed on or after July 2, 2002, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002, and for initial and revised covenants recorded on or after July 2, 2002:

*1.* The covenants are senior to all instruments securing financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest, except that the covenant are released in the event of foreclosure by an Eligible Lender, as and only to the extent provided for in subsection 5 below.

*2.* Any and all financing documents must require every Eligible Lender and every other lender secured by an individual for sale affordable dwelling unit to provide to the County Executive and the Authority written notice of any delinquency or other event of default under the deed of trust or mortgage and

that the Authority has the right to cure the delinquency or other event of default within a period of 90 days immediately after receipt by the Authority of the notice.

***3.*** No sale, transfer or foreclosure affects the validity of the covenants except as expressly set forth in the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance.

***4.*** The total aggregate amount of principal and accrued interest for all financing secured by an individual for sale affordable dwelling unit may not exceed the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) above). Any financing in excess of the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) above) may not be secured by any interest in the applicable individual for sale affordable dwelling unit.

***5.*** An Eligible Lender has the right to foreclose on a rental project or an affordable dwelling unit and the covenants on the rental project or affordable dwelling unit terminates upon foreclosure by the Eligible Lender if the rental project or the affordable dwelling unit is sold by a trustee on behalf of the Eligible Lender to a bona fide purchaser for value at a foreclosure sale, and all the requirements of the Affordable Dwelling Unit Program as set forth in this section, the covenants, and applicable regulations with respect to such foreclosure sale are satisfied.

***6.*** In the case of foreclosure on an individual for-sale affordable dwelling unit, the requirement for satisfaction of the covenants include but are not limited to the Eligible Lender having provided the County Executive and the Redevelopment and Housing Authority written notice of the foreclosure sale proposed and having provided the Right to Cure and the Right to Acquire, as such terms are defined in subsection 5101.8.C(8)(b)7 below. In the case of foreclosure on a rental project, an Eligible Lender is not required to provide the Right to Cure and the Right to Acquire.

***7.*** Each Eligible Lender with respect to an individual for sale affordable dwelling unit must also provide a right to cure any delinquency or default (Right to Cure), and a right to acquire an individual for sale affordable dwelling unit subject to the foreclosure notice given in accordance with subsection 11 below (Right to Acquire).

***8.*** The Right to Cure or the Right to Acquire, as applicable, may be exercised by the Authority, or by a nonprofit agency designated by the County Executive in the event the Authority elects not to exercise its right, at any time during the 90-day period after the Authority has received notice of the delinquency or default or of the proposed foreclosure up to and including at such foreclosure sale. The affordable dwelling unit must be acquired for the purpose of resale of such unit to persons qualified under the Affordable Dwelling Unit Program and not for conversion of the affordable dwelling unit to a rental unit.

***9.*** The Right to Acquire entitles the Redevelopment and Housing Authority or the nonprofit agency designated by the County Executive to acquire the affordable dwelling unit at or before any foreclosure sale for which such notice has been given upon payment in full of the outstanding indebtedness on the affordable

dwelling unit owed to the Eligible Lender including principal, interest, and fees that together in the aggregate do not exceed the amount of the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) above), and other reasonable and customary costs and expenses (the Outstanding First Trust Debt), with no owner, prior owner or other party, whether secured or not, having any rights to compensation under such circumstances.

***10.*** If neither the Authority nor the nonprofit agency designated by the County Executive exercises the Right to Acquire and the individual for -sale affordable dwelling unit is sold for an amount greater than the Outstanding First Trust Debt, one-half of the amount in excess of the Outstanding First Trust Debt must be paid to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlement proceeds.

***11.*** Each Eligible Lender and any other lender secured by an interest in a rental project or an individual for sale affordable dwelling unit must provide written notice of foreclosure to the County Executive and the Authority at least 90 days before foreclosing on the rental project or individual for-sale affordable dwelling unit.

***12.*** All financing documents for financing secured by an individual for-sale affordable dwelling unit must state that the Eligible Lender's financing provides the Right to Cure and Right to Acquire which may be exercised by the Authority, or by a nonprofit agency designated by the County Executive in the event the Authority elects not to exercise its rights, at any time during such 90-day period after the Authority has received notice, as applicable, of the delinquency or default or of the proposed foreclosure up to and including at the foreclosure sale.

### (9) Applicability of Restrictions to Pre-July 2, 2002 Covenants

The provisions set forth in subsections 5101.8.C(2)(f) and 5101.8.C(8)(b) above apply and the applicable covenants are deemed to incorporate such provisions, whether or not expressly set forth in such covenants, to any individual affordable dwelling unit initially conveyed on or after July 2, 2002 and the resale of any individual affordable dwelling unit conveyed on or after July 2, 2002, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002.

### (10) Foreclosure Sale Proceeds to Housing Trust Fund

If any affordable dwelling unit is sold in a foreclosure sale after September 14, 2004, the following shares of the proceeds of the sale must be paid to the Fairfax County Housing Trust Fund to promote housing affordability in the County:

**(a)** For any individual affordable dwelling unit initially conveyed on or after July 2, 2002, and any individual affordable dwelling unit resold and conveyed on or after July 2, 2002, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002, and for initial and revised covenants recorded on or after July 2, 2002, in the event that the individual for sale affordable dwelling unit is sold at the foreclosure sale for an amount greater than the Outstanding First Trust Debt, as that term is defined in

subsection 5101.8.C(8)(b)9 above, one-half of the amount in excess of the Outstanding First Trust Debt must be paid to the Fairfax County Housing Trust Fund as part of the disbursement of settlement proceeds.

**(b)** For all other individual affordable dwelling units:

***1.*** One-half of the amount of the difference between the net sales price paid by the purchaser at that sale and the foreclosed owner's purchase price plus a percentage of the unit's selling price equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area Index or other index selected by the County Executive following consideration of the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the Redevelopment and Housing Authority in accordance with its regulations to be (a) substantial and appropriate replacements or improvements of existing housing component, and/or (b) structural improvements made to the unit between the date of the foreclosed owner's purchase and the date of resale (the "Housing Trust Fund Share") must be contributed to the Fairfax County Housing Trust Fund as part of the disbursement of settlement proceeds.

***2.*** Net sales price excludes closing costs such as title charges, transfer charges, recording charges, commission fees, points and similar charges related to the closing of the sale of the property paid by the seller.

***3.*** All amounts necessary to pay and satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the unit, other than the equity interest of the Fairfax County Housing Trust Fund, must be paid out of proceeds of the foreclosure sale that are not the Housing Trust Fund Share, as determined in accordance with this subsection, or must be otherwise paid by the foreclosed owner.

***4.*** Any amounts required to be paid by the foreclosed owner do not reduce the Housing Trust Fund Share, as determined in accordance with this subsection, which is to be contributed to the Fairfax County Housing Trust Fund in accordance with this subsection.

## D. Occupancy of Affordable Dwelling Units[966]

**(1)** An individual must obtain a Certificate of Qualification from the Authority before purchasing an affordable dwelling unit. The Authority must determine that the applicant meets the criteria established by the Authority for low- and moderate-income persons before issuing a Certificate of Qualification.

**(2)** An individual must meet the eligibility criteria established by the Authority for persons of low- and moderate -income before renting an affordable dwelling unit. they The landlord/owner is responsible for determining that the tenant meets the eligibility criteria.

[966] Carried forward from Sect. 2-813, with revisions as noted.

**(3)** It is a violation of this Ordinance for someone to sell an affordable dwelling unit to an individual who has not been issued a Certificate of Qualification by the Authority unless the circumstances in subsections 5101.8.A(4) and 5101.8.C(4) apply.

**(4)** It is a violation of this Ordinance for someone to rent or continue to rent an affordable dwelling unit to an individual who does not meet or fails to continue to meet the income eligibility criteria established by the Authority unless subsection 5101.8.B(3)(a) applies.

**(5)** Purchasers or renters of affordable dwelling units must occupy the units as their domicile and must provide an executed affidavit on an annual basis certifying their continuing occupancy of the units. Owners of for sale affordable dwelling units must forward each such affidavit to the Authority on or before June 1 of each year that they own the unit. Renters must provide that affidavit to their landlords/owners by the date specified in their lease or is otherwise specified by the landlord/owner.

**(6)** If the renter of an affordable dwelling unit fails to provide an executed affidavit to the landlord/owner in accordance with the preceding subsection within 30 days of a written request for such affidavit, then the lease automatically terminates, becomes null and void, and the occupant must vacate the unit within 30 days of written notice from the landlord/owner.

**(7)** If a renter of an affordable dwelling unit no longer meets the eligibility criteria established by the Authority as a result of increased income or other factor, then at the end of the lease term, the occupant must vacate the unit unless subsection5101.8.B(3)(a) applies.

**(8)** A default occurs if a renter fails to occupy a unit for a period in excess of 60 days, unless such failure is approved in writing by the Authority. The lease automatically terminates, becomes null and void, and the occupant must vacate the unit within 30 days of written notice from the landlord/owner.

**(9)** In addition to subsections (6), (7), or (8) above, if the landlord/owner immediately designates an additional comparable unit as an affordable dwelling unit to be leased under the controlled rental price and requirements of this section, the renter of such unit referenced in subsections (6), (7), or (8) above may continue to lease such unit at the market value rent.

## E. Modifications to the Affordable Dwelling Unit Program[967]

**(1)** Requests for modifications to the requirements of the Affordable Dwelling Unit Program as applied to a given development may be submitted in writing to the ADU Advisory Board. The application must include an application fee as provided for in Section 8102 and the applicant must specify the precise requirement for which a modification is being sought and must provide a description of the requested modification and justification for the request. In the case of a modification request filed under subsection (3) below, the applicant must demonstrate in detail how the request complies with the required findings by the ADU Advisory Board for the modification as listed in subsection (4) below and why the requirements of this section cannot be met on the applicant's property.

[967] Carried forward from Sect. 2-815, with revisions as noted.

**(2)** An applicant must promptly provide any additional information in support of the request for a modification that the Affordable Dwelling Unit Advisory Board may require.

**(3)** In addition, in exceptional cases, instead of building the required number of affordable dwelling units, the ADU Advisory Board may permit an applicant to:

**(a)** Convey to the Fairfax Redevelopment and Housing Authority the equivalent amount of land within the development that would be necessary to provide the required number of affordable dwelling units. In such instances, the total number of dwelling units which the applicant may build on the remainder of the site is reduced by the number of affordable dwelling units required in accordance with subsection 5101.4 above; or

**(b)** Contribute to the Fairfax County Housing Trust Fund an amount equivalent to the fair market value for the lot on which each affordable dwelling unit would otherwise have been constructed; or

**(c)** Provide any combination of affordable dwelling units, land, or contribution to the Fairfax County Housing Trust Fund.

**(4)** Permitting an applicant to meet the requirements of the Affordable Dwelling Unit Program by providing either land or contributions to the Fairfax County Housing Trust Fund in accordance with subsection (3) above is not favored. However, modifications may be allowed upon demonstration by the applicant and a finding by the ADU Advisory Board that:

**(a)** The provision of all the affordable dwelling units required is not physically or economically feasible;

**(b)** The overall public benefit outweighs the benefit of the applicant constructing affordable dwelling units on the site; and

**(c)** The alternative will achieve the objective of providing a broad range of housing opportunities throughout Fairfax County.

**(5)** The ADU Advisory Board will act on requests for modifications within 90 days of receipt of a complete application. The 90-day time period is tolled during the time it takes the applicant to provide information requested in accordance with subsection (2) above.

**(6)** The ADU Advisory Board may approve, deny, or approve in part a request for a modification filed in accordance with this subsection.

**(7)** Persons aggrieved by the affordable dwelling unit for sale and rental prices established by the County Executive under the provisions of this section, including decisions under subsection 5101.7.B(3) above, may appeal those prices to the Board. The appeal must be filed with the Clerk to the Board and must specify the grounds upon which aggrieved and the basis upon which the applicant claims the established for sale or rental prices should be modified. The Board will act within 90 days of receipt of a complete application for appeal. An appeal to the Circuit Court is provided in subsection 5101.8.F below.

**(8)** The time limits for action on a proposed plat, site plan, or plan of development may ~~set forth in Va. Code Sections 15.2-2258 through 15.2-2261, will~~ be tolled during the pendency of an application filed in accordance with subsections (1) or (7) above.

### F. Enforcement and Court Appeals[968]

**(1)** Violations of this section are subject to the remedies and penalties in Section 8106.

**(2)** The Board or its designee has all the enforcement authority provided under its Zoning and Subdivision Ordinances to enforce the provisions of the Affordable Housing Dwelling Unit Program.

**(3)** ~~In addition to the provisions of Va. Code Sect. 15.2-2311, a~~Any person aggrieved by a decision of the ADU Advisory Board or by the Board in the case of a decision made by the latter regarding an appeal of affordable dwelling unit for sale and rental prices, or by any decision made by an administrative officer in the administration or enforcement of the Affordable Dwelling Unit Program, may appeal such decision to the Circuit Court for Fairfax County by filing a petition of appeal which specifies the grounds upon which aggrieved within 30 days from the date of the decision.

**(4)** Any petition of appeal properly filed under subsection (3) above, does not constitute a de novo proceeding and will be considered by the Circuit Court in a manner similar to petitions filed in accordance with Va. Code Sect. 15.2-2314.

## 9. Example Calculations for a FAR Based Comprehensive Plan Recommendation for Single-Family Attached or Stacked Townhouse Dwelling Unit Development[969]

### A. Assumptions

The following data points are required to calculate the ADU requirement for a new single-family attached or stacked townhouse development. In accordance with subsection 5101.4.A the site is subject to a 20 percent density bonus and 12.5 percent ADU requirement. The ADU requirement is calculated in accordance with subsection 5101.4.D.

Total Site Area: 19.92 acres (867,571 square feet)

Total Number of Single-Family Attached or Stacked Townhouse Dwelling Units: 158 units (7.93 du/ac)

Comprehensive Plan Recommendation: 0.5 FAR

Average Dwelling Unit Size: 2,300 square feet

### B. Calculation of Required Affordable Dwelling Units:

Due to the Comprehensive Plan recommendation being FAR based rather than dwelling unit per acre, the 0.5 FAR recommendation must be converted using the site area in square feet, Comprehensive Plan FAR recommendation, and the average dwelling unit size provided by the applicant.

$$= \frac{\text{Comp. Plan FAR Potential}}{} = \frac{\text{(Site Area x Comp Plan FAR)}}{}$$

[968] Carried forward from Sect. 2-818, with revisions as noted. Penalties for violations are located in the enforcement provisions in Article 8.

[969] Change since 10/11/2019 Draft: This is a new example calculation. Change since 6/30/2020: Stacked townhouses have also been included in this example.

| | | | | | |
|---|---|---|---|---|---|
| Maximum number of Dwelling Units: | | Average Dwelling Unit Size | | Average Dwelling Unit Size | |
| | = | (867,571 sf x 0.5) / 2,300 sf | = | 188.6 dus (prior to density bonus) | |

Once the maximum number of dwelling units is calculated, the maximum number needs to be applied to the subject property to determine the Comprehensive Plan upper density limit. The lower density limit is 50 percent of the upper density limit.

| | | | | | | |
|---|---|---|---|---|---|---|
| Upper Density Limit: | = | Maximum Number of Dwelling Units / Land Area (Acres) | = | 188.6 dus / 19.92 ac | = | 9.47 du/ac |

| | | | | | | |
|---|---|---|---|---|---|---|
| Lower Density Limit: | = | Upper Density Limit / 2 | = | 9.47 dus / 2 | = | 4.74 du/ac |

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 20 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|---|---|---|---|---|---|
| Adjusted High End: | 9.47 | x | 1.2 | = | 11.36 du/ac |

| | | | | | |
|---|---|---|---|---|---|
| Adjusted Low End: | 4.74 | x | 1.2 | = | 5.69 du/ac |

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted ranges that were calculated above.

| | | | | | | |
|---|---|---|---|---|---|---|
| **Calculation:** | | **(Proposed Density – Low End of Density Range) / (Adjusted High End – Adjusted Low End)** | **x** | **12.5** | | |
| | = | (7.93 – 4.74) / (11.36 – 5.69) | x | 12.5 | = | 7.03% ADU requirement |

Therefore, 7% of the 158 single-family or stacked townhouse dwelling units are required to be ADUs.

| | | | | | |
|---|---|---|---|---|---|
| ADUs Required: | 158 dus | x | 7.03% | = | 11.11 ADUs |

* Rounded to 11 ADUs in accordance with subsection 5101.4.C.

# 10. Example Calculations Dwelling Units Per Acre Based Comprehensive Plan Recommendation for a Multifamily Dwelling Unit Development[970]

## A. Assumptions

The following data points are required to calculate the ADU requirement of new non-elevator or three story or less multifamily development. In accordance with subsection 5101.4.A,the site is subject to a 10 percent density bonus and 6.25 percent ADU requirement. (At the applicants option a 20% density bonus and 12.5 percent ADU requirement can be applied. The formula is the same as below with the replacement of bonus density and ADU requirement percentage.)

Total Site Area: 10 acres (435,600 sf)

Total Number of Multifamily Dwelling Units: 700 units (70 du/ac)

Comprehensive Plan Density Recommendation: 1,200 dus on 20 acres

## B. Calculation of Required Affordable Dwelling Units:

Due to the Comprehensive Plan recommendation being designated for a larger area than subject property, the recommendation must be converted in a density recommendation (du/ac) for the High End of the Comprehensive Plan.

| | | | | | | |
|---|---|---|---|---|---|---|
| High End Comp Plan Rec. in du/ac | = | $\frac{\text{Planned Units}}{\text{Plan Area}}$ | = | $\frac{\text{1,200 du}}{\text{20 acres}}$ | = | 60 du/ac |

In accordance with subsection 5101.4.D, the Low End of density is 50 percent of the high end of the density range. Therefore, the range for this scenario becomes 30 – 60 du/ac.

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 10 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|---|---|---|---|---|---|
| Adjusted High End: | 60 | x | 1.1 | = | 66 du/ac |

| | | | | | |
|---|---|---|---|---|---|
| Adjusted Low End: | 30 | x | 1.1 | = | 33 du/ac |

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted ranges that were calculated above.

**Calculation:** $\frac{\textbf{(Proposed Density – Low End of Density Range)}}{\textbf{(Adjusted High End – Adjusted Low End)}}$ **x 6.25**

$= \frac{(70 - 30)}{} \times 6.25 =$ 7.58% ADU requirement

[970] Change since 10/11/2019 Draft: This is a new example calculation.

| | | | | | |
|---|---|---|---|---|---|
| | (66 – 33) | | | | |

However, per subsection 5101.4.A, the maximum percentage of ADUs that can be required is 6.25% for the 700 multifamily dwelling units.

| | | | | | |
|---|---|---|---|---|---|
| ADUs Required: | 700 dus | x | 6.25% | = | 43.75 ADUs |

* Rounded to 44 ADUs in accordance with subsection 5101.4.C.

## 11. Example Calculations for a Mixed Dwelling Unit Development[971]

### A. Assumptions

The following data points are required to calculate the ADU requirement for new development with single-family attached or stacked townhouse dwellings and non-elevator or 3 story and less multifamily building. In accordance with subsection 5101.4.A(4)(a)1, the single-family attached and stacked townhouse dwellings are subject to a 20% bonus density and 12.5% ADU requirement. In accordance with subsection 5101.4.A(4)(a)2, the multifamily is subject to a 10% density bonus and 6.25% ADU requirement. Because the density bonus and ADU requirement is different for the proposed single-family attached or stacked townhouse dwellings and multifamily units, you calculate each out separately. (At the developer's option, a 20 percent bonus density and 12.5 percent ADU requirement, may be applied. If they developer elects this option, there is no need to separately calculate the requirement for each unit type since they would have the same density bonus and ADU requirement.)

Total Site Area: 15.56 acres (677,793.6 sf)

- Single-Family Attached or Stacked Townhouse Area: 5.28 acres (229,996.8 sf)
- Multifamily Area: 10.28 acres (447,796.8 sf)

Total Number of Dwelling Units: 170 units (10.93 du/ac)

- Single-Family Attached or Stacked Townhouse Dwelling Units: 50 units (9.47 du/ac)
- Multifamily Dwelling Units: 120 units (11.67 du/ac)

Comprehensive Plan Density Range: 8-12 dwelling units per acre (du/ac)

### B. Calculation of Required Affordable Dwelling Units:

**(1)** Multifamily, in accordance with subsection 5101.4.A(2):

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 10 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|---|---|---|---|---|---|
| Adjusted High End: | 12 | x | 1.1 | = | 13.2 du/ac |

| | | | | | |
|---|---|---|---|---|---|
| Adjusted Low End: | 8 | x | 1.1 | = | 8.8 du/ac |

[971] Change since 10/11/2019 Draft: This is a new example calculation. Change since 6/30/2020: Stacked townhouses have also been included in this example.

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted range that was calculated above. The proposed density is based on the proposed multifamily units and land area associated with those units.

| | | | | | | |
|---|---|---|---|---|---|---|
| **Calculation:** | $\frac{\textbf{(Proposed Density – Low End of Density Range)}}{\textbf{(Adjusted High End – Adjusted Low End)}}$ | | **x** | **6.25** | | |
| = | $\frac{(11.67 - 8)}{(13.2 - 8.8)}$ | x | 6.25 | = | 5.21% ADU requirement | |

Therefore, 5.21% of the 120 multifamily dwelling units are required to be ADUs.

| | | | | | |
|---|---|---|---|---|---|
| ADUs Required: | 120 dus | x | 5.21% | = | 6.25 ADUs |

**(2)** Single-family or Stacked, in accordance with subsection 5101.4.A(1):

The proposed density is based on the proposed single-family attached or stacked townhouse units and land area associated with those units. Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 20 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|---|---|---|---|---|---|
| Adjusted High End: | 12 | x | 1.2 | = | 14.4 du/ac |

| | | | | | |
|---|---|---|---|---|---|
| Adjusted Low End: | 8 | x | 1.2 | = | 9.6 du/ac |

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted range that was calculated above.

| | | | | | | |
|---|---|---|---|---|---|---|
| **Calculation:** | $\frac{\textbf{(Proposed Density – Low End of Density Range)}}{\textbf{(Adjusted High End – Adjusted Low End)}}$ | | **x** | **12.5** | | |
| = | $\frac{(9.47 - 8)}{(14.4 - 9.6)}$ | x | 12.5 | = | 3.83% ADU requirement | |

Therefore, 3.83% of the 50 multifamily dwelling units are required to be ADUs.

| | | | | | |
|---|---|---|---|---|---|
| ADUs Required: | 50 dus | x | 3.83% | = | 1.92 ADUs |

Total ADUs required: 6.25 from multifamily + 1.92 single-family attached or stacked = 8.17 ADUs

*Rounded to 8 ADUs in accordance with subsection 5101.4.C.

# 12. Example Calculations for a Mixed-Use Development[972]

## A. Assumptions

The following data points are required to calculate the ADU requirement for new development for a mixed use development with 300 unit four story multifamily building with more than 50 percent of required parking provided in above- or below-surface structures and a separate building containing commercial uses. Per subsection 5101.4.E(3)(a)2, a 17 percent bonus density and 5 percent ADU requirement are applicable. (For developments with 50 percent or less of the required parking is located in above or below parking structure a 6.25 percent ADU requirement is applied.)

Total Site Area: 18.16 acres (791,049.6 square feet)

- Residential Acreage: 11.73 acre (510,959 square feet)
- Commercial Acreage: 6.43 acres (280,000 square feet)

Comprehensive Plan Recommendation: 0.5 FAR

Residential Gross Floor Area: 250,000 square feet

Total Residential Unit Count: 220 units (18.76 du/ac)

Average Dwelling Unit Size: 1,136 square feet

Commercial Gross Floor Area: 140,000 square feet

## B. Calculation of Required Affordable Dwelling Units:

Due to the Comprehensive Plan recommendation being FAR based rather than dwelling unit per acre, the 0.5 FAR recommendation must be converted. However, because there are residential and commercial uses in the same building, we must adjust the Comprehensive Plan FAR by applying the percentage of residential uses within the building.

$$\text{Max. Number of Dwelling Units} = \frac{\text{Comprehensive Plan FAR}}{\text{Average Dwelling Unit Size}} = \frac{(\text{Res. Site Area} \times \text{Max. FAR}) \times 85\%}{\text{Average Dwelling Unit Size}}$$

$$= \frac{(510{,}959 \text{ sf} \times 0.5) \times 0.85}{1{,}136 \text{ sf}} = 191.16 \text{ dus (prior to density bonus)}$$

Once the maximum number of dwelling units is calculated, the maximum number needs to be applied to the subject property to determine the density recommendation which in accordance with subsection 5101.4.D becomes the upper density limit and the lower density limit is 50% of the upper density limit.

$$\text{Upper Density Limit} = \frac{\text{Maximum Number of Dwelling Units}}{\text{Res. Land Area (in acres)}} = \frac{191.16 \text{ dus}}{11.73 \text{ ac}} = 16.3 \text{ du/ac}$$

$$\text{Lower Density Limit} = \frac{\text{Upper Density Limit}}{2} = \frac{16.3}{2} = 8.15 \text{ du/ac}$$

[972] Change since 10/11/2019 Draft: This is a new example calculation.

Therefore, the range for this scenario becomes 8.15 – 16.3 du/ac.

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 17% bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|---|---|---|---|---|---|
| Adjusted High End: | 16.3 | x | 1.17 | = | 19.07 du/ac |

| | | | | | |
|---|---|---|---|---|---|
| Adjusted Low End: | 8.15 | x | 1.17 | = | 9.54 du/ac |

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted range that was calculated above.

| | | | | | | |
|---|---|---|---|---|---|---|
| **Calculation:** | | **(Proposed Density – Low End of Density Range)** / **(Adjusted High End – Adjusted Low End)** | | **x** | **5** | |
| 10.1/11.3 | = | (18.76 – 8.15) / (19.07 – 9.54) | x | 5 | = | 5.57% ADU requirement |

In accordance with Par. 5 of Sect. 2-804 the maximum ADU requirement is 5 percent of the 220 multifamily dwelling units.

| | | | | | |
|---|---|---|---|---|---|
| ADUs Required: | 220 | x | 5% | = | 11 ADUs |

# 5102. Earthborn Vibration Standards[973]

## 1. Required Performance Level[974]

No use, operation, or activity may cause or create earthborn vibrations in excess of the peak particle velocities prescribed below. However, extraction activity is subject to compliance with the performance standards presented in subsection 4102.6.G.[975]

## 2. Administration of Vibration Standards[976]

### A. Generally

**(1)** For the purpose of administering the vibration standards, the standards are divided into Groups I and II. Table 5102.2 sets forth the applicable performance standard that must be met in each zoning district.

**(2)** The Zoning Administrator may require evidence that the applicant is able to conform to the standards of this section before a building permit is issued if a violation has occurred. The Zoning Administrator may require the applicant to submit, at the expense of the applicant, reports or the certified results of tests with respect to any current or proposed operation of the use that is involved in relation to conformity to such

[973] Carried forward from current Article 14.
[974] Carried forward from 14-801.
[975] Carried forward from Sect. 14-102. This will also be clarified in the standards for extraction activity in Article 4.
[976] Carried forward from 14-103.

standards, which reports or test must be made by a competent laboratory or other agency.[977]

## B. Method of Measurement[978]

**(1)** Measurements are made at or beyond the adjacent lot line or the nearest district boundary line as indicated in Table 5102.1 below. Ground-transmitted vibration will be measured with a seismograph or other instruments capable of recording vibration displacement and frequency, particle velocity, or acceleration simultaneously in three mutually perpendicular directions.

**(2)** The maximum particle velocity is the maximum vector sum of three mutually perpendicular components recorded simultaneously. Particle velocity may also be expressed as 6.28 times the displacement in inches multiplied by the frequency in cycles per second.

**(3)** For the purpose of this Ordinance, steady state vibrations are vibrations that are continuous, or vibrations in discrete impulses more frequent than 60 per minute. Discrete impulses that do not exceed 60 per minute are considered impact vibrations.

## C. Vibration Standards[979]

### (1) Applicability of Group I and II Standards[980]

The vibration standards apply as indicated in the Table below.

**TABLE 5102.2: Required Vibration Standards (Group I or Group II)**

| Zoning District | Required Vibration Standards |
|---|---|
| All Residential Districts | Group I |
| C-1 through C-8 Districts | Group I |
| I-1 through I-4 Districts | Group I |
| I-5 and I-6 Districts | Group II |
| P Districts | Required performance standards for uses in P districts equate to those standards for uses in the most similar R, C, or I district, as determined by the Zoning Administrator. |

### (2) Maximum Vibration Levels[981]

Uses subject to the Group I and Group II standards must not cause steady state vibrations to exceed the maximum permitted particle velocities described in Table 5102.3 below. The most restrictive vibration levels govern if more than one applies. Readings may be made at points of maximum vibration intensity.

[977] Change since 10/11/2019 draft: Carried forward from Sect. 18-604, except the provision for referring a determination to the BZA is deleted.
[978] Carried forward from 14-802.
[979] Combined the standards for Groups 1 and II since there is currently a lot of overlap.
[980] Carried forward from Table III.
[981] Carried forward from 14-803 and 14-804.

| TABLE 5102.3: Maximum Permitted Steady State Vibration Levels | | |
|---|---|---|
| Location (at lot line) | Maximum peak particle velocity (inches per second) | |
| | GROUP I | GROUP II |
| In a Residential District | 0.02 | 0.02 |
| At or beyond adjacent lot lines, except a Residential District | 0.05 | 0.10 |

**(3) Exceptions for Hours of Operation and Impact Vibrations**

**(a)** The permissible vibration levels indicated above for Residential Districts are reduced to one-half the indicated values between the hours of 8:00 PM and 7:00 AM.

**(b)** Impact vibrations are permitted at twice the values stated above.

**(c)** For uses subject to the Group II standards, when the frequency of impacts does not exceed one per day, the maximum vibration level, measured across lot lines, must not exceed 0.4 inches per second.

# 5103. Water and Sewer Facility Requirements[982]

All structures built after the effective date of this Ordinance must meet the requirements for sanitary sewer and water facilities as set forth in Chapters 67.1, 68.1 and 101 of the County Code, and the Public Facilities Manual.

## 1. Location

An onsite sewage disposal system or private water supply system is an integral part of the principal use and must be located on the same lot as the principal use.[983] In the event an existing system fails, is condemned, or acquired for a public purpose, a replacement system may be installed in accordance with the following:

**A.** If a location conforming with the above is not available, a replacement system may be installed at any location acceptable to the Director of the Health Department, either on the lot of the principal use or within a recorded perpetual easement approved by the County Attorney on a contiguous lot;

**B.** Such a replacement system is limited to the size and capacity required to serve the existing principal use, and may not be further expanded; and

**C.** Such a replacement system may not serve new construction, except as may be allowed by Section 8104.

## 2. Approval by Health Department

**A.** An individual sewage disposal system or private water supply system requires the approval of the Director of the Health Department and may be located in any part of any front, side, or rear setback. This provision is not a basis for a waiver or modification of transitional screening or barriers, which must be provided in accordance with the requirements of subsection 5108.6.

[982] Carried forward from 2-503.
[983] Did not carry forward "and within a zoning district that permits the principal use served by the system."

**B.** Structures either existing as of October 31, 1988, or ~~grandfathered~~ entitled to continue under previous approvals by the Board on October 31, 1988, that do not have an individual sewage disposal system or private water supply system located on the same lot with the structure or within a zoning district that permits the structure may be remodeled or enlarged provided such construction does not result in additional bedrooms, the addition of an appliance or fixture, or other rooms or facilities that would require an expansion or enlargement of the nonconforming system.

# 5104. Grading, Erosion, Sediment Control, and Drainage[984]

## 1. General Limitations on the Removal and Addition of Soil[985]

No soil may be removed from or added to any lot in any zoning district except in accordance with the following:

### A. Areas 2,500 Square Feet or Less

**(1)** Sod and soil may be removed from or added to any lot to a depth of not more 18 inches without approval of a grading plan if the total disturbed area is 2,500 square feet or less. This provision does not apply to the temporary storage of topsoil by a garden center.

**(2)** Any sod and soil removal or addition within a major underground utility easement is only permitted in accordance with subsection 5100.2.Q. In a floodplain, sod and soil may be removed in accordance with this subsection; however, the addition of sod and soil may only be permitted in accordance with the provisions of subsection 5105 below.

### B. Areas 5,000 Square Feet or Less

For disturbed areas of 5,000 square feet or less that do not require the installation of water quality controls or other drainage improvements, sod and soil may be removed or added and grading of land may be permitted by the Director in accordance with the following:[986]

**(1)** Where the removal or addition of sod and soil or the grading of land results from the:

- **(a)** Demolition of a single-family dwelling;
- **(b)** Demolition of an accessory structure to a single-family dwelling;
- **(c)** Construction of an addition to a single-family dwelling as defined in Chapter 61 of the County Code; or
- **(d)** Construction of an accessory structure to a single-family dwelling.

**(2)** Disturbance must be shown on a plat that meets the following:

- **(a)** Must be certified by a land surveyor, engineer, landscape architect, or architect authorized to practice as such by the State;
- **(b)** Must meet the requirements of subsection 8100.8; and
- **(c)** Must include siltation and erosion control measures in accordance with Chapter 104 of the County Code.

[984] This Section carries forward standards for land regulations (2-600) and floodplain regulations (2-900).
[985] Carried forward from 2-601.
[986] This portion of the grading standards were substantially restructured for clarity.

### C. Areas Requiring an Approved Plan[987]

For disturbed areas of greater than 2,500 square feet, that do not qualify under B above, sod and soil may be removed or added and grading of land may be permitted by the Director in accordance with the following:

**(1)** Removal, dumping, filling, or excavation necessary for construction is permitted in accordance with an approved site plan or approved plans and profiles for a subdivision. Grading of land is permitted in accordance with a grading plan approved by the Director. The Director must determine that the amount of soil removal or fill and proposed grading is necessary to establish a use permitted in the zoning district in which the use is located, and that the grading plan provides for even finished grades that meet adjacent property grades and do not substantially alter natural drainage. Such plans must include siltation and erosion control measures in conformance with Chapter 104 of the County Code.

### D. Other Activities

Any other grading, excavating, mining, burrowing, or filling of land not listed above may be permitted only in accordance with an approved extraction activity or solid waste disposal facility.

## 2. Erosion and Sediment Control Regulations[988]

To mitigate[989] the harmful effects of erosion and siltation on downhill or downstream properties during and after development, adequate erosion and sediment controls must be provided by the property owner during all phases of clearing, filling, grading, and construction. Plans and specifications for such controls must be submitted to and approved by the Director in accordance with the Public Facilities Manual.

## 3. Drainage, Floodplains, Wetlands and Resource Protection Areas[990]

**A.** No building may be erected and no change may be made to the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with, or change the drainage of the land without providing adequate drainage related to the changes made, as determined by the Director in accordance with the provisions of the Public Facilities Manual. That finding must account for land development that may take place in the vicinity under the provisions of this Ordinance.

**B.** No filling, change of contours, or establishment of any use may be permitted in any floodplain except as permitted by subsection A above, or subsection 5105 below.

**C.** No filling, change of contours, or establishment of any use or activity may be permitted in any wetlands except as permitted by Chapter 116 of the County Code.

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[987] Change since 10/11/2019 draft: Reorganized from A. above to clarify that plans are required when disturbance is greater than 2,500 square feet.
[988] Carried forward from 2-603, revised for clarity.
[989] Revised from current "alleviating."
[990] Carried forward from 2-602 and 2-604.

**D.** No filling, change of contours, or establishment of any use or activity may be permitted in any Resource Protection Area except as permitted by the provisions of Chapter 118 of the County Code.

**E.** No building may be erected, and no filling or cutting, change in contours, or establishment of any use or activity may be permitted within a major underground utility easement except as approved by the Director in accordance with subsection 5100.2.Q.

**F.** A subdivider or developer of land is required to pay a pro rata share of the cost of providing reasonable and necessary drainage facilities in accordance with the Public Facilities Manual.

# 5105. Floodplain Regulations[991]

These regulations are intended to further the County's participation in the National Flood Insurance Program authorized under the National Flood Insurance Act of 1968, as amended (42 U.S.C. § 4001 et seq.); provide for safety from flood and other dangers; protect against loss of life, health, or property from flood or other dangers; and preserve and protect floodplains in as natural a state as possible to preserve wildlife habitats, to maintain the natural integrity and function of the streams, to protect water quality, and to promote ground water recharge.[992]

## 1. Applicability and Disclaimer[993]

**A.** The floodplain regulations apply to all land within a floodplain as defined in Article 9.[994] In addition, in accordance with subsections 5105.5 and 5105.6.B, these regulations apply to land outside the floodplain on lots that contain floodplain and on lots that abut a lot containing floodplain.

**B.** The degree of flood protection required by these regulations, the USBC, and the Public Facilities Manual is considered reasonable for regulatory purposes. Larger floods may occur on rare occasions or flood heights may be increased by man-made or natural causes, such as bridge openings restricted by debris. These regulations do not imply that areas outside the floodplain, or land uses permitted within such areas, will be free from flooding and flood damages under all conditions. The granting of a permit or approval of a site, subdivision, or land development plan in an identified floodplain area does not constitute a representation, guarantee, or warranty of any kind by any official or employee of the County of the practicability or safety of the proposed use, and does not create any liability upon the County, its officials, or employees.[995]

## 2. Administration of the Floodplain Regulations[996]

### A. Director Determination

The Director is responsible for the administration of the floodplain regulations. The Director must review all proposed uses and development to determine whether the land on which the proposed use or development is located is within a floodplain. The Director may require additional information from the applicant, including an engineering study of the floodplain. The Director will determine whether the proposed use or development may be permitted in accordance with subsection 3 or if it requires the approval of a special exception in accordance with subsection 4 below. Any approval by the Director must be in writing and must specify conditions deemed necessary to ensure that the proposed construction and use conform to these regulations.[997]

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[991] Carried forward from Part 9, 2-900.
[992] Carried forward from 2-901.
[993] Carried forward from 2-902. Added "applicability and disclaimer" heading.
[994] Did not carry forward the sentence that the floodplain limits on the Zoning Map are a guide. County maps contain disclaimers.
[995] Relocated from 2-902.5 because it has more to do with applicability of the regulations than the administration of the regulations.
[996] Carried forward from 2-902.
[997] This last sentence is new here; relocated from current Sect. 2-903.

### B. Review Criteria

Any decision of the Director or Board regarding a use in a floodplain must be based on consideration of the following:

**(1)** Type and location of proposed structure and use;

**(2)** Site access;

**(3)** Frequency and nature of flooding;

**(4)** Nature and extent of any proposed grading or fill;

**(5)** Impact of proposal on the floodplain on properties upstream and downstream;

**(6)** Potential of proposal to cause or increase flooding or to jeopardize human life;

**(7)** Impact of the proposed use on the natural environment and on water quality; and

**(8)** Other site-specific factors deemed relevant for consideration by the Director or the Board.[998]

### C. Compliance with National Flood Insurance Program

The Director of the Department of Public Works and Environmental Services (DPWES) must collect and maintain records necessary for the County's participation in the National Flood Insurance Program. Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Director of DPWES or designee must notify the Federal Insurance Administrator or require the applicant to notify the Federal Insurance Administrator of any change in base flood elevation in any Special Flood Hazard Area (SFHA) depicted on the County's Flood Insurance Rate Map (FIRM) by submitting technical and scientific data to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision.

## 3. Permitted Uses[999]

**A.** Except as provided in subsection (10) below for cluster subdivisions, the uses and changes to topography identified below may be permitted in a floodplain upon a determination by the Director that the use is permitted in the zoning district in which it is located, and the use or change to topography is in accordance with these floodplain regulations and the Public Facilities Manual. Any use or change to topography not meeting the qualifications below may be permitted by the Board with the approval of a special exception.

**(1)** Changes to topography that do not require major fill.[1000] For the purpose of this subsection, major fill includes any fill, regardless of amount, in an area greater than 5,000 square feet, or any fill in excess of 278 cubic yards below the existing 100-year flood elevation in an area of 5,000 square feet or less.[1001] The cumulative area of any fill

[998] Revised wording to include (h) instead of the current reference to consideration of "at least all of the following."
[999] Carried forward from 2-903.
[1000] Relocated from bottom of the list.
[1001] Change since 10/11/2019 draft: added "below the existing 100-year flood elevation" based on current interpretation.

and pavement permitted under (1) through (6) may not exceed an area of 5,000 square feet for all uses on a lot.[1002]

**(2)** Any use or change to topography within a minor floodplain. A minor floodplain, as established in the floodplain definition in Article 9, is a floodplain with a drainage area greater than 70 acres but less than 360 acres.

**(3)** Agricultural operations if the use does not require the approval of a building permit or require major fill. Such uses must be operated in accordance with a conservation plan prepared in accordance with the standards of the Northern Virginia Soil and Water Conservation District.

**(4)** Uses and structures accessory to single-family detached, attached, and stacked townhouse dwellings and manufactured homes, such as play areas, lawns, paved tennis or play courts, trails, gardens, patios, decks, and docks, that do not require major fill; and accessory structures such as children's playhouses, doghouses, storage structures, and other similar structures that do not require approval of a building permit or require major fill. All structures must be anchored to prevent flotation.[1003]

**(5)** Community, commercial, and public recreational uses such as golf courses, driving ranges, picnic grounds, boat launching ramps, parks, wildlife and nature preserves, hunting and fishing areas, and hiking, bicycle, and equestrian trails. This provision does not permit a paved tennis or play court exceeding 5,000 square feet in area, swimming pool, or any use requiring the approval of a building permit or requiring major fill.

**(6)** Off-street parking and loading areas including aisles and driveways that do not exceed 5,000 square feet in area, that will have one foot or less depth of flooding and that will not require major fill.

**(7)** Metrorail, railroad track, and roadway floodplain crossings meeting applicable WMATA, VDOT, and Fairfax County design requirements and where any additional rise in water surface will not have an adverse effect upon the floodplain or will be set aside in an easement. A stream channel relocation proposed in conjunction with a crossing is subject to the provisions of the Public Facilities Manual.

**(8)** Public and private utility lines, and all public uses and public improvements performed by or at the direction of the County, including channel improvements and erosion control, reservoirs, storm water management, and best management practice facilities and similar uses. The installation of such facilities must be accomplished with appropriate easements or agreements and with the minimum necessary disruption to the floodplain. Ponds, reservoirs, storm water management, and best management practice (BMP) facilities in floodplains with a drainage area of 360 acres or greater that are designed to serve a specific private development may be permitted only with Board approval of a special exception in accordance with these floodplain regulations.

**(9)** Permitted accessory structures, other than those specified in subsection (4) above, and additions to single-family detached and attached dwellings constructed before August 14, 1978, subject to the following conditions:

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[1002] Change since 10/11/2019 draft: The second and third sentences were relocated here from previous subsection B.

[1003] Change since 6/30/2020 draft: Added stacked townhouses and manufactured homes.

**(a)** The estimated cost of the addition or accessory structure is less than 50 percent of the market value as determined by the Department of Tax Administration of the existing structure.

**(b)** The lowest part (i.e., the bottom of the floor joists or top of a concrete slab on grade) of the lowest floor including the basement of any such structure may be constructed less than 18 inches above the 100-year flood level if it is determined that there is less than one percent chance of flooding the structure in any given year, i.e., the structure is higher than the 100-year flood level.

**(c)** The lowest part of the lowest floor of any accessory structure not meeting the requirements of subsection (9)(b) above may be constructed below the base flood elevation provided the following standards are met:

***1.*** The size of the accessory structure does not exceed 1,000 square feet of gross floor area.

***2.*** The accessory structure will only be used for parking or storage purposes.

***3.*** The accessory structure will be constructed using flood-damage resistant materials and all interior walls and floors constructed using unfinished material.

***4.*** The accessory structure will be anchored and floodproofed in accordance with the USBC.

***5.*** Any mechanical, electrical, and utility equipment in the accessory structure must be elevated to or above the base flood elevation.

**(d)** The Director may require the applicant and owners to sign an agreement holding Fairfax County harmless from all adverse effects that may arise from the construction and establishment of the proposed use within the floodplain. Such hold harmless agreement must be recorded with the land records of Fairfax County.

**(10)** For all cluster subdivisions in the R-2 District, and cluster subdivisions in the R-3 and R-4 Districts with a minimum district size of three and one-half acres or greater, only the following uses and improvements may be permitted by the Director, if the encroachments for those uses and improvements are the minimum necessary and minimize disturbance to the floodplain to the greatest practical extent:

**(a)** No residential lot may extend into a floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area, except to accommodate driveways when it is determined by the Director that there is no other option available to provide driveway access to the lot. The fill and pavement for driveway access may not exceed 5,000 square feet in area and may not be major fill;[1004]

**(b)** Extension of or connection to existing public and private utilities;

**(c)** Trails depicted on the Comprehensive Plan trails map or trails connecting to trails depicted on the Comprehensive Plan trails map;

**(d)** Channel improvements and erosion control measures performed by or at the direction of, or as required by the County;

[1004] Change since 6/30/2020 draft: Clarified the intent of the standard, consistent with the SE provisions for a cluster development in the floodplain and the Subdivision Ordinance.

(e) Regional stormwater management facilities included in the regional stormwater management plan; or

(f) Roadway floodplain crossings, as qualified by (7) above.[1005]

B. The provisions above that exclude uses requiring a building permit do not apply when a building permit is required for structures such as retaining walls, fences, ramps, or trail bridges.

## 4. Special Exception Uses[1006]

A. All uses permitted by right, special exception, or special permit that are not approved by the Director under subsection 3 above may be permitted in the floodplain with the approval of a special exception by the Board. The special exception is subject to conformance with the provisions of these floodplain regulations, the applicable special exception or special permit standards, and the standards and criteria set forth in the Public Facilities Manual.[1007]

B. In addition to the submission requirements for all special exception uses set forth in Section 8101, the following information must be submitted for all special exception applications for uses in a floodplain[1008]:

(1) The following must be shown and certified on the plat provided with the application:

(a) Delineation of the floodplain and the source of floodplain information, such as Federal Emergency Management Agency, United States Geological Survey, Fairfax County, or other;

(b) Existing and proposed topography with a maximum contour interval of two feet;

(c) Both normal and emergency ingress and egress from highway or street;

(d) Nature and extent of any proposed fill and any proposed compensatory cut areas with quantities;

(e) The location and dimensions of any structure or part of any structure that is proposed to be located in the floodplain;

(f) Elevation of the nearest 100-year floodplain, and the exact distance from the structure to the floodplain line at the nearest point; and

(g) Lowest floor elevation, including basement, of all existing and proposed buildings, and information relative to compliance with Federal and State floodproofing requirements.

(2) A written statement providing the following information:

(a) Any existing or anticipated problems of flooding or erosion in the area of the application, including upstream and downstream from the application property; and

(b) Whether additional Federal or State permits are required.

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[1005] Current reference is to paragraph 6(a), which does not exist.
[1006] Carried forward from 2-904.
[1007] Did not carry forward the "purpose and intent of this zoning ordinance." Also did not carry forward "Uses permitted by special exception or special permit are subject to their respective fees in addition to the fee for a Category 6 special exception use." All fees are located in Article 8.
[1008] Did not carry forward reference to Category 6 special exception uses. Uses in the floodplain are one of the Category 6 special exception uses. These submittal requirements are located in Article 8.

**(3)** When structures are proposed, the following information must be provided:

**(a)** The proposed use of the structure;

**(b)** A statement certifying all floodproofing proposed and indicating compliance with all County, State, and Federal requirements. This certification must be signed, sealed, and indicate the address of the certifying professional and it must cover all structural, electrical, mechanical, plumbing, water, and sanitary facilities connected with the use; and

**(c)** A signed affidavit acknowledging that the applicant is aware that flood insurance may be required by the applicant's lending institution and that the flood insurance rates may increase because of increases in risks to life and property.

**(4)** Any additional information as may be deemed necessary by the Director, including engineering studies or detailed calculations for any proposed drainage improvement.

**C.** The BZA may approve a special permit or the Board may approve, only in conjunction with the approval of a rezoning or special exception for another use, a special exception for the modification of grade as it applies to the height measurement of a single-family detached dwelling that is located within or in proximity to a floodplain and when that structure must be elevated to meet all applicable floodplain regulations. In those cases the Board may approve a special exception that allows a grade elevation to be established that permits a dwelling to be constructed in compliance with all applicable floodplain regulations. Any applicant seeking grade modification approval must demonstrate that the requested increase in grade is the minimum amount required to meet the floodplain regulations. [1009]

## 5. Setbacks from the Floodplain[1010]

**A.** No dwelling or portion of a dwelling may be located within 15 feet of the edge of a floodplain, unless it is allowed under subsection 5100.2.D(5). The location of a property line between the floodplain and a dwelling does not eliminate the need to meet this minimum 15-foot setback.[1011] The Director may approve the following additional exceptions:

**(1)** The location of dwellings within 15 feet of a permanent water surface of any appropriately designed impoundment; or

**(2)** The location of additions within 15 feet of the edge of a floodplain for single-family detached and attached dwellings constructed before August 14, 1978, based on consideration of the following factors:

**(a)** Type and location of proposed structure;

**(b)** Nature and extent of any proposed grading or fill;

**(c)** Impact of proposal on the floodplain on properties upstream and downstream;

**(d)** Potential of proposal to cause or increase flooding or to jeopardize human life;

**(e)** Impact of the proposed use on the natural environment and on water quality; and

**(f)** Other site-specific factors deemed relevant for consideration by the Director.[1012]

[1009] Change since 10/11/19 draft: Added language from Sections 8-925 and 9-627.
[1010] Carried forward from Sect. 2-415.
[1011] Added clarification that the setback from the floodplain applies even if there is a property line in between.
[1012] Replaced the statement that the Director will consider "at least all of" with item 6.

**B.** For the purpose of this section, 15 feet is considered the minimum setback from the floodplain. However, dwellings and additions proposed within a floodplain under subsections 5105.3.A(9) and 5105.4 may be permitted without this 15-foot setback.[1013]

## 6. Use Limitations[1014]

All permitted and special exception uses in a floodplain must comply with the following use limitations:

**A.** Any new construction, substantial improvements, or other development, including fill, when combined with all other existing, anticipated, and planned development, may not increase the water surface elevation above the 100-year flood level upstream and downstream, calculated in accordance with the Public Facilities Manual, unless it is permitted under subsections 5105.3.A(7) and 5105.3.A(8) above.

**B.** The lowest part (i.e., the bottom of the floor joists or top of a concrete slab on grade) of the lowest floor, including any basement must be at least 18 inches above the water-surface elevation of the 100-year flood level calculated in accordance with the Public Facilities Manual. This requirement for an 18-inch vertical separation applies to development within a floodplain, any lot where a floodplain is located, or on any lot that abuts a lot where a floodplain is located, for the following:

**(1)** Any new or substantially improved dwelling or manufactured home.

**(2)** Any proposed addition to an existing dwelling, unless it is permitted under subsection 3.A(9)(b) above.

For development on land outside the floodplain, this subsection B may be modified by the Director in accordance with the standards set forth in the Public Facilities Manual.[1015]

**C.** No structure or substantial improvement to any existing structure may be allowed unless adequate floodproofing is provided in accordance with this section or under the USBC.

**D.** Stable vegetation must be protected and maintained in the floodplain to the extent possible.

**E.** Storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., is prohibited in a floodplain.

**F.** For uses located in a floodplain, other than those specified in subsections 3.A(3) and 3.A(4) above, the applicant must demonstrate the extent to which:

**(1)** There are no other feasible options available to achieve the proposed use;

**(2)** The proposal is the option that is least disruptive to the floodplain; and

**(3)** The proposal meets the environmental goals and objectives of the Comprehensive Plan for the property.

**G.** Nothing in these floodplain regulations is deemed to prohibit the refurbishing, refinishing, repair, reconstruction, or other similar improvements of the structure for an existing use

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[1013] Carried forward from the Par. 10 of Sect. 2-905, except the reference to Chapter 118 remains under Use Limitations below.

[1014] Carried forward from 2-905.

[1015] This standard has been revised to clarify where the 18" freeboard is required, consistent with long-standing implementation. The reference to Director modification is new.

provided such improvements are done in conformance with the USBC, Section 8104 of this Ordinance, and the requirements of subsection 5105.6.F above.

**H.** All uses and activities are subject to the provisions of Chapter 118 of the County Code.

**I.** As-built floor elevations must be submitted to the Land Development Services Department on a standard Federal Emergency Management Agency (FEMA) Elevation Certificate upon placement of the lowest floor, including basement, and before further vertical construction if they are required by federal regulations or the USBC. A FEMA Floodproofing Certificate must be completed in addition to the Elevation Certificate for a nonresidential building that is being floodproofed. In the case of special exception uses, the Elevation Certificate must demonstrate compliance with the approved special exception elevations.

**J.** The construction of all buildings and structures are subject to the requirements of the USBC.

**K.** All recreational vehicles within a floodplain must either:

**(1)** Be on-site for fewer than 180 consecutive days;

**(2)** Meet the requirements of this section and the USBC for anchoring and elevation of manufactured homes; or

**(3)** Be fully licensed and ready for highway use. A recreational vehicle is deemed ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

**L.** All necessary permits required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, as amended, 33 U.S.C. § 1334, must be obtained.

**M.** Areas designated as floodplains by FEMA must not have their base flood elevations altered without approval from FEMA.[1016] If any new construction, substantial improvements, or other development, including fill, when combined with all other existing, anticipated, and planned development, results in change in the base flood elevation in any Special Flood Hazard Area (SFHA) depicted on the County's Flood Insurance Rate Map (FIRM), the applicant must notify the Federal Insurance Administrator of the changes by submitting technical or scientific data to FEMA for a Letter of Map Revision, as soon as practicable but, not later than 6 months after the date such information becomes available or the placement of fill, whichever comes first. If the projected increase in the base flood elevation is greater than one foot, the applicant must also obtain approval of a Conditional Letter of Map Revision from the Federal Insurance Administrator before the approval of construction.

**N.** In riverine situations, adjacent communities and the Virginia Department of Conservation and Recreation must be notified before any alteration or relocation of a watercourse depicted on the Flood Insurance Rate Map (FIRM) and copies of such notifications must be submitted to the Federal Insurance Administrator. The flood carrying capacity within the altered or relocated portion of any watercourse must be maintained.

[1016] Carried forward from the floodplain definition.

## 7. Definitions[1017]

Definitions pertaining to the interpretation and administration of these floodplain regulations are in Section 9104.

# 5106. Common Open Space and Improvements

## 1. Applicability[1018]

This section applies to the following features in residential developments that are proposed to be dedicated or conveyed for public use or are to be held in common ownership by the occupants of the development:

**A.** All lands in common open space areas designed for the mutual benefit of occupants of the development, and are not on individual lots or intended to be dedicated or conveyed for public use, regardless of whether such common open areas are required by this Ordinance;

**B.** All private streets, driveways, parking bays, uses, facilities, and buildings or portions thereof, that are for the common use, benefit, or enjoyment of the occupants of the development, regardless of whether such improvements are required by this Ordinance;

**C.** Condominium developments must be established and regulated in accordance with the Condominium Laws of Virginia; and

**D.** All lands to be deeded or conveyed for public use.

## 2. General Requirements[1019]

All lands and improvements in 1.A through 1.C above must comply with the following:

### A. Establishing Separate Entity or Organization

**(1)** The applicant or developer must establish a nonprofit organization or other legal entity under the laws of Virginia for the ownership, care, and maintenance of all lands and improvements required to be held in common ownership. The organization must be created by covenants and restrictions running with the land and must be composed of persons all having ownership within the development. The organization is responsible for the perpetuation, maintenance, and function of all common lands, uses, and facilities.

**(2)** The organization, and covenants as described below, must continue in effect to control the availability of the facilities and land provided and to maintain the land and facilities for their intended function.[1020] The organization may not be dissolved nor dispose of any common open space, by sale or otherwise, unless it is to an organization conceived and organized to own and maintain the common open space, but not before offering to dedicate that land to the County or other appropriate governmental agency. If that offer is made, the Fairfax County Park Authority, the School Board, Facilities Management Department, and any other appropriate County agency must be consulted to see if there

[1017] The floodplain definitions in current 2-906 were relocated to Article 9.
[1018] Carried forward from Sect. 2-701.
[1019] Carried forward from Sect. 2-702. These standards were reorganized with new headings for clarity.
[1020] Did not carry forward the reference to protecting from additional and unplanned densities.

is County interest in the property. The results of the coordination with the County agencies will be provided to the Board as a Board item, and the Board will make the final determination regarding dedication of the property to the County.[1021]

**(3)** An adjacent development may join the organization for purposes of using the open space in accordance with subsection 8100.2.E(4).[1022]

## B. Covenant Requirements

**(1)** All lands and improvements must be described and identified including location, size, use, and control in a restrictive covenant, and the covenant must establish the method of assessment for maintenance of common property and improvement.

**(2)** These covenants must be written to run with the land and be in full force and effect for a period of not less than 20 years and will be automatically extended for successive periods of 20 years unless terminated in a manner established in these regulations.

**(3)** These covenants must become part of the deed to each lot or parcel within the development.

## C. Maintenance Requirements

### (1) Routine Maintenance Allowed

No lands in common open space may be denuded, defaced, or otherwise disturbed in any manner at any time without the approval of the Director, unless it is among the routine maintenance activities specified below and is allowed under any applicable proffered conditions, conditions of special exceptions or special permits, or other laws and ordinances, and the common open space does not contain areas used to comply with Best Management Practices such as floodplains and conservation easements.

**(a)** Routine maintenance of common open space limited to the removal of dead, diseased, dying or hazardous trees or shrubbery;

**(b)** Removal and replacement of dead landscaping and screening materials;

**(c)** Installation of supplemental plantings;

**(d)** Removal of noxious vegetation such as poison ivy or greenbrier;

**(e)** Lawn care and maintenance;

**(f)** Repair and replacement of picnic and play equipment; or

**(g)** Similar routine maintenance.

### (2) County Not Responsible for Maintenance[1023]

The County is not responsible for maintaining any common open space or improvements required by this Ordinance, except as provided for in subsection (c) below. If the County becomes the owner of open space or improvements, under subsection A(2) above, the County's only responsibility is to the general public of the entire County.

[1021] Change since 10/11/2019 draft: The last two sentences are new and capture the procedure that has been followed in the past.
[1022] Relocated from Par. 14 of Sect. 2-702.
[1023] Carried forward from Sect. 2-705.

### (3) Procedures for Enforcement of Deficiencies

**(a)** If the Director determines that the public interest requires assurance for adequate maintenance of common open space areas and improvements, the Director may require that the covenants creating such organization include the following:

***1.*** The County may serve notice in writing to the organization or the residents of the development if the organization or any successor organization, fails to maintain the common open space in reasonable order and condition in accordance with the approved plans.

***2.*** The notice must specify how the organization has failed to maintain the common open space and demand that the deficiencies be cured within 30 days.

***3.*** The notice must state the date and place of a public hearing to be held within 20 days of the notice.

**(b)** At such hearing the County may modify the terms of the original notice as to the deficiencies and may grant an extension of time for curing such deficiencies.

**(c)** If the deficiencies are not cured within 30 days or any granted extension, the County, to preserve the taxable values of the properties within the development and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for one year.

**(d)** County entry and maintenance does not vest any public rights to use the common open space except when the area is voluntarily dedicated to the public by the owners.

**(e)** Before the expiration of the one-year County maintenance period, the County must call, on its own initiative or at the request of the organization, a public hearing before the Board upon notice in writing to the organization or to the residents of the development, at which the organization must demonstrate why such maintenance by the County should not, at the election of the Board, be extended for another one-year period.

**(f)** If the Board determines that the organization is ready and able to maintain the common open space in reasonable condition, the County must cease maintenance of the area at the end of the one-year period.

**(g)** If the Board determines that the organization is not ready and able to maintain the common open space in a reasonable condition, the County may continue to maintain the common open space during the next succeeding year, and subject to a similar hearing and determination in each year thereafter.

**(h)** The covenants creating the organization must provide that the cost of maintenance by the County will be assessed ratably against the properties within the development that have a right of enjoyment of the common open space or improvements, regardless of the corporate status of the organization, and that such assessment must be paid by the owners of said properties within 30 days after receipt of a statement.

## 3. Submission Requirements[1024]

**A.** The following documents must be submitted to and approved by the County before the features described in subsections 5106.1.A and 1.B above are dedicated or conveyed:

**(1)** The articles of incorporation or other organizational documentation.

**(2)** The by-laws of the organization.

**(3)** The covenants or restrictions related to the use of common property, including the system and amounts of assessments for perpetuation and maintenance.

**(4)** A fiscal program for a minimum of ten years, including adequate reserve funds for the maintenance and care of all lands, streets, facilities, and uses under the purview of the organization.

**(5)** A document granting the right of entry upon such common property to the County law enforcement officers, rescue squad personnel, and the firefighting personnel while in the pursuit of their duties; and, in the case of private streets and common driveways, permitting the enforcement of cleared emergency vehicle access.

**(6)** A complete listing of all land, buildings, equipment, facilities, and other holdings of the organization, and a complete description of each.

**(7)** A recommended maintenance timing schedule for facilities[1025] including streets, street signs, pools, sidewalks, parking areas, stormwater management facilities, and buildings.

**(8)** A copy of the proposed notice that will be given to prospective buyers regarding the organization, assessments, and fiscal program.

**(9)** A copy of the Deed of Conveyance and a Title Certificate or, at the discretion of the Director, a commitment for a policy of title insurance issued by an insurance company authorized to do business in the State, assuring unencumbered title for all lands proposed to be conveyed to the County, other appropriate governmental agency, or other organization.

**B.** The documents in subsection A above must be reviewed and approved by the Director and the County Attorney, and their approval is required before recording any final plat or approving a final site plan. Those documents become part of the recorded subdivision plat or approved site plan after they are approved.

[1024] Carried forward from Sect. 2-703. Did not repeat the term “nonprofit” in this subsection since it is described earlier in these regulations.
[1025] Did not carry forward “major” since that term is not defined.

# 5107. Private Streets[1026]

## 1. Applicability[1027]

**A.** Private streets may be allowed in commercial and industrial districts, and multifamily dwelling developments.

**B.** With the approval of the Director or the Board in conjunction with a rezoning, private streets may also be allowed in:

**(1)** Single-family attached and stacked townhouse dwelling developments;

**(2)** Single-family detached dwelling developments in the Planned Districts and in the R-5, R-8, and R-12 Districts; and

**(3)** Single-family attached dwelling units when located in a single-family detached affordable dwelling unit development in the R-2, R-3, and R-4 Districts.

**C.** Single-family detached dwelling developments that are not subject to Chapter 101 of the County Code may also have private streets, but the standards in this section do not apply to those streets.

## 2. Ownership, Care and Maintenance

A private street is prohibited within a residential development unless it is approved in accordance with the provisions of Section 5106.

## 3. Standards and Limitations[1028]

### A. General Design Limitations

**(1)** Private streets are limited to those streets that are not required or designed to provide access to adjacent properties as determined by the Director.

**(2)** Private streets must be designed and constructed in accordance with the standards in the Public Facilities Manual.

**(3)** No private street in a residential development that will be owned and maintained by an organization as provided for in Section 5106 may exceed 600 feet in length unless approved by the Director or by the Board in conjunction with a rezoning or special exception.

**(4)** The length and geometric design of the street is subject to the approval of the Director based on the following considerations:

**(a)** Means of access to adjoining properties;

**(b)** Traffic movement and volume through the development;

**(c)** Access for emergency and maintenance vehicles,

**(d)** Parking; and

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[1026] Carried forward from current Part 3 – 11-300.
[1027] Carried forward from Sect. 11-301. Change since 10/11/2019 draft: Added that the Board may approve private streets consistent with current practice.
[1028] Combines current 11-302 through 11-305, but does not carry forward "economy of development" consideration.

(e) Proposed provisions for maintenance and preservation of natural features of the property.

### B. Ingress and Egress Easements

Ingress and egress easements for public emergency and maintenance vehicles must be granted to the County over all private streets.

# 5108. Landscaping and Screening[1029]

The purpose of this section is to provide for landscaping and screening to create an attractive and harmonious community by minimizing the impact of dissimilar uses on adjoining or nearby uses. Protection of neighborhood character is achieved by preserving existing vegetation and requiring the planting and maintenance of vegetative screening and other barriers. Natural resource conservation is promoted, including soil, air, and water quality. Provisions in this section lessen the impact of wind, heat, noise, dust, and other debris, and motor vehicle headlight glare or other artificial light intrusion.

Appropriate landscaping provides shade and contributes toward compliance with the Federal Clean Air Act by reducing levels of carbon dioxide and helping to alleviate atmospheric heat island production and other negative effects on the air quality and ozone levels produced by accelerated fuel evaporation from vehicles parked on non-shaded pavement. Provisions also promote adequate planting areas for healthy development of trees.[1030]

## 1. Applicability and Administration[1031]

A. The Director is responsible for the administration of this section.

B. The provisions of this section apply to all development subject to the provisions of subsection 8100.7.

## 2. Landscaping Plan and Planting Requirements[1032]

A. A landscaping plan must be submitted as required by subsection 8100.7 and may be required for a minor site plan as determined by the Director.

B. Landscaping plans must be drawn to scale, including dimensions and distances, and clearly delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size, and description of all landscaping materials in accordance with the Public Facilities Manual and the requirements of this section.

C. Landscaping required by this section must be shown on the landscape plan and must be completed according to specifications before approval of any Residential or Nonresidential Use Permit in accordance with subsection 8100.9.B.

[1029] This Section includes the standards from the current Article 13, with revisions as noted.
[1030] Purpose and intent statements substantially consolidated for landscaping, parking lot landscaping, and transitional screening sections 13-101, 13-201, and 13-301.
[1031] Carried forward from 13-102, except the exemption for site plans filed prior to December 10, 1977.
[1032] Carried forward from 13-105.

## 3. General Landscaping Standards[1033]

The following standards apply to the preservation, installation, and maintenance of all landscaping, screening, and barriers required by this section:

### A. Conformance with Public Facilities Manual

The planting and maintenance of all trees and shrubs must be in accordance with the Public Facilities Manual.

### B. Size and Spacing

**(1)** All trees required by this section must be a minimum of five feet in height at the time of planting.

**(2)** Generally, planting required by this section should be in an irregular line and spaced at random.

### C. Existing Vegetation

**(1)** Existing vegetation that is suitable for use in compliance with the requirements of this section and the Public Facilities Manual, may and should be used as required planting.[1034]

**(2)** Existing vegetation in a Resource Protection Area may be used to meet the requirements of this section with approval of the Director. Any addition or removal of vegetation in a Resource Protection Area is subject to Chapter 118 of the County Code as approved by the Director. [1035]

## 4. Maintenance[1036]

**A.** The owner or their agent is responsible for the maintenance, repair, and replacement of all landscaping materials and barriers as may be required by this section.

**B.** All plant material must be tended and maintained in a healthy growing condition, replaced when necessary due to poor health or unsafe conditions, and kept free of refuse and debris.

**C.** Fences and walls must be maintained in good repair. Openings within the barriers may be required by the Director for accessibility to an area for necessary maintenance.

**D.** When tree conservation is required on individual lots in residential districts, the homeowner, subsequent to Residential Use Permit issuance, is not precluded from adding, removing, or relocating such landscaping.

**E.** All landscaping must be installed and maintained in substantial conformance with any proffered conditions or with any approved conceptual or final development plan, general development plan, development plan, PRC plan, special exception, special permit, or variance as determined by the Zoning Administrator. Any removal or replacement of required

[1033] Carried forward from 13-104.
[1034] Did not carry forward "when supplemented so as to provide planting and screening in accordance with the purpose and intent of this Article."
[1035] Deleted references to the types of vegetation that may be added, as these are specified elsewhere.
[1036] Carried forward from 13-106.

landscaping requires approval by the Director after coordination with the Zoning Administrator.

**F.** The removal or replacement of any landscaping depicted on an approved site plan that is not subject to any of the approvals listed in subsection E above requires Director approval.

**G.** Any landscaping required by subsections E and F above that is removed or replaced without the written permission of the Director must be replaced at the owner's expense with new landscaping of the appropriate species and equal to or as large in total canopy area at the time of planting as the required landscaping that was removed as determined by the Director.[1037]

## 5. Parking Lot Landscaping[1038]

### A. Interior Parking Lot Landscaping[1039]

**(1) Amount Required**

**(a)** Any parking lot containing 20 or more spaces must include interior landscaping covering a minimum of five percent of the total area of the parking lot.

**(b)** Such landscaping must be in addition to any planting or landscaping within six feet of a building, any planting or landscaping required as peripheral planting by subsection B below, and any transitional screening required by subsection 6.B below.

**(2) Planting Requirements**

**(a)** The primary landscaping materials used in parking lots must be trees that provide shade or will provide shade at maturity. Shrubs and other live planting material may be used to complement the tree landscaping but may not be the sole contribution to the landscaping.

**(b)** Landscaping should be dispersed throughout the parking area to maximize shade for the vehicles using the parking lot.[1040]

**(3)** The interior dimensions of any planting area must be large enough to protect all landscaping materials in conformance with the Public Facilities Manual.

**(4)** The Director may waive or modify the requirements of these planting requirements for any use in an I district where vehicles are parked or stored, provided the use is screened from view of all adjacent property and all public streets.

**(5)** The Board, in conjunction with the approval of a rezoning or special exception, may approve a waiver or modification of the requirements of these planting requirements. Such waiver or modification may be approved:

**(a)** For an interim use of a specified duration, or where deemed appropriate due to the location, size, surrounding area, or configuration of the parking lot; and

[1037] This standard has been clarified to focus on the required replacement canopy.
[1038] Carried forward from Part 2, 13-200.
[1039] Carried forward from 13-202.
[1040] Revised from "reasonably dispersed throughout the parking lot" to clarify the purpose and guide the implementation of this requirement.

**(b)** Where such waiver or modification will not have any harmful effect on the existing and planned development of adjacent properties.

**(6)** In a Commercial Revitalization District and in the PTC District, interior parking lot landscaping must be provided in accordance with the provisions of the respective district.

## B. Peripheral Parking Lot Landscaping[1041]

Any parking lot containing 20 or more spaces where transitional screening is not required by subsection 6.B below must have peripheral parking lot landscaping as follows:

### (1) Property Does Not Abut Street Right-of-Way

When the property line abuts land that is not in the right-of-way of a street, a landscaping strip must be provided between the parking lot and the abutting property lines, except where driveways or other openings may necessitate other treatment, in accordance with the Public Facilities Manual.[1042]

### (2) Property Abuts Street Right-of-Way

Where the property line abuts the right-of-way of a street:

**(a)** A landscaping strip ten feet in width must be located between the parking lot and the property line and may not include a sidewalk or trail.

**(b)** At least one tree for each 40 feet must be planted in the landscaping strip; however, trees are not required to be planted on 40-foot centers.

**(c)** Where peripheral landscaping required by this subsection conflicts with street planting regulations of the Virginia Department of Transportation, the regulations of the latter govern.

### (3) Exceptions

**(a)** The Board, in conjunction with the approval of a rezoning or special exception, or the BZA, in conjunction with the approval of a special permit, may approve a waiver or modification of the requirements of this subsection and the requirement to provide a ten-foot minimum distance between a front lot line and an off-street parking space established in subsection 6100.2.A. The waiver or modification may be approved:

***1.*** For an interim use of a specified duration, or where deemed appropriate due to the location, size, surrounding area, or configuration of the parking lot; and

***2.*** Where such waiver or modification will not have any harmful effect on the existing and planned development of adjacent properties.

**(b)** In a Commercial Revitalization District and in the PTC District, peripheral parking lot landscaping must be provided in accordance with the provisions of the respective district.

[1041] Carried forward from 13-203.
[1042] The specific width of the landscaping strip has been deleted and will be determined in the PFM.

# 6. Transitional Screening and Barriers[1043]

## A. Applicability[1044]

**(1)** Transitional screening and barriers must be provided within the zoning district and on the lot of the use indicated in the left column of Table 5108.2 where it is contiguous or across the street from land used or zoned for uses indicated across the top of Table 5108.2. The numbers across the top of the table correspond to the use numbers in the left column.

**(2)** The more stringent requirements of the table apply if the structure will contain more than one use or category of uses in Table 5108.2. The Director may allow the lesser requirements with a finding that the need for the more stringent requirements is eliminated by the arrangement of the uses.

**(3)** In addition to the standards established in Article 4 for a particular use, all uses allowed by special exception or special permit are required to provide transitional screening and barriers as determined by the Board or BZA, using Table 5108.2 as a guide.

**(4)** Transitional screening and barriers are not required between different dwelling unit types within an affordable dwelling unit development.

**(5)** In a Commercial Revitalization District and in the PTC District, transitional screening and barriers must be provided in accordance with the provisions of the respective district.

**(6)** The following uses are not included in Table 5108.2 below:[1045]

**(a)** Agricultural operation and office in a residential district do not require transitional screening or barriers.

**(b)** Wireless facility is subject to the requirements of subsection 4102.4.Y.

**(c)** The following uses may be required to provide transitional screening and barriers as determined by the Board or BZA: campground; cemetery; farm winery, limited brewery, or limited distillery; group household; marina (commercial or private noncommercial); and riding or boarding stable.

## B. Transitional Screening Requirements[1046]

### (1) Types of Transitional Screening

There are three different transitional screening requirements as identified in Table 5108.2 that must be provided in accordance with Chapter 12 of the Public Facilities Manual and as follows:

#### (a) Transitional Screening I

Transitional Screening I consists of an unbroken strip of open space a minimum of 25 feet wide and planted with all of the following:

[1043] Carried forward from Part 3, 13-300.
[1044] Carried forward from 13-302, renamed from "general provisions" to "applicability."
[1045] Change since 10/11/2019 draft: This section (6) has been added. Par. 4 of Sect. 13-302 is not carried forward. Instead, all uses are listed in the table except those addressed in this subsection.
[1046] Carried forward from 13-303. Did not carry forward paragraphs 1 and 2 from 13-303 since they were related to barriers (and are repeated in the current 13-304).

1. A mixture of large and medium evergreen trees and large deciduous trees that achieve a minimum ten-year tree canopy of 75 percent or greater;
2. A mixture of trees consisting of at least 70 percent evergreen trees, and consisting of no more than 35 percent of any single species of evergreen or deciduous tree; and
3. A mixture of predominately medium evergreen shrubs at a rate of three shrubs for every ten linear feet for the length of the transition yard area. The shrubs must generally be located away from the barrier and staggered along the outer boundary of the transition yard.

#### (b) Transitional Screening II

Transitional Screening II consists of an unbroken strip of open space a minimum of 35 feet wide and planted with the following:

1. A mixture of large and medium evergreen trees that achieves a minimum ten-year tree canopy of 75 percent or greater; and
2. The same mixture of trees and shrubs as provided in subsections (a)2 and (a)3 above.

#### (c) Transitional Screening III

Transitional Screening III consists of an unbroken strip of open space a minimum of 50 feet wide planted as required in subsections (b)1, (a)2, and (a)3 above.

## C. Barrier Requirements[1047]

### (1) Barrier Location

(a) Barriers must generally be located between the required transitional screening and the use requiring such screening so that the maximum effective screening is provided from the existing or proposed first floor level of adjoining development, as determined by the Director.

(b) Bracing, supports, or posts must be located on the side of the barrier facing the use requiring the barrier.

### (2) Types of Barriers

(a) Table 5108.2 identifies different barrier requirements, which must be provided in accordance with Table 5108.1. The applicant may choose the type of barrier if more than one is allowed under Table 5108.2.

(b) In unusual circumstances related to topography, or to alleviate specific problems with nuisance issues such as glare and noise, the Director may require the use of an earth berm or more specialized barrier material in lieu of, or in combination with, any of the barrier types set forth below.

[1047] Carried forward from 13-304.

**TABLE 5108.1: Barrier Requirements by Type**

| Barrier Type | Height | Materials | Other Standards |
|---|---|---|---|
| A | 42-48 inches | Wall of brick or architectural block | Faced on the side of the existing use; may be required to be faced on both sides as determined by the Director. |
| B | 42-48 inches | Solid wood or otherwise architecturally solid fence | N/A |
| C | 42-48 inches | Evergreen hedge | Planting size minimum 36 inches and planted 36 inches on center. |
| D | 42-48 inches | Chain link fence | May be required by the Director to have inserts in the fence fabric, to be coated, or to be supplemented by trees and shrubs. |
| E | 6 feet | Wall of brick or architectural block | Faced on the side of the existing use; may be required to be faced on both sides as determined by the Director. |
| F | 6 feet | Solid wood or otherwise architecturally solid fence | N/A |
| G | 6 feet | Chain link fence | May be required by the Director to have inserts in the fence fabric or be coated. |
| H | 6 feet | Variety of trees | One row of 6-foot trees averaging 50 feet on centers. This requirement may be omitted when the building is six feet or less from the property line. |

1

**TABLE 5108.2: Transitional Screening and Barrier Types by Use[1048]**
Roman numerals in individual cells represent transitional screening type required (I, II, or III)
Letters in individual cells represent barrier type required (A through H)
* Denotes "as may be required by the Director"
See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Dwelling, single-family detached | | | | | | | | | | | | | | | | | |
| 2 | Dwelling, single-family attached | I<br>B, A* | | | | | | | | | | | | | | | | |
| 3[1049] | Bed and breakfast<br>Dwelling, multifamily<br>Live-work development<br>Manufactured home<br>Stacked townhouse | I<br>D, E or F | I | | | | | | | | | | | | | | | |
| 4[1050] | Adult day care center<br>Adult day support center[1051]<br>Child care center<br>Religious assembly<br>Religious assembly with private school, specialized instruction center, or child care center<br>School, private<br>Specialized instruction center | I<br>D, E or F | I<br>D, E or F | H | | | | | | | | | | | | | | |

[1048] Carries forward the Transitional Screening and Barrier Matrix in Article 13, with the uses updated based on the uses in new Article 4. New uses have been integrated based on current practice or the most similar use.
[1049] Change since 10/11/2019 draft: "Group household" was removed from this row. See 6.A.(6) above.
[1050] Change since 10/11/2019 draft: Religious assembly with private school, etc., and specialized instruction center were relocated from use group #12, consistent with the other uses in the group.
[1051] Change since 6/30/2020 draft: This is a new use.

**TABLE 5108.2: Transitional Screening and Barrier Types by Use[1048]**
Roman numerals in individual cells represent transitional screening type required (I, II, or III)
Letters in individual cells represent barrier type required (A through H)
* Denotes "as may be required by the Director"
See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **5** | Club, service organization, or community center<br>Community swim, tennis, and recreation club<br>Cultural facility or museum<br>Golf course or country club | I D, E or F | I D, E or F | I D, E or F | A, B or C | H | | | | H | | | | | | | | |
| **6** | Congregate living facility<br>Medical care facility<br>Continuing care facility | II D, E or F | II D, E or F | I D, E or F | | | | | | | | | | | | | | |
| **7[1052]** | Financial institution | I D, E or F | I D, E or F | I B or C | H | | | | | | | | | | | | | |
| **8[1053]** | Adult entertainment<br>Animal shelter<br>Business service<br>Catering<br>Convenience store<br>Crematory<br>Data center<br>Drug paraphernalia<br>Funeral home<br>Household repair and rental service<br>Kennel<br>Massage therapy establishment<br>Office<br>Pawnshop<br>Pet grooming establishment<br>Personal service<br>Public entertainment<br>Restaurant<br>Restaurant, carryout<br>Retail sales, general<br>Smoking lounge<br>Veterinary hospital | II D or F, E* | II D or F, E* | I D or F, E* | I A, B or C | H | | | | | | | | | | | | |

[1052] Change since 10/11/2019 draft: "Cemetery" was removed from this row. See 6.A.(6) above.
[1053] Change since 10/11/2019 draft: "Office in a residential district" was removed from this row. See 6.A.(6) above. Adult entertainment, drug paraphernalia, and public entertainment were relocated from use group #9 to be with more consistent uses and provide for screening adjacent to child cares and schools. Change since 10/11/2019 draft: Relocated pawnshop consistent with current definition.

**TABLE 5108.2: Transitional Screening and Barrier Types by Use[1048]**
Roman numerals in individual cells represent transitional screening type required (I, II, or III)
Letters in individual cells represent barrier type required (A through H)
* Denotes "as may be required by the Director"
See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9[1054] | Airport<br>Car wash<br>Commercial off-street parking<br>Drive-through financial institution<br>Drive-through pharmacy<br>Drive-through, other<br>Garden center<br>Goods distribution hub<br>Helipad<br>Restaurants with drive-through<br>Retail sales, large<br>Transit facility<br>Truck rental establishment<br>Vehicle fueling station<br>Vehicle repair and maintenance, light<br>Vehicle sales, rental, and service<br>Vehicle transportation service (see use standards) | III E, F or G | III E, F or G | II E, F or G | D, E or F | H | | | | | | | | | | | | |
| 10 | Hotel or motel | II E, F or G | II E, F or G | I E, F or G | H | H | | | | | | | | | | | | |
| 11[1055] | Indoor commercial recreation<br>Outdoor commercial recreation | II D, E or F | II D, E or F | I D, E or F | D, E or F | H | | | | | | | | | | | | |

[1054] Change since 10/11/2019 draft: Added vehicle transportation service with a note to see the use standards as a clarification. Vehicle transportation services are also in use group #15, but a use standard specifies use group #9 for the PTC District.
[1055] Change since 10/11/2019 draft: "Campground" was removed from this row. See 6.A.(6) above.

**TABLE 5108.2: Transitional Screening and Barrier Types by Use[1048]**
Roman numerals in individual cells represent transitional screening type required (I, II, or III)
Letters in individual cells represent barrier type required (A through H)
* Denotes "as may be required by the Director"
See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **12**[1056] | Alternate use of public facility<br>Banquet or reception hall<br>College or university<br>Convention or conference center<br>Craft beverage production establishment<br>Health and exercise facility<br>Independent living facility<br>Quasi-public park, playground, or athletic field<br>Religious group living<br>Residence hall<br>Retreat center<br><br>Stadium or arena<br>Zoo or aquarium | II D, E or F | II D, E or F | II D, E or F | I A, B or C | D, E or F | | | | | | | | | | | | |
| **13** | Production or processing as permitted in I-3, I-4 Districts<br>Self-storage<br>Small-scale production establishment<br>Wholesale facility | II D, E or F | II D, E or F | II D, E or F | D, E or F | H | H | | H | H | | | | | | | | |
| **14** | Solar power facility<br>Utility facility, light | III D, E or F | II D, E or F | II D, E or F | I D, E or F | I D, E or F | I A, B or C | I A, B or C | D, E or F | D, E or F | | | | | | | | |
| **15** | Building materials storage and sales<br>Contractor's office & shop<br>Freight distribution hub<br>New vehicle storage<br>Specialized equipment and heavy vehicle sale, rental, or service<br>Storage yard<br>Utility facility, heavy<br>Vehicle transportation service (see use standards)<br>Warehouse | III D, E or F | III D, E or F | III D, E or F | I D, E or F | I D, E or F | I A, B or C | I A, B or C | D, E or F | D, E or F | | | | | | | | |

[1056] Change since 10/11/2019 draft: "Agricultural operation," "Farm winery," "Marina," and "Riding or boarding stable" were removed from this row. See 6.A.(6) above.

**TABLE 5108.2: Transitional Screening and Barrier Types by Use[1048]**
Roman numerals in individual cells represent transitional screening type required (I, II, or III)
Letters in individual cells represent barrier type required (A through H)
* Denotes "as may be required by the Director"
See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 16 | Extraction activity<br>Junkyard<br>Petroleum products storage facility<br>Production or processing as permitted in I-5, I-6 Districts<br>Recycling center<br>Vehicle repair and maintenance, heavy<br>Vehicle storage or impoundment yard | III D, E or F | III D, E or F | II D, E or F | I D, E or F | I D, E or F | I D, E or F | I D, E or F | I D, E or F | I A, B or C | I A, B or C | I A, B or C | D, E or F | | | I A, B or C | | |
| 17 | Production or processing, heavy<br>Mixed waste reclamation facility<br>Solid waste disposal facility | III D, E or F | III D, E or F | II D, E or F | I D, E or F | I A, B or C | I D, E or F | I D, E or F | I A, B or C | I A, B or C | I A, B or C | I A, B or C | D, E or F | | | I D, E or F | I D, E or F | |
| 18 | Public use | See most similar use | | | | | | | | | | | | | | | | |

## 7. Waivers and Modifications to Transitional Screening and Barriers[1057]

Transitional screening and barriers may be waived or modified under this subsection. The Board, in conjunction with a rezoning or special exception application, or the Director may attach conditions to any waiver or modification that would assure that the results of the waiver or modification will be in accordance with the purpose and intent of this section. The Board or Director may waive or modify transitional screening and barriers as follows:

**A.** Between uses developed under a common development plan in the PDC or PRM Districts or a common development or site plan or series of development or site plans within a PRC District when compatibility between uses has been addressed through a combination of the location and arrangement of buildings or through architectural or landscaping treatments.

**B.** Transitional screening and barriers may be waived or modified where the building, a barrier, or the land between that building and the property line has been specifically designed to minimize adverse impact through a combination of architectural and landscaping techniques.[1058]

**C.** The strict application of the transitional screening and barrier provisions would reduce the usable area of a lot due to lot configuration or size to a point that would preclude a reasonable use of the lot, provided the side of a building, a barrier, or the land between that building and the property line has been designed to minimize adverse impact through a combination of architectural and landscaping techniques.

[1057] Carried forward from 13-305, except when adjoining land is used for a sawmilling operation or a wayside stand. In addition, private school of special education (new specialized instruction center) has not been carried forward.
[1058] Change since 10/11/2019 draft: Added "and barriers."

**D.** The transitional screening yard width and planting requirements may be reduced as much as two-thirds where a seven-foot brick or architectural block wall is provided instead of the barrier required. The wall may be reduced to a height of six feet where the Director deems such a height will satisfy the purpose and intent of this section.

**E.** The adjoining land is designated in the Comprehensive Plan for a use that would not require transitional screening between the land under site plan and the adjoining property.

**F.** The adjacent property is zoned to allow a use similar to the parcel under site plan.

**G.** The adjoining property is used for any public purpose other than a school or hospital.

**H.** The adjacent residential property is used for any use permitted by the Board or BZA as a special exception or special permit use except for a child care center or private school.

**I.** The adjoining land is in a residential district and is used for off-street parking as permitted by the provisions of subsection 6100.2.B.

**J.** The property abuts a railroad, interstate highway right-of-way, the right-of-way of the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road.

**K.** The barrier requirement may be waived or modified if the topography of the lot providing the transitional screening and the lot being protected is such that a barrier would not be effective.

**L.** The barrier requirement may be waived or modified for single-family attached dwelling units if a six-foot fence is provided to enclose a privacy yard on all sides, and the fence is architecturally designed and coordinated with landscaping techniques to minimize adverse impact on adjacent properties.

**M.** For any public use that has been specifically designed to minimize adverse impact on adjacent properties.

**N.** The strict application of the provisions of this section in affordable dwelling unit developments would preclude compliance with the provisions of Section 5101.

### 8. Tree Conservation[1059]

Tree conservation must be provided as required by Chapter 122 of the County Code and the Public Facilities Manual.

## 5109. Outdoor Lighting[1060]

The purpose of this section is to establish outdoor lighting standards to reduce the impacts of glare, light trespass, and light pollution; promote safety and security; and encourage energy conservation. [1061]

[1059] Carried forward from 13-401.
[1060] Carried forward from Part 9 of Article 14 with revisions as noted. Change since 10/11/2019 draft: Incorporated revisions from adopted amendment ZO-20-486.
[1061] Carried forward from 14-901. Changed “overlighting” to light pollution.

## 1. Applicability[1062]

**A.** These outdoor lighting standards apply to the installation of new outdoor lighting fixtures or the replacement of existing outdoor fixtures, except as provided in subsection 2 below.[1063]

**B.** Outdoor lighting fixtures lawfully existing before June 17, 2003, that do not conform to the provisions of this section are deemed to be a lawful nonconforming use and may remain. For the purpose of the provisions in subsections 3.A(2) (correlated color temperature), 2.F (exemptions for motion activated light fixtures), and 2.G (exemptions for lots developed with single-family dwellings), outdoor lighting fixtures lawfully existing before February 12, 2020, are deemed to be a lawful nonconforming use and may remain. A nonconforming lighting fixture that is changed to or replaced by a conforming lighting fixture is no longer deemed nonconforming and must be in accordance with the provisions of this section.

**C.** For existing vehicle fueling stations, vehicle sales, service, and rental establishments, and outdoor recreation and sports facilities that do not comply with the applicable maintained lighting levels specified in subsection 4 below, replacement of or the addition of new lighting fixtures is permitted in accordance with the following:[1064]

**(1)** There may be replacement or addition of new lighting fixtures only when the replacement or addition will not increase the noncompliance with the applicable maintained lighting level requirements of subsection 4 below.

**(2)** A new canopy, display area, or lighted field or court may be added to the existing use only if the new canopy, display area, or playing field or court is in conformance with all the requirements of this section.

## 2. Exemptions[1065]

The following are exempt from the provisions of this section, as long as the fixtures, except for those in subsections A and B below, do not cause disability glare:[1066]

**A.** Lighting fixtures and standards required by the Federal Communications Commission, Federal Aviation Administration, Federal and State Occupational Safety and Health Administrations, or other federal, state, or county agencies, to include street lights within the public right-of-way.

**B.** Outdoor lighting fixtures required by law enforcement, fire and rescue, the Virginia Department of Transportation, or other emergency response agencies to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares.

**C.** Routine lighting fixture maintenance, such as changing lamps or light bulbs, ballast, starter, photo control, housing, lenses, and other similar components, does not constitute replacement and may be permitted if the changes do not result in a higher lumen output or a color temperature that exceeds the standard in subsection 3.A(2) below.[1067]

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[1062] Carried forward from 14-902. General Provisions relocated to a standalone subsection.
[1063] Routine maintenance exemption relocated to the exemptions subsection. Change since 10/11/2019 draft: The second sentence of Par. 1 of Sect. 14-902 was deleted as unnecessary.
[1064] Use standards modified for consistency with new Article 4, *Use Regulations* throughout this section.
[1065] Carried forward from 14-905.
[1066] Change since 10/11/2019 draft: Added reference to disability glare from current Ordinance.
[1067] Relocated from Par. 1 of Sect. 14-902, applicability and general provisions.

**D.** Holiday lighting fixtures.

**E.** Neon lighting used to outline a structure.

**F.** Motion activated light fixtures located as follows:

**(1)** On lots developed with single-family dwellings if such lighting fixtures:

**(a)** Emit initial lighting levels of 4,000 lumens or less;

**(b)** Are extinguished within five minutes upon cessation of motion; and

**(c)** Are aimed such that the illumination is directed within the property boundary; or

**(2)** On all other lots if the lighting fixtures are aimed such that the illumination is directed within the property boundary.

**G.** On lots developed with single-family dwellings, outdoor lighting fixtures with initial light outputs of 1,500 lumens or less are not subject to the provisions of subsections 3.A(1) and 3.C(3) below.

## 3. General Provisions

Except as provided in 4.B below, or exempted in 2 above, all outdoor lighting fixtures must comply with the following:

### A. Lighting Fixtures and Mounting

**(1)** Full cut-off lighting fixtures must be mounted horizontal to the ground and must be used for all outdoor lighting unless otherwise specifically provided in this section, and all lighting fixtures located within those portions of open-sided parking structures that are above ground. For the purposes of this provision, an open-sided parking structure is a parking structure that contains exterior walls that are not fully enclosed between the floor and ceiling. Within an open-sided parking structure, the ceiling or walls of the structure may be used to meet the full cut-off angle requirements.[1068] An example of a full cut-off lighting fixture is shown in Figure 5109.1 below.

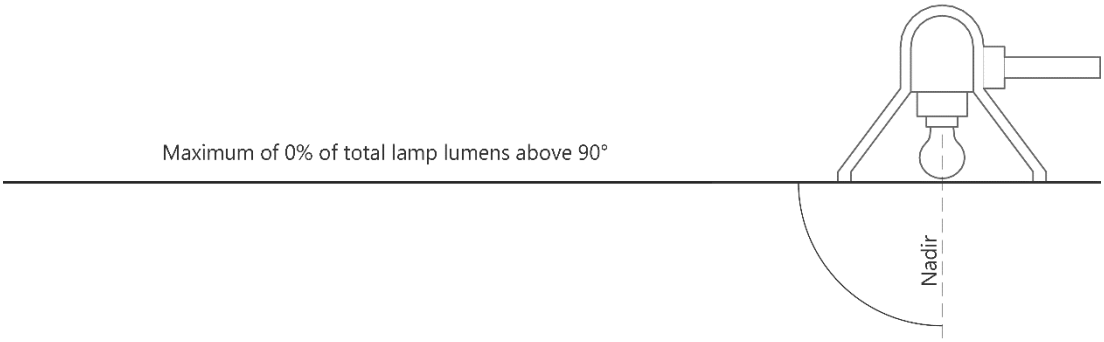



**Figure 5109.1: Full Cut-Off Lighting Fixture**

**(2)** Except for signs, all light sources may not exceed a maximum Correlated Color Temperature (CCT) of 3,000K unless otherwise approved by the Director. However,

[1068] This sentence is relocated from the current definition in Article 20 for a full cut-off lighting fixture.

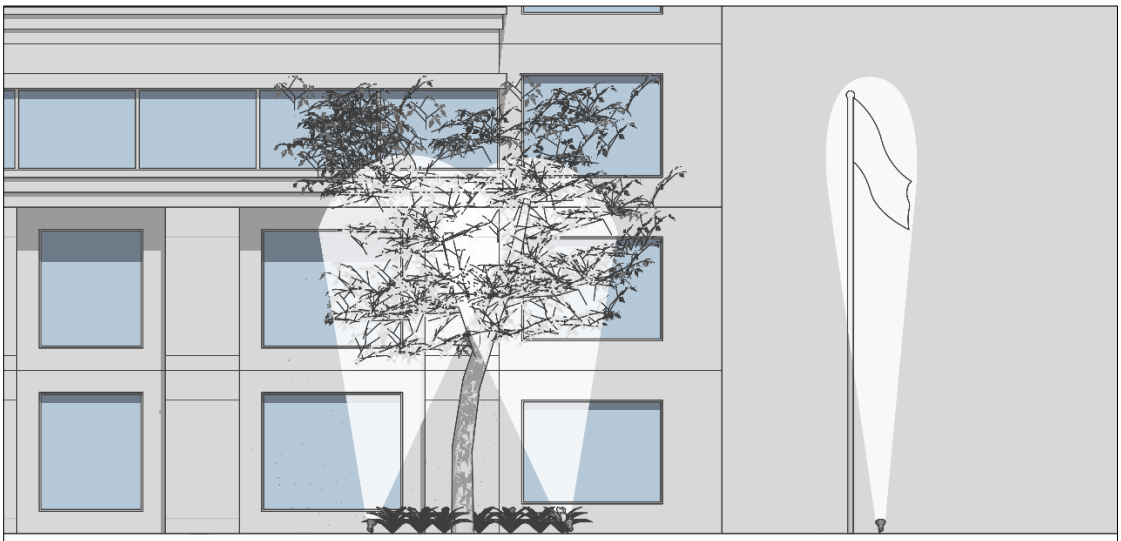
sports fields or courts that are subject to a sports illumination plan may have a maximum CCT of up to 5,700K.[1069]

**(3)** Except for internally illuminated signs, the use of lighting fixtures that are enclosed in clear or translucent white, off-white, or yellow casing are prohibited on the roofs of buildings or on the sides of canopies.

**(4)** The following lighting must consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is substantially confined to the object intended to be illuminated and, where necessary, directional control shields must limit stray light and protect motorists and pedestrians from glare (see Figure 5109.2:

**(a)** Lighting used to illuminate flags, statues, signs, or any other objects mounted on a pole, pedestal, or platform; and

**(b)** Spotlighting or floodlighting used for architectural or landscape purposes.



Lighting used for architectural/landscaping lighting must be aimed and controlled so that light is confined, as much as possible, to the objects that are intended to be lit.

**Figure 5109.2: Uplighting Examples**

**(5)** All outdoor lighting fixtures must be aimed, located, and maintained so as not to produce disability glare. The lighting fixtures specified in 3.A and 3.B above are excluded from this provision.

**(6)** High intensity light beams in the form of outdoor search lights, lasers, or strobe lights are prohibited.

[1069] Change since 6/30/2020 draft: Added the exemption for signs based on a current interpretation. Color temperature is not applicable to colored lights and therefore is not appropriate to apply to signage.

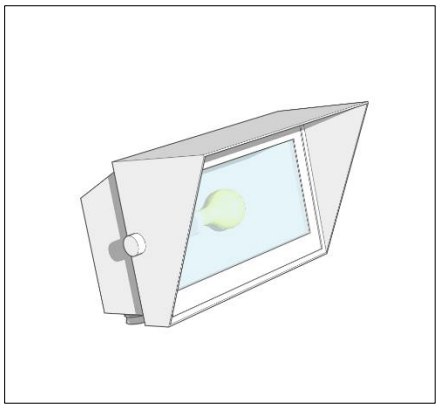


Figure 5109.3: Directionally Shielded Light Fixture

## B. Internally Illuminated Signs

**(1)** Internally illuminated signs must have an opaque background with translucent text and symbols, or a translucent background that is not white, off-white, or yellow in color.

**(2)** All illuminated signage located on the sides of a canopy must be internally illuminated or backlit.

**(3)** Electronic display signs must conform to the standards in subsection 7101.1.[1070]

## C. Height and Location of Light Poles[1071]

**(1)** Maximum height of lighting fixtures on light poles:

**(a)** No maximum height for lighting fixtures associated with outdoor recreation and sports facilities playing fields and courts.

**(b)** 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.

**(c)** 20 feet as measured from the top of the pole to the surface on which the pole is mounted for light poles mounted on the top of parking structures.

**(2)** Light poles must be located in accordance with the following:

### (a) All Lots

Unless further restricted elsewhere in these standards:

***1.*** Parking lot light poles may be located in any yard;

***2.*** Light poles that do not exceed seven feet in height may be located in any yard;

***3.*** Light poles greater than seven feet in height are subject to the minimum setback requirements of the zoning district in which located.

### (b) Lots with Single-Family Dwellings

Light poles that exceed seven feet in height are subject to the location regulations of subsection 4102.7.A(6).

[1070] Change since 10/11/2019 draft: This reference was added.
[1071] Carried forward from Par. 14 of Section 10-104.

**(3)** In addition to the above, on lots that abut property that is residentially zoned and developed, vacant, or homeowner's association open space, all outdoor lighting, including light poles located on top of any parking structure, must be either:

**(a)** Mounted at a height measured from grade to the bottom of the lighting fixture, including the height of the parking structure when located on top of a parking structure, equal to or less than the value 3 + (D/3), where D is equal to the horizontal distance in feet from the light source to the nearest residential lot line extended vertically; or

**(b)** Equipped with supplemental opaque shielding on the residential property side of the lighting fixture to reduce glare caused by direct light source exposure. (See Figure 5109.4.)

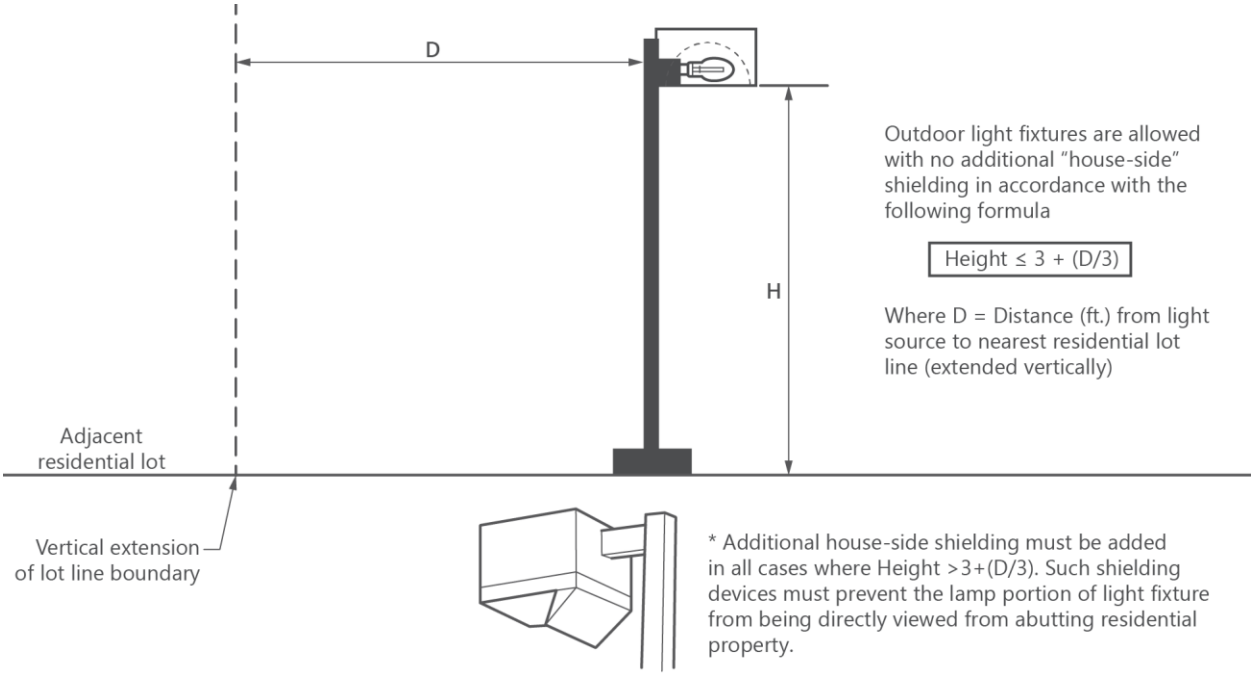



**Figure 5109.4: Mounting Height or House-Side Shielding**

## D. Nonresidential Lots Dimming Requirement

On all nonresidential lots that contain a minimum of four parking lot light poles, parking lot lighting levels for ground surface parking lots and the top levels of parking structures must be reduced by a least 50 percent of full operational levels within 30 minutes after the close of business. This provision does not require parking lot lighting levels to be reduced to less than 0.2 footcandles as measured horizontally at the surface on which the light pole is mounted. This reduced lighting level must be achieved by:

**(1)** Extinguishing at least 50 percent of the total number of pole mounted lamps;

**(2)** Dimming lighting levels to no more than 50 percent of the levels used during business or activity hours; or

**(3)** Some combination of (1) and (2).

### E. Construction Sites

Lighting used for construction sites must consist of the following:

**(1)** All construction site lighting, with the exception of lighting that is used to illuminate the interiors of buildings under construction, must use full cut-off or directionally shielded fixtures that are aimed and controlled so the directed light is substantially confined to the object intended to be illuminated. Directional control shields must be used where necessary to limit stray light.

**(2)** Frosted light bulbs or other translucent covers[1072] must be used to light the ten-foot outermost perimeter area of the interiors of any buildings under construction that contain five or more stories. For the purposes of this subsection 5109.3.E, a building is no longer considered under construction once exterior walls and windows are installed and permanent lighting replaces temporary lighting as the primary source of light for the building.

### F. Enforcement

The Zoning Administrator may require evidence that the applicant is able to conform to the standards of this section. The Zoning Administrator may require the applicant to submit, at the expense of the applicant, reports or the certified results of tests with respect to any current or proposed operation of the use that is involved in relation to conformity to such standards, which reports or test must be made by a competent laboratory or other agency.[1073]

## 4. Lighting Standards for Certain Uses[1074]

### A. Vehicle Fueling Stations and Vehicle Sales, Rental, and Service

Outdoor lighting fixtures associated with vehicle fueling stations and vehicle sales, rental, and service establishments are subject to the following:

**(1)** The following must not exceed a maintained lighting level of 30 footcandles as measured horizontally at grade. However, a higher or lower maintained lighting level, not to exceed 50 footcandles, may be specifically approved by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning:

**(a)** Vehicle fueling station canopy lighting; and

**(b)** Outdoor display area lighting used in conjunction with a vehicle sales, rental, and service establishment.

**(2)** All underside canopy lighting must consist of full cut-off fixtures.

**(3)** For the purposes of this section, outdoor display areas include all display and storage areas for vehicles offered for sale or rent and the associated travel lanes.

**(4)** A photometric plan is required for these uses in accordance with one of the following:

[1072] The allowance for translucent covers is new.
[1073] Change since 10/11/2019 draft: Carried forward from Sect. 18-604, except the provision for referring a determination to the BZA is deleted.
[1074] Carried forward from 14-903.

(a) As part of the submission of a special exception, development plan, or rezoning application, and subject to approval by the Board. The approved photometric plan must be submitted as part of a site plan submission for the use. Upon written request with justification, the Zoning Administrator may modify a submission requirement of subsection (5) below if it is determined that the requirement is not necessary for an adequate review of the photometric plan.

(b) As part of a site plan submission, or as a separate submission when site plan approval is not required, and subject to review and approval by the Director. Upon written request with justification, the Director may modify a submission requirement of subsection (5) below if it is determined that the requirement is not necessary for an adequate review of the photometric plan.

**(5)** A photometric plan must be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a State licensed professional engineer, architect, landscape architect, or land surveyor and must contain the following:

(a) Location and limits of the canopy or outdoor display area at a scale of not less than 1 inch equals fifty feet (1" = 50').

(b) Location and height of all canopy lighting and all pole, building, or ground-mounted lighting fixtures for an outdoor display area.

(c) A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixture facilities.

**(6)** If a site plan approval is not required and the plan is submitted as a separate submission, five copies of a photometric plan must be submitted to the Director for review and approval and is subject to a fee as provided for in subsection 8100.7.

## B. Outdoor Recreation Lighting Requirements[1075]

### (1) Applicability

(a) Illuminated playing fields or courts are subject to the provisions of this subsection if the fields or courts, whether as a principal or accessory use and individually or cumulatively, exceed 10,000 square feet in area, or have associated light poles that exceed 20 feet in height. Playing fields or courts include, but are not limited to, baseball/softball diamonds, soccer, field hockey, football and lacrosse fields, basketball, volleyball or tennis courts, skating rinks, horse riding rings or show areas, running tracks, swimming pools, golf driving ranges, golf courses, miniature golf courses, go-cart tracks, and baseball hitting and archery ranges. [1076]

(b) For the purposes of this subsection, the perimeter area defined in (3)(b) below must be included in the area of the playing field or court. The playing field or court must be located so that the perimeter area is on the property.

(c) Other components of playing fields or courts, such as parking lots, administrative offices, restrooms, ticket sales, concession stands, and bleachers or other

[1075] Carried forward from 14-904.

[1076] Change since 10/11/2019 draft: Added clarification that a SIP is required whether the field/court is a principal or accessory use. Relocated types of fields and courts from the definition in Article 20.

spectator viewing areas, are not subject to this subsection, but must comply with the other requirements of this section.

### (2) Sports Illumination Plan

A sports illumination plan is required in accordance with one of the following:

**(a)** As part of the submission of a special exception, special permit, development plan, or rezoning application. A sports illumination plan is subject to approval by either the BZA in conjunction with a special permit or the Board in conjunction with a special exception, development plan, or proffered rezoning and a sports illumination plan approved by the BZA or Board must be submitted as part of a site plan submission for the use. Upon a written request with justification, the Zoning Administrator may modify a submission requirement of (3) below if it is determined that the requirement is not necessary for an adequate review of the sports illumination plan.

**(b)** For a facility that is permitted by right in the zoning district in which it is located, as part of the site plan submission, or as a separate submission when site plan approval is not required. Upon a written request with justification, the Director may modify a submission requirement of (3) below if it is determined that the requirement is not necessary for an adequate review of the sports illumination plan. Such sports illumination plan is subject to review and approval by the Director.

### (3) Submittal Requirements

A sports illumination plan must be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP) or a State licensed professional engineer, architect, landscape architect, or land surveyor and must contain the following:

**(a)** The boundaries, dimensions, and total land area of the property at a designated scale of not less than one-inch equals fifty feet (1" = 50'). For proposed uses on large tracts of land where the lighted playing field or court occupies a small portion of the site, the boundaries, dimensions and total land area of just the lighted playing field or court with perimeter areas, must be provided, at a designated scale of not less than one inch equals fifty feet (1" = 50'), with a graphic that depicts the location of the fields and courts in relation to the perimeter lot lines of the entire property.

**(b)** Location and limits of playing fields and courts, to include a perimeter area which must be located entirely on the same lot. For baseball and softball fields, the perimeter area extends 40 feet in a direction perpendicular to the foul lines and away from the field. The perimeter area for rectangular playing fields, such as soccer, football, lacrosse, and field hockey, extends 20 feet from the side lines and 30 feet from the end lines. The perimeter area for tee boxes on golf courses and golf driving ranges is 30 feet. The perimeter area for all other playing fields and courts extends ten feet beyond the playing field or court boundary.

**(c)** Location, height, and illustration of each style of all pole, building, and ground-mounted lighting fixtures for the playing field or court.

**(d)** A photometric diagram showing predicted maintained lighting levels for the proposed playing field or court and associated perimeter area lighting.

### (4) Lighting Standards

**(a)** The lighting for playing fields or courts and associated perimeter areas must comply with the maximum footcandle levels indicated for the specific uses listed in Table 5109.1 below, unless a lesser limit is specifically approved by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning, or by the BZA in conjunction with the approval of a special permit. Footcandle measurements are measured horizontally three feet above grade level and must represent maintained lighting levels. The Zoning Administrator will determine maximum permitted lighting levels for outdoor recreation and sports facilities that are not listed in Table 5109.1.

**(b)** All playing field and court lighting fixtures must use full cut-off or directionally shielded lighting fixtures, aimed toward the playing field or court and shielded in directions away from the playing field or court to minimize glare and light trespass onto adjacent properties.

**(c)** Time limits for lighting of outdoor playing fields or courts that are subject to a sports illumination plan, unless other hours are specifically approved by the BZA in conjunction with the approval of a special permit, or by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning:

***1.*** For properties that are both zoned to a residential district and developed with a single-family residential use, lighting is not allowed between the hours of 10:00 p.m. and 7:00 a.m.; and

***2.*** For all other properties including but not limited to public athletic field sites, lighting is not allowed between the hours of 11:00 p.m. and 7:00 a.m.

**(d)** When site plan approval is not required and the plan is submitted as a separate submission, five copies of the plan must be submitted to the Director for review and approval and is subject to a fee as provided for in subsection 8100.7.

**TABLE 5109.1: Maximum Permitted Levels of Illumination for Outdoor Recreation and Sports Facilities**

| Facility or Use | Specific Lighted Area | Maximum Illumination Maintained (footcandles) |
|---|---|---|
| Archery range | | 10 |
| Baseball and softball | Infield | 60 |
| | Outfield | 40 |
| Baseball (professional) | Infield | 150 |
| | Outfield | 100 |
| Baseball hitting ranges | | 50 |
| Basketball, volleyball | | 30 |
| Field hockey, football, soccer, lacrosse, track & field | | 50 |
| Go-cart tracks | | 30 |
| Golf courses | Tee boxes, greens | 5 |
| | Fairways | 3 |
| Golf driving ranges | Tee boxes | 20 |
| | Fairways | 3 |
| | Greens | 5 |
| Golf, miniature | | 20 |
| Horse riding rings and show areas | | 30 |
| Ice skating, ice hockey, and roller-skating rinks | | 50 |
| Swimming pools | Pool surface | 10 |
| | Pool deck | 30 |
| Tennis courts (college and high school) | | 60 |
| Tennis courts (recreational) | | 40 |

1

# Article 6 - Parking and Loading

## 6100. Off-Street Parking

### 1. Applicability[1077]

#### A. Generally

**(1)** In any R, C, or I district, all structures built, and all uses established must provide accessory off-street parking in accordance with this Article, unless an alternative is approved for a Commercial Revitalization District under subsection 3102.3.E(2).

**(2)** In the PDH, PDC, PRC, PRM, and PCC Districts, the provisions of this Article have general application as determined by the Director.

**(3)** In the PTC District, off-street parking must be provided in accordance with Section 6102. The other provisions of this Article[1078] have general application as determined by the Director.

**(4)** For an existing use located in the Tysons Urban Center but not in the PTC District, a parking reduction is available in accordance with the following:

**(a)** An owner may voluntarily elect to reduce the number of off-street parking spaces required.

**(b)** The reduction must result in a number between what is currently approved for the site and the applicable minimum parking rate specified for the PTC District.

**(c)** This reduction is subject to the approval of a parking redesignation plan in accordance with subsection 6100.2.C(4)(b).

**(d)** This voluntary parking reduction is not available if the currently approved number of parking spaces on the site is specified by a special exception, special permit, or proffered condition.

**(5)** For the redevelopment of an existing property that includes the retention of some uses or structures and the elimination of some on-site parking during the redevelopment process, the Board, in conjunction with a rezoning or special exception, or the Director, in conjunction with a site plan, may approve a temporary reduction or relocation of the minimum required off-street parking spaces subject to a time limitation and demonstration by the applicant that adequate measures will be taken to ensure the continuation of safe and adequate use of the property.

**(6)** Parking of commercial vehicles in R districts is regulated by subsections 4102.1.B(2) and 4102.1.E(4).

[1077] Carried forward from 11-101.

[1078] Updated reference from 6-509 and 11-102. The current standards from 11-102 have been reorganized into multiple sections within this Article (location, use, adjustments, etc.).

### B. Change in Use or Expansion, or Enlargement of an Existing Structure or Use

**(1)** Off-street parking for a change in use or an expansion or enlargement of an existing structure or use must comply with the following:

**(a)** For a change in use that results in the same or lesser parking requirement than the previous use, no additional parking is required. For a change in use that results in a greater parking requirement than the previous use, the minimum off-street parking requirement established in this Article must be provided for the new use, unless a reduction is approved in accordance with 6100.5 or 6100.6.[1079]

**(b)** The expansion or enlargement of an existing structure or use must provide the minimum off-street parking requirements established by this Article for the area or capacity of such expansion or enlargement. Compliance with the minimum off-street parking requirements is not required when the expansion or enlargement is to provide an accessibility improvement.

**(2)** For special exception and special permit uses, the approving body may require compliance with this Article for the entire structure or use, as expanded or enlarged.

**(3)** The provisions of this Section 6100 do not apply to motor vehicle storage or display parking areas associated with a vehicle sales, service, and rental establishment.

## 2. Off-Street Parking Standards, Layout, and Design

### A. General Location[1080]

**(1)** All required off-street parking spaces must be located on the same lot as the structure or use to which they are accessory, except as allowed by subsections 2.E and 6.C below.

**(2)** Unless otherwise authorized in this Ordinance, parking structures and carports are subject to the minimum setback requirements applicable in the zoning district in which they are located, except parking structures that are completely underground may be located in any required setback, but not closer than one foot to any lot line.

**(3)** Unless otherwise authorized in this Ordinance or modified by the Board or BZA in accordance with 5108.5, off-street parking spaces located on the ground and open to the sky may be located in any required setback but may not be closer than ten feet to any front lot line. The following are exempt from this ten-foot minimum distance requirement:

**(a)** Parking spaces for single-family attached dwellings in parking bays; and

**(b)** Parking spaces on the same lot with single-family detached, single-family attached, and stacked townhouse dwellings, provided such spaces do not encroach into any sidewalk or trail.[1081]

**(4)** Off-street parking spaces for a structure or use permitted only in a C or I district may not be located in an R district, except with approval as a special exception by the Board as provided below.[1082]

[1079] The references to reduction processes are added for clarification.
[1080] Carried forward from Paragraphs 1 and 8 of Sect. 11-102.
[1081] Added the new stacked townhouse dwelling use.
[1082] Carried forward from Paragraph 3 of Sect. 11-102

## B. Parking in Residential Districts[1083]

**(1)** The Board may approve a special exception authorizing a property in an R district or a residential area of a P district to be used for off-street parking of motor vehicles, but only in accordance with this Article and the following:

**(a)** No fee is charged for parking purposes.

**(b)** No parking of vehicles is allowed closer to any lot line that abuts an R district or a residential area of a P district than a distance equal to the dimension of the corresponding setback of the adjacent R district or P district as required by this Ordinance.

**(2)** In the R-1, R-2, R-3, and R-4 Districts, for single-family detached dwellings on lots containing 36,000 square feet or less, all parking for vehicles or trailers in a front setback must be on a surfaced area, except for temporary parking on an unsurfaced area in a front setback for a period not to exceed 48 hours for loading, unloading, cleaning, or repair of vehicles or trailers.

**(3)** In the R-1 and R-2 Districts, no more than 25 percent of any front yard and in the R-3 and R-4 Districts, no more than 30 percent of any front yard may be surfaced area for a driveway or vehicle or trailer parking area. On a pipestem lot, the surfaced area within the pipestem driveway is not included in this limitation.[1084] In addition, these limitations may be exceeded for a surfaced area that is:

**(a)** Limited to two side-by-side parking spaces if the surfaced area is not more than 25 feet long and 18 feet wide;

**(b)** On a lot that has its primary access from a major thoroughfare and consists of two side-by-side parking spaces and a vehicular turn-around area as long as the surfaced area is not more than 25 feet long and 18 feet wide and the turn-around area does not exceed 150 square feet; or

**(c)** Provided as an accessibility improvement as approved by the Zoning Administrator.

## C. Off-Street Parking Design and Layout

**(1) Generally[1085]**

**(a)** Required off-street parking spaces and their appurtenant aisles and driveways may not be encroached upon or reduced in any manner except with approval by the Board in accordance with the provisions of this Ordinance, or except with approval by the Director in any of the following circumstances. This provision does not negate pipestem lots otherwise allowed under the provisions of 5100.2.L.

***1.*** The space may be reduced by the amount to which other space, conforming to the provisions of this Ordinance, is provided;

***2.*** The space may be reduced by an amount which is justified by a reduction in the number of required parking spaces;

[1083] Carried forward from 9-609. Change since 6/30/2020 draft: Deleted provisions that are repeated in other subsections of this Article and which apply generally.
[1084] Change since 10/11/2019 draft: This sentence was relocated here.
[1085] Carried forward from Paragraphs 7 and 10 of Sect. 11-102.

***3.*** The space may be reduced by reason of the provision of conveniently available parking space in a parking lot established by a public authority for which the developer has made payment in accordance with the provisions of subsection 6100.6.C(3); or

***4.*** The space may be reduced for an existing structure or use to provide an accessibility improvement.

**(b)** All off-street parking spaces must be provided with safe and convenient access to a street. If any space is located contiguous to a street, the street side must be curbed, and ingress and egress may be provided only through driveway openings whose dimension, location and construction is approved by the Director in accordance with the provisions of the Public Facilities Manual.

### (2) Accessible Parking[1086]

**(a)** All accessible off-street parking spaces and related access aisles and accessible routes must comply with the provisions of the USBC and the Public Facilities Manual.

**(b)** The number of accessible parking spaces must be included in the required number of parking spaces.

**(c)** Each accessible parking space must be designated as reserved for persons with disabilities by an above grade sign in conformance with the design and content specifications of the Public Facilities Manual.

### (3) Off-Street Parking Surface and Dimensional Standards[1087]

**(a)** All off-street parking areas, including aisles and driveways, except those required for single-family detached dwellings, must be constructed and maintained with a dustless surface in accordance with construction standards presented in the Public Facilities Manual. The Director may approve a modification or waiver of the dustless surface requirement in accordance with the Public Facilities Manual.

**(b)** Surfaced area includes asphalt, poured or precast concrete, brick, stone, gravel, or any other impervious surface, or grasscrete or other similar pervious surface.

**(c)** All off-street parking spaces and areas must comply with the geometric design standards presented in the Public Facilities Manual.

**(d)** All required stacking spaces must be a minimum of 18 feet in length. In addition, the geometric design of the stacking aisle(s), including but not limited to the radius and width of the travel aisle, is subject to the approval of the Director.

### (4) Off-Street Parking Area Markings[1088]

#### (a) Generally

All parking spaces, except those provided for and on the same lot with single-family detached, attached, and stacked townhouse dwellings, must be clearly

[1086] Carried forward from Par. 2 of Sect. 11-102.
[1087] Carried forward from second paragraph of Par. 8 of Sect. 11-102, Par. 11 of Sect. 11-102, and Par. 12 and 13 of Sect. 11-102.
[1088] Carried forward from Par. 12 of Sect. 11-102.

marked in accordance with the design standards set forth in the Public Facilities Manual and are subject to the approval of the Director.

**(b) Redesignation Plan**

1. Any proposal to redesignate parking space delineations that changes the existing space size, configuration, or number requires approval by the Director subject to the following:
   a. The applicant must submit a plan certified by an engineer or land surveyor authorized by the State to practice as such;
   b. The plan must show all off-street parking spaces, related driveways, loading spaces and walkways, indicating the type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by the provisions of this Article;
   c. A plan will not be approved that reduces the number of parking spaces below the minimum number required by this Article.
   d. These requirements do not apply to public commuter park-and-ride lots that use existing off-street parking spaces accessory to another use.
2. A redesignation plan to provide an accessibility improvement does not need to be certified by an engineer or land surveyor and any such plan that reduces the number of parking spaces below the minimum requirements of this Article may be approved.

**(5) Compact Car Parking Spaces[1089]**

The same or fewer number of compact car parking spaces existing as of or ~~grandfathered~~ entitled to continue under previous approvals by the Board on September 19, 1988 may be retained in accordance with the conditions of the compact car approval, provided that the total number of parking spaces on-site is not reduced, except if:

(a) The reduction is to provide an accessibility improvement; or

(b) The reduction is a result of a reduction in land area by condemnation or by acquisition for public purposes by any governmental agency.

## D. Shared Off-Street Parking[1090]

Off-street parking spaces may serve two or more uses when the total number of spaces provided equals the sum of the minimum spaces required for each separate use except as may be permitted under an approved parking reduction under 6100.5 or 6100.6 or a previously approved parking reduction based on a proffered transportation demand management program.

[1089] Carried forward from Par. 23 of Sect. 11-102
[1090] Carried forward from Par. 4 of Sect. 11-102.

### E. Off-Site Parking[1091]

Required off-street parking spaces may be located on a lot contiguous to the lot they serve subject to the following standards:

**(1)** The lot has the same zoning classification as the lot where the use it serves is established; and

**(2)** The lot is either under the same ownership or is subject to agreements or arrangements satisfactory to the Director that will ensure the continuing availability of such spaces sufficient to serve the use.

### F. Additional Parking[1092]

Additional off-street parking may be added to an existing development that met the parking requirement in effect at the time of its development, but that does not comply with the current requirements, in order to minimize the degree of current noncompliance.

### G. Use of Off-Street Parking Areas[1093]

**(1)** Required off-street parking spaces and their appurtenant aisles and driveways that are not fully used during the weekday may be used for a public commuter park-and-ride lot when established and operated in accordance with a public commuter park-and-ride lot agreement approved by the Board.

**(2)** All off-street parking facilities may only be used for the parking of vehicles in operating condition by patrons, occupants, or employees of the use to which such parking is accessory. No motor vehicle repair work except emergency service is permitted in association with any required off-street parking facilities.

## 3. Calculation of Off-Street Parking[1094]

**A.** Where a given use or building contains a combination of uses, parking must be provided on the basis of the sum of the required spaces for each use, except as may be permitted by subsection 4102.1.G for associated service uses.

**B.** When the number of spaces calculated results in a number containing a fraction, the required number of spaces will be the next higher whole number.

**C.** Where the required number of parking spaces is not identified for a particular use, and where there is no similar general type of use listed, the Zoning Administrator will determine the number of spaces required. When the amount of parking spaces required is uncertain for a proposed use, the maximum requirement for the general type of use that is involved governs.

**D.** Gross floor area is determined in accordance with the gross floor area definition, except that:

**(1)** Outdoor display and sales area and areas within a cellar not used exclusively for storage or for mechanical equipment is included as gross floor area; and

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[1091] Carried forward from Paragraph 1 of Sect. 11-102.
[1092] Carried forward from Par. 24 of Sect. 11-102
[1093] Carried forward from Paragraphs 4 and 9 of Sect. 11-102
[1094] Carried forward from Paragraphs 16, 17, 18, 19, 21, and 25 of Sect. 11-102. Statement describing calculations on an employee or person basis was not carried forward since that is specified in the parking table.

**(2)** Mall areas in shopping centers of less than 1,000,000 square feet of gross floor area, calculated as the sum of all floors in the mall, measured from the interior faces of the walls of the mall, are excluded from gross floor area.

**E.** Electric vehicle charging spaces in accordance with subsection 4102.7.F are included in the required number of parking spaces.[1095]

## 4. Minimum Required Off-Street Vehicle Parking Spaces[1096]

### A. Table of Required Parking Spaces

**TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces**

| Use | Minimum Parking Requirement |
|---|---|
| **AGRICULTURAL AND RELATED USES** | |
| **Agricultural and Related Uses** | |
| Agricultural Operation | No minimum requirement |
| Farm Winery, Limited Brewery, or Limited Distillery | When by right: No minimum requirement[1097]<br>When by SE: Based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking[1098]. |
| Stable, Riding or Boarding | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces to accommodate employees, horse trailers, students, customers, and guests anticipated to be on-site at any one time, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand. |
| **RESIDENTIAL USES** | |
| **Household Living** | |
| Dwelling, Multifamily | 1.6 spaces per unit |
| Dwelling, Single-Family Attached | 2.7 spaces per unit where only 1 such space is required to have convenient access to the street |
| Dwelling, Single-Family Detached and Accessory Living Unit | 2 spaces per unit for lots with frontage on a public street and 3 spaces per unit for lots with frontage on a private street, where only 1 such space is required to have convenient access to a street<br>Accessory living unit (administrative permit): 1 additional space[1099] |
| Dwelling, Stacked Townhouse | 2.3 spaces per unit where only 1 such space is required to have convenient access to the street[1100] |
| Group Residential Facility | Applicable rate for the dwelling unit type |

[1095] Change since 6/30/2020 draft: Added for clarification.
[1096] Carried forward from Sections 11-103, 11-104, 11-105, and 11-106. The uses are updated based on the use tables in new Article 4, with new uses assigned the currently used rate from the LDS Land Development table, previous zoning applications, or the most similar rate when there isn't a current rate. Change since 6/30/2020 draft: For rates that reference employees, added the clarification "per major shift."
[1097] Change since 6/30/2020 draft: Corrected rate to indicate that there is no minimum requirement for this use or other by-right agritourism uses that are exempt from site plan and building permit processes.
[1098] Change since 10/11/2019 draft: Rather than applying the rate for craft beverage production establishment/commercial recreation restaurant as was determined with a previous application for this use, the rate would now be subject to Director review and determination. Change since 6/30/2020 draft: Removed Director determination, as the determination would be made as a part of the special exception review and approval.
[1099] Change since 6/30/2020 draft: Added a parking space requirement for accessory living units.
[1100] Change since 10/11/2019 draft: Added language "where only 1 such space is required to have convenient access to the street."

## TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|---|
| Live-Work Development | Applicable office rate or as reduced by the Board |
| Manufactured Home | 1.5 spaces per unit |
| **Group Living** | |
| Congregate Living Facility | 1 space per 3 residents, plus 1 additional space for each employee on major shift |
| Group Household | See subsection 4102.3.G[1101] |
| Religious Group Living | 1 space per 2 sleeping accommodations based on the occupancy load of the building, plus 1 additional space for each manager or employee on major shift |
| Residence Hall | 1 space per guest accommodation |
| **PUBLIC, INSTITUTIONAL, AND COMMUNITY USES** | |
| **Community, Cultural, and Educational Facilities** | |
| Adult Day Support Center[1102] | 1 space per 4 adults, based on the maximum number of adults licensed to attend the center, or other amount as the Board may require as part of an approved rezoning or special exception |
| Alternate Use of Public Facility | See most similar use |
| Child Care Center | Maximum daily enrollment of 99 children or less: 0.19 spaces per child<br>Maximum daily enrollment of 100 or more children: 0.16 spaces per child |
| Club, Service Organization, or Community Center | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |
| College or University | Determined by the Director based on 1 space per faculty and staff member and other full-time employee on major shift, plus a sufficient number of spaces to accommodate the anticipated number of students and visitors who will drive to the institution at any one time, including consideration of the occupancy load of all classroom facilities, auditoriums and stadiums, the availability of mass transportation, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand.[1103] |
| Community Swim, Tennis, and Recreation Club | **Community Pool**: 1 space for every 7 persons lawfully permitted in the pool at one time, plus 1 space per employee on major shift. The Director may reduce this standard based on the number of members who are within a reasonable walking distance of the pool.<br>**Tennis Club:** 4 spaces per court, plus required spaces for affiliated uses, such as restaurants.<br>**Recreation Club without swimming or tennis:** determined by the Director |
| Convention or Conference Center | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |
| Cultural Facility or Museum | 1 space per 300 square feet of gross floor area |
| Public Use | Determined by the Director based on the number of spaces required to accommodate employees, public use vehicles anticipated to be on-site at any one time, visitor parking, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand. The number of spaces required for government office use may not be less than that required for office.<br>**Library:** 7 spaces per 1,000 square feet of gross floor area<br>**Park:** See Quasi-Public Park, Playground, or Athletic Field<br>**School:** See School, Private |
| Religious Assembly | 1 space per 4 seats in the principal place of worship |

[1101] This references a new special permit standard for the BZA to require a sufficient number of spaces for to accommodate the parking needs of residents and staff.
[1102] Change since 6/30/2020 draft: This new use has been given the most similar parking rate, which is the adult day care parking rate.
[1103] Revised to allow the Director's determination to be based on all factors.

## TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|---|
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | The sum of the parking requirements for each use |
| School, Private | Determined by the Director based on the occupancy load of all classroom facilities, auditoriums and stadiums, proposed special education programs, and student-teacher ratios, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand; but in no instance less than:<br>**Elementary or Intermediate:** 1 space per faculty and staff member and other full-time employee on major shift, plus 4 spaces for visitors; or<br>**High School:** 0.3 space per student, based on the maximum number of students attending classes at any one time |
| Specialized Instruction Center | 2 spaces per each 3 employees on major shift, plus a sufficient number of spaces to accommodate all persons anticipated to be on-site at any one time under normal operating conditions. |
| **Funeral and Mortuary Services** | |
| Cemetery | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking. |
| Crematory | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Funeral Home | 1 space per 4 seats in the main chapel or parlor, plus 1 space per 2 employees on major shift, plus 1 space for each vehicle used in connection with the business |
| **Health Care** | |
| Adult Day Care Center | 1 space per 4 adults, based on the maximum number of adults licensed to attend the center, or other amount as the Board may require as part of an approved rezoning or special exception |
| Continuing Care Facility | 0.75 spaces per separate unit or bed approved on the development plan |
| Independent Living Facility | 1 space per 4 dwelling units, plus 1 space per 1 employee or staff member on major shift, or such greater number as the Board may require |
| Medical Care Facility | **Hospital:** 2.9 spaces per bed licensed by the State, plus additional or fewer spaces as deemed necessary based on specific analysis for each site.<br>**Institution providing intensive special medical or mental care:**<br>1 space per 2 patients, based on the occupancy load, plus 1 space per employee or staff member on major shift<br>**Assisted Living or Nursing Facility:** 1 space per 3 residents, plus 1 additional space for each employee |
| **Transportation** | |
| Airport | 1 space per employee on major shift, plus 1 space for each vehicle used in connection with the facility, plus sufficient space to accommodate the largest number of vehicles anticipated to be on-site at any one time |
| Helipad | A minimum of 5 spaces for commercial helistops and a minimum of 2 spaces for non-commercial helistops |
| Transit Facility | No minimum requirement, or as determined by the Board or Director |
| **Utilities** | |
| Solar Power Facility | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle |
| Utility Facility, Heavy | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle[1104] |
| Utility Facility, Light | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle[1105] |
| Wireless Facility | No minimum requirement |

[1104] Carried forward from "public utility establishment" parking standard.
[1105] Carried forward from "public utility establishment" parking standard.

## TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|---|
| **COMMERCIAL USES** | |
| **Animal-Related Services** | |
| Animal Shelter | **5,000 square feet of gross floor area or less:** 10 spaces<br>**Greater than 5,000 square feet of gross floor area:** 10 spaces; plus additional spaces as determined by the Director, based on the number of spaces required to accommodate employees and visitors anticipated to be on-site at any one time. Gross floor area does not include any outdoor exercise or dog run area that is enclosed by a roof or fencing material. |
| Kennel | **5,000 square feet of gross floor area or less:** 10 spaces<br>**Greater than 5,000 square feet of gross floor area:** 10 spaces; plus additional spaces as determined by the Director, based on the number of spaces required to accommodate employees and visitors anticipated to be on-site at any one time. Gross floor area does not include any outdoor exercise or dog run area that is enclosed by a roof or fencing material. |
| Pet Grooming Establishment | 1 space per 200 square feet of gross floor area |
| Veterinary Hospital | **5,000 square feet of gross floor area or less:** 10 spaces<br>**Greater than 5,000 square feet of gross floor area:** 10 spaces; plus additional spaces as determined by the Director, based on the number of spaces required to accommodate employees and visitors anticipated to be on-site at any one time. Gross floor area does not include any outdoor exercise or dog run area that is enclosed by a roof or fencing material. |
| **Food and Lodging** | |
| Bed and Breakfast | 2 spaces per single-family dwelling, where only 1 such space is required to have convenient access to a street; plus 1 space per guest room |
| Catering | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Hotel or Motel | 1 space per rental unit, plus 4 spaces per 50 rental units, plus required spaces for restaurants, assembly rooms, and affiliated facilities as determined by the Director. |
| Restaurant | Unless otherwise provided in subsection 6100.4.D:<br>**Gross floor area of less than 5,000 square feet:** 10 spaces per 1,000 square feet and 10 spaces per 1,000 square feet of outside seating area in excess of 20 outdoor seats.<br>**Gross floor area of more than 5,000 square feet:** 11 spaces per 1,000 square feet and 11 spaces per 1,000 square feet of outside seating area in excess of 32 outdoor seats.<br>Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces. |
| Restaurant, Carryout | Unless otherwise provided in subsection 6100.4.D:<br>6.5 spaces per 1,000 square feet of gross floor area[1106] |
| Restaurant with Drive-Through | Unless otherwise provided in subsection 6100.4.D:<br>**Gross floor area of less than 5,000 square feet:** 12 spaces per 1,000 square feet, plus 12 spaces per 1,000 square feet of outside seating area in excess of 20 outdoor seats.<br>**Gross floor area of more than 5,000 square feet:** 12 spaces per 1,000 square feet, plus 12 spaces per 1,000 square feet of outside seating area in excess of 32 outdoor seats.<br><br>**Stacking spaces:** 11 for the drive-through window, with a minimum of 5 spaces designated for the ordering station. Such spaces must be designed to not impede pedestrian or vehicular circulation on the site or on any abutting street.<br><br>Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces. |
| Retreat Center | 1 space per rental unit, plus 4 spaces per 50 rental units, plus required spaces for restaurants, assembly rooms, and affiliated facilities as determined by the Director. |

[1106] The prohibition on counting designated curb-side pickup spaces toward the minimum required parking is not carried forward.

## TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|---|
| **Office and Financial Institutions** | |
| Alternative Lending Institution | 4 spaces per 1,000 square feet of gross floor area |
| Drive-Through Financial Institution | 4 spaces per 1,000 square feet of gross floor area for customer service, lobby, and teller area, plus additional space as required for any associated offices.<br>Stacking spaces: 8 in front of the first window and 2 in front of each additional window; except that 5 may be permitted in front of each of the first 2 windows, provided that both windows remain open when the drive-through facility is operational. |
| Financial Institution | 4 spaces per 1,000 square feet of gross floor area for customer service, lobby, and teller area, plus required spaces for any associated offices |
| Office | **50,000 square feet of gross floor area or less:** 3.6 spaces per 1,000 square feet<br>**Greater than 50,000 but less than 125,000 square feet of gross floor area:** 3 spaces per 1,000 square feet<br>**125,000 square feet of gross floor area or more:** 2.6 spaces per 1,000 square feet<br>The size of the office building is based on the definition of gross floor area as set forth in Article 9. Where more than one office building is located on a lot, gross floor area is based on each individual building and not on the total gross floor area of all buildings on the lot. Gross floor area as qualified in Subsection 6100.3 is used to determine the required number of parking spaces.<br>Buildings connected by structures such as atriums, awnings, breezeways, carports, garages, party walls, or plazas are not considered one building. |
| Office in a Residential District | 3.6 spaces per 1,000 square feet |
| **Personal and Business Services** | |
| Business Service | 1 space per 300 square feet of gross floor area |
| Household Repair and Rental Service | 1 space per 200 square feet of gross floor area |
| Massage Therapy Establishment | 1 space per 200 square feet of gross floor area |
| Personal Service | 1 space per 200 square feet of gross floor area |
| **Recreation and Entertainment** | |
| Banquet or Reception Hall | 1 space per 3 persons based on the occupancy load; plus 1 space per employee on major shift |
| Campground | As determined by the Board or BZA |
| Commercial Recreation, Indoor[1107] | **Generally:** 1 space per 3 persons based on the occupancy load; plus 1 space per employee on major shift<br>**Bowling Alley:** 4 spaces per alley, plus 1 space per employee on major shift, plus such additional spaces as may be required herein for affiliated uses such as restaurants<br>**Commercial Swimming Pool:** 1 space per 4 persons lawfully permitted in the pool at one time, plus 1 space per employee on major shift<br>**Theater:** 0.3 space per seat or similar vantage accommodation |
| Commercial Recreation, Outdoor | **Generally:** 1 space per 3 persons based on the occupancy load plus 1 space per employee on major shift<br>**Swimming Pool, Commercial:** 1 space per 4 persons lawfully permitted in the pool at one time, plus 1 space per employee on major shift |
| Entertainment, Adult | 0.3 space per seat |
| Entertainment, Public | 1 space per 3 persons based on the occupancy load, plus one space per employee on major shift |
| Golf Course or Country Club | 1 space per 4 members based on maximum anticipated membership |
| Health and Exercise Facility, Large | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |

[1107] Retained the individual parking standards for each use type that was consolidated in the "commercial recreation, indoor" and "outdoor" use types.

## TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|---|
| Health and Exercise Facility, Small | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |
| Marina, Commercial | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces required to accommodate employees of the greatest shift, visitor parking, maximum number of members and the number of boat slips. |
| Marina, Private Noncommercial | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces required to accommodate employees of the greatest shift, visitor parking, maximum number of members and the number of boat slips. |
| Quasi-Public Park, Playground, or Athletic Field[1108] | **Neighborhood Parks:**<br>Determined by the Director based on access to the park and the walking distance to the park from the surrounding development; the location of the park and the density of the surrounding development served; and the type and size of the proposed recreation uses or facilities.[1109]<br><br>**Urban Parks**: No parking is required, provided such parks consist of urban style plazas, miniparks, and greenways, including trails, located within, contiguous to, or immediately across the street from urban, suburban and community business centers as defined in the plan, are oriented to pedestrian or bicycle use by the resident work force and adjacent residents, and provide open space and pedestrian oriented amenities.<br><br>**Community, District, Countywide and Regional Parks:**<br>As determined by the Director, based on the parking requirements for the most similar type of use or facility set forth herein. |
| Smoking Lounge | 1 space per 3 persons based on the occupancy load; plus 1 space per employee on major shift |
| Stadium or Arena | 0.3 space per seat or similar vantage accommodation |
| Zoo or Aquarium | As determined by the Board or BZA |
| **Retail Sales** | |
| Convenience Store | 6.5 spaces per 1,000 square feet of gross floor area<br>Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces |
| Drive-Through, Other | As required for the most similar use, plus 5 stacking spaces in front of each drive-through window |
| Drive-Through Pharmacy | 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet, plus 5 stacking spaces in front of each drive-through window |
| Drug Paraphernalia Establishment | 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet |
| Garden Center | **Commercial Districts:** 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet<br>**Residential Districts:** 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet, plus 1 space per 500 square feet of outdoor sales/display area to include greenhouses used for the sales/display of plant materials, plus 1 space per employee on major shift and company/commercial vehicle and sufficient space for the parking of any related equipment for landscape contracting services as an accessory component; or as modified by the Board based on the specific characteristics of the garden center use such as the size, scale, or type of accessory uses, when it is demonstrated that fewer parking spaces would adequately serve the site. |

[1108] Did not carry forward language explaining the characteristics of neighborhood parks.
[1109] The tennis court rate is not carried forward as it would be included in the rate determined by the Director.

## TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|---|
| Pawnshop | 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet |
| Retail Sales, General | **Generally:** 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet<br>**Furniture or Carpet Store:** 1 space per 500 square feet of net floor area, plus 1 space for each employee on major shift |
| Retail Sales, Large | **Generally:** 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet<br>**Furniture or Carpet Store:** 1 space per 500 square feet of net floor area, plus 1 space for each employee on major shift |
| **Vehicle-Related Uses** | |
| Car Wash | 4 spaces per bay or stall; plus 1 space per employee for a self-service establishment, or 1 space per employee on major shift, plus sufficient area for 10 stacking spaces per bay or stall for an automated establishment |
| Commercial Off-Street Parking | No minimum requirement |
| New Vehicle Storage | No minimum requirement |
| Truck Rental Establishment | 1 space per 500 square feet of enclosed sales and rental floor area, plus 1 space per 2,500 square feet of open sales and rental display lot area, plus 1 space per employee on major shift, but never less than 5 spaces. When the enclosed office, sales, and rental area or employees are shared with another use for which parking has been provided, only the open sales and rental display area is required to be separately parked. |
| Vehicle Fueling Station[1110] | 2 spaces per service bay, plus 6.5 spaces per 1,000 square feet of gross floor area devoted to the retail use, but never less than 5 spaces |
| Vehicle Repair and Maintenance, Heavy | 2 spaces per service bay, plus 1 space per employee on major shift |
| Vehicle Repair and Maintenance, Light | 1 space per 200 square feet of net floor area, plus 2 spaces per service bay, plus 1 space per employee on major shift |
| Vehicle Sales, Rental, and Service | 1 space per 500 square feet of enclosed sales and rental floor area, plus 1 space per 2,500 square feet of open sales and rental display lot area, plus 2 spaces per service bay, plus 1 space per employee on major shift, but never less than 5 spaces |
| Vehicle Transportation Service | Based on the size and maximum number of company vehicles stored on-site with a minimum of 1 space per 1 employee on major shift, plus 1 space per company vehicle stored on-site. |
| **INDUSTRIAL USES** | |
| **Freight Movement, Warehousing, and Wholesale Distribution** | |
| Data Center | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle[1111] |
| Freight Distribution Hub | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Goods Distribution Hub | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Self-Storage | 3.2 spaces per 1,000 square feet of gross floor area of office space associated with the use plus 1 space per employee on major shift, and 2 spaces for a resident manager. The width of travel aisles for vehicular access and loading and unloading are subject to the approval of the Director |

[1110] Combined service station and service station/mini-mart, which had different parking rates. This proposed rate uses the rate associated with service station/mini-mart, but with the minimum of five spaces from the service station rate.

[1111] Change since 6/30/2020 draft: This parking rate was revised to base the number of required parking spaces on the number of employees per major shift rather than occupancy.

## TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|---|
| Warehouse | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Wholesale Facility | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| **Industrial Services and Extraction of Materials** | |
| Building Materials Storage and Sales | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Contractor's Office and Shop | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Extraction Activity | As determined by the BZA |
| Petroleum Products Storage Facility | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | 1 space per 500 square feet of enclosed sales and rental floor area, plus 1 space per 2,500 square feet of open sales and rental display lot area, plus 2 spaces per service bay, plus 1 space per employee on major shift, but never less than 5 spaces |
| Storage Yard | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Vehicle Storage or Impoundment Yard | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| **Production of Goods** | |
| Craft Beverage Production Establishment | 1 space per 4 seats where seating is at tables, plus 1 space per 2 seats where seating is at a counter, plus 1 space per 2 employees. This rate applies to outdoor seating in excess of 20 outdoor seats for an establishment with a gross floor area of less than 5,000 square feet, or to outdoor seating in excess of 32 outdoor seats for an establishment with a gross floor area of 5,000 square feet or more[1112] |
| Production or Processing | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Production or Processing, Heavy | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Small-Scale Production Establishment | **C-3, C-4, C-5, C-6, C-7, C-8, PDH, PDC, PRM, and PRC Districts:** 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment, but with a minimum of 1 space per 1,000 square feet of gross floor area<br>**I-3 District:** 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| **Waste and Recycling Facilities** | |
| Junkyard | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Mixed Waste Reclamation Facility | 1 space per 1 employee on major shift, plus 1 space per company vehicle |
| Recycling Center | 1 space per 1 employee on major shift, plus 1 space per company vehicle |

[1112] The same allowance for outdoor seating for restaurants is added for craft beverage production

| TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces | |
|---|---|
| **Use** | **Minimum Parking Requirement** |
| Solid Waste Disposal Facility | 1 space per 1 employee on major shift, plus 1 space per company vehicle |

## B. Shopping Centers[1113]

### (1) Parking Requirement Calculation

The off-street parking requirement established in Table 6100.2, applies to all uses in a shopping center, except that the following uses must comply with the standards established in Table 6100.1:

**(a)** Office uses;

**(b)** Any restaurant or restaurant with drive-through establishment that exceeds 5,000 square feet of gross floor area; and

**(c)** Hotels.

| TABLE 6100.2: Shopping Center Minimum Required Off-Street Vehicle Parking Spaces | |
|---|---|
| **Shopping Center Size [1]** | **Minimum Parking Requirement** |
| ≤100,000 square feet gross floor area | 4.3 spaces per 1,000 square feet of gross floor area [2] |
| >100,000 but ≤400,000 square feet gross floor area | 4 spaces per 1,000 square feet of gross floor area [2] |
| >400,000 but ≤800,000 square feet gross floor area | 4.8 spaces per 1,000 square feet of gross floor area [2] |
| >800,000 square feet gross floor area | 2.5 spaces per 1,000 square feet of gross floor area [3] |

**Notes:**
[1] The size of the shopping center is based on the definition of gross floor area as set forth in Article 9, and includes any gross floor area devoted to offices, restaurants, restaurants with drive-through, and hotels. The gross floor area calculation as qualified in Subsection 6100.3 is used to determine the required number of parking spaces.
[2] Theaters must provide an additional 0.3 spaces for each seat beyond 2,000 seats.
[3] Theaters must provide an additional 6 spaces for each 100 seats beyond 750 seats.

### (2) Outdoor Seating

Parking is not required for outdoor seating that is accessory to a restaurant, restaurant with drive-through, or craft beverage production establishment, up to a maximum of 20 outdoor seats for an establishment with a gross floor area of less than 5,000 square feet, and up to a maximum of 32 outdoor seats for an establishment with a gross floor area of 5,000 square feet or more. Parking is required for outdoor seating that exceeds the number of seats stated above, based on the square footage of the excess seating in accordance with the applicable parking requirements for such uses.

### (3) Drive-Through and Curb-Side Pickup

**(a)** Stacking spaces must be provided for those uses that have drive-through facilities.

[1113] Carried forward from Par. 23 or Sect. 11-104. Did not carry forward references to shopping center in current Par. 9 or Sect. 11-104 "outdoor seating." These standards are already addressed in the parking table under "restaurant" and "restaurant with drive-through." Change since 10/11/19 draft: Parking rates for shopping centers revised per adoption of Ordinance ZO-19-484 effective 12/4/19. Also, new headings for outdoor seating and drive-through and curb-side pickup provided for clarity.

**(b)** Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces and cannot be located in any fire lane[1114].

## C. Transit Station Areas[1115]

For any development within an area designated in the Comprehensive Plan as a Transit Station Area, the following minimum off-street parking spaces are required:

**TABLE 6100.3: Transit Station Area Minimum Required Off-Street Vehicle Parking Spaces**

| Use | Minimum Parking Requirement |
|---|---|
| Dwelling, Multifamily and Stacked Townhouse[1116] | 0 or 1 bedroom: 1.3 spaces per unit<br>2 bedrooms: 1.5 spaces per unit<br>3 or more bedrooms: 1.6 spaces per unit |
| Office | 0 to 0.25 miles from a metro station entrance along an accessible route: 2 spaces per 1,000 square feet of gross floor area<br>More than 0.25 miles from a metro station entrance along an accessible route: 2.3 spaces per 1,000 square feet gross floor area |
| All other commercial uses, except restaurants[1117] | 80 percent of the parking rate established in Table 6100.1 |
| All other uses | As established in Table 6100.1 |

## D. Restaurants

**(1)** Where the standards in subsection A above require additional parking for a restaurant, carryout restaurant, or restaurant with drive-through, the following are ~~grandfathered~~entitled to continue under previous approvals:

**(a)** Special exceptions, rezonings, and parking reductions that were approved before January 24, 2018, when such approvals contain a specific parking rate or minimum number of parking spaces, and any building permits and site plans submitted pursuant to such special exceptions, rezonings, and parking reductions. Amendments to these special exceptions or rezonings may be approved, provided that, if any new uses or expansions increase seating capacity, parking will be calculated for the entire establishment based on the Zoning Ordinance rates in effect at the time of submission unless a parking reduction is approved by the Board.

**(b)** Applications for Building Permits, parking tabulations, and site plans submitted on or before January 24, 2018, provided: (a) the permit is issued, or the tabulation or plan is approved within twelve months of submission or the return of the initial submission to the applicant or agent; (b) the permit, tabulation, or plan remains valid; (c) building permits for the structures shown on the approved plan are issued; and (d) the structures and uses are constructed in accordance with the

[1114] Change since 10/11/2019 draft: the prohibition in a fire lane has been added.
[1115] Carried forward from 11-107. Did not carry forward reference for restaurant standards since those are based on the master parking standards (and thereby covered by the "all other uses" reference).
[1116] Stacked townhouses have been added based on current interpretation.
[1117] With the use of classifications, this standard will now exclude "wholesale facility," which will now fall under the Industrial classification, and it will include "truck rental establishment" and "hotel or motel," which are included in the Commercial classification.

building permits, tabulations, and plans. Revisions to the permit, tabulation, or plan may be approved provided that, if any new uses or expansions increase seating capacity, parking will calculated for the entire establishment based on the Zoning Ordinance rates in effect at the time of submission.

**(c)** Eating establishments and fast food restaurants lawfully existing on January 24, 2018, or ~~grandfathered~~ entitled to continue pursuant to subsection (b) above, regardless of changes in ownership or tenant layout; however, any expansion or enlargement of the eating establishment or fast food restaurant that increases seating capacity will require parking to be calculated for the entire establishment at the Zoning Ordinance rates in effect at the time of submission.

**(2)** The definitions for restaurant, carryout restaurant, and restaurant with drive-through in this Ordinance will be applied to rezoning, final development plan, and special exception applications approved before January 24, 2018, as follows:

**(a)** If approved for an eating establishment, it will be recognized as a restaurant;

**(b)** If approved for fast food with a drive-through, it will be recognized as a restaurant with drive-through;

**(c)** If approved for fast food without a drive-through and with more than eight seats, it will be recognized as a restaurant; and

**(d)** If approved for fast food without a drive-through and with eight or fewer seats, it will be recognized as a carryout restaurant.

## 5. Parking Reductions Authorized by the Director

**A.** Shared parking reductions authorized by the Director are subject to the following:

**(1)** The Director may, subject to appropriate conditions, reduce by up to 30 percent the total number of parking spaces required by the strict application of this Article when the applicant has demonstrated to the Director's satisfaction that:

**(a)** Fewer spaces than those required will adequately serve two or more uses by reason of the sum of the hourly parking demand of such uses; and

**(b)** The reduction will not adversely affect the site or the adjacent area.

**(2)** Reductions may not be approved if:

**(a)** There is a pending rezoning, special exception, or proffered condition amendment application for the site;

**(b)** There is a Residential Permit Parking District within 1,000 feet of the subject site; or

**(c)** The number of parking spaces on the site is specified by an approved proffered condition, special exception, special permit, or a parking reduction approved by the Board, unless the approval allows such administrative reductions.

**(3)** Any reduction not meeting the requirements for approval by the Director under this subsection may be approved by the Board in accordance with subsection 6100.6 below.

**B.** For a use where the minimum number of required parking spaces is provided on-site in accordance with this Article, but additional off-site parking may be desired, the Director may, subject to appropriate conditions, approve the use of a portion of an adjacent site's required parking spaces based on the sum of the hourly parking demand of such uses when the

applicant has demonstrated that the use of such spaces will not adversely affect the site or the adjacent area.[1118]

**C.** The Director may, subject to appropriate conditions, reduce the total number of parking spaces required by the strict application of this Article for a religious assembly with a private school, specialized instruction center, or child care center if the Director determines that fewer spaces will adequately serve all the uses on-site by reason of the sum of the hourly parking demand for the uses.

**D.** The Director may, subject to appropriate conditions, reduce the total number of parking spaces required by the strict application of this Article for a religious assembly by up to 50 percent when generally located within 500 feet of any public parking lot or any commercial parking lot where sufficient spaces are available by permission of the owner(s) without charge, during the time of services to make up the additional spaces required.

## 6. Off-Street Parking and Stacking Alternatives Authorized by the Board

### A. Shared Parking Reductions

The Board may, subject to appropriate conditions, reduce the total number of parking spaces required when the applicant has demonstrated to the Board's satisfaction that:

**(1)** Fewer spaces than those required by this Article will adequately serve two or more uses by reason of the sum of the hourly parking demand of such uses; and

**(2)** The reduction will not adversely affect the site or the adjacent area.

### B. Transit-Related Parking Reduction[1119]

**(1)** The Board may reduce the number of required off-street parking spaces, subject to appropriate conditions, when a proposed development is within:

**(a)** Reasonable walking distance to a mass transit station that either exists or is programmed for completion within the same time frame as the completion of the subject development;

**(b)** An area designated in the Comprehensive Plan as a Transit Station Area;

**(c)** Reasonable walking distance to an existing transportation facility consisting of a streetcar, bus rapid transit, or express bus service or such a facility that is programmed for completion within the same timeframe as the completion of the subject development and will provide high-frequency service; or

**(d)** Reasonable walking distance to a bus stop(s) when service to this stop(s) consists of more than three routes and at least one route serves a mass transit station or transportation facility and provides high-frequency service.

**(2)** A reduction may be approved when the applicant has demonstrated that the spaces proposed to be eliminated are unnecessary based on the projected reduction in the parking demand resulting from its proximity to a mass transit station, transportation facility, or bus service, and the reduction will not adversely affect the site or the

[1118] Change since 6/30/2020 draft: Relocated from subsection 2.G.
[1119] Carried forward from Par. 5 of Sect. 11-102.

adjacent area, including potential impacts on existing overflow parking in nearby neighborhoods.

**(3)** For the purposes of this provision, a determination regarding the completion time frame for a mass transit station or transportation facility must include an assessment of the funding status for the transportation project.

## C. Off-Site Parking[1120]

### (1) Generally

The Board, acting upon a specific request, may authorize an alternative off-site parking location if practical difficulties exist or if the public safety or public convenience would be better served, subject to conditions the Board deems appropriate in addition to the following:

**(a)** Required spaces will be subject to agreements or arrangements satisfactory to the Board that will ensure the continuing availability of the spaces sufficient to serve the use; and

**(b)** The applicant must demonstrate to the Board's satisfaction that the required space is generally located within 500 feet walking distance of a building entrance to the use that the space serves; or

**(c)** The spaces will be provided off-site with access via a valet or shuttle service subject to agreements or arrangements approved by the Board that will ensure the operation of such service and that no adverse impacts will result on the site of the parking spaces or the adjacent area; or

**(d)** Required spaces will be accommodated in accordance with the provisions of subsection (2) below.

### (2) Commercial Revitalization Districts

In a Commercial Revitalization District, the Director may approve an alternative location in accordance with subsection 6.C(1) above and the provisions of the Commercial Revitalization District. [1121]

### (3) Community Business Centers[1122]

Within areas designated as Community Business Centers on the Comprehensive Plan, the Board may waive the requirement that all required off-street parking spaces be located on the same lot or on a contiguous lot, provided the following conditions are met:

**(a)** The developer submits an application to the Director stating the circumstances that make it impractical to meet the requirements of this Article;

**(b)** The developer agrees to pay to the County a sum for each space so eliminated, such sum to be set by the Board in an annually adopted schedule;

**(c)** The County has plans for the erection of a public parking facility in the immediate area of the request; and

[1120] Carried forward from Par. 1 of Sect. 11-102.
[1121] Carried forward from the last paragraph of Par. 1 of Sect. 11-102.
[1122] Carried forward from Par. 6 of Sect. 11-102.

(d) The County has provided for the development of such parking, at a time and in a quantity sufficient to meet the needs of the applicant's proposed use.

### D. Stacking Spaces[1123]

The Board may reduce the total number of stacking spaces required when it has been conclusively demonstrated that circumstances, site design, or location do not warrant the number of spaces required and that the reduction will not adversely affect pedestrian or vehicular circulation on the site or on any abutting street.

### E. Hotel, Conference, or Convention Center in Proximity to an Airport[1124]

For a hotel, conference, or convention center in proximity to an airport, the Board may, subject to appropriate conditions, reduce the total number of off-street parking spaces otherwise required when it is warranted by a parking study, submitted by the applicant, that demonstrates that a reduction is justified based on actual parking usages at existing developments which are comparable in use and location.

### F. Nonresidential Uses Within the Lake Anne Commercial Revitalization Area[1125]

The minimum off-street parking requirements for any nonresidential use within the Lake Anne Commercial Revitalization Area as designated by the Board may be reduced by 20 percent by the Board when that applicant demonstrates and the Board that the reduction is in furtherance of the goals of the Area as set forth in the Comprehensive Plan. Such request may also be considered in conjunction with a rezoning or special exception application. The fee for a parking reduction is not applicable.

### G. Other Parking Reductions[1126]

For reductions that are not eligible for consideration under other provisions of this Ordinance, the Board may, subject to appropriate, reduce the total number of parking spaces required when the applicant has demonstrated to the Board's satisfaction that, due to the unique characteristics of the proposed use(s), the spaces proposed to be eliminated for the site are unnecessary and such reduction in parking spaces will not adversely affect the site or the adjacent area.

# 6101. Off-Street Loading

## 1. Applicability

### A. Within the R, C, or I Districts

All structures and uses established after the effective date of this Ordinance must provide accessory off-street loading spaces in accordance with this section.

[1123] Carried forward from Par. 20 of Sect. 11-102.
[1124] Carried forward from Par. 27 of Sect. 11-102.
[1125] Carried forward from Par. 28 of Sect. 11-102.
[1126] Carried forward from Par. 26 of Sect. 11-102.

### B. Within the PDH, PDC, PRC, PRM and PCC Districts

The provisions of this section have general application as determined by the Director.

### C. Within the PTC District

Off-street loading must be provided in accordance with Section 6102, and the provisions of this section may be used as a guide.

### D. Expansion or Enlargement of an Existing Structure or Use

When an existing structure or use is expanded, accessory off-street loading spaces must be provided in accordance with the following minimum requirements for the entire structure or use, as expanded or enlarged.

## 2. General Provisions

**A.** All required off-street loading spaces must be located on the same lot as the use served; however, the Director may waive such location requirement when the required off-street loading spaces are provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Director.

**B.** Required off-street loading spaces and their appurtenant aisles and driveways may not be encroached upon or reduced in any manner except with approval by the Director in accordance with the following circumstances:

**(1)** The space may be reduced by the amount to which other space, conforming to the provisions of this Ordinance, is provided for the use that is involved;

**(2)** The space may be reduced in an amount which is justified by a reduction in the need by reason of a reduction in size or change in the nature of the use; or

**(3)** The space may be reduced for an existing structure or use to provide an accessibility improvement.

**C.** Loading spaces must be located at least 40 feet from the nearest point of intersection of the edges of the travelway or the curbs of any two streets.

**D.** Loading spaces may not be located in a required front setback.

**E.** Required off-street loading areas may not be used to satisfy the space requirement for any off-street parking facilities.

**F.** Loading areas must not interfere with the free circulation of vehicles in any off-street parking area.

**G.** No motor vehicle repair work, except emergency service, is permitted in association with any required off-street loading facility.

**H.** All off-street loading spaces must be provided with safe and convenient access to a street. If any such space is located contiguous to a street, the street side must be curbed, and ingress and egress may be provided only through driveway openings whose dimension, location, and construction is approved by the Director in accordance with the provisions of the Public Facilities Manual.

**I.** All off-street loading areas, including aisles and driveways, are required to be constructed and maintained with a dustless surface in accordance with construction standards presented in

the Public Facilities Manual; however, the Director may approve a modification or waiver of the dustless surface requirement in accordance with the Public Facilities Manual.

**J.** All off-street loading areas must comply with the geometric design standards as may be defined by Land Development Services; but the required dimensions may not be less than 15 feet wide, 25 feet long and 15 feet high, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to, and not separated from such first loading space need not be wider than 12 feet.

**K.** Where a given use or building contains a combination of uses, loading facilities must be provided on the basis of the sum of the required spaces for each use.

**L.** If there is uncertainty with respect to the amount of loading space required by the provisions of this Ordinance as a result of an indefiniteness as to the proposed use of a building or land, the maximum requirement for the general type of use that is involved governs.

**M.** Uses for which off street loading facilities are required by this Article, but which are located in buildings that have a gross floor area that is less than the minimum above which off street loading facilities are required, must be provided with adequate receiving facilities as determined by the Director.

**N.** Where the required number of loading spaces is not set forth for a particular use, and where there is no similar type of use listed, the Zoning Administrator will determine the basis of the number of spaces to be provided.

## 3. Minimum Required Off-Street Loading Spaces

Minimum off-street loading spaces accessory to the listed uses must be provided in accordance with the following Tables; however, in no instance may more than five off-street loading spaces be required for a given use or building except as may be determined by the Director:

**TABLE 6101.1: Minimum Required Loading Space Categories**

| Standard Categories | Minimum Loading Space Requirement |
|---|---|
| Standard A | 1 space for the first 5,000 square feet of gross floor area, plus 1 space for each additional 30,000 square feet or major fraction thereof |
| Standard B | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 15,000 square feet or major fraction thereof |
| Standard C | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 20,000 square feet or major fraction thereof |
| Standard D | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 25,000 square feet or major fraction thereof |
| Standard E | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 30,000 square feet or major fraction thereof |
| Standard F | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 100,000 square feet or major fraction thereof |
| Standard G | 1 space for the first 25,000 square feet of gross floor area, plus 1 space for each additional 100,000 square feet or major fraction thereof |

## TABLE 6101.2: Minimum Required Loading Spaces

| Use[1127] | Minimum Loading Space Requirement |
|---|---|
| Business Service | Standard C |
| College or University | Standard F |
| Commercial Recreation, Indoor | Standard F |
| Congregate Living Facility | Standard F |
| Continuing Care Facility | One space for the first 25,000 square feet of gross floor area plus one space for each additional building consisting of more than 100,000 square feet of gross floor area, except as may be modified by the Director |
| Dwelling, Multifamily | Standard G |
| Financial Institution or Drive-Through Financial Institution | Standard C |
| Funeral Home | Standard F |
| Hotel or Motel | Standard F |
| Household Repair and Rental Service | Standard C |
| Independent Living Facility | Standard F |
| Massage Therapy Establishment | Standard C |
| Medical Care Facility[1128] | Standard F |
| Mixed Waste Reclamation Facility | Standard A |
| Office | Standard C |
| Personal Service | Standard B |
| Private School | Standard F |
| Production or Processing | Standard A |
| Restaurant, Restaurant with Drive-Through, Carryout Restaurant | Standard D |
| Retail Sales | Standard B |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | Standard A |
| Vehicle Repair and Maintenance, Light | Standard B |
| Vehicle Repair and Maintenance, Heavy | Standard A |
| Vehicle Sales, Rental, and Service | Standard A |
| Warehouse | Standard A |
| Wholesale Facility | Standard E |

1

[1127] The uses have been updated to correspond to the new Article 4.

[1128] Previously specified "hospital," and "nursing, convalescent, assisted living" and now applies to all medical care facilities

# 6102. PTC District – Off-Street Parking and Loading [1129]

## 1. Parking Plan

**A.** The number of off-street parking and loading spaces provided for the development in the PTC District must be established with the approval of a parking plan that is accompanied by an application for rezoning to the PTC District.

**B.** At a minimum, the parking plan must identify:

**(1)** The appropriate parking rates as set forth below;

**(2)** Include the number and general location of all off-street parking, loading, and stacking spaces;

**(3)** The general location of all ingress and egress points to all parking facilities;

**(4)** A statement regarding how the proposed number of loading spaces is adequate to serve the proposed uses within the development;

**(5)** A justification of shared parking arrangements among uses when a reduction from the minimum parking requirements, if applicable, for such uses is proposed;

**(6)** A description of any planned valet parking, tandem parking, or shuttle arrangements that will be implemented for the proposed use(s) and how such spaces or shuttles will be managed; and

**(7)** A statement regarding how the proposed number of parking spaces addresses the goals of the Tysons Urban Center, particularly with regard to achievement of the transportation demand management (TDM) goals set forth in the Comprehensive Plan.

**C.** Where parking is to be provided in phases in accordance with a phased development proposal, the parking plan must provide the information set forth above for each proposed phase.

**D.** A parking plan must be developed in accordance with the following; however, the Board may reduce the minimum off-street parking requirements when the applicant demonstrates and the Board determines that the reduction furthers the goals of the Tysons Urban Center:

**(1)** The amount of off-street parking for single-family attached, stacked townhouse, multifamily, hotel, motel, and office uses are based on the minimum and maximum spaces per unit or spaces per 1,000 square feet of gross floor area as follows:

**TABLE 6102.1: Minimum and Maximum Required Off-Street Vehicle Parking Spaces**

| Use | Per unit or 1,000 square feet of gross floor area | Less than 1/8 mile to Metro Station Entrance* (TOD District) | | 1/8 to 1/4 mile to Metro Station Entrance* (TOD District) | | More than 1/4 to 1/2 mile to Metro Station Entrance* (TOD District) | | Non-TOD Districts | |
|---|---|---|---|---|---|---|---|---|---|
| | | Min. | Max. | Min. | Max. | Min. | Max. | Min. | Max. |
| Single-Family Attached | Space(s) per unit | 1.75 | 2.2 | 1.75 | 2.2 | 2.0 | 2.5 | 2.0 | 2.7 |
| Stacked Townhouse[1130] | | 1.5 | 1.9 | 1.5 | 1.9 | 1.7 | 2.1 | 1.7 | 2.3 |

[1129] Relocated from PTC regulations, Sect. 6-509.
[1130] Added new stacked townhouse use.

| TABLE 6102.1: Minimum and Maximum Required Off-Street Vehicle Parking Spaces | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Use | Per unit or 1,000 square feet of gross floor area | Less than 1/8 mile to Metro Station Entrance* (TOD District) | | 1/8 to 1/4 mile to Metro Station Entrance* (TOD District) | | More than 1/4 to 1/2 mile to Metro Station Entrance* (TOD District) | | Non-TOD Districts | |
| Multifamily | | | | | | | | | |
| 0-1 bedroom | | 1.0 | 1.3 | 1.0 | 1.3 | 1.1 | 1.4 | 1.1 | 1.4 |
| 2 bedrooms | | 1.0 | 1.6 | 1.0 | 1.6 | 1.35 | 1.7 | 1.35 | 1.7 |
| 3+ bedrooms | | 1.0 | 1.9 | 1.0 | 1.9 | 1.6 | 2.0 | 1.6 | 2.0 |
| Hotel/Motel | Spaces per 1,000 square feet of gross floor area | none | 1.0 | none | 1.0 | none | 1.05 | 0.85 | 1.08 |
| Office | | none | 1.6 | none | 2.0 | none | 2.2 | 2.0 | 2.4 |
| * As set forth in the Comprehensive Plan | | | | | | | | | |

**(2)** For uses not specifically listed above, the minimum parking space requirements set forth in Subsection 6100.3.E apply as follows:

**(a)** In the Transit Oriented Development (TOD) Districts, no minimum number of parking spaces is required, and the rates established serve as the maximum number of parking spaces permitted. In a multistory structure, the first 5,000 square feet of gross floor area located on the ground or street level for the following uses are not included in the calculation of required parking: retail, personal service, business service, convenience store, restaurant, carryout restaurant, or restaurant with drive-through.

**(b)** In the Non-TOD Districts, the minimum number of parking spaces required is based on 75 percent of the specified rates established and the maximum number of parking spaces permitted is based on 110 percent of such specified parking rates.

**(3)** The applicant must demonstrate to the Board's satisfaction that the number of off-street parking spaces is not in excess of the TDM goals identified in the Comprehensive Plan and must satisfy such TDM goals in a manner acceptable to the Department of Transportation.

**(4)** In a phased development proposal, the Board may approve the provision of parking for later phases of the development in an earlier phase when it is demonstrated that such additional parking in the early phase(s) is necessary due to construction requirements or in furtherance of the objectives of the Comprehensive Plan. Additionally, when an existing use is proposed to be retained as an interim use, the parking accessory to such interim uses must generally conform to the rates set forth above. In all cases set forth above, parking at the build-out phase of the development must conform to the total number of spaces approved for the entire development.

**E.** It is intended that a substantial portion of the provided parking and loading spaces should be provided in above or below grade parking structures.

**F.** In determining the number of loading spaces provided, the provisions of Subsection 6101.3, may be used as a guide.

**G.** Subsequent to an approved parking plan, no additional parking is required for a change in use, provided the mix of uses is in substantial conformance with the approved final development plan.

**H.** Parking approved by the Board in accordance with such parking plan may be provided on the lot that contains the use for which the parking is accessory or on a different lot from such use. When provided on a different lot that is not under the same ownership as the lot that contains the use for which the parking is accessory, the applicant must submit evidence that the right to use or develop such parking has been granted by such owner(s) to ensure the permanent availability of such spaces. Additionally, tandem, valet, and shuttle parking may be permitted as part of an approved parking plan, in accordance with this section.

## 2. Special Exception for Increase in Parking

**A.** The Board may approve a special exception to allow an increase in parking in the PTC District above the parking maximums set forth above when the applicant has demonstrated to the Board's satisfaction that the proposed uses cannot be adequately served by the combination of allowed parking, transit access, shared parking arrangements and similar factors, but may only be approved in accordance with the following:

**(1)** The increase in the number of parking spaces does not hinder or preclude the achievement of the Transportation Demand Management (TDM) goals for the property or the Tysons Urban Center, as set forth in the Comprehensive Plan; and

**(2)** The design of a parking structure necessitates the construction of additional parking;

**(3)** The applicant is proposing a use with unique parking needs to justify an increase in the parking rate;

**(4)** The need for an increase in parking is the result of a change in previously approved shared parking, valet, or shuttle arrangements;

**(5)** The applicant proposes a single phase development that will precede the operation of mass transit opportunities, such as metro, circulator bus or other features that are planned to serve the Tysons Urban Center; or

**(6)** Other circumstances whereby the proposed use(s) cannot be adequately served by the number of parking spaces permitted above.

**B.** All off-street parking approved under this special exception may be administered by an entity established to manage the additional parking, which may include the imposition of parking fees, controlled access to such parking, and any other operational management methods that are necessary to ensure satisfaction of the TDM goals for the property and the Tysons Urban Center. Additionally, the Board may impose any conditions on the approval of a special exception for an increase in parking in the PTC District, which may include the establishment of a requirement that the need for such additional parking will be reevaluated within a specified period of time, based on changes in development patterns, uses, or other factors in and around the application property.

# Article 7 - Signs

## 7100. General Provisions[1131]

### 1. Purpose[1132]

The purpose of this Article is to regulate all signs placed for viewing by the public to:[1133]

A. Improve, promote, and protect the public health, safety, convenience, and general welfare;

B. Protect against danger in travel and transportation by reducing distractions and hazards to pedestrian and automobile traffic;

C. Ensure that the First Amendment right to free speech is protected;

D. Protect property values;

E. Facilitate travel by identifying locations;

F. Protect and enhance the aesthetic character of the various communities in the County; and

G. Further the stated purpose and intent of this Ordinance.

### 2. Applicability[1134]

A. This Article applies to all signs located in Fairfax County and are in addition to any applicable provisions of Chapter 61 of the County Code (Buildings), and Title 33.2, Chapter 7, of the Code of Virginia. These regulations do not apply to property owned by, or those signs required or sponsored by the United States or the State. Furthermore, subsection 7100.4, Minor Signs, does not apply to property owned by Fairfax County, the Fairfax County Park Authority, or Fairfax County Public Schools.

B. These regulations do not regulate or restrict signs by content. However, some signs, such as off-premise signs and warning signs, have a targeted function that makes their regulation impossible without referring to the function. In these limited instances, the governmental interest is compelling enough to warrant their description and regulation, and whenever a sign is described in a manner that refers to function, this Article is intended to be neutral with respect to the content of the speech appearing on it.

C. A non-commercial message may be substituted, in whole or in part, for any other message displayed on any sign that conforms to this Article without consideration of message content.[1135]

D. All signs are deemed to be accessory uses as defined in Article 9, and must be associated with a principal use and, unless otherwise stated, located on the same lot as its principal use.

E. Nothing in this Article excuses any person from compliance with all other applicable regulations, statutes or ordinances.

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[1131] Carried forward from Part 1, 12-100.
[1132] Carried forward from 12-101.
[1133] Did not carry forward “promote traffic safety” because it is already covered by item B in this list.
[1134] Carried forward from 12-103.
[1135] Currently located at the end of the applicability section. Moved this paragraph to immediately follow the other content-based provision.

**F.** This Article does not apply to any sign placed in a public right-of-way and does not authorize or prohibit placement of any sign there.

**G.** The following signs approved before March 20, 2019, that do not conform to this Ordinance may remain and are subject to the provisions in subsection 7100.6:

**(1)** Permanent building-mounted signs and freestanding signs approved with a building permit and any required, corresponding sign permit; and

**(2)** Permanent freestanding signs located on property owned by Fairfax County, the Fairfax County Park Authority, or Fairfax County Public Schools.[1136]

## 3. Administrative Provisions[1137]

### A. Sign Permit Required

**(1)** Except where otherwise noted in this Article, no sign may be constructed, erected, altered, refaced, relocated, or expanded without a sign permit.

**(2)** The application for a sign permit must be filed with the Zoning Administrator on a County form, must include all pertinent information required by the Zoning Administrator to ensure compliance with this Ordinance, and must be accompanied by the filing fee set forth in Section 8102.

**(3)** All signs must comply with this Article, the structural requirements specified in the USBC, Chapter 61 of the County Code, and all other applicable standards in this Ordinance.[1138]

**(4)** A sign permit expires if the sign is not erected and all necessary final inspection(s) are not approved within 12 months from the date of issuance.

### B. Sign Permit Not Required

**(1)** The following are not deemed to be a sign:

**(a)** The changing of the message on an allowed sign that is specifically designed for the use of replaceable copy, to include changeable copy signs and electronic display signs in accordance with subsection 7101.1.A below;

**(b)** Painting, cleaning, and other routine maintenance and repair of a sign or sign structure;

**(c)** Flags, subject to subsection 4102.7.A(16)~~,~~;[1139]

**(d)** The display of address numbers as required by the County Code, and entrance numbers not exceeding a total of two square feet in area. When displayed on a residential building, any numbering must be mounted flush against the building; and

[1136] Change since 10/11/2019 draft: Incorporated from part of Par. 1 of the provisions relating to previous approvals for ZO-19-479. The remaining provisions relate to previous approvals.
[1137] Carried forward from 12-104.
[1138] Added "all other applicable standards in this ordinance" to capture other development standards, including outdoor lighting which was separated from the performance standards in this draft.
[1139] Change since 11/24/2020 draft: Deleted the maximum of three/lot and added the reference to the new subsection on flags and flagpoles.

(e) Temporary, seasonal decorations.

(2) The following are deemed to be a sign but are not counted toward maximum allowed sign area:

(a) Signs not exceeding a total of four square feet in area warning the public against hunting, fishing, swimming, trespassing, dangerous animals, the location of utilities, or other similar risks, or a warning of prohibited activity such as no parking or loading in a specified area.

(b) Signs located on the outer surfaces of a temporary portable storage container.

(c) Vehicle signs, when the vehicle is operable and is parked at its associated place of business within a designated parking space.

(d) Lettering or numbers permanently attached to or painted on the façade of a building of any school, college, or university; such displays are limited to no more than ten percent of the area of the façade on which they are placed and cannot be illuminated.

(e) Signs, erected by a public agency or appropriate organization in partnership with the Board, located within or in proximity to the Commercial Revitalization District boundaries or activity centers as shown on the Comprehensive Plan. Such signs are subject to approval by the Board and all applicable outdoor advertising provisions of the Code of Virginia.

### C. Sign Condition, Safety, and Abandonment

(1) All signs and their components must be maintained in good repair and in safe condition.

(2) The Building Official or designated agent may require or cause the immediate removal or repair, without written notice, of any sign determined to be unsafe or that otherwise poses an immediate threat to the safety of the public. If action by the County is necessary to render a sign safe, the cost of removal or repair will be at the expense of the property owner or lessee as provided in Chapter 61 of the County Code.

(3) Except as provided in subsections 7100.4 and 7100.6 below, if a property becomes vacant and is unoccupied for a continuous period of two years, any sign on that property is deemed abandoned and must be removed. If the owner fails to remove the sign, the Zoning Administrator may give the owner 15 days written notice to remove it, after which the Zoning Administrator may initiate action to gain compliance.

## 4. Minor Signs[1140]

The following minor signs are allowed but may not be illuminated, and, unless otherwise stated, do not require a sign permit:

A. Signs posted by or under the direction of any public or court officer in the performance of official duties, or by trustees under deeds of trust, deeds of assignment, or other similar instruments. These signs must be removed no later than ten days after the last day of the period for which they are displayed.

B. Signs that are displayed on a lot or property that is actively marketed for sale, rent, or lease, as follows:

[1140] Carried forward from 12-105.

**(1)** A single building-mounted or freestanding sign is allowed, except that two signs are permitted on a corner lot when each sign faces a different street frontage. Such sign(s) must be removed within seven days of the settlement, rental, or lease of the property.

**(2)** Sign(s) located on a property developed with, or planned for development of, a single-family detached or attached dwelling unit. Such signs may not exceed six square feet in area or a height of six feet.

**(3)** Sign(s) located on a property developed with, or planned for development of, a multiple family dwelling unit. Such signs may not exceed 12 square feet in area or a height of eight feet.

**(4)** Sign(s) located on a property developed with, or planned for development of, any nonresidential use, or on a residential property containing a minimum of 20 acres. Such signs may not exceed 32 square feet in area or a height of eight feet.

**C.** Signs during active construction or alterations to residential, commercial, and industrial buildings are permitted, as follows:

**(1)** For a new nonresidential development, or for a new residential development containing a minimum of three dwelling units, one sign is allowed, not to exceed 60 square feet in area and a height of ten feet.[1141] For such new developments located on multiple road frontages, one additional sign per street frontage is allowed, limited to 32 square feet in area and a height of eight feet. No sign may be located closer than five feet to any lot line. All signs must be removed within 14 days following completion of the construction of the development, as determined by the Zoning Administrator, and no sign may be displayed for more than two years from the date of the issuance of the first building permit for the development. If construction has not been completed within this timeframe and building permits are active for the development, a sign permit is required to allow the continued display of any sign.

**(2)** For an individual single-family dwelling unit undergoing construction, improvement, or renovation, one sign, not to exceed four square feet in area or a height of four feet is allowed. No sign can be displayed before commencement of the improvement or renovation work, and the sign must be removed within seven days after the improvement or renovation is completed with all necessary inspections approved, or within six months, whichever is less.

**D.** Yard signs on any lot developed with a residential use cannot exceed 12 square feet in total area, with no single sign exceeding four square feet in area or a height of four feet.

**E.** For nonresidential uses, minor signs are permitted as follows:

**(1)** For nonresidential uses located on a lot with frontage on a major thoroughfare, building-mounted and freestanding minor signs are allowed, not to exceed 32 square feet in total sign area per lot. If freestanding, no more than two such signs are allowed per lot with a maximum height of four feet.

**(2)** For all other nonresidential uses, building-mounted and freestanding minor signs are allowed, not to exceed 24 square feet in total area per lot. If freestanding, no more than two such signs are allowed per lot with a maximum height of four feet.

[1141] This is a clarification to apply current policy for a minimum of three dwelling units in order to have this construction signage.

**F.** Window signs for any nonresidential use are allowed if the total area of all signs does not cover more than 30 percent of the total area of the window in which the signs are located.

**G.** For nonresidential uses, a single A-frame sign not to exceed 16 square feet in area and four feet in height is allowed. Such sign must be located within 25 feet of a building or designated site entrance that provides access to the use and may not impede pedestrian or vehicular traffic.

## 5. Prohibited Signs[1142]

The following signs are prohibited in all zoning districts and areas of the County.

### A. General Prohibitions

**(1)** Any sign not expressly permitted in this Article.

**(2)** Any sign that violates any provision of any county, state, or federal law or regulation.

**(3)** Any sign that violates any provision of Chapter 61 of the County Code and the USBC.

### B. Prohibitions Based on Materials or Design

**(1)** Any sign that does not meet the performance standards for outdoor lighting set forth in Section 5109.

**(2)** A moving or windblown sign, not including changeable copy or electronic display sign, the hands of a clock, or a weather vane.

**(3)** Any sign displaying flashing or intermittent lights, or lights of changing degrees of intensity of color, or that is not in accordance with subsection 7101.1.

### C. Prohibitions Based on Location

**(1)** Any off-premise commercial sign when displayed 12:01 PM Monday through 11:59 AM Friday. At all other times, an off-premise commercial sign is only allowed for display when it conforms to the provisions of subsection 7100.4.E.

**(2)** Roof signs, except for signs located on a penthouse or screening wall, as provided for in subsection 7101.3.B below.

**(3)** Any sign that obstructs a window, door, fire escape, stairway, ladder, opening, or access intended for light, air, ingress to, or egress from, a building.

**(4)** Any sign located on a corner lot that is in violation of subsection 5100.2.D(4).

**(5)** Any sign that is found to be in violation of the USBC with respect to minimum clearance.

**(6)** Any sign that, due to its location, size, shape, or color, may obstruct, impair, interfere with the view of, or be confused with, any traffic control sign, signal, or device erected by a public authority or where it may interfere with, mislead, or confuse traffic. Such signs are subject to immediate removal and disposal by an authorized County official as a nuisance.

[1142] Carried forward from 12-106.

# 6. Nonconforming Signs[1143]

## A. Nonconforming Sign Status Determination

**(1)** Signs lawfully existing on the effective date of this Ordinance or prior ordinances, that do not conform to this Ordinance, and signs that are accessory to a nonconforming use, are deemed to be nonconforming signs and may remain except as qualified below.[1144]

**(2)** The property owner bears the burden of establishing the nonconforming status of a sign and of the existing physical characteristics and location of a sign. Upon notice from the Zoning Administrator, a property owner must submit verification that a sign was lawfully existing at the time of erection. Failure to provide verification is cause to remove the sign or bring it into compliance with this Article.

**(3)** The ownership of the sign or the property on which the sign is located does not affect the nonconforming status of the sign.

## B. Modification of Nonconforming Signs, Generally

**(1)** Except as provided for in a Commercial Revitalization District, nonconforming signs cannot be enlarged, extended, or structurally reconstructed or modified in any manner; except that a sign face may be changed if the new face is equal to or reduced in height or sign area from the existing sign.[1145]

**(2)** Nothing in this subsection prevents keeping a nonconforming sign that is in good repair; however, no nonconforming sign may be repaired, rebuilt, or restored if the Building Official has declared it unsafe, as provided for in subsection 7100.3 above unless the repair, rebuilding, or restoration results in a sign that conforms to this Article.

## C. Relocation or Reconstruction of Nonconforming Sign

**(1)** Nonconforming signs may not be moved on the same lot, or to any other lot, unless the change in location results in a sign that conforms to this Article.

**(2)** When a nonconforming sign is removed, any sign erected later must conform to this Article, except as provided for in a Commercial Revitalization District.

**(3)** A nonconforming sign that is destroyed or damaged by any casualty to an extent of 50 percent or less of its appraised value, may be restored within two years after the destruction or damage, but may not be enlarged in any manner. If a sign is destroyed or damaged to an extent more than 50 percent of its appraised value, it cannot be reconstructed unless it results in a sign that conforms to this Article.

**(4)** A nonconforming sign must be removed if the structure to which it is accessory to is demolished or destroyed by more than 50 percent of its appraised value. A nonconforming sign subject to removal under this provision must be removed within 30 days following written notice by the Zoning Administrator to the owner of the property. If the owner fails to comply with this notice the Zoning Administrator may initiate action to gain compliance with this Article.

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[1143] Carried forward from 12-107.

[1144] Second half of this paragraph was moved to subsection B(1), modification of nonconforming signs.

[1145] Relocated from second half of 12-107.1.

### D. Replacing Nonconforming Sign with Conforming Sign

A nonconforming sign that is changed to or replaced by a conforming sign will no longer be deemed nonconforming, and any new sign must conform to this Article.

### E. Abandoned Sign

#### (1) Determination of Abandonment and Removal

If a nonconforming sign is located on property that becomes vacant and is unoccupied for a period of at least two years, the sign is deemed abandoned and the owner of the property must remove it.

#### (2) County-Initiated Removal

If the owner fails to remove an abandoned sign, the Zoning Administrator may give the owner 30 days' written notice to remove it, except as otherwise provided in subsection 7100.3 above. If the owner fails to comply with the notice, the Zoning Administrator may enter onto the property and remove the sign. Such removal may be accomplished with the assistance of any agent designated by the Zoning Administrator or hired by the County for such purpose, and, the Zoning Administrator may charge the cost of removal to the property owner.

#### (3) Other Remedies

The Zoning Administrator may initiate legal action in court for an injunction or other appropriate remedy requiring the owner to remove an abandoned nonconforming sign.

## 7. Sign Measurement[1146]

### A. Calculation of Sign Area[1147]

#### (1) When Based on Building Frontage

(a) Building frontage is the linear width of the wall taken at a height no greater than ten feet above grade.

(b) On buildings with a single tenant or with multiple tenants that access the building through a common outside entrance, building frontage is the face or wall that is architecturally designed as the front of the building and that contains the main public entrance, as determined by the Zoning Administrator.

(c) On buildings with more than a single tenant where each tenant has its own outside entrance, building frontage for each tenant is the wall that contains that tenant's main public entrance, as determined by the Zoning Administrator.

[1146] New subsection heading.
[1147] Carried forward from 12-201.

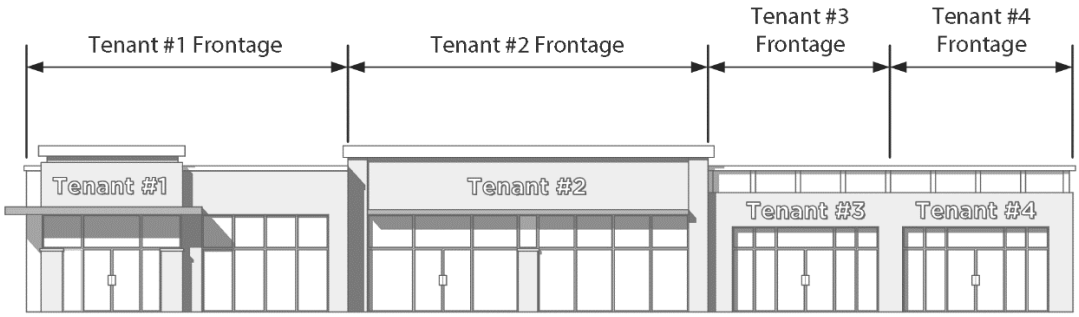



Figure 7100.1: Multi-Tenant Sign Frontages

### (2) Building-Mounted Sign Area

**(a)** Building-mounted sign area is that area within a single continuous rectilinear perimeter of not more than eight straight lines intersecting at right angles, that encloses the outer limits of all words, representations, symbols, and pictorial elements, together with all material, color, and lighting forming an integral part of the display or used to differentiate the sign from the background against which it is placed.




Figure 7100.2: Measuring Building-Mounted Sign Area

**(b)** The area of building-mounted signs composed of individual letters or symbols is calculated by using one of the following methods:

***1.*** If the space between the proposed individual letters or symbols is less in dimension than the width of the largest letter or symbol, sign area is calculated in accordance with subsection (2)(a) above.

***2.*** If the space between the proposed individual letters or symbols is greater than the width of the largest letter or symbol, sign area is calculated as the total combined area of rectangular enclosures surrounding each individual letter or symbol.

### (3) Freestanding Sign Area

#### (a) Generally

The supports, uprights, or structure on which any freestanding sign is supported are not included in calculating sign area unless they form an integral background of the display, as determined by the Zoning Administrator; however, when a sign is placed on a fence, wall, or other similar structure that is designed to serve a

separate purpose other than to support the sign, the area of such structure is not included in the sign area. In such cases, the sign area is calculated in accordance with subsection (2)(a) above.

### (b) Multi-Faced Signs

The area of a freestanding sign designed with more than one sign face is calculated as follows:

1. If the sign faces are separated by an interior angle of 45 degrees or more, all sign faces are calculated in the sign area.
2. If the sign faces are separated by an interior angle that is less than 45 degrees, sign area is calculated based on the area of the largest single face.

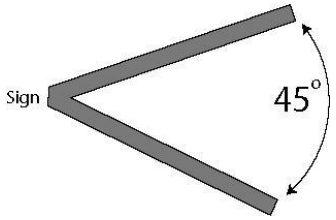



**Figure 7100.3: Measuring Multi-faced Sign Angle**

3. If the sign faces are parallel to one another, the following applies:
   a. The area of the largest single face is used when the interior distance between the faces is 18 inches or less.
   b. The area of the largest single face and the area of the side or interval between faces is used when the interior distance between the faces is greater than 18 inches.

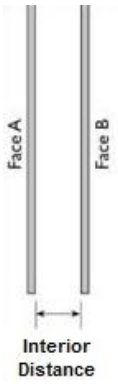



**Figure 7100.4: Measuring Parallel Sign Face Area**

## B. Calculation of Sign Height for Freestanding Signs

The height of a freestanding sign is calculated as the maximum vertical distance from the uppermost extremity of a sign and its support, to the lowest point of the adjacent grade.

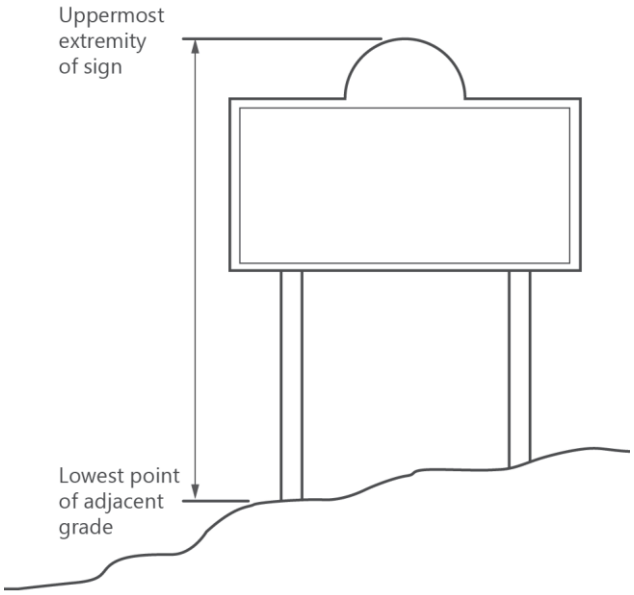



**Figure 7100.5: Measuring Height of Freestanding Signs**

# 7101. Sign Regulations by Use and District[1148]

## 1. Standards Applicable to Signs in All Districts[1149]

### A. Changeable Copy and Electronic Display Signs

Changeable copy and electronic display signs are allowed as part of any freestanding sign, in accordance with the following:

**(1)** Only one changeable copy or electronic display sign is allowed per lot. The area of the changeable copy or electronic display may not exceed more than 50 percent of the maximum allowable area of that freestanding sign.

**(2)** The message or copy of an electronic display sign may not move or change more frequently than once every eight seconds. The change of message or copy must be instantaneous without rolling, fading, or otherwise giving the illusion of movement, nor flash or vary in brightness.

**(3)** The background of the sign face of an electronic display sign may not be white, off-white, gray or yellow in color.[1150]

**(4)** Electronic display signs must include a photocell to control brightness and automatically dim at sunset to a nighttime level of 40-100 nits.

[1148] Carried forward from Part 2, 12-200.
[1149] These standards were relocated from performance standards in the residential districts (12-203) and the commercial and industrial districts (12-205) since the standards are the same for both.
[1150] Added "gray" to assist with enforcement of the various shades of white and off-white.

### B. Sign Illumination

Illumination of signs must conform to the performance standards for outdoor lighting as set forth in Section 5109.

### C. Associated Service Uses[1151]

Each associated service use permitted in accordance with Article 4 of this Ordinance is allowed a single building-mounted sign not to exceed 15 square feet in area, which is calculated as part of the total allowable building-mounted sign area for the building.

## 2. Signs in Residential Districts[1152]

### A. Signs Allowed in Residential Districts

The following signs are allowed with approval of a sign permit in a residential district:[1153]

**(1)** In a single-family residential subdivision or for a stacked townhouse or multifamily development, a freestanding sign is allowed at each major entrance, not to exceed 30 square feet in area or eight feet in height. More than one sign may be placed at each major entrance but the total of all signs at a single entrance cannot exceed 30 square feet in area.

**(2)** A rental office for a stacked townhouse or multifamily development is allowed one building-mounted or freestanding sign not to exceed four square feet in area and a height of four feet.

**(3)** Agricultural uses on a lot at least 20 acres in size are allowed a total of 60 square feet of sign area. No single sign can exceed 30 square feet in area or a height of eight feet.

**(4)** Hospitals, as follows:

- **(a)** A single building-mounted sign for each building entrance, not to exceed 50 square feet in area.
- **(b)** A single freestanding sign at each entrance, not to exceed 80 square feet in area or 12 feet in height.

**(5)** All other nonresidential uses, including public uses, congregate living facilities, religious group living, and residence halls, are allowed building-mounted and freestanding signs in accordance with the following:

- **(a)** Building-mounted signs may not exceed 50 square feet in total area.
- **(b)** A single freestanding sign may not exceed 40 square feet in area or eight feet in height.

**(6)** The Board, in approving a rezoning or special exception, or the BZA, in approving a special permit, may further limit the size, location, height, type, and duration of any sign for the land uses in subsections (3), (4), and (5) in furtherance of subsection 8100.3.D(2) or subsection 8100.4.D(2), as applicable.

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[1151] Relocated from 12-206. Fueling station standards were relocated to the commercial and industrial section.
[1152] Carried forward from 12-202. Change since 11/24/2020 draft: Added the new use stacked townhouse to subsections (1) and (2); clarified what is currently interpreted to be allowed signage under subsection (5); clarified the types of limitations on signage that may be imposed by the Board or BZA.
[1153] Did not carry forward "as accessory to residential or nonresidential land uses."

### B. Performance Standards for Signs in Residential Districts[1154]

#### (1) Building-Mounted Signs

Building-mounted signs must be installed flush against the wall and may not extend above or beyond the perimeter of the wall or roof of the building to which they are attached.

#### (2) Freestanding Signs

Freestanding signs may not be located closer than five feet to any property line.

## 3. Signs in Commercial and Industrial Districts[1155]

### A. Signs Allowed in Commercial and Industrial Districts

The following signs are allowed with approval of a sign permit within a commercial district, including the commercial area of a P district or nonresidential[1156] uses located in a mixed-use building or development; or within an industrial district:

#### (1) Building-Mounted Signs

**(a)** For buildings with a single tenant or with multiple tenants that access the building by one or more common outside entrances, signs are limited to one and one-half square feet of sign area per linear foot of building frontage for each of the first 100 linear feet of building frontage, plus one square foot of sign area for each additional linear foot of building frontage. No single sign may exceed 200 square feet in area.

**(b)** For buildings with more than a single tenant where each tenant has its own outside entrance, signs are limited to one and one-half square feet of sign area for each linear foot of building frontage occupied by each tenant, except as provided for in subsection 7102.1 below. The maximum sign area for any single tenant may not exceed 200 square feet.

**(c)** A single tenant with building frontage that results in an allowable sign area greater than 200 square feet and that occupies an area with more than one perimeter wall containing a main public entrance may place up to a maximum of 200 square feet of total sign area on each such perimeter wall. The combined sign area on any such wall must not exceed one and one-half times the length of the wall.

**(d)** In addition to sign area allowed in accordance with subsections (a), (b), and (c) above, hospitals are allowed a single building-mounted sign for each building entrance. No such sign may exceed 50 square feet in area.

#### (2) Freestanding Signs

Freestanding signs are allowed as follows, unless limited by subsection (3) below:

**(a)** In a commercial district, a use may have one freestanding sign up to 80 square feet in area and 20 feet in height. The use must be located on a lot that has frontage on

[1154] Carried forward from 12-203.
[1155] Carried forward from 12-204.
[1156] Current ordinance says “commercial.”

a primary highway or on a major thoroughfare and not located on the same lot as a shopping center.

**(b)** In an industrial district, a single freestanding sign not to exceed 80 square feet in area and 20 feet in height may be erected for each building that has frontage on a major thoroughfare. If one tenant occupies a group of separate buildings with frontage on a major thoroughfare, then that tenant is allowed only one freestanding sign.

**(c)** A hospital is allowed one freestanding sign at each entrance, provided no such sign exceeds 80 square feet in area or 12 feet in height.

**(d)** Shopping centers are allowed one freestanding sign, not to exceed 80 square feet in area or 20 feet in height. If a shopping center has frontage on two or more major thoroughfares, then such shopping center may have a maximum of two freestanding signs.

**(e)** For office and industrial complexes:[1157]

***1.*** One freestanding sign is allowed at each major entrance to an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, not to exceed 40 square feet in area or a height of 20 feet.

***2.*** One freestanding sign is allowed for each detached building that houses a principal use within an office or industrial complex, not to exceed 30 square feet or a height of eight feet.

### (3) Within a Sign Control Overlay District

The following regulations apply to uses located on commercially and industrially zoned land located within a Sign Control Overlay District; where applicable, these regulations supersede subsection (2) above:

**(a)** A single tenant or building on a lot may have one freestanding sign if the lot has frontage on a primary highway or major thoroughfare and the single tenant or building is not located on the same lot as a shopping center. Such sign may not exceed 40 square feet in area or a height of 20 feet.

**(b)** A shopping center is allowed one freestanding sign not to exceed 40 square feet in area or a height of 20 feet.

### (4) Signs Related to Vehicle Fueling Stations[1158]

The following are permitted in addition to the signs allowed in this subsection A:

**(a)** Vehicle fueling stations[1159] are permitted one additional square foot of sign area to be displayed on each fuel pump.

**(b)** Motor vehicle fuel price signs required by Article 4 of Chapter 10 of the Code of Virginia.

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[1157] Change since 10/11/2019 draft: Replaced “park” with “complex” for consistency with this change throughout the document.

[1158] Relocated from 12-206, *Other Permitted Signs*.

[1159] Renamed from service stations/service stations with mini-mart to match proposed use regulations updated with earlier zMOD drafts.

### B. Performance Standards for Signs in Commercial and Industrial Districts[1160]

**(1) Building-Mounted Signs**

(a) Building-mounted signs may be located anywhere on the surface of a wall but no part of the sign may extend above or beyond the perimeter of a wall. When the sign is erected at a right angle to the wall, it must not extend into the minimum required yard, and must not be located closer than two feet to any street line.

(b) A building-mounted sign may be located on the wall of a penthouse or rooftop screening wall, as follows:

*1.* The sign must be mounted flat against the wall, and no part of the sign can extend above or beyond the perimeter of the wall.

*2.* The sign cannot be located more than 12 feet above the building roof supporting the penthouse or screening wall.

**(2) Freestanding Signs**

Freestanding signs may not project beyond any property line or be located within five feet of the curb of a service drive, travel lane, or adjoining street. When located on a corner lot, a freestanding sign is subject to 5100.2.D(4) of this Ordinance.

## 7102. Administration of Sign Approvals[1161]

These sign approval standards are in addition to the General Provisions in Section 7100.

### 1. Administrative Comprehensive Sign Plan[1162]

As an alternative to calculating building frontage in accordance with subsection 7100.7.A(1)(b), the Zoning Administrator may authorize a different allotment of sign area to the various tenants of a building or buildings by approval of an administrative comprehensive sign plan, as follows:

**A.** A request for an administrative comprehensive sign plan must include written authorization from the owner of the building(s), or an authorized agent, accompanying graphics showing the proposed size, height, and location of all signs, and the required filing fee as established in Section 8102.

**B.** Unless allowed under C below, the total area for all signs may not exceed the maximum allowable sign area for the building as determined in accordance with subsection 7100.7.A(1)(b). The maximum sign area for any single tenant may not exceed 200 square feet.

**C.** A single tenant with building frontage that results in an allowable sign area greater than 200 square feet where such tenant occupies an area with more than one perimeter wall containing a main public entrance may place up to a maximum of 200 square feet of total sign area on each such perimeter wall. The combined sign area on any such wall must not exceed one and one-half times the length of the wall.

[1160] Carried forward from 12-205.
[1161] Carried forward from Part 3, 12-300. Renamed from “special approvals.”
[1162] Carried forward from 12-301.

## 2. Special Exceptions[1163]

**A.** In conjunction with the approval of a special exception for a hospital, the Board may approve additional signs for the use in accordance with subsection 4102.4.R(8).

**B.** In commercial and industrial districts, the Board may approve, either in conjunction with the approval of a rezoning or as a special exception, a modification or waiver of the sign regulations in accordance with the following:

**(1)** Such waiver may be for an increase in sign area, increase in sign height, or different location of a sign, not otherwise provided by subsection 7102.3. Such waiver may not allow the erection of a freestanding sign or off -site sign not otherwise permitted by this Ordinance, or the establishment of any sign prohibited by Article 7.

**(2)** The Board may approve such waiver only when the applicant demonstrates that there are unusual circumstances or conditions in terms of location, topography, size, or configuration of the lot; access to the lot; unusual size or orientation of the structure on the lot; or other unique circumstance of the land or structure that impacts the applicant's ability to provide for a reasonable identification of the use.

**(3)** The Board determines that such waiver will be in harmony with the policies of the Comprehensive Plan.

**(4)** The Board may approve a waiver of the sign provisions only in those locations where, based upon a review of the relationship of the sign to the land, buildings and conforming signs in the neighborhood, it determines that the sign will not have any deleterious effect on the existing or planned development of adjacent properties and that it is consistent with the purpose and intent of Article 7.

## 3. Special Permits[1164]

**A.** The BZA may grant a special permit to increase the height of a freestanding sign in a neighborhood or community shopping center when it determines that the application of this Article would cause a hardship due to issues of topography. However, such freestanding sign may not extend to a height greater than 26 feet above the elevation of the center line of the nearest street.

**B.** The BZA may grant a special permit to allow additional sign area or height, or a different arrangement of sign area distribution for a regional shopping center, when it determines that the application of this Article would cause a hardship due to issues of topography or location of the regional shopping center. However, the total combined sign area for the regional shopping center may not exceed 125 percent of the sign area otherwise allowed by this Article.

**C.** In cases where an individual or grouping of enterprises within a shopping center are located so that the building frontage is not visible from a street, the BZA may grant a special permit to allow building-mounted sign(s) for such enterprises to be erected at the entrances, arcades, or interior malls. However, the total combined sign area for the shopping center may not exceed 125 percent of the sign area otherwise allowed by this Article.

[1163] Carried forward from 12-303.
[1164] Carried forward from 12-302.

## 4. Uses in Planned Districts[1165]

The provisions of this Article apply to signs within Planned (P) districts. However, in keeping with the intent to allow flexibility in the design of planned developments, the following apply to signs in P districts:

**A.** Signs may be permitted in a P district in accordance with a comprehensive sign plan subject to approval by the Planning Commission following a public hearing conducted in accordance with subsection 8100.1.C. The comprehensive sign plan will show the location, size, height, and extent of all proposed signs within the specified area of the P district.

**B.** An application for a comprehensive sign plan may be submitted by any property owner, owner of an easement, lessee, contract purchaser, or their agent. The application must be accompanied by a statement establishing the names of the record owners of the properties upon which such signs are proposed to be located, and a fee as established in Section 8102.

**C.** Any comprehensive sign plan must be in accordance with the standards for all planned developments as established in Section 2105. All proposed signs must be consistent with the scale and design[1166] of the development and so located and sized to ensure convenience to users of the development, while not adding to street clutter or otherwise detracting from architectural and urban design elements of the development.

[1165] Carried forward from 12-304.
[1166] Revised slightly to replace “harmonious” with “consistent” and “design.”

# Article 8 - Administration, Procedures, and Enforcement

## 8100. Review Procedures[1167]

### 1. General Requirements for All Applications[1168]

This section describes the standard procedures and rules that apply to applications, unless otherwise stated in the Ordinance.

#### A. Application Processing

**(1) Filing of Applications and Appeals[1169]**

**(a)** Applications and appeals required under this Ordinance must be filed with the Zoning Administrator or the Zoning Administrator's designated agent.

**(b)** The County will not accept an application or appeal unless it complies with this Ordinance. An application or appeal will be officially on file with the County only after it and all required accompanying submissions are submitted to and accepted by the Zoning Administrator or designated agent. Section 8101 specifies the application submission requirements. All applications and appeals provided for in this Ordinance must be submitted on forms prescribed by the responsible official, body, or committee.[1170]

**(c)** Applications, appeals, and requests for zoning compliance letters must be accompanied by the applicable filing fee specified in Section 8102 unless otherwise waived by the Board for good cause shown. No fee is 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.[1171]

**(d)** Upon acceptance, the Zoning Administrator will transmit an application or appeal to the officer, body, or agency having jurisdiction to act on the application.[1172]

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[1167] This section consolidates procedures for all application types. Submission requirements are referenced to section 8101 below. Procedures and submission requirements for Historic Overlay Districts are located in Article 3.
[1168] Did not carry forward Part 5, 18-500, Environmental Assessment and Impact Statements since they are not required.
[1169] Carried forward from Sections 18-104, 18-105, 18-106. Deleted the reference to the approval of forms by the County Executive. Also, the reference to a delayed submission of a development plan, CDP, or GDP is not carried forward.
[1170] Carried forward from 18-104, except the requirement to submit "in writing" has been removed to allow for electronic submission.
[1171] Carried forward from 18-106. Did not carry forward specifics on payees and associated receipts.
[1172] The requirement to promptly notify the Zoning Administrator of the action taken on the application has been deleted.

### (2) Scheduling of Applications[1173]

Applications and appeals are typically scheduled and considered in the order they are accepted. The clerks of the respective hearing bodies will keep a calendar of cases to be heard.

### (3) Amendment of Applications[1174]

A request to amend an application must be submitted in writing to the Zoning Administrator. Depending on the nature and extent of the amendment, this request may result in the rescheduling of any required public hearing.

### (4) Withdrawing an Unaccepted Application[1175]

Withdrawal of an unaccepted application for a rezoning, special exception, special permit, variance, or comprehensive sign plan will be in accordance with the following:

**(a)** An applicant or agent may withdraw an application at any time by giving written notice to the Zoning Administrator. If the application has not been accepted, there will be a full refund of the filing fee paid.

**(b)** The Zoning Administrator may deem an application administratively withdrawn before acceptance if the applicant refuses or neglects to make a needed correction, addition, or other change after being notified of the need and, after a further 15 days' notice, of the impending administrative withdrawal. This latter notice must be sent by certified mail, return receipt requested, to the applicant's last known address. If an unaccepted application is deemed administratively withdrawn, 90 percent of the filing fee paid will be refunded.[1176]

### (5) Withdrawing an Accepted Application[1177]

Withdrawal of an accepted application for a rezoning, special exception, special permit, variance, or comprehensive sign plan will be in accordance with the following:

**(a)** The applicant or agent may withdraw an application at any time by giving written notice to the Zoning Administrator. No fee or partial fee will be refunded for an accepted application withdrawn by the applicant.

**(b)** If it is determined that the application was accepted in error, the Zoning Administrator may deem it administratively withdrawn and fully refund the filing fee paid.

**(c)** If an applicant refuses or neglects to pursue an accepted application, the Zoning Administrator may declare the application administratively withdrawn, but only

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[1173] Carried forward from 18-107. Application requirements related to zoning map amendments were relocated to the zoning amendment submission requirements section. The requirement that applications "must, in general" be scheduled and considered in the order in which they are accepted has been revised to "are typically" scheduled to reflect current practice.

[1174] Revised from 18-111 to no longer allow an application to retain its hearing date if amended prior to 40 days before the hearing.

[1175] Change since 3/10/2020 draft: this is a new section that replaces Sections 18-112, 18-208, and Par. 4 of Sect. 18-106. A full refund of the filing fee will be provided if an application has not been accepted.

[1176] Change since 3/10/2020 draft: If the application is deemed administratively withdrawn prior to acceptance, 90% of the filing fee paid will be refunded.

[1177] Carried forward from 18-113 and 18-108 and Par. 4 of Sect. 18-106.

after giving at least 15 days' notice of intention to do so. This notice must be sent by certified mail, return receipt requested, to the applicant's last known address. If an accepted application is administratively withdrawn under this provision, there will be no refund of the filing fee.

**(d)** If an application for a rezoning is withdrawn, by request or administratively, after the Board or Planning Commission has begun a public hearing, there may be a limitation on rehearing under subsection 8100.1.D.

## B. Scheduling and Notice of Public Hearings[1178]

### (1) Required Notice for Public Hearings

**(a)** Public hearings required by this Ordinance will be held only when evidence establishes that the notice requirements in this subsection have been satisfied. All required notices must meet the standards specified ~~in Chapter 22 of Title 15.2 of the Code of Virginia, and, when applicable, Va. Code Sect. 15.2-107~~by state law.

**(b)** The subject of the public hearing is not required to be advertised in full but may be advertised by reference. Every advertisement must contain a descriptive summary of the proposed action and must identify the place(s) within the County where copies of the subject of the public hearing may be examined.

#### Published Notice

**(c)** Public notice of any hearing must be published once a week for two successive weeks in a local newspaper having general circulation in the County. This notice must be published at least six days, but no more than 21 days before the date of the hearing, and there must be at least six days between the first and second publication.

**(d)** The notice must specify the time and place of the hearing and the nature of the matter before the hearing body. The hearing notice for any amendment that imposes or increases levies or fees must also include the information required by ~~Va. Code Sect. 15.2-107~~state law. The public notice is the hearing body's responsibility.

#### Written Notice to Applicant or Appellant

**(e)** The hearing body must send written notice of the public hearing to the applicant or appellant when the hearing involves an application for a PRC plan, final development plan, special exception, special permit, variance, appeal, or an amendment to the Zoning Map. That written notice must be sent by first class or certified mail postmarked at least 20 days before the hearing.

#### Posted Notice

**(f)** At least 15 days before the date of the first hearing, the Zoning Administrator must post notice of the application or appeal on the property. This notice must be removed within seven days after the last hearing and within seven weeks from the original posting date.[1179]

[1178] Carried forward from 18-110.
[1179] Deleted "building" because that would also be located on the land.

**(g)** Notice must be posted at reasonable intervals as follows:

***1.*** Along every street abutting the property; or,

***2.*** If there is no abutting street, then along the exterior boundary lines of the property and within 300 feet along every street providing access to the property.

**(h)** The notice must contain the date, location, and time of the public hearing, the nature of the application, the property affected, other information necessary to identify and describe the application, and where further information may be obtained.[1180]

**(i)** Posted notice is not required when:

***1.*** The hearing involves an application for more than 25 parcels of land for the following:

***a.*** Amendment to the Zoning Map initiated by resolution of the Planning Commission or Board

***b.*** Special exception

***c.*** Special permit

***d.*** Variance

***e.*** Appeal

***2.*** The hearing involves an appeal concerning no specific property; or

***3.*** The hearing body specifically waives or modifies the requirement.

### Written Notice to Property Owners, Adjacent Jurisdictions, Military Installations, and Airports

**(j)** An application for a rezoning, a PRC plan, final development plan, special exception, special permit, variance, or appeal requires the following written notice:

***1.*** The applicant must send written notice to the property owner(s) of each parcel involved in the application; and

***2.*** The applicant must send written notice to all owners of property abutting and immediately across the street from the property, including property that lies in an adjoining city or county.

***3.*** For special permits, variances, and appeals, if written notice is not sent to ten different property owners, the applicant must send additional notices so that the owners of at least ten properties in the immediate vicinity are notified.

***4.*** For all other applications, if written notice is not sent to 25 different property owners, then the applicant must send additional notices so that the owners of at least 25 properties in the immediate vicinity are notified.

***5.*** If the application property is an individual condominium or cooperative unit within a condominium or cooperative building, the applicant must send written notice to:

***a.*** The condominium unit owners' association or proprietary lessees' association; and

[1180] The requirement for the notices to be posted in specific colors has not been carried forward.

***b.*** Unit owners immediately abutting the application property or on the same floor of the building as the application unit and those unit owners immediately above and below the application unit.

***6.*** When the application property abuts or is immediately across the street from a condominium or cooperative property, the applicant must send written notice as follows:

***a.*** When the application property abuts or is immediately across the street from open space or common ground of a condominium or cooperative, the applicant must send written notice to the condominium unit owners' association or proprietary lessees' association; and

***b.*** Where individual condominium or cooperative units or lots abut or are immediately across the street from the application property, the applicant must send written notice to the owner of each unit.

***7.*** The hearing body or its representative must also send written notice at least 15 days before the hearing to the chief administrative officer or designee of an adjoining county or municipality if:

***a.*** The application involves a Zoning Map amendment, PRC plan, final development plan, or a special exception or special permit application that proposes a change in use or an increase greater than 50 percent of the bulk or height of an existing or proposed building;

***b.*** The application does not seek to renew a previously approved special exception or special permit; and

***c.*** The application property or a portion of it is located within one-half mile of a boundary of an adjoining county or municipality of the State.

***8.*** If the application seeks to amend a previously approved rezoning, PRC plan, final development plan, special exception, or special permit affecting a portion of a property, the hearing body or its representative must also send written notice at least 15 days before a hearing to all owners of property subject to approval of an application. However, this notice is not require if the Zoning Administrator determines the proposed change is to a component or lot that does not affect the rest of the development.

***9.*** The hearing body or its representative must also send written notice at least 30 days before a hearing to the commander of a military installation, military airport, or owner of a public use airport. The notice must advise of the opportunity to submit comments or recommendations. For the purposes of this provision, military installations include, but are not limited to military camps, forts, or bases. Public use airports include those licensed airports contained on the list of public use airports that is maintained by the Virginia Department of Aviation. This notice is required if:

***a.*** The application involves a rezoning, a development plan, PRC plan, special exception, or special permit; and

***b.*** The application property or a portion of it is located within 3,000 feet of a boundary of a military installation, military airport (excluding armories operated by the Virginia National Guard), or licensed public use airport.

***10.*** Content and Mailing of Written Notice

***a.*** Every required written notice must state the date, time, place, and subject matter of the hearing, and the name of the applicant.

***b.*** The notice must be sent to the last known address of the owner(s) as shown in the County's current real estate assessment records and, except as specified above or qualified below, must be sent by certified mail, return receipt requested, and postmarked at least 15 days before the hearing.

***c.*** The hearing body's representative may send notices by first class mail if that representative affirms by affidavit that the mailing has been made.

***11.*** Waiver of Challenge to Validity of Proceedings

A party's actual notice of, or active participation in, the proceedings waives that party's right to challenge the validity of the proceedings due to the failure to receive the required written notice. In addition, any person may waive his or her right to the notice in writing to the Zoning Administrator.

## C. Conduct of Public Hearings[1181]

All public hearings required by this Ordinance must be conducted in accordance with the following:

**(1)** No public hearing may be held unless the required notice has been provided in accordance with subsection 8100.1.B(1).

**(2)** All hearings are open to the public. Any person may appear and testify, either in person or by an authorized agent or attorney.

**(3)** The hearing body by general rule prescribes procedures for the conduct of hearings.

**(4)** Upon a vote of the majority of members present, the hearing may be continued or deferred as follows:

**(a)** If a hearing has been opened, public testimony has been received, and there is cause for continuation of the hearing, no formal notice is required if the hearing is continued to a date certain.

**(b)** If a hearing is concluded, but action is deferred until a future date, no formal notice is required before action is taken.

**(c)** If a hearing was deferred before it was opened, written notice to adjacent property owners required by subsection 8100.1.B(1) must be re-mailed. The notice must be mailed at least five days before the public hearing. If the notice is sent by the hearing body's representative, he or she may send written notice by first class mail if that representative affirms by affidavit that the mailing has been made.

**(5)** Where deemed necessary, joint public hearings may be conducted after giving public notice required by subsection 8100.1.B. If a joint hearing is held, public notice must be given by only one hearing body. The Board must give public notice when it is one of the hearing bodies.

**(6)** An action may be reconsidered only upon motion of a member voting with the prevailing side on the original vote. A motion to reconsider must be made at the same or

[1181] Carried forward from 18-109.

immediately subsequent regular meeting, and may be seconded by any member. The BZA may not entertain a motion for reconsideration.

### D. Limitation on Rehearing[1182]

**Denied or Withdrawn Applications**

If an application for rezoning or proffered condition amendment is denied or withdrawn after the Board has begun a public hearing on it, the Board will not hear a substantially similar application concerning any of the same property within 12 months of the denial or withdrawal, unless this restriction is waived by the Board.

## 2. Ordinance Text and Zoning Map (Rezoning) Amendments[1183]

### A. Application Processing[1184]

**(1) Initiating a Text Amendment or Rezoning**

The Board may amend the text of this Ordinance or rezone property (i.e., amend the Zoning Map) if the amendment is initiated in one of these ways:

**(a)** A resolution of the Board;

**(b)** A motion approved by the Planning Commission; or

**(c)** An application by the owners, contract purchasers (with owners' written consent), or agents of the owners of the land proposed to be rezoned. The application must be sworn under oath or affirmation, acknowledged before a notary public, and filed with the Zoning Administrator. The Zoning Administrator will forward the application to the Board.

**(2) Amending a Rezoning Application[1185]**

**(a)** Applicants for a rezoning may amend the application by filing a written request for amendment and the required fee with the Zoning Administrator.

**(b)** If an amendment involves a change in the zoning district requested, a change in the land area, or other substantial revision the public hearing and decision on the application may be rescheduled. The Board will hear and decide the application within 12 months from the date the request for amendment was filed, unless the applicant and the Board agree to an extension or the applicants refuse or neglect to pursue the application in accordance with this Ordinance.

[1182] Change since 3/10/2020 draft: this subsection replaces Sections 18-108 and 18-211, which currently applies to special exceptions and special permits as well. The State Code authorizes a locality to prohibit reconsideration of rezoning and proffered condition amendment applications only, and this has been reflected in the revised text.
[1183] From Part 2, 18-200, Amendments.
[1184] Carried forward from 18-201.
[1185] Carried forward from Sect. 18-207.

## B. Scheduling and Notice of Public Hearings

**(1)** Any amendment to the Zoning Ordinance or the Zoning Map requires a public hearing before the Planning Commission and Board in accordance with Va. Code Sections 15.2-2204, 15.2-2285, and if a fee or increase is involved, Section 15.2-107.[1186]

**(2)** For Zoning Map amendments, public notice must also include the information required by Va. Code Sect. 15.2-2285.[1187]

**(3)** An application should be heard and a decision made within 12 months from the date of application acceptance, unless:[1188]

**(a)** The application is an amendment subject to subsection 8100.2.A(2);

**(b)** An extended period is requested by the applicant; or[1189]

**(c)** The applicant refuses or neglects to prosecute an application in accordance with this Ordinance.

## C. Review and Decision

**(1) Recommendation by Planning Commission**[1190]

**(a)** After the Planning Commission's public hearing and deliberations conclude, the Planning Commission must provide its recommendation to the Board.[1191]

**(b)** The Planning Commission is not required to confine its recommendation to the proposed amendment as set forth in the application or resolution.

**(c)** If the proposed amendment consists of a change in the text of the Ordinance, the Planning Commission may recommend a revision to the proposal.

**(d)** If the proposed amendment consists of a change in zoning district boundaries, the Planning Commission may:

***1.*** Reduce or enlarge the land area that it recommends be rezoned; or

***2.*** Recommend that the land be rezoned to a different zoning district classification than that requested if that revision is in accordance with sound zoning practice and furthers the purposes of this Ordinance. Before recommending a larger f land area or a rezoning to a less restrictive classification than was set forth in the application, the Planning Commission must hold a further hearing on the matter after providing notice in accordance with subsection 8100.1.B.

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[1186] Carried forward from Sect. 18-205.
[1187] Carried forward from Sect. 18-110.
[1188] Carried forward from Par. 2 of Sect. 18-107, except the provision that says applications "must, in general, be scheduled and considered in the order…" has been revised and relocated to the procedures for all applications. The provision to submit a development plan within 60 days after acceptance is not carried forward. Change since 3/10/2020 draft: Changed "must" to "should," consistent with Va. Code Sect. 15.2-2286(A)(7) which is directory, not mandatory.
[1189] Revised to reference request by the applicant in accordance with current practice.
[1190] Carried forward from 18-206.
[1191] Deleted reference to explanatory material.

### (2) Decision by Board[1192]

The following decisions will be made after public hearing(s) and deliberations:

**(a)** For a Zoning Ordinance amendment, the Board may adopt or reject the amendment. The Board may adopt provisions relating to previous approvals as part of its decision.[1193]

**(b)** For a Zoning Map amendment, the Board may approve, approve with conditions or modifications, or deny the map amendment.

### (3) Effective Date of Amendment[1194]

An amendment to the Zoning Ordinance or the Zoning Map becomes effective on the date of Board approval, unless otherwise specified by the Board.

## D. Proffered Condition Regulations[1195]

### (1) Generally

Proffered conditions may include any statement, plan, and other materials that are submitted with a rezoning application and referenced in a written statement signed by the applicant, the owner, and any contract purchaser(s), and accepted by the Board in conjunction with the approval of a rezoning. For condominiums, the written statement of proffers must be signed in accordance with Section 8105. Proffered conditions are subject to the following:

**(a)** Once the public hearing has begun, no change or addition to any proffer is allowed without a second public hearing before the Board and, at the option of the Board, a second public hearing before the Planning Commission.

**(b)** If an amendment to the Zoning Map is adopted subject to proffered conditions, the property must be annotated as such on the Zoning Map.

**(c)** Proffered conditions become a part of the zoning regulations that apply to the rezoned property, unless changed by a later amendment approved by the Board. These proffered conditions supplement the specific regulations for the zoning district in question. Once the Board approves an application with proffered conditions, any site plan, subdivision plat, or development plan submitted for the development of the property must substantially conform with all proffered conditions, and no County official may approve any development without such substantial conformance, except as may be permitted below.

### (2) Modifications of Conditions Requiring Amendment

**(a)** A request that cannot be accomplished as a minor modification or minor variation requires approval of a proffered condition amendment and, when applicable, an associated development plan amendment, in accordance with the applicable procedures.

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[1192] New, added to clarify that the Board is the final decision-making body following public hearings.
[1193] New provision clarifying that the Board may also adopt provisions relating to previous approvals that would be maintained outside the ZO.
[1194] Carried forward from 18-210.
[1195] Carried forward from 18-204.

**(b)** An application for such an amendment may cover all or a portion of the property subject to the proffered conditions, or it may request to add proffered conditions on a parcel not currently the subject of any proffered condition. In its review of a request that does not cover the property subject to proffered conditions, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of:

***1.*** The approved use;

***2.*** Fulfillment of proffered conditions;

***3.*** Vehicular and pedestrian circulation, connectivity, landscaping, and streetscape; and

***4.*** The approved density or intensity.

**(c)** After approval of an amendment, all other previously approved proffered conditions remain in full force and effect.

**(d)** Any modification to a proffered condition to provide an accessibility improvement or other reasonable accommodation as determined by the Zoning Administrator will be permitted and will not require approval of a proffered condition amendment.

### (3) Enforcement of Proffered Conditions

**(a)** The Zoning Administrator is vested with authority to administer and enforce proffered conditions. This authority includes the ability to remedy, by written order, any noncompliance with a proffered condition and the ability to bring legal action to ensure compliance, as provided for in Section 8106.

**(b)** The Zoning Administrator or the Zoning Administrator's designated agent may require:

***1.*** A guarantee, satisfactory to the Board, in an amount sufficient to cover the construction cost of any physical improvements required by the proffered conditions; or

***2.*** A contract for the construction of such improvements and the contractor's guarantee, in like amount, which may be reduced or released by the Board or agent of the Board, with satisfactory evidence that the improvements have been constructed in whole or in part.

**(c)** Failure to meet or comply with any proffered condition is sufficient cause to deny the approval of a subdivision plan or site plan, and the issuance of any permits, including building permits and Residential and Non-rResidential Use Permits, as the Zoning Administrator may deem appropriate.

**(d)** Any person aggrieved by a decision of the Zoning Administrator regarding any proffered condition may appeal that decision to the Board. The appeal must be filed within 30 days from the date of the decision being appealed by filing with the Zoning Administrator and the Clerk to the Board a notice of appeal specifying the grounds on which aggrieved. The notice of appeal filed with the Zoning Administrator must include a filing fee as provided in Section 8102.

## E. Planned Districts, Except PRC District

### (1) Conceptual Development Plan Approval[1196]

**(a)** The applicant must submit materials in accordance with Section 8101.[1197]

**(b)** After the Zoning Administrator determines that the content of the conceptual development plan is complete, the plan and the application will be submitted for comment and review to appropriate County agencies. Upon completion of the administrative review, the plan and application must be submitted to the Planning Commission.

**(c)** The Planning Commission must promptly hold a public hearing and consider the conceptual development plan and the rezoning application in accordance with the applicable zoning district regulations.

**(d)** After the public hearing, the Planning Commission will transmit the conceptual development plan and application to the Board, together with its recommendations of approval or denial.

**(e)** The Board will consider the conceptual development plan and rezoning application in accordance with the applicable zoning district regulations and must hold a public hearing. The Board must approve, approve with modifications, or deny the conceptual development plan.

**(f)** In approving a conceptual development plan, the Board may establish conditions and require modifications to ensure compliance with the zoning district's standards and regulations. The Board may also waive or modify subdivision or site plan requirements that would otherwise apply to the development when a waiver or modification would conform with the zoning district's standards and regulations.

**(g)** In approving a conceptual development plan, the Board may modify of the strict application of the standards in Section 2105 for the planned district if:

***1.*** The strict application would hinder[1198] the purpose of the zoning district;

***2.*** The modification would promote and comply with the general and design standards in subsection 2105.1; and

***3.*** The modification does not alter the maximum density provisions under the PDH District and the maximum floor area ratio provisions under the PDC, PRM, PTC, and PCC Districts.

**(h)** If the Board disapproves the rezoning application, the conceptual development plan is denied.

**(i)** If the Board approves the rezoning application, the Board also must approve or approve with modifications or conditions the conceptual development plan.

**(j)** Once a conceptual development plan has been approved, all subsequent approvals, uses, and structures must substantially conform with the approved

[1196] Carried forward from 16-401.

[1197] The provision to submit a conceptual development plan within 60 days after acceptance is not carried forward. In addition, the requirement for a submission of any supplementary data deemed necessary by the Zoning Administrator is not carried forward.

[1198] Changed from "inhibit or frustrate."

conceptual development plan and any development conditions associated with that approval. Any proposed amendment of the conceptual development plan will be processed as a new submission. An amendment application may cover all or a portion of the property subject to an approved conceptual development plan. In its review of a request that does not cover all of the property subject to an approved conceptual development plan, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of:

1. The approved use;
2. Fulfillment of conditions;
3. Vehicular and pedestrian circulation, connectivity, landscaping and streetscape; and
4. The approved density or intensity.

**(k)** Any portion of the conceptual development plan and previously approved conditions that are not subject to the amendment application remain in full force and effect.

**(l)** Any development plan approved in conjunction with a PDH or PDC rezoning action before May 19, 1975, is deemed to be an approved conceptual and final development plan.

### (2) Final Development Plan Approval[1199]

**(a)** An applicant may submit a final development plan after the Board grants its rezoning application to a P district and approves its accompanying conceptual development plan.

**(b)** Alternatively, a final development plan may be filed with and included in the processing of the rezoning application and conceptual development plan.

**(c)** A final development plan must be prepared in accordance with the approved conceptual development plan and any conditions adopted by the Board.

**(d)** A final development plan may be prepared and submitted for the entire planned development at one time or for sections of the planned development. Each plan must be submitted to the Zoning Administrator.

**(e)** After the Zoning Administrator determines that the content of the final development plan is complete, the plan will be submitted for comment and review to appropriate County agencies. Once that administrative review is complete, the plan will be submitted to the Planning Commission.

**(f)** The Planning Commission must hold a public hearing on a stand-alone final development plan application within six months of the date the Zoning Administrator determined that the plan was complete. The Commission must consider the final development plan in accordance with the approved conceptual development plan and determine if the final development plan complies with the applicable zoning district regulations. If the Planning Commission determines the final development plan meets those requirements, it must approve, or approve with modifications, the final development plan. That approval is deemed to be the

[1199] Carried forward from 16-402. Deleted Par. 8 about submitting a revised plan if denied, as it is unnecessary to state.

final approval, subject only to appeal to the Board as provided in subsection (i) below.

**(g)** In approving a final development plan, the Planning Commission may establish conditions and require modifications necessary to ensure compliance with the approved conceptual development plan and the zoning district's standards and regulations. Further, the Planning Commission may recommend to the Board the waiver of any zoning and subdivision requirements that would otherwise apply to the development, if it determines that at a waiver would conform with the applicable standards and regulations.

**(h)** If the Planning Commission finds that the final development plan is not in accordance with the approved conceptual development plan or does not comply with the applicable zoning district regulations, it must recommend denial of the final development plan and forward its recommendation to the Board. The Board must hold a public hearing on the final development plan and approve, approve with modifications, or deny the final development plan. In approving the final development plan, the Board may establish conditions and require modifications necessary to ensure compliance with the approved conceptual development plan and the zoning district's standards and regulations. The Board may waive zoning and subdivision requirements that would otherwise apply to the development if it determines that the waiver would conform with the applicable standards and regulations.

**(i)** To appeal a Planning Commission's approval or approval with modifications of a final development plan, an aggrieved party must file its appeal with the Board within ten days after the decision of the Commission. The appeal must be by written petition to the Board setting forth the reasons for the appeal.[1200]

**(j)** Once a final development plan has been approved, all subsequent approvals, uses, and structures must be in substantial conformance with the approved final development plan and any development conditions associated with that approval. Any final development plan amendment application will be processed as follows:

***1.*** If the Zoning Administrator determines that the amendment would result in a final development plan that is still in accordance with the approved conceptual development plan, then the application will be processed in accordance with these provisions.

***2.*** If the Zoning Administrator determines that the amendment would result in the final development plan no longer being in accordance with the approved conceptual development plan, then an amendment to the conceptual development plan is required in accordance with subsection 8100.2.E(1)(j). The final development plan amendment application must also be reviewed by the Planning Commission in accordance with these provisions.

***3.*** A final development plan amendment application may be filed on a portion of the property subject to an approved final development plan, if the Zoning Administrator determines that the amendment:

[1200] Change since 3/10/2020 draft: Deleted the limitation that the basis for appeal is substantial conformance with the CDP.

*a.* Would not adversely affect the use of the property subject to the final development plan and conditions but not incorporated into the amendment application;

*b.* Would not inhibit, adversely affect, or preclude in any manner the fulfillment of the final development plan and conditions applicable to the area not incorporated into the amendment application;

*c.* Would not adversely affect the vehicular and pedestrian circulation, connectivity, landscaping, and streetscape applicable to the area not incorporated into the amendment application; and

*d.* Would not increase the overall approved density or intensity for the development.

*4.* The portion of the final development plan and previously approved conditions that are not subject to the amendment application remain in full force and effect.

**(k)** Any development plan approved in conjunction with a PDH or PDC rezoning action before May 19, 1975, is deemed to be an approved conceptual and final development plan.

### (3) Site Plan and Subdivision Plat Preparation, Building Permit, Residential Use Permit and Non-rResidential Use Permit[1201]

Approval of a final development plan is a prerequisite and authorizes the applicant to submit a site plan or a subdivision plat. Approval of a site plan or subdivision plat and the issuance of a building permit, Residential or Non-rResidential Use Permit must be in substantial conformance with the final development plan, in accordance with this Ordinance and Chapter 101 of the County Code, The Subdivision Ordinance, and the following:

**(a)** Separate site plans or subdivision plats must be submitted for each section of the planned development in accordance with the approved final development plan. For development within the PTC District subject to a phasing plan, each site plan or subdivision plat must provide content as required by Section 8101.

**(b)** Except in the PTC District, when a planned development is to be constructed in sections, the developer must provide substantially the same ratio of open space to completed development in each section as it will provide in the entire planned development when complete.

**(c)** Minor deviations from this Ordinance and Chapter 101 of the County Code (the Subdivision Ordinance), may be permitted, but only where the deviations are shown on the approved final development plan.

**(d)** Minor modifications to a final development plan are allowed when the Zoning Administrator determines that they substantially conform to the approved final development plan and do not materially alter the character of the development under subsection 8100.5.

[1201] Carried forward from Sect. 16-403, except Par. 7 has been relocated to Article 5 with setbacks.

**(e)** When the Board approves a minor variation to a proffered condition, the variation is deemed to apply to any approved final development plan or final development plan condition without the need for a separate amendment to that plan.

**(f)** Any modification to an approved final development plan to provide an accessibility improvement or other reasonable accommodation may be permitted and not require approval of an amendment to the final development plan.

### (4) Required Recreational Facilities in PDH, PDC, PRM, and PTC Districts[1202]

Required recreational facilities must include either active recreation facilities such as tennis courts, swimming pools, children playgrounds, tot lots, or ballfields, or passive recreation and site amenities such as gazebos, picnic areas, trails, and nature walks, but not including landscape plantings, trails identified on the Comprehensive Plan, or sidewalks required by the Public Facilities Manual.

**(a)** For recreational facilities to be constructed on-site by the developer, the facilities must be shown on the site plan, subdivision plan, or construction plan, as applicable, in substantial conformance with the approved final development plan. The following also apply, unless otherwise modified by the Board at the time of zoning approval:

***1.*** For single section developments, or multiple section developments where required recreational facilities are to be provided in the first section of the development, facilities must have an executed security package before:

***a.*** Final subdivision plat approval for single-family dwelling developments; or

***b.*** Issuance of construction permits for multiple family dwelling developments, single-family attached dwelling developments not subject to subdivision approval, or combination single-family attached dwellings subject to subdivision approval and multiple family dwelling developments.

***2.*** For multiple section developments where the required recreational facilities are not to be constructed in the first section of the development:

***a.*** If the estimated cost of the approved recreational facilities exceeds $50,000, before issuance of building permits for more than 50 percent of the total number of dwelling units, there must either be: (i) an executed security package for the recreational facilities; or (ii) a future construction escrow posted in the amount equivalent to the pro rata share (of the facilities shown on the approved final development plan) for the total number of units for which building permits have been issued and are being sought. Upon execution of the security package for the recreational facilities, the construction escrow with interest must be paid to the developer.

***b.*** Approved recreational facilities of $50,000 or less must be constructed or have an executed security package before site plan or final subdivision plat approval of the final section.

[1202] Carried forward from Sect. 16-404.

**(b)** At the time of zoning approval, the Board may authorize the applicant to provide recreational facilities off-site on land in proximity to the proposed development, which is titled to or is to be dedicated to the County or the Fairfax County Park Authority, or on land under the control of an adjacent homeowners' association. The applicant must submit a written justification for that off-site location and evidence that the future residents of the development have the right to use the recreational facilities. The Board may approve the request if it determines that it would be infeasible or impractical to provide the required recreational facilities on-site or that the off-site location would better serve the residents of the development.

The applicant, upon Board approval, may either design and construct the off-site recreational facilities or make a cash contribution to the property owner, which must be in accordance with the approved per dwelling unit expenditure. Additionally, the following apply:

***1.*** If the recreational facilities will be provided off-site on land owned by an adjacent homeowners' association, then the applicant must record a document that grants the future residents of the proposed development the right to use the off-site facilities. The applicant must record the document among the Fairfax County land records before final subdivision plat approval or site plan approval, as applicable, after review and approval by the County Attorney.

***2.*** If the recreational facilities will be constructed off-site, the applicant must submit documentation, subject to the County Attorney's review and approval, that it has the right to construct the facilities at the selected off-site location and that the future residents of the proposed development have the right to use the facilities. The timing of the off-site construction must be proposed by the applicant and approved by the Board at the time of zoning approval.

***3.*** If the applicant will satisfy the recreational facilities requirement by making a cash contribution, the applicant must:

***a.*** Provide a cash contribution equal to the approved per dwelling unit expenditure to the County, the Fairfax County Park Authority, or to an adjacent homeowners' association, as applicable, for the express purpose of providing additional recreational facilities, or renovating or increasing the user capacity of existing facilities. At the time of zoning approval, the applicant must have established that the County, the Fairfax County Park Authority, or the homeowners' association, as applicable, has agreed to and has the right to receive the cash contribution and, if the cash contribution is to be made to an adjacent homeowners' association, the proposed use of the cash contribution must be specified.

***b.*** Make the cash contribution equivalent to the approved per dwelling unit expenditure before a Residential Use Permit is issued for each dwelling unit in the proposed development[1203].

[1203] Revised from building permit to RUP in accordance with State Code.

## F. PRC District[1204]

### (1) Comprehensive Plan Approval[1205]

#### (a) General Requirements

1. A PRC District may only be established in an area designated as a planned residential community on the Comprehensive Plan. Before the initial establishment of a PRC District, the applicant must propose an amendment to the Comprehensive Plan to permit a planned residential community, which must contain at least 750 contiguous acres owned or controlled by a single individual or entity.
2. That Comprehensive Plan amendment must be presented in at least the same level of detail as the Comprehensive Plan for the area under consideration.
3. In conjunction with the submission of a proposed Comprehensive Plan amendment, the applicant must submit a general development schedule showing the approximate time frame of the development.
4. Ten copies of the proposed Comprehensive Plan amendment and development schedule must be submitted to the Director of the Department of Planning and Development (DPD) along with a written request for the consideration of the amendment.

#### (b) Director Review and Analysis

1. Upon receipt, the Director of DPD, in accordance with adopted procedures for consideration of Comprehensive Plan amendments, will ensure a thorough review of the proposed amendment by all appropriate agencies. The Director of DPD may ask the applicant to provide additional information if it is needed to complete the review.
2. As part of the review, the Director of DPD will analyze the proposed development schedule and the impact of the development on all public facilities and utilities.
3. After the Director completes the review, the plan amendment will be submitted to the Planning Commission.

#### (c) Review and Approval by the Planning Commission and Board

1. The Planning Commission must hold a public hearing to consider the Comprehensive Plan amendment and must forward to the Board its recommendation for approval, approval with modifications, or denial.
2. The Board must hold a public hearing and must approve, approve with modifications, or deny the proposed amendment.
3. If approved by the Board, the Comprehensive Plan amendment for a planned residential community will become part of the Comprehensive Plan, which is subject to review and revision. Any revision to the Comprehensive Plan

[1204] Carried forward from Part 2, 16-200.
[1205] Carried forward from 16-201.

initiated by an applicant, other than the Planning Commission or the Board, is subject to the same procedures as the original amendment.

4. Additional adjacent land may be added to a planned residential community if it represents a logical extension of the planned residential community under the Comprehensive Plan. An addition of adjacent land is subject to the same requirements and procedures as the original amendment except that the minimum of 750 acres owned or controlled by a single individual or entity is not required.

### (2) Rezoning to a PRC District[1206]

#### (a) General Requirements

1. Following Board approval of the Comprehensive Plan for a planned residential community, the Board may approve an application for rezoning to a PRC District subject to these provisions and provisions for a rezoning. The initial rezoning to establish a PRC District must contain a minimum land area of 750 contiguous acres owned or controlled by a single individual or entity.
2. The rezoning application and development plan must be filed with the Zoning Administrator.[1207]
3. The applicant must submit materials required by Section 8101.
4. The rezoning application and development plan must be in accordance with the Comprehensive Plan, the standards in subsection 2105.1, and the PRC District regulations and objectives.

#### (b) Staff Review and Recommendation

After the Zoning Administrator determines that the rezoning application and the development plan are complete, the Zoning Administrator will provide the application and plan to appropriate County agencies for review and comment. Once that administrative review is complete, the application and plan will be submitted to the Planning Commission.

#### (c) Review and Approval by the Planning Commission and Board

1. The Planning Commission must hold a public hearing to consider whether the rezoning application and development plan are in accordance with the Comprehensive Plan, the standards in subsection 2105.1, and the PRC District regulations and objectives. After the public hearing, the Commission must transmit the rezoning application and development plan to the Board with its recommendation to approve, approve with modifications, or deny.
2. If the Board approves the rezoning application, the Board must also approve or approve with modifications or conditions the development plan. Such conditions or modifications may be established by the Board to ensure compliance with the standards in subsection 2105.1 and the district

[1206] Carried forward from 16-202.
[1207] The provision to submit a development plan within 60 days after acceptance is not carried forward.

regulations. Further, the Board may waive or modify zoning and subdivision[1208] requirements that would otherwise apply to the development when a waiver or modification would conform with the standards and regulations.

3. If the Board disapproves the rezoning application, the development plan is deemed to also be denied.

#### (d) Following Approval

1. Once a development plan has been approved, all subsequent approvals, uses, and structures must be in substantial conformance with the approved development plan and any development conditions associated with that approval. Any subsequent amendment to the development plan will be processed as a new submission. A development plan amendment may cover all or a portion of the property subject to an approved development plan. In its review of a request that does not cover all of the property subject to an approved development plan, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of:
   a. The approved use;
   b. Fulfillment of conditions;
   c. Vehicular and pedestrian circulation, connectivity, landscaping, and streetscape; and
   d. The approved density or intensity.
2. Any portion of the development plan and previously approved conditions that are not subject to an amendment will remain in full force and effect.
3. Additional adjacent land may be added to a PRC District by a rezoning application if the land is included within the planned residential community area shown on the Comprehensive Plan and if it represents a logical extension of the area zoned PRC. Any addition of adjacent land to the PRC District is subject to the same requirements and procedures as the original application except that the minimum of 750 acres owned or controlled by a single individual or entity is not required.

### (3) PRC Plan Approval[1209]

(a) After the approval of a rezoning application, a PRC plan is required for those uses set forth in subsection (c) below. The Board may approve a PRC plan subject to these and other applicable standards. The Board may not approve a PRC plan until after the rezoning application and development plan have been approved. However, a PRC plan may be filed concurrent with and included in the processing of the rezoning application and development plan.

(b) All PRC plans must be in accordance with the approved rezoning and development plan, any conditions or modifications that may have been approved by the Board, the submission requirements, the standards in subsection 2105.1, and the applicable objectives and regulations of the PRC District.

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[1208] Change since 6/30/2020 draft: Revised for consistency with subsection 4102.1(6) and the current provision for other P districts to refer to zoning and subdivision instead of subdivision and site plan.
[1209] Carried forward from 16-203.

**(c)** A PRC plan is required for all uses, except the following:

***1.*** Single-family detached dwellings if the general street and lot layout are shown on the approved development plan.

***2.*** Additions to existing single-family attached or detached dwellings or accessory structures related to existing single-family dwellings.

***3.*** Additions to existing buildings or uses other than single-family dwellings when the additions do not exceed 2,000 square feet or ten percent of the gross floor area of the existing building or use, whichever is less.

***4.*** Additions or changes to non-structural site elements such as transitional screening and parking and loading when the area of the addition or change does not exceed ten percent of the existing area occupied by the site element. Parking redesignation plans and parking tabulation revisions are also exempt from the requirement for a PRC plan regardless of the area of the change.

***5.*** Minor accessory structures in open space areas such as benches, gazebos, playground equipment, and bus shelters.

***6.*** Those special exception and special permit uses that do not require a site plan.

***7.*** Any permitted use on a temporary basis for a period not to exceed one year.

***8.*** Additions and alterations to provide an accessibility improvement or other reasonable accommodation.

**(d)** A PRC plan may be prepared and submitted for the entire planned development at one time or for development sections.

**(e)** After the Zoning Administrator determines that the content of the PRC plan is complete, the plan will be accepted and submitted to appropriate County agencies for review and comment. Once the administrative review is complete, the plan will be submitted to the Planning Commission.[1210]

**(f)** The Planning Commission will hold a public hearing to consider whether the PRC plan is in accordance with the applicable standards. If the PRC plan is not filed with and included in the processing of the rezoning application, the Planning Commission will hold a public hearing no later than six months from the date the plan has been accepted. After the public hearing, the Commission will transmit the PRC plan to the Board with its recommendation to approve, approve with modifications, or deny.

**(g)** The Board will hold a public hearing to consider the PRC plan in accordance with the applicable standards. The Board may approve, approve with modifications, or deny the PRC plan.

**(h)** Once the PRC plan has been approved, all subsequent approvals, uses, and structures must be in substantial conformance with the approved PRC plan and any development conditions associated with that approval.

**(i)** Minor modifications to an approved rezoning and development plan may be permitted in a PRC plan, in accordance with subsection 8100.5, when the Zoning Administrator determines that they substantially conform to the approved

[1210] Clarified for consistency reference to County agencies.

rezoning and development plan and do not materially alter the character of the development.

**(j)** When the Board approves a minor variation to a proffered condition, the variation is deemed to apply to any approved development plan or PRC plan without the need for a separate amendment.

**(k)** Any modification to provide an accessibility improvement or other reasonable accommodation does not require a development plan amendment.

**(l)** Once a PRC plan has been approved, any proposed amendment is subject to Board approval in accordance with these provisions.

**(m)** The following are deemed to be approved PRC plans:

***1.*** Preliminary site plans approved before December 6, 1994; and

***2.*** Preliminary site plans approved under the ~~grandfather~~ provisions relating to previous approvals for Zoning Ordinance Amendment #94-263.

**(n)** Additionally, PRC plans processed and approved before March 27, 2007 were valid for three years from the date of approval. If a site plan for all or a portion of the area was approved during that period, the approved PRC plan for the corresponding area will remain valid for the life of the site plan.

### (4) Site Plan and Subdivision Plat Preparation[1211]

**(a)** Site plan or subdivision plat approval is required after approval of the rezoning and development plan and a PRC plan, if required above.

**(b)** Site plans or subdivision plats, the issuance of building permits, Residential or Non-r~~R~~esidential Use Permits must be in substantial conformance with the approved rezoning and development plan and the PRC plan, if applicable, the standards in subsection 2105.1, the applicable objectives and regulations of the PRC District, and the provisions of this Ordinance and Chapter 101 of the County Code (the Subdivision Ordinance).

**(c)** Minor modifications to the approved development plan or approved PRC plan may be permitted in a site plan or subdivision plat in accordance with subsection 8100.5. If the Zoning Administrator determinates that a modification is not in substantial conformance with the approved development plan or approved PRC plan, the modification requires the resubmission and amendment of the development plan or PRC plan or, when applicable, both.

## 3. Special Exceptions[1212]

### A. Types of Special Exceptions[1213]

In addition to the special exceptions identified in the Use Tables in Section 4101, the following table summarizes the types of non-use related special exceptions allowed under this Ordinance and the location of the related provisions.

[1211] Carried forward from 16-204.
[1212] Carried forward from Part 0, 9-000, revised as noted.
[1213] This is a new subsection intended to reference the various types of special exceptions that are not included in the Article 4 Use Table allowed by this Ordinance.

**TABLE 8100.1: Summary of Special Exceptions**

| Special Exception Type | Section/ Subsection |
|---|---|
| Approval of Nonconforming Condominium and Cooperative Conversions | 8105.2.B |
| Cluster Subdivisions | 5100.2.O |
| Commercial Revitalization Districts – Uses, Modifications, and Waivers | 3102.3.B |
| Density Credit for Major Utility Easements | 5100.2.E(3) |
| Driveways for Uses in a C or I District | 5100.2.N |
| Enlargement of Certain Nonconforming Uses | 8104.2 |
| Increase in Building Height | 5100.2.C(8) |
| Increase in FAR | 5100.2.E(4) |
| Increase in FAR in the PTC District | 2105.6.B(2) |
| Increase in Fence or Wall Height | 4102.7.A(7)(c) |
| Increase in Height for Containment Structures | 4102.5.S(13) |
| Increase in Parking in the PTC District | 6102.2 |
| Minor Modifications to a Nonconformity | 8104.4 |
| Modification of Grade for Single-Family Detached Dwellings | 5105.4.C |
| Modification or Waiver of Setbacks or Privacy Yard for Single-Family Attached Dwellings | 5100.2.D(1)(e) |
| Modification of Minimum Setback Requirements for Certain Existing Structures and Uses | 5100.2.D(1)(f) |
| Modification of Shape Factor | 5100.2.H(3) |
| Outdoor Storage in Association with Warehousing Establishments in the Sully Historic Overlay District | 3101.18.B(2) |
| Parking in R Districts | 6100.2.B |
| Reduction of Setback Requirements for the Reconstruction of Certain Single-Family Detached Dwellings that are Destroyed by Casualty | 5100.2.D(5)(d) |
| Uses in a Floodplain | 5105.4 |
| Waiver of Certain Sign Regulations | 7102.2 |
| Waiver of Minimum Lot Size Requirements | 5100.2.A(3) |
| Waiver of Open Space Requirements | 5100.3.B |
| Waiving Minimum Setbacks, and Privacy Yard Requirements for Single-Family Attached Dwelling Units | 5100.2.D(1)(e) |

## B. Authority[1214]

**(1)** The Board may approve special exception uses that are listed in a zoning district in the Use Tables in Section 4101 and those special exceptions listed in the table above.

**(2)** No use existing before the effective date of this Ordinance which is allowed within a zoning district only by special exception, may be replaced or enlarged except in accordance with subsection 8104.3.[1215]

**(3)** An existing, valid special exception for a use located on a split-zoned lot will remain in effect for the entire property, even if an Ordinance amendment permits the use in one of the zoning districts, unless the Board approves an amendment to remove the land area from the special exception approval.[1216]

## C. Application Processing[1217]

**(1)** The applicant must submit materials in accordance with Section 8101.

**(2)** Any of the following may apply for a special exception:

**(a)** Any property owner;

[1214] Carried forward from 9-002 and 9-003. Change since 3/10/2020 draft: Deleted the limitation on modifications and waivers, which are now addressed in the General Standards in Article 4.
[1215] Carried forward from 2-304, Par. 2.
[1216] Carried forward from 2-304, Par. 3, but added the term "split-zoned" to help clarify.
[1217] Carried forward from 9-009.

**(b)** An owner of an easement;

**(c)** A possessor of the right of entry under the power of eminent domain;

**(d)** A lessee;

**(e)** A contract purchaser;

**(f)** An official, department, board, or bureau of any government or their agent; or

**(g)** A condominium in accordance with the provisions of Section 8105.

## D. Review and Decision

### (1) Review and Approval by Planning Commission and Board[1218]

The Zoning Administrator will transmit a copy of every special exception application to the Planning Commission. The Planning Commission will hold a public hearing and make recommendations including any conditions or restrictions for consideration by the Board at its public hearing.[1219]

### (2) Conditions and Restrictions[1220]

The Board may impose conditions and restrictions it deems necessary in the public interest to ensure compliance with this Ordinance and to implement the Comprehensive Plan.

### (3) Time Limitations, Extensions, Renewals[1221]

**(a)** Time limits are specified in Article 4 for certain special exception uses. In addition, the Board may impose a condition with a time limit on a special exception approval that specifies whether it may be extended for a designated period by the Zoning Administrator in accordance with subsection (b) below or periodically renewed by the Board following the procedures for amendment of a special exception in subsection (5) below. Unless otherwise established by the Board, a specified time period begins on the date of approval.

**(b) Extensions by the Zoning Administrator**

***1.*** A request to extend a special exception must be filed in writing with the Zoning Administrator a minimum of 30 days before the special exception expires unless the Zoning Administrator approves a lesser time for good cause shown. The special exception remains valid until the Zoning Administrator acts on the extension request. The special exception will expire as scheduled unless a timely extension request is filed.

***2.*** The Zoning Administrator must review the applicant's record of compliance with the previously imposed conditions and restrictions and determine

[1218] Carried forward from second half of 9-009, except the requirement to forward a copy of the application to any other review body has been deleted, as it is already included as a submission requirement.
[1219] Added reference to the Board public hearing.
[1220] Carried forward from 9-007. Deleted "and may require the posting of a guarantee or bond in a reasonable amount by the applicant."
[1221] Carried forward from Sections 9-008 and 9-012.

whether the special exception use still satisfies this Ordinance. The Zoning Administrator may[1222] also inspect the special exception use.

3. Upon a favorable finding, the Zoning Administrator may approve an extension for the time period specified for a particular use or that may have been specified by the Board.

4. If the Zoning Administrator determines that the use does not comply with all conditions and restrictions previously imposed by the Board, the Zoning Administrator must deny the request for extension or require the remedy of any violation within a specified time, depending on the nature of the noncompliance. If the request for extension is denied or the applicant fails to correct the violation within the time specified, the special exception expires. The approval of a new special exception is required before any subsequent reinstatement of the use.

5. If the Zoning Administrator determines that the use is no longer allowed as a special exception use in the zoning district in which located, the Zoning Administrator must deny the request, and the special exception expires.

6. If the Zoning Administrator determines that the use does not comply with any other applicable provisions of this Ordinance, the Zoning Administrator must deny the request and notify the applicant by certified mail, return receipt requested. Within 30 days of receipt, the applicant must file an amendment application for renewal to continue the use. The special exception will expire if an amendment application is not timely filed.

### (4) Status of Special Exception Uses[1223]

**(a)** A special exception use may be established only in accordance with the special exception approval. Any site plan, subdivision plat, building permit, Residential or Non-r~~R~~esidential Use Permit submitted for the development or use of the property must be in substantial conformance with the approved special exception.

**(b)** Once established, the use must be in substantial conformance with the special exception, any conditions or restrictions imposed by the Board, and all other requirements of this Ordinance. Except as permitted by subsections (c) and (d) below, no use may be enlarged, expanded, increased in intensity, or relocated. No condition of the special exception may be amended unless an application for an amendment or a new special exception is approved.

**(c)** Any modification to a valid special exception to provide an accessibility improvement or other reasonable accommodation does not require approval of an amendment or a new special exception.

**(d)** Minor modifications to special exceptions are allowed under subsection 8100.5 when the Zoning Administrator determines that they substantially conform to the approved special exception and do not materially alter the character of the development.

[1222] "Must" has been replaced with "may."
[1223] Carried forward from 9-004.

### (5) Amendment of a Special Exception[1224]

**(a)** Except as provided for in subsections (4)(c) and (d) above, an amendment is a request for any enlargement, expansion, increase in intensity, relocation, reduction in land area, modification of any condition of a previously approved and currently valid special exception use, or renewal of a currently valid special exception for a new period of time.

**(b)** An amendment application may be filed on a portion of the property subject to a currently valid special exception, if the Zoning Administrator determines that the amendment:

***1.*** Would not adversely affect the use of the property subject to the special exception but not incorporated into the amendment application;

***2.*** Would not inhibit, adversely affect, or preclude in any manner the fulfillment of the special exception conditions applicable to the area not incorporated into the amendment application; and

***3.*** Would not increase the overall approved density or intensity for the development.

**(c)** Previously approved special exception conditions that are not subject to the amendment request remain in full force and effect.

**(d)** Except as qualified below, the procedure to amend a special exception is the same as specified for approval of the original special exception, including the imposition of conditions and restrictions.

**(e)** If an applicant files an application to renew a special exception use for a new time period before the existing special exception expires, the special exception will remain valid until the Board acts on the application. However, the Board may not approve a renewal application for a use that is no longer allowed as a special exception use in the zoning district in which located. The special exception will expire without notice on the expiration date if a renewal application is not timely filed.

**(f)** In reviewing a renewal application, the Board must review the applicant's record of compliance with the previously imposed conditions and restrictions and determine whether the use still satisfies this Ordinance. Upon a favorable finding, the Board may approve the application. If the Board determines that the use does not satisfy all applicable provisions of this Ordinance, the Board may deny the application. For an application solely requesting a new time period, the Board may impose conditions and restrictions to ensure that the use will be consistent with and will not adversely affect the use or development of neighboring properties.

**(g)** The Board may not require the alteration of a structure if the structure conformed with this Ordinance, the USBC, and other applicable regulations at the time the special exception was first approved, unless the Board finds the alteration is necessary to protect the public health, safety, or welfare.

**(h)** The Board may approve an amendment to a valid special exception use, which is no longer allowed by special exception in the zoning district in which located, if the proposed amendment does not permit the use to be enlarged, expanded,

[1224] Carried forward from 9-014.

increased in intensity, relocated, or continued beyond any time limitation specified in the existing exception.

### (6) Expiration of a Special Exception[1225]

**(a)** Unless the Board approves additional time, an approved special exception use must be established or any approved construction must be commenced and diligently pursued within the time specified by the approval, or, if no time was specified, then within 30 months from the approval date of the special exception. Otherwise, the special exception will automatically expire without notice, unless additional time is approved by the Board.[1226]

**(b)** The Board may approve a request for additional time to establish the use or commence and diligently pursue construction if the Board determines that:

***1.*** A request was filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for, and the amount of additional time requested and must explain why the use has not been established or construction commenced and diligently pursued within the specified time; and

***2.*** The use complies with the Zoning Ordinance, unless the Board determines that a Zoning Ordinance amendment adopted after the approval of the special exception is not applicable to the request for additional time, and that approval of additional time is consistent with the public interest.

**(c)** If a request is timely filed, the special exception remains valid until the Board acts on the request; however, the use may not be established nor may construction commence while the request is pending.

**(d)** If a request is not timely filed, the special exception automatically expires without notice.

**(e)** If the Board denies the request for additional time, the special exception expires on the date of the Board's action, or if the specified time has not yet run, on the original expiration date.

### (7) Termination or Revocation of a Special Exception[1227]

**(a)** Unless a time limit is specified for a special exception, the special exception is valid for an indefinite period of time. However, if the use or activity ceases for a continuous period of two years or more, the special exception automatically terminates without notice. The approval of a new special exception would then be required before the use may be reinstated.

**(b)** The Board may revoke a special exception at any time due to the owner's or operator's failure to comply with the terms or conditions of the special exception.

**(c)** Before revoking a special exception, the Board must conduct a public hearing and provide notice in accordance with subsection 8100.1.B(1). The Board or its agent must give the special exception holder at least 20 days written notice of the

[1225] Carried forward from Sect. 9-015. Specified the waivers requiring Board approval.
[1226] Change since 3/10/20 draft: The exception for waivers that were previously considered Category 6 waivers has been removed, as the BOS can decide what time frame to establish.
[1227] Carried forward from 9-016.

hearing date by certified mail, return receipt requested, or by hand delivery. The notice must contain:

1. The grounds for the proposed revocation; and
2. The date, time, and place of the public hearing.

(d) The provisions above continue to apply to a use covered by a special exception that has been reclassified to a special permit use, until a special permit is approved for the use due to an enlargement, expansion, increase in intensity, relocation, or modification of a special exception condition and then the revocation provisions for special permits in subsection 8100.4.D(7) will apply.

(e) The provisions above do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of this Ordinance.

# 4. Special Permits

## A. Types of Special Permits[1228]

In addition to the special permits identified in the Use Tables in 4101, the following table summarizes the types of non-use related special permits allowed under this Ordinance and the location of the related provisions.

**TABLE 8100.2: Summary of Special Permits**

| Special Permit Type[1229] | Section/ Subsection |
|---|---|
| Certain Additions to an Existing Single-Family Detached Dwelling | 8104.3 |
| Increase in Fence or Wall Height | 4102.7.A(7)(c) |
| Increase in Sign Area or Height | 7102.3 |
| Increase in the Height of a Freestanding Accessory Structure | 4102.7.A(6)(c) |
| Increase in the Cumulative Square Footage of Freestanding Accessory Structures | 4102.7.A(6)(d) |
| Increase in the Percentage of Rear Setback Coverage | 4102.7.A(5)(e) |
| Modification of Grade for Single-Family Detached Dwellings | 5105.4.C |
| Modification of Minimum Setback Requirements for Certain Existing Structures and Uses | 5100.2.D(1)(f) |
| Reduction of Required Setbacks | 5100.2.D(11)(e) |
| Reduction of Setback Requirements - Error in Building Location | 5100.2.D(11)(d) |

## B. Authority

### (1) General Authority[1230]

(a) The BZA may approve an application for a use that is listed in a zoning district in the Use Tables in Section 4101 and any of the special permit uses listed in the table above.

(b) Any special permit use located within a floodplain must also be approved by the Board as a special exception in accordance with subsection 5105.2.B.

[1228] This is a new subsection intended to reference the various types of special permits that are not included in the Article 4 Use Table allowed by this Ordinance.
[1229] Sect. 8-913, Modifications to the Minimum Yard Requirements for Certain R-C Lots, is not carried forward as a special permit, but will be addressed at the time of building permit approval. The setback standards have been added to the R-C District.
[1230] Carried forward from 8-002.

(c) No use existing before the effective date of this Ordinance which is allowed within a particular zoning district only by special permit, may be replaced or enlarged except in accordance with the provisions of subsection 8104.3.[1231]

(d) An existing, valid special permit for a use located on a split-zoned lot will remain in effect for the entire property, even if an Ordinance amendment permits the use in one of the zoning districts, unless the BZA approves an amendment to remove the land area from the special permit approval.[1232]

**(2) Limits on Authority[1233]**

(a) Unless specifically provided, the BZA is not authorized to vary, modify, or waive any of the standards for any use for which a special permit is required.[1234]

(b) The BZA is authorized to determine whether a special permit application conforms to the provisions of this Ordinance. Upon a determination of conformity, the BZA may approve the special permit subject to the conditions and restrictions it deems necessary.

(c) The above provisions do not preclude a concurrent but separate variance application.

## C. Application Processing[1235]

**(1)** The applicant must submit materials in accordance with Section 8101.

**(2)** Any of the following may apply for a special permit:

(a) A property owner;

(b) A lessee;

(c) A contract purchaser;

(d) An official, department, board, or bureau of any government or their agent; or

(e) Aa condominium.

**(3)** The Zoning Administrator will forward the application to the BZA. Upon receipt, the Clerk of the BZA will forward a copy of the application to the Planning Commission in accordance with subsection 8103.3.G.

## D. Review and Decision

**(1) Review and Approval by BZA**

(a) The concurring vote of four BZA members is required to approve a special permit. The BZA should make a decision within 90 days after application acceptance unless:[1236]

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[1231] Carried forward from 2-303, Par. 2.
[1232] Carried forward from 2-303, Par. 3, except added the word “split-zoned” for clarity.
[1233] Carried forward from 8-003.
[1234] Change since 3/10/2020 draft: Added “unless specifically provided” to recognize that standards are being carried forward from the current Ordinance that allow the BZA to modify landscaping and screening standards.
[1235] Carried forward from 8-009.
[1236] Change since 3/10/2020 draft: Replaced “shall” in current Ordinance with “should” because the State Code is directory in this matter, not mandatory.

1. The applicant and the BZA agree to an extended period; or
2. An applicant refuses or neglects to prosecute an application.

### (2) Conditions and Restrictions[1237]

The BZA may impose conditions and restrictions it deems necessary in the public interest to ensure compliance with this Ordinance and to implement the Comprehensive Plan.

### (3) Time Limitations, Extensions, Renewals[1238]

(a) Time limits are specified in Article 4 for certain special permit uses. In addition, the BZA may impose a condition with a time limit on a special permit approval that specifies whether it may be extended for a designated period by the Zoning Administrator in accordance with subsection (b) below or periodically renewed by the BZA following the procedures for amendment of a special permit in subsection (5) below. Unless otherwise established by the BZA, a specified time period begins on the date of approval.

#### (b) Extensions by the Zoning Administrator

1. A request to extend a special permit must be filed in writing with the Zoning Administrator a minimum of 30 days before the special permit expires unless the Zoning Administrator approves a lesser time for good cause shown. The special permit remains valid until the Zoning Administrator acts on the extension request. The special permit will expire as scheduled unless a timely extension request is filed.
2. The Zoning Administrator must review the applicant's record of compliance with the previously imposed conditions and restrictions and determine whether the special permit use still satisfies this Ordinance. The Zoning Administrator may[1239] also inspect the special permit use.
3. Upon a favorable finding, the Zoning Administrator may approve an extension for the time period specified for a particular use or that may have been specified by the BZA.
4. If the Zoning Administrator determines that the use does not comply with all conditions and restrictions previously imposed by the Board, the Zoning Administrator must deny the request for extension or require the remedy of any violation within a specified time, depending on the nature of the noncompliance. If the request for extension is denied or the applicant fails to correct the violation within the time specified, the special permit expires. The approval of a new special permit is required before any subsequent reinstatement of the use.
5. If the Zoning Administrator determines that the use is no longer allowed as a special permit use in the zoning district in which located, the Zoning Administrator must deny the request, and the special permit expires.

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[1237] Carried forward from Sect. 8-007, except deleted “in the public interest” and the reference to posting of a bond.
[1238] Carried forward from Sections 8-008 and 8-012.
[1239] “Must” has been replaced with “may.”

6. If the Zoning Administrator determines that the use does not comply with any other applicable provisions of this Ordinance, the Zoning Administrator must deny the request and notify the applicant by certified mail, return receipt requested. Within 30 days of receipt, the applicant must file an amendment application for renewal to continue the use. The special permit will expire if an amendment application is not timely filed.

### (4) Status of Special Permit Uses[1240]

(a) A special permit use may be established only in accordance with special permit approval. Any site plan, subdivision plat, building permit, Residential or Non-rResidential Use Permit submitted for the development or use of the property in accordance with the special permit must be in substantial conformance with the approved special permit, and no development or use may be approved in the absence of such conformance.

(b) Once established, the use must be in substantial conformance with the approved special permit, any conditions or restrictions imposed by the BZA and all other requirements of this Ordinance. Except as permitted by subsections (c) and (d) below, no use may be enlarged, expanded, increased in intensity, or relocated and no condition of the special permit may be amended unless the special permit is amended or a new special permit is approved.

(c) Any modification to an approved and currently valid special permit to provide an accessibility improvement or other reasonable accommodation does not require a special permit amendment or a new special permit.

(d) Minor modifications to special permits are allowed under subsection when the Zoning Administrator determines that they substantially conform to the approved special permit and do not materially alter the character of the development.

### (5) Amendment of a Special Permit[1241]

(a) Except as provided for in subsection 8100.4.D(4), an amendment is a request for any enlargement, expansion, increase in intensity, relocation, reduction in land area, modification of any condition of a previously approved and currently valid special permit use, or renewal of a currently valid special permit for a new time period.

(b) An amendment application may be filed on a portion of the property subject to a currently valid special permit, if the Zoning Administrator determines that the amendment:

1. Would not adversely affect the use of the property subject to the special permit but not incorporated into the amendment application;
2. Would not inhibit, adversely affect, or preclude in any manner the fulfillment of the special permit conditions that apply to the area not incorporated into the amendment application; and
3. Would not increase the overall approved density or intensity for the development.

[1240] Carried forward from 8-004.
[1241] Carried forward from 8-014.

**(c)** Previously approved special permit conditions that are not subject to the amendment request remain in full force and effect.

**(d)** Except as qualified below, the procedure to amend a special permit is the same as the procedures for approval of the original permit. An amendment is also subject to the imposition of conditions and restrictions.

**(e)** An application to renew a special permit use for a new time period must be filed before the existing permit expires. The approved special permit remains valid until the BZA acts on the renewal application. However, the BZA may not approve a renewal application for a use that is no longer allowed as a special permit use in the zoning district in which located. The special permit will expire if a renewal application is not timely filed.

**(f)** In reviewing a renewal application, the BZA will review the applicant's record of compliance with the previously imposed conditions and restrictions and determine whether the use still satisfies this Ordinance. Upon a favorable finding, the BZA may approve the application. If the BZA determines that the use is not in accordance with all applicable provisions of this Ordinance, the BZA may, depending on the nature of the noncompliance, deny the application.

**(g)** For an application solely requesting a new time period, the BZA may impose conditions and restrictions to ensure that the use will be consistent with and will not adversely affect the use or development of neighboring properties.

**(h)** The BZA may not require the alteration of a structure, if the structure conformed with this Ordinance, the USBC and other applicable regulations at the time the special permit was first approved, unless the BZA finds the alteration is necessary to protect the public health, safety, or welfare.

**(i)** The BZA may amend a valid special permit use is no longer allowed by special permit in the zoning district in which located, if the amendment does not permit the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any time limitation specified in the existing permit.

### (6) Expiration of a Special Permit[1242]

**(a)** An special permit use approved by the BZA must be commenced and diligently pursued within the specified time, or, if no time was specified, then within 30 months from the approval date of the permit, unless additional time is approved by the BZA to establish the use and commence construction. Otherwise, the special permit will automatically expire without notice, unless a request for additional time is filed.

**(b)** The BZA may approve a request for additional time to establish the use or commence and diligently pursue construction if the BZA determines that:

***1.*** A request was filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for, and the amount of additional time requested and must explain why the use has not been established or construction commenced and diligently pursued within the specified time; and

[1242] Carried forward from 8-015.

2. The use complies with the Zoning Ordinance, unless the Board determines that a Zoning Ordinance amendment adopted after the approval of the special permit is not applicable to the request for additional time, and that approval of additional time is consistent with the public interest.

**(c)** If a request is timely filed, the special permit remains valid until the BZA acts on the request; however, the use may not be established, nor may construction commence while the request is pending.

**(d)** If a request is not timely filed, the special permit automatically expires without notice.

**(e)** If the BZA denies the request for additional time, the special permit expires on the date of the BZA's action, or if the specified time has not yet run, on the original expiration date.

### (7) Termination or Revocation of a Special Permit[1243]

**(a)** Unless a time limit is specified for a special permit, the permit is valid for an indefinite period of time. However, if the use or activity ceases for any reason for a continuous period of two years or more, the special permit automatically terminates without notice. The approval of a new special permit would then be required before the use may be reinstated.

**(b)** The BZA may revoke a special permit at any time due to the owner's or operator's failure to comply with the terms or conditions of the special permit.

**(c)** Before revoking a special permit, the BZA must conduct a public hearing and provide notice in accordance with subsection 8100.1.B(1). The BZA or its agent must give the permittee at least 20 days written notice of the hearing date either by certified mail, return receipt requested, or by hand delivery. The notice must contain:

1. The grounds for the proposed revocation; and
2. The date, time and place of the public hearing.

**(d)** The provisions above continue to apply to a special permit use that has been reclassified to a special exception use, until a special exception is approved due to an enlargement, expansion, increase in intensity, relocation, or modification of a special permit condition and then the revocation provisions of subsection 8100.3.D(7) apply.

**(e)** The provisions in this subsection do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of this Ordinance.

[1243] Carried forward from Sect. 8-016.

# 5. Minor Modifications and Variations[1244]

## A. Minor Modification or Variation to Existing Approval[1245]

### (1) Minor Modifications Approved by the Zoning Administrator

(a) The Zoning Administrator may approve minor modifications to proffered conditions, final development plans, PRC plans[1246], special exceptions, and special permits when the Zoning Administrator determines that they substantially conform to the approved application and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering, and design. Minor modifications may not:

1. Remove any land from or add any land to the area subject to the application;
2. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
3. Result in an increased parking requirement, except for any additional parking required for building additions or modifications permitted under subsections 4 and 11 below;
4. Permit a more intensive use than that approved; however, a religious assembly or religious assembly with private school, specialized instruction center, or child care center, may increase the number of seats, parking spaces, or students up to ten percent of the approved amount, if not expressly prohibited by the conditions;
5. Permit uses other than those approved, except that accessory uses may be permitted;
6. Reduce the effectiveness of approved transitional screening, buffering, landscaping, or open space;
7. Permit changes to bulk, mass, orientation, or location that adversely impact the relationship of the development to adjacent property, except that:
   a. Modifications that reduce yards up to ten percent may be considered, if they do not adversely impact adjacent property; and
   b. Increases in building height up to ten feet and increases in percentages of rooftop coverage may be permitted to exempt solar collection systems and other energy and environmental innovative technologies.
8. Increase the amount of clearing or grading for a stormwater management facility, including any clearing or grading associated with spillways, inlets, outfall pipes, or maintenance roads that reduces non-stormwater management open space, tree save area, or landscaping area on the lot;
9. Expand hours of operation;

[1244] Carried forward from Sections 16-203, 16-403, and 18-204.
[1245] Consolidation of minor modification requirements for proffered conditions, final development plans, PRC plans, special exceptions, and special permits. Those individual procedures now cross-reference this section.
[1246] Clarifies that the minor modification provisions apply to PRC plans, based on current practice.

10. Expand the area or type of signage approved, although changes to color and typeface may be considered;

11. Include the addition of or to any building, except that accessory structures clearly subordinate to the principal use and minor building additions, including those for cellar space, may be permitted, if the total of all such structures or additions does not exceed the following:

    a. 500 square feet or five percent of the approved gross floor area up to 2,500 square feet, whichever is greater, when the total gross floor area approved does not exceed 250,000 square feet.

    b. One percent of the approved gross floor area when the total gross floor area approved exceeds 250,000 square feet.

    c. 250 square feet of the gross floor area of freestanding accessory structures when the total gross floor area approved is 10,000 square feet or less.[1247]

    d. The maximum allowable density or FAR in the zoning district, however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included in the calculation of FAR.

(b) Anyone requesting a minor modification for a building addition must send written notice in accordance with subsection (3) below.

(c) When the Zoning Administrator determines that a modification is not in substantial conformance with the approved application, the modification requires the approval of an amendment to the application, a new application, or a minor variation if it meets the Ordinance requirements.[1248]

### (2) Minor Variations Approved by the Board without a Public Hearing

The Board may approve certain requests for minor variations to proffered conditions and the associated PRC development plan, generalized development plan, conceptual development plan, and final development plan, including any approved conditions of such plans, without a public hearing in accordance with the following:

(a) Requests cannot materially affect proffered conditions of use, density, or intensity, and are permissible only in one or more of the following circumstances:

1. To add or modify a use, if the proffered conditions do not specifically preclude the use, and the applicant demonstrates that the new use would have no materially greater land use impacts than the approved uses would, based on factors such as parking, trip generation, vehicular circulation, or hours of operation.

2. To increase permitted building height if the resultant height increase does not:

    a. Exceed 15 feet or 15 percent of the approved building height, whichever is less;

    b. Cause the building to exceed the maximum height of the zoning district; and

    c. Have a materially adverse impact on adjacent properties.

[1247] "Accessory storage structure" has been updated to "freestanding accessory structure."
[1248] Change since 3/10/2020 draft: Added option for a minor variation.

3. To modify minimum setback dimensions, building setbacks, or distances from peripheral lot lines shown on an approved development plan, but only if the modified dimensions would not have a materially adverse impact on adjacent properties or other proffered conditions.

4. To add, modify, or delete active or passive recreation uses at the request of the property owner or the owners' association, if the request:

   a. Is consistent with the objectives of the original zoning approval;

   b. Does not reduce the recreational uses or open space below the minimum required for the zoning district or otherwise required by the Zoning Ordinance; and

   c. Does not delete an approved but unbuilt facility.

5. To modify proffer commitments related to technologies (such as computer business centers) or services (such as transportation shuttles) that are underutilized or have become ineffective or obsolete as circumstances have changed.

6. To modify architectural design, character, color, features, or materials for buildings and signs if the modifications are of equivalent quality and do not have a materially adverse impact on adjacent properties.

(b) When the Board approves a minor variation that affects an approved development plan, the variation is deemed to apply to the development plan and not require a separate development plan amendment.

(c) Anyone making a minor variation request to the Board must send written notice in accordance with the Zoning Map amendment requirements of subsection 8100.2.B and Va. Code Sect. 15.2-2204(B).

(d) The Board at its discretion may elect not to waive a public hearing under this section, in which case the application may be processed under subsection 8100.2.D(2), including submission of an affidavit in accordance with subsection 8101.2.A(5).[1249]

### (3) Notice Requirements[1250]

(a) Anyone requesting a minor modification for a building addition must send notice of the request to the owners of all property abutting and across the street from the site, or portion thereof.

(b) The notice must be delivered by hand or sent by certified mail, return receipt requested, and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been submitted, and where to call for additional information.

(c) The Zoning Administrator will not consider any request for an addition that does not include an affidavit from the requester affirming:

1. That the required notice has been provided;

2. The date the notice was delivered or sent;

[1249] Change since 3/10/2020 draft: Added clarification that an affidavit is required for a minor variation.
[1250] Carried forward from 8-004, 9-004, 16-403, and 18-204.

3. The names and addresses of all persons notified; and
4. The Tax Map references for all parcels notified.

# 6. Variances

## A. Application Processing

**(1)** The applicant must submit materials in accordance with Section 8101.

**(2)** A property owner, tenant, government official, department, board, bureau, or condominium may apply to the BZA for a variance from the strict application of the terms of this Ordinance. [1251]

## B. Review and Decision

### (1) Approval of a Variance[1252]

**(a)** In accordance with the standards below, the BZA may grant in specific cases a variance from the strict application of a provision of this Ordinance except as qualified in subsection (4) below. This authorization does not grant the BZA the power to rezone property.

**(b)** Before granting a variance, a public hearing must be held in accordance with subsection 8100.1.C.

**(c)** The concurring vote of four BZA members of the is required to grant a variance.

**(d)** The BZA should make a decision within 90 days after application acceptance, unless:[1253]

1. The applicant and the BZA agree to an extended period; or
2. An applicant refuses or neglects to prosecute an application.

### (2) Required Standards for Variances[1254]

In accordance with ~~Va. Code Sect. 15.2-2309~~state law, to grant a variance, the BZA must determine from the evidence that (a) the strict application of the terms of this Ordinance would unreasonably restrict the utilization of the property, (b) that granting the variance would alleviate a hardship due to a physical condition relating to the property or its improvements, or (c) that granting a variance would alleviate a hardship by granting a reasonable modification to property or improvements requested by a person with a disability, and that the request satisfies the following requirements:

**(a)** The property was acquired in good faith, and the applicant did not create any hardship for which relief is sought;

**(b)** The variance would not result in a substantial detriment to adjacent property or nearby properties in the proximity of that geographical area;

[1251] Carried forward from 18-401.
[1252] Carried forward from 18-402.
[1253] Change since 3/10/2020 draft: Replaced “shall” in the current Ordinance with “should” because the state code in this matter is directory, not mandatory.
[1254] Carried forward from 18-404, with updates regarding a reasonable modification to correspond to the State Code.

**(c)** The condition or situation of the property or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board as an amendment to the Zoning Ordinance;

**(d)** The granting of the variance would not result an unpermitted use or a change in the zoning classification;

**(e)** The relief or remedy sought by the variance application is not available through a special exception or special permit; and[1255]

**(f)** That the variance would conform with the purposes of this Ordinance and not be contrary to the public interest.[1256]

### (3) Conditions[1257]

After determining that the applicant has satisfied the requirements for a variance set forth above, the BZA must also determine the minimum variance that would afford relief. In granting a variance, the BZA may impose conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest. It may also require a guarantee or bond to ensure that the conditions imposed will be met.

### (4) Unauthorized Variances[1258]

No variance may be granted that would:

**(a)** Modify any definition set forth in Article 9.

**(b)** Permit the establishment of any use not otherwise permitted in the zoning district under the specific provisions of this Ordinance.

**(c)** Result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

**(d)** Relate to nonconforming land uses.

**(e)** Reduce the amount of off-street parking space required by Article 6.

**(f)** Relate to signs.

**(g)** Result in cases where the applicant, after the effective date of this Ordinance, has purchased a portion of a larger parcel that:

***1.*** Has an area or width less than this Ordinance requires for a lot at the time of the purchase; or

***2.*** Has unusual physical characteristics (that are set forth as the basis for the application for a variance), which would not exist if the portion had not been detached by the purchase from the larger parcel.

**(h)** Permit the establishment of any use not otherwise permitted in a floodplain.

**(i)** Modify the minimum district size, lot area, lot width, or open space requirements of a cluster subdivision in:

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[1255] Added to clarify that a variance is not allowed where there is an SE or SP option, in accordance with Va. Code 15.2-2309.2

[1256] Added reference to reasonable modification and the ability for the variance to expire per State Code.

[1257] Carried forward from 18-405.

[1258] Carried forward from 18-406.

1. The R-2 District; or
2. A cluster subdivision in a R-3 or R-4 District that has a minimum district size of three and one-half acres or greater.

**(5) Expiration of a Variance**[1259]

**(a)** The activity approved by the variance must be established or any construction approved must be commenced and diligently pursued within the time specified by the BZA, or, if no time was specified, then within 30 months from the granting date of the variance, unless additional time is approved by the BZA in accordance with the provisions below.

**(b)** The BZA may approve a request for additional time to establish the use or commence and diligently pursue construction if the BZA determines that:

1. A request was filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for, and the amount of additional time requested and must explain why the use has not been established or construction commenced and diligently pursued within the specified time; and
2. The use complies with the required standards for variances, and that approval of additional time is consistent with the public interest.

**(c)** If a request is timely filed, the variance remains valid until the BZA acts on the request; however, the use may not be established, nor may construction commence while the request is pending.

**(d)** If a request is not timely filed, the variance automatically expires without notice.

**(e)** If the BZA denies the request for additional time, the variance expires on the date of the BZA's action, or if the specified time has not yet run, on the original expiration date.

**(f)** A variance granted to provide a reasonable modification to property or improvements at the request of a person with a disability will expire when the person who benefited is no longer in need of the modification, subject to state and federal fair housing laws.

## 7. Site Plans and Minor Site Plans[1260]

This section is intended to assist County agencies in the review of certain uses which may require building permits, and to assure compliance with all applicable requirements of this Ordinance, other Chapters of the County Code, and the Public Facilities Manual.[1261]

### A. Administration of Site Plans and Minor Site Plans

**(1)** The Director is responsible for administering site plans and minor site plans and may be assisted by the Zoning Administrator and other County officials.[1262]

[1259] Carried forward from 18-407.
[1260] From Article 17, with revisions as noted.
[1261] Carried forward from 17-101. Did not carry forward "further the intent of this ordinance."
[1262] Carried forward from 17-102.

**(2)** A property owner, a designated agent, or a condominium may submit a site plan in accordance with Section 8105. A property owner or an agent of the property owner may submit a minor site plan.[1263]

**(3)** The submission of a site plan or minor site plan does not relieve the applicant from any other applicable requirements of other County agencies, such as the Fire Marshal and the Water Authority.[1264]

**(4)** Once a site plan or minor site plan is approved, any building permit, Residential or Non-~~r~~Residential Use Permit, or other permits may be issued only in accordance with the approved plan. Once the uses or structures approved by a site plan or minor site plan are established, the uses and structures continue to be subject to the approval requirements, and any modifications or alterations to the site and any additional uses and structures may be permitted only in accordance with this Article.[1265]

## B. Uses Requiring a Site Plan or a Minor Site Plan[1266]

**(1)** Before construction or establishment, the following uses, including modifications or alterations to existing uses, require site plan or minor site plan approval unless exempt under subsection D below:

**(a)** All permitted uses in the R, C, I, and P districts.

**(b)** Special exception and special permit uses that are subject to a site plan.

**(2)** However, the Director may approve a building permit for part of a commercial project, such as footing and foundation permits, before site plan or minor site plan approval in accordance with the USBC. That approval does not guarantee the approval of a site plan or subsequent building permits.[1267]

## C. Uses and Activities Eligible for Minor Site Plans[1268]

**(1)** A minor site plan may be submitted in lieu of a site plan for a use listed below when the Director determines that the use will not require the improvements set forth in subsection 8101.4.A, that the improvements already exist, that the improvements may be made without a formal site plan, or that the improvements are not required in accordance with the Commercial Revitalization District provisions.

**(a)** Additions to existing buildings or uses when the addition does not exceed 2,000 square feet or one-third of the gross floor area of existing buildings, whichever is greater.

**(b)** Any permitted use on a temporary basis for a period not to exceed two years from the date of approval; however, the Director may extend the approval for one additional two-year period.

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[1263] Carried forward from the first sentence of Par. 1 of Sect. 17-105 and the first sentence of Par. 1 of Sect. 17-108.
[1264] Carried forward from Par. 3 of Sect. 17-105, except added "site plan."
[1265] Carried forward from Par. 8 of Sect. 17-105 and Par. 6 of Sect. 17-108.
[1266] Carried forward from 17-103.
[1267] Change since 3/10/2020: Replaced "partial" with examples of footing and foundation permits for clarity.
[1268] Carried forward from 17-105, paragraphs 1 and 7. Change since 3/10/2020 draft: Deleted a reference to parking tabulations and redesignations which had been added and is not in the current Ordinance.

**(c)** Additions and alterations to provide an accessibility improvement or other reasonable accommodation not otherwise exempt under subsection D.

**(d)** Uses that do not involve construction of gross floor area, such as tennis courts or storage yards, or modifications to existing uses that do not involve construction of gross floor area such as changes to walkways, parking lots, or landscape plans.

**(2)** In addition, the Director may approve the submission of a minor site plan for uses or modifications that are not in accordance with those listed above, when the Director determines that the approval will not adversely affect compliance with all other applicable requirements or the provision of any required improvements.[1269]

## D. Uses Exempt from a Site Plan or a Minor Site Plan[1270]

Unless otherwise required by proffered conditions or development conditions of an approved rezoning, special exception, special permit, or variance, the following uses are not subject to the requirement for a site plan or a minor site plan. Such uses, however, are still subject to all other applicable provisions of this Ordinance, the Public Facilities Manual, and the County Code.

**(1)** Single-family detached dwellings and their related accessory uses and structures.

**(2)** Additions to single-family attached dwellings and mobile homes, and related accessory uses and structures.

**(3)** Installation of new mobile homes on existing pads within an existing mobile home park.

**(4)** Agricultural operations.

**(5)** Accessory uses and structures such as statues, flagpoles, fences, and walls; additions of ornamental features such as bay windows, chimneys, awnings, canopies, or other facade improvements; and accessory structures for recycling or waste disposal.

**(6)** In existing open space areas or public parkland, recreational amenities that do not exceed a total of 2,500 square feet of disturbed area, such as gazebos, benches, and playground equipment; but not features such as swimming pools, paved tennis, or play courts.

**(7)** Associated service uses, except in accordance with (9) below.[1271]

**(8)** A change in use to a use that has the same or lesser parking requirement than the previous use.

**(9)** A change to a use with a greater parking requirement than the previous use require submission and approval of a parking tabulation to demonstrate that the number of existing parking spaces on-site meets the minimum off-street parking requirements for all uses. Parking tabulations must be submitted on forms provided by the Director, certified by an engineer or land surveyor authorized by the State, and include the written consent of the property owner. For condominiums, written consent must be provided in accordance with Section 8105.

**(10)** Parking redesignation plans prepared in accordance with Article 6.

[1269] Revised to allow the Director of LDS in lieu of the County Executive to authorize the submission of a minor site plan. This codifies the existing delegation of authority in order to facilitate efficient processing.
[1270] Carried forward from 17-104.
[1271] Updated Par. 7 and 8 of Sect. 17-104, based on revisions in new Article 4 for associated service uses.

**(11)** Signs.

**(12)** Home-based business uses in accordance with subsection 4102.7.I.

**(13)** Bus shelters.

**(14)** Public commuter park-and-ride lots that use existing off-street parking spaces accessory to another use.

**(15)** Temporary public uses not to exceed 875 square feet of gross floor area for a maximum time period of two continuous years, and quasi-public park, playground, or athletic fields in the C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8 and I-2, I-3, I-4, I-5, and I-6 Districts as an interim use.

**(16)** Temporary uses and structures such as stands for retail sales of seasonal items and tents for temporary events in accordance with the standards for special events in accordance with subsection 4102.8.I.

**(17)** Antennas and satellite earth stations; accessory outdoor storage and display; and additions and alterations to existing uses and site modifications which may include, but are not limited to, changes or additions to decks, patios, concrete slabs, vestibules, loading docks, mechanical equipment, storage structures, generators, walkways, landscaping, paving, electric vehicle charging stations, and light poles or lighting fixtures. All such uses or activities must not:[1272]

- **(a)** Exceed 500 square feet of gross floor area or 2,500 square feet of disturbed land area as defined in Chapter 104 of the County Code;
- **(b)** Exceed 750 square feet of gross floor area or 2,500 square feet of disturbed land area as defined in Chapter 104 of the County Code for additions and alterations to provide an accessibility improvement or other reasonable accommodation;
- **(c)** Exceed the maximum floor area ratio of the district in which located or the maximum floor area ratio permitted by any proffered or development conditions;
- **(d)** Reduce required landscaping, open space, parking, travel aisles, or driveways, and transitional screening or barriers; and
- **(e)** Necessitate the installation or relocation of storm sewer, public water, or public sewer.

## E. Required Improvements[1273]

To ensure the public safety and general welfare and except as provided for in the Commercial Revitalization District provisions, the Director may not approve a site plan or minor site plan unless certain improvements exist or will be made, or the Director has established that the requirement for the improvements may be modified or waived. The Director may modify or waive requirements if he or she determines, based on information provided by the applicant, that the improvements are unnecessary and the modification or waiver will not adversely affect other required improvements and compliance with all other applicable requirements. The Director may condition the modification or waiver to ensure that the results of the modification or waiver will conform with the purpose and intent of this subsection. In

[1272] Added reference to EVC stations.
[1273] Carried forward from 17-201.

accordance with the foregoing, the following improvements are required unless modified or waived by the Director:

**(1)** Pedestrian walkways must be constructed so that occupants and patrons may walk between buildings or stores within the site and to adjacent sites. Wherever possible, connection must be made to walkways in adjacent developments.

**(2)** Trails or walkways must be constructed in accordance with the general location shown on the Comprehensive Plan and construction of other connecting trails or walkways within the limits of the site plan. When those trails or walkways are to be constructed, fee title or easements must be conveyed to the Board, Fairfax County Park Authority, or Northern Virginia Regional Park Authority. The Director will determine the final location and design of trails or walkways after review by the Fairfax County Department of Planning and Development, the Fairfax County Park Authority, the Northern Virginia Regional Park Authority, or the Fairfax County Department of Transportation.

**(3)** Vehicular travel lanes, service drives, driveways, or other access connections, which will permit vehicular travel on the site and to and from adjacent properties, must be constructed in accordance with the following:

**(a)** Adjacent to and generally parallel with any primary highway, a service drive must be constructed, and wherever possible, it must connect with a service drive on adjacent properties. The service drive must be designed to be dedicated to the Virginia Department of Transportation, must be dedicated for public use as a public road, and the underlying land must be conveyed to the Board.

**(b)** Adjacent to any minor arterial or collector street, a travel lane not less than 22 feet in width must be constructed to afford access to adjoining properties.

**(c)** Service drives are not required adjacent to any street designated as a Virginia by-way by the Commonwealth of Virginia Transportation Board or adjacent to the Dulles Toll Road (Route 267). In addition, Board may waive the service drive requirement in conjunction with proffered condition, development plan, or special exception approval when it can be demonstrated that the provisions in subsections (d)1 and (d)2, or (d)1 and (d)3 below can be satisfied.

**(d)** The Director may waive the requirement for constructing a travel lane as set forth above when:

***1.*** There is no existing or proposed vehicular travel lane abutting the property on either side, and

***2.*** The adjoining property(s) is used or zoned for single-family detached dwellings, or

***3.*** The adjoining property(s) is occupied by a given use, which by its nature suggests that there will be a limited desire for travel between that use and the one proposed.

**(4)** Dedication and construction of widening for existing roads, existing roads on new alignments, and proposed roads, all as indicated on the Comprehensive Plan or as may be required by the Director for a specified purpose; however, proposed roads shown on the Comprehensive Plan as freeways or expressways do not need be constructed. In addition, dedication and construction of sufficient vehicular and pedestrian access is required to provide for safe and convenient ingress and egress.

**(5)** Curb and gutter must be constructed around all medians that separate travel lanes and service drives from existing streets and that separate off-street parking areas from streets, service drives, and travel lanes; however, the Director may waive the construction of an inside curb and gutter on a travel lane where it would be in keeping with the existing or proposed design of the travel lane or parking aisle on adjacent properties so that adequate and safe traffic circulation between sites can be obtained without that curb and gutter.

**(6)** Easements or rights-of-way must be dedicated for all facilities to be publicly maintained. The easement or right-of-way must be clearly defined for the purposes intended.

**(7)** Adequate signs along travel lanes or service drives must be installed to prohibit parking. Signs must be located on each curbed side, no more than 50 feet apart.

**(8)** An adequate drainage system for the disposition of storm and natural water must be installed in accordance with Chapter 124 of the County Code and the Public Facilities Manual. Appeals of decisions made under Chapter 124 of the County Code which are appealable must be processed in accordance with Article 7 of Chapter 124.

**(9)** Adequate temporary and permanent erosion and sedimentation control measures must be installed in accordance with Chapter 104 of the County Code and the Public Facilities Manual.

**(10)** All utilities provided by the developer must be installed underground in accordance with County standards and Chapter 63 of the County Code. All other utilities must be installed underground in accordance with standards of utility practice for underground construction, which must be furnished to the County by the utility company, and in accordance with standards furnished to and regulations issued by the applicable regulatory authority, except that:

- **(a)** Equipment such as the electric distribution transformers, switchgear, meter pedestals, and telephone pedestals, which are normally installed above ground, may continue to be installed in accordance with accepted utility practices for underground distribution;
- **(b)** Meters, service connections, and similar equipment normally attached to the outside wall of the premises they serve may be so installed;
- **(c)** Temporary overhead facilities required for construction purposes are permitted;
- **(d)** Utilities to be installed by someone other than the developer or his contractor are not required to be shown on plats, plans, or profiles, as a prerequisite to the approval of such plats, plans, or profiles.

**(11)** Vegetation must be removed and replaced in compliance with the requirements of subsection 8100.7.E(9) and the Public Facilities Manual.

**(12)** All other improvements required by this Ordinance and proffered conditions, including, but not limited to, off-street parking and loading facilities, driveways, and private streets as required by Article 6, and landscaping and screening as required by Section 5108.

**(13)** All other improvements as are required by other ordinances of the County or as may be required by the Virginia Department of Transportation.

**(14)** Installation of streetlights in accordance with the Public Facilities Manual.

## F. Staff Review and Action

### (1) Minor Site Plan Review and Approval[1274]

**(a)** The Director will check the minor site plan for completeness and compliance with administrative requirements. The Director will ensure that all administrative reviews are completed on time and that action is taken by the approving authority on the minor site plan within 60 days from receipt of a complete submission, except under abnormal circumstances.

**(b)** The Director will, as part of a preliminary plan review, or as part of a plan review if no preliminary plan review has been conducted: (i) review the dam break inundation zone map on file with the County for the affected impounding structure; (ii) notify the dam owner; and (iii) within ten days forward a request to the Department of Conservation and Recreation (DCR) determine the potential impacts of the proposed development on the spillway design flood standards required of the dam. DCR must notify the dam owner and the County of its determination within 45 days of the receipt of the request. Upon receipt of DCR's determination, the County will complete its review of the plan. If the Director has not received a determination within 45 days of DCR's receipt of the request, DCR will be deemed to have no comments, and the County will complete its review.

**(c)** Subsection 8100.7.F(2)(b) applies to minor site plans. In addition to other conditions that the Director may impose as necessary to ensure the public interest and the purpose and intent of this Ordinance, the Director may require, as a condition of any approval of a minor site plan, the dedication or construction of improvements, or agreement to dedicate or construct in accordance with subsection 8100.7.F(5), as may be necessary to adequately provide for such improvements.

**(d)** If a minor site plan is disapproved, the reasons for such disapproval must be shown on the plan or in a separate document. The reasons for disapproval must identify all deficiencies in the plan related to the disapproval by reference to specific ordinances, regulations, or policies, and must identify modifications or corrections that would result in approval of the plan.

### (2) Site Plan Review and Approval[1275]

**(a)** The Director will check the site plan for completeness and compliance with established administrative requirements. The Director will ensure that all administrative reviews are completed on time and that action is taken by the approving authority on the site plan within 60 days from receipt of a complete submission, except under abnormal circumstances. Site plans proposing the development or construction of affordable dwelling units under Section 5101 must be processed within 280 days from the receipt of the complete application, provided the plan substantially complies with all ordinance requirements when it is submitted. The calculation of the review period only includes the time the site plan is in for County review and does not include such time as may be required by the applicant for revisions or modifications in response to comments from the County

[1274] Carried forward from Paragraphs 4, 5, and 6 of Sect. 17-105.
[1275] Carried forward from 17-108.

to comply with the Ordinance. The Director will, as part of a preliminary plan review, or as part of a plan review if no preliminary plan review was conducted: (i) review the dam break inundation zone map on file with the County for the affected impounding structure; (ii) notify the dam owner; and (iii) within ten days forward a request to the Department of Conservation and Recreation (DCR) to determine the potential impacts of the proposed development on the spillway design flood standards required of the dam. DCR must notify the dam owner and the County of its determination within 45 days of the receipt of the request. Upon receipt of the DCR's determination, the County will complete its review of the plan. If the Director has not received a determination within 45 days of DCR's receipt of the request, DCR will be deemed to have no comments, and the County will complete its review.

**(b)** All site plans that are appropriately submitted and conform to standards and requirements must be approved by the Director after having been reviewed and recommended for approval by the appropriate departments of the County relative to items such as:

1. Location and design of vehicular and pedestrian access points and proposed road improvements, to include concurrence from the Virginia Department of Transportation.
2. Location and adequacy of parking areas.
3. Design of traffic circulation and control within the site and with adjoining properties.
4. Compliance with applicable requirements of this Ordinance, proffered conditions, or development conditions of an approved rezoning, special exception, special permit, or variance.
5. Adequacy of drainage, water supply, fire protection, and sanitary sewer facilities.
6. Compliance with applicable established design criteria, construction standards, and specifications for all improvements as set forth in the Public Facilities Manual.
7. Provision of adequate erosion and sediment control measures of both a temporary and permanent nature.
8. Compliance with Chapter 118 of the County Code. Appeals of decisions made under Chapter 118 of the County Code that are appealable must be processed in accordance with Article 8 of Chapter 118.
9. Adequate analysis and measures to address problem soils where required by Chapter 107 of the County Code or the Public Facilities Manual. Review and approval of plans, specifications, and reports by the County, with or without recommendations of the Geotechnical Review Board, do not relieve the developer of the responsibility for the design, construction, and performance of the structures, pavement, and slopes on the project and damage to surrounding properties.

***10.*** When a mapped dam break inundation zone of a state-regulated impounding structure on file with the County is present on the site, the following requirements must be met:[1276]

***a.*** If DCR determines that the spillway design flood of an existing impounding structure would change based on the proposed development, the developer must: (i) revise the plan of development so it does not alter the spillway design flood standard of the impounding structure, or (ii) make a payment towards the necessary upgrades to the affected impounding structure. The developer must pay one-half of the estimated construction costs of the upgrade plus administrative fees not to exceed one percent of the total amount of payment required or $1,000, whichever is less. Payment will be made to the Dam Safety, Flood Prevention and Protection Assistance Fund under Va. Code Sect. 10.1-603.19:1.

***b.*** If the developer does not revise the plan of development, he must submit an engineering study that conforms with the Virginia Dam Safety Act (§ 10.1-604 et seq.) and the Virginia Impounding Structure Regulations (4VAC 50-20) to DCR and the Director to determine the necessary upgrades to the affected impounding structure. The study must include a contract-ready cost estimate for upgrading the impounding structure. The cost estimate does not include maintenance, repairs or upgrades to the impounding structure not made necessary by the proposed subdivision. DCR will verify that the study conforms to state requirements. Following receipt of a study, DCR has 15 days to determine whether the study is complete. DCR must notify the developer of any specific deficiencies that cause the study to be determined to be incomplete. Once DCR determines that a submission is complete, DCR should notify the developer of its approval or denial within 45 days. Any decision must be communicated in writing and state the reasons for the disapproval.

***c.*** Following completion of the development, the developer must provide the dam owner and the Director with the information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone.

***d.*** The above requirements do not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County when the plan is submitted.

**(c)** If a site plan is disapproved, the reasons for the disapproval must be shown on the plan or in a separate document. The reasons for disapproval must identify all deficiencies in the plan that cause the disapproval by reference to specific ordinances, regulations, or policies, and must identify modifications or needed for approval of the plan.

**(d)** Any approved site plan may be revised, before bond or security release, in the same manner as originally approved and in accordance with the Public Facilities Manual. Approval of a revision does not alter the expiration date of the site plan as established in subsections subsection 8100.7.F(3) and subsection 8100.7.F(4). After

[1276] Included from AO-19-483.

release of the owner's or developer's agreement package provided in accordance with subsection 8100.7.F(5), any proposed change is subject to the standards applicable to site plans.

### (3) Validity of Approved Site Plans and Minor Site Plans[1277]

**(a)** Under Va. Code Sect. 15.2-2261, approved site plans valid on January 1, 1992 or site plans and minor site plans approved after that date are valid for five years from the date of approval or for such longer period as the Director may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan is deemed approved when the only requirements remaining to be satisfied to obtain a building permit are the execution of any agreements and posting of any securities and escrows. A minor site plan is deemed to be approved on the date of approval by the Director. When a building permit has been issued for construction in accordance with an approved site plan or minor site plan, that plan approval is extended for the life of the building permit.

**(b)** While the site plan or minor site plan remains valid, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy, or plan adopted after the date of approval of the plan will adversely affect the right of the developer or its successor -in -interest to commence and complete the approved development, unless the change or amendment is required to comply with state law or there has been a mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare. This subsection does not alter or affect the application of any local ordinance adopted under the Chesapeake Bay Preservation Act, the federal Clean Water Act, Sect. 402 (p.) of the Stormwater Program and associated regulations promulgated by the Environmental Protection Agency to individual parcels of land subject to final site plans or minor site plans.

**(c)** Residential site plans approved before 12:01 AM, June 18, 1991, for which a building permit for a residential structure shown on the approved site plan has been issued and that structure is built in accordance with the building permit, remains valid until completion of all structures shown on such site plan, if:

***1.*** The site plan is also an approved construction plan under the Subdivision Ordinance and the construction plan contained the required information for a site plan, including the location of all structures and minimum setbacks and yards;

***2.*** Bonded improvements shown on the approved construction plan have been built or are subject to a valid improvement bond;

***3.*** A subdivision plat was recoded after the construction plan was approved within the specified time frames set forth in the Subdivision Ordinance; and

***4.*** Construction of the recorded subdivision has been diligently pursued.

**(d)** Subsections (a) and (b) above do not apply to approved minor site plans for those temporary uses permitted by subsection 8100.7.C(1)(b).

[1277] Carried forward from 17-110.

### (4) Site Plan and Minor Site Plan Extensions[1278]

(a) The Director may extend site plan or minor site plan approval, except for temporary uses as set forth in subsection 8100.7.C(1)(b), for one or more periods. These extensions may be for the amount of time the Director determines to be reasonable, taking into consideration this subsection and the size and phasing of the proposed development.

(b) An applicant must file a request for an extension in writing with the Director at least 45 days before the approved site plan or minor site plan expires. The site plan or minor site plan will expire without notice on the original expiration date if a request for an extension is not timely filed. If the request is timely filed, the plan will remain valid until the request for an extension is acted upon by the Director. After the initial plan or extension expiration date, no building permit may be approved until the Director acts on the request for an extension.

(c) The Director may approve an extension request upon determining that:

1. The bonded improvements shown on the approved plan have been built or are subject to a current agreement or extension;
2. The approved plan complies with all current provisions of this Ordinance, Public Facilities Manual, Subdivision Ordinance, and other applicable ordinances; unless the Board specifies that an amendment adopted after the approval of the site plan or minor site plan does not apply to site plan or minor site plan extensions.

### (5) Agreements and Security[1279]

(a) Except as provided below, the owner or developer must execute an agreement to construct or demolish the physical improvements shown on the plan ("development agreement") and must submit an agreement for a construction permit with the application before a construction permit will be issued for:

1. Clearing and grading;
2. The installation of the physical improvements and facilities; or
3. For the decommissioning of solar power facilities and associated equipment or devices subject to Va. Code Sect. 15.2232 shown on an approved site plan or minor site plan.

(b) The development agreement must be accompanied by a fee in accordance with Section 8102 and a security package acceptable to the County in the amount of the estimated cost of construction or removal of those physical improvements that are:

1. Located within public rights-of-way or easements and the construction of which is not otherwise secured in its entirety with the Virginia Department of Transportation;

[1278] Carried forward from 17-111.
[1279] Carried forward from 17-112, except added language per State Code amendment to include solar power facility decommissioning.

2. For vehicular ingress and egress, for public access streets, for structures necessary to ensure stability of critical slopes and for storm water management facilities;

3. Required by a proffered condition or required to be bonded by a development condition of an approved special exception, special permit, or variance. Agreements and security packages for such plans for which approvals are conditions of record plat approvals are required under Chapter 101 of the County Code, The Subdivision Ordinance; or

4. Solar power facilities and associated equipment or devices subject to Va. Code Sect. 15.2232 to be decommissioned and required to be bonded under Va. Code Sect. 15.2-2241.2.

(c) The development agreement and security package must be provided to guarantee completion of all covered work within the time allowed by the Director. The Board may extend the time for completion upon the owner or developer submitting a written extension application, signed by all parties to the original agreement, and paying the extension fee.

(d) The Board or a County official, designated by resolution of the Board, must determine the adequacy and acceptability of any security package.

(e) When a County official has rejected an agreement or security package, the owner or developer may appeal that determination to the Board if the owner or developer has paid the required fees for site plan or minor site plan review and inspection of all required improvements shown on the plan.

(f) Periodic partial and final release of any security must be in accordance with Section 5101 and the Public Facilities Manual.

(g) An owner of a condominium must include on the development agreement or security package a declarant, unit owners' association, or unit owner, as provided for in Section 8105.

### (6) Construction Standards, Inspection, and Supervision[1280]

(a) Unless otherwise specifically provided in this Ordinance, the construction standards for all on-site and off-site improvements required must conform to the Public Facilities Manual. The Director must approve the plans and specifications for all required improvements.[1281]

(b) The Director must inspect the installation of the required on-site and off-site improvements to certify compliance with the approved site plan and applicable County standards.

(c) The owner must notify the Director in writing three days before the beginning of any street or storm sewer work shown to be constructed on the site plan. The submission of cut-sheets will serve to accomplish this requirement.

(d) The owner must provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman

[1280] Carried forward from 17-202.

[1281] Did not carry forward "and must inspect the construction of such improvements to assure conformity" since that is covered immediately below.

together with one set of approved plans, profiles, and specifications available at the site whenever when work is being performed.

**(e)** The installation of required improvements do not bind the County to accept those improvements for the maintenance, repair, or operation. Each type of improvement must satisfy the applicable regulations for acceptance.

**(7) As-Built Site Plans**[1282]

**(a)** Upon satisfactory completion, an as-built site plan and the corresponding filing fee must be submitted to the Director for review and approval for conformance with the approved site plan. The Director will determine the number of copies that must be submitted. The Director may require the submission of the plan electronically in lieu of prints. The plan must be prepared in accordance with the Public Facilities Manual.[1283]

**(b)** As-built site plans may be submitted and approved for any satisfactorily completed part of the total area of an approved site plan, with such part to be known as a 'section.'

## G. Notice Requirements[1284]

**(1)** Except as qualified below, any person who submits a site plan or a site plan revision must submit written proof of notification to all owners of property wholly or partially within 500 feet of the property and to at least one homeowners' or civic association within the immediate vicinity, as approved by the Director. The notice must include notice to owners of properties wholly or partially within 500 feet of the property that lie in an adjoining county or municipality. If there are fewer than 25 different owners of property wholly or partially within 500 feet of the property, then additional notices must be sent to other property owners in the immediate vicinity so that notices are sent to not less than 25 different property owners.

**(2)** Notice must be sent to the last known address of the owner(s) as shown in the current real estate assessment records and must be sent by certified mail, return receipt requested. Notice to homeowners' or civic associations must be sent to the address kept on file by the County's Office of Public Affairs, or if none is on file, to the registered address kept on file with the State Corporation Commission. The required written notice must include the following:

**(a)** Tax map reference number and street address;

**(b)** Plan name;

**(c)** Site plan number;

**(d)** Address and telephone number of the County office where the site plan may be reviewed or to which questions may be directed;

**(e)** Description of the proposed development including the type of use, number of dwelling units, gross floor area, and floor area ratio for non-residential uses, area in acres, density for residential uses and the amount of open space provided;

[1282] Carried forward from 17-301.
[1283] Change since 10/11/2019 draft: Revised to allow for electronic submission.
[1284] Carried forward from 17-107.

**(f)** Description of the location of the proposed development including the name of the nearest road, the side of the road on which the project is located, identification of the nearest existing road intersection, and the estimated distance from that intersection;

**(g)** A statement that the proposed construction may alter storm drainage from the site;

**(h)** Name, address, and telephone number of a representative of the applicant; and

**(i)** A reduction of the plan or plat showing the proposed development at a scale of 1"=500', or larger on 8 ½" x 11" sheet(s).

**(3)** The notice must state that:

**(a)** Changes and corrections to the site plan may occur before approval;

**(b)** Any person wishing to comment on the plan should submit comments to the County office identified in the notice;

**(c)** Any person wishing to be notified of the plan approval should submit a written request to that effect to the County office identified in the notice; and

**(d)** The site plan is subject to approval 30 days after the postmark date of the notice, unless releases are executed by all property owners required to be notified, in which case the plan may be approved sooner than 30 days after the postmark date.

**(4)** A copy of the notice must also be sent by the Director to the Board Member in whose district the property is located at the time of the plan submission.

**(5)** No minor site plan, site plan, or site plan revision may be approved within 30 days after the postmark date on the white receipts for the certified mailings, unless releases are executed by all property owners required to be notified, in which case the plan may be approved sooner than 30 days after the postmark date on the white receipts for the certified mailings. The original executed releases must be submitted to the Director on standard forms available from the Director.

**(6)** Any person who submits a minor site plan, site plan, or site plan revision that proposes land disturbing activities within an off-site utility easement must send a written notice to the owner of the property containing the easement. The notice must contain the information required by subsections (1) through (5) above and subsection (9) below, and must also state the nature of the land disturbing activity proposed within the easement.

**(7)** Any person who submits a minor site plan, site plan, or site plan revision that proposes land disturbing activities within 50 feet of or within a major underground utility easement located on the property must also send a written notice and a copy of the plan to the owner of the major underground utility easement. The plan and notice must be sent by certified mail, return receipt requested, postmarked no later than five days after the initial submission of the plan to the Director, to the owner's current registered agent on file with the State Corporation Commission. The notice must contain the information required by subsections (1) through (5) above, and subsection (9) below, except that the notice must state that the plan is subject to approval 45 days after the postmark date of the notice, unless releases are executed by all major underground utility easement owners required to be notified, in which case the plan may be approved sooner than 45 days after the postmark date. A copy of the notice and plan with the

corresponding postmarked white receipt must be submitted to the Director. No plan subject to this subsection may be approved within 45 days following the postmark date on the white receipt for the certified mailing, unless releases are executed by all major underground utility easement owners required to be notified, in which case the plan may be approved sooner than 45 days after the postmark date. The original executed releases must be submitted to the Director on standard forms available from the Director.

**(8)** For site plan revisions, the written notice requirements do not need to be met when the Director determines that the revision:

**(a)** Is a minor correction or adjustment to a feature shown on the previously approved plan;

**(b)** Does not reduce the effectiveness of approved transitional screening, landscaping, or open space; and

**(c)** Does not permit changes to the bulk, mass, orientation, or location that adversely impacts the relationship of the development to adjacent properties.

**(9)** Notice must be posted on the site by the Director within 44 days from receipt of a site plan, and no site plan may be approved within 14 days of such posting. The notification must present the following information:

**(a)** Notice that a site plan has been submitted for approval;

**(b)** Address and telephone number of the County office where a copy of the site plan may be reviewed;

**(c)** Site plan number;

**(d)** Type of use;

**(e)** Tax map reference number; street address or location of property;

**(f)** Date submitted;

**(g)** Date posted; and

**(h)** Date site plan is subject to approval.

## 8. Building Permits[1285]

### A. Zoning Review of Building Permits [1286]

The Zoning Administrator must give zoning approval before a building permit can be issued. Without that approval, no building or structure may be constructed, modified, added to, or demolished if Chapter 61 of the County Code requires a building permit.

### B. Limitations on Approval of Building Permits[1287]

**(1)** A building permit will not be issued for any building, structure, addition, or modification on that lot if there is an existing violation or if the issuance of a building permit would

[1285] Carried forward from Part 6, 18-600, revised as noted. Sect. 18-604 is located in Article 5, with earthborn vibration and outdoor lighting standards.
[1286] Carried forward from 18-601, except the reference to the requirements of Ch. 61 is deleted, and from the first sentence of Sect. 18-602.
[1287] Carried forward from 18-603.

cause a violation of Chapter 101, Chapter 116, or Chapter 118 of the County Code, this Ordinance, any other applicable laws and ordinances, any proffered conditions, or any development conditions of any approved rezoning, special exception, special permit, or variance. Appeals of decisions made under Chapter 118 of the County Code must be processed in accordance with Article 8 of Chapter 118.

**(2)** If required by Chapter 104 of the County Code, a building permit will not be issued for any structure until a conservation plan has been approved by the Director in accordance with Chapter 104 and the Public Facilities Manual.

**(3)** A building permit will not be issued for any building or structure subject to site plan approval as required by subsection 8100.7 except in strict conformance with that approved site plan and approval of any required agreements under subsection 8100.7.F(5). However, buildings or structures exempt from site plan approval must be approved in accordance with subsection 8100.7.D, and building permits must be approved in accordance with the USBC.

**(4)** A building permit approval does not guarantee the approval of a site plan or subsequent building permits, Residential Use Permits, or Non-~~r~~Residential Use Permits.[1288]

**(5)** Approval of any building permit does not approve construction within any recorded easement to which the Board or the County of Fairfax is a party.

**(6)** A building permit will be issued for a building or structure within any major underground utility easement only if it complies with subsection 5100.2.Q.

## 9. Residential and Non-~~r~~Residential Use Permits[1289]

### A. Permit Required for Occupancy or Use[1290]

**(1)** Occupancy, use of a structure or premises, or a change in use are not permitted until a Residential or Non-~~r~~Residential Use Permit has been approved in accordance with this section. A Residential or Non-~~r~~Residential Use Permit is required to approve both the initial and continued occupancy and use of the structure or land to which it applies.

**(2)** A Residential or Non-~~r~~Residential Use Permit, whichever applies, must be obtained from the Zoning Administrator before any person may:

**(a)** Occupy or use, or permit to be occupied or used, any building, other than accessory structures as permitted by subsection 4102.7, and additions to existing structures that do not require site plan approval;

**(b)** Change the use, or permit a change in the use, of land or a building;

**(c)** Occupy or use any vacant land except for an agricultural use;

**(d)** Make any change in the use of a nonconforming use;

**(e)** Enlarge any use in a manner that triggers an increase in the amount of required off-street parking; or

[1288] Change since 3/10/2020: Revised to delete "partial."
[1289] Carried forward from Part 7, 18-700. Deleted Sect. 18-705 for the issuance of a RUP or Non-RUP certifying conformance with the Ordinance when regulations change.
[1290] Carried forward from Sections 18-701, 18-702, and 18-703, except Par. 4 of Sect. 18-703 is included with submission requirements, and Par. 3 is addressed with the overlay districts.

**(f)** Continue any use after a change in the owner or operator of the use, except residential dwellings or an agricultural use.[1291]

**(3)** Written application for a Residential or Non-rResidential Use Permit for any building must be made after the completion of the work covered by the building permit and before occupancy.[1292]

**(4)** After written application for a Residential or Non-rResidential Use Permit is submitted to the Zoning Administrator, the permit will be issued if it conforms with this Ordinance, all other applicable laws and ordinances, proffered conditions, and conditions of special exceptions, special permits, or variances, as certified to the Zoning Administrator by the officers, bodies, or agencies responsible for the administration of such laws and ordinances, and the requirements of subsection 8100.9.B.

## B. Minimum Requirements[1293]

The following minimum requirements must be met before a Residential or Non-rResidential Use Permit will be issued:

**(1)** The structure must have passed all applicable final inspections such as building, electrical, plumbing, mechanical, Fire Marshal, and Health Department inspections.

**(2)** The lot must be final graded, and sodded or seeded. The Director may grant an exception in the winter when seeding, sodding, or final grading is not possible, or when extraordinarily sustained inclement weather conditions have occurred. In that case, the lot must be rough graded and completely mulched where disturbed.

**(3)** When exceptions for final grading, sodding, or seeding are granted during the winter, the lot must be brought into full conformance no later than the first day of the succeeding month of May, or as determined by the Director.[1294]

**(4)** The landscaping and screening requirements of Section 5108 or of any approved proffered condition, special exception, special permit, or variance must be completed; however, the Director may approve a delay in completion of the requirements upon satisfactory justification. Justification must include an agreement and bond with surety satisfactory to the Director to ensure performance in accordance with a firm schedule for timely completion.

**(5)** Fire hydrants serving the structure must be operative.

**(6)** All walks adjacent to the street and between the driveway or parking lot and the structure must be complete. In cases of inclement weather, a substitute, impervious, or all-weather surface sidewalk may be provided; however, all such sidewalks must fully conform with applicable requirements no later than the first day of the succeeding month of May. For the purpose of this provision, an all-weather surface is defined as four inches of crushed stone, properly compacted and maintained.

[1291] This standard has been changed from "single-family dwellings" to "residential dwellings" to reflect the current application of the Ordinance.
[1292] Replaced the requirement for the application to be made at the same time as the application of a building permit with the requirement that it be made prior to occupancy to reflect current process.
[1293] Carried forward from Sect. 18-704, except Par. 13 is located with submission requirements.
[1294] Added "or as determined by the Director."

**(7)** All streets and driveways necessary to provide access from the structure to a public street, and all parking areas in residential developments, must be complete except for a final surface. Streets must have a minimum of a two shot bituminous surface treatment, as required in applicable specifications. When bituminous concrete is required as pavement, the base asphalt courses must be placed. The surface layer may be applied after a Residential Use Permit is issued.

**(8)** With respect to Residential Use Permits issued between November 1 and April 30, when applicable specifications preclude the use of bituminous concrete or asphalt, an all-weather surface is acceptable. All-weather surface is defined as six inches of crushed stone, properly compacted and maintained. Manholes will be graded so as not to be a hazard to private vehicles and emergency equipment, and to preclude infiltration of surface water. The use of an all-weather surface is considered temporary in nature and should be brought to a properly paved condition as required above as soon as applicable specifications may be met.

**(9)** During May 1 through October 31, a properly paved surface is required before issuance of a Residential Use Permit. In instances where the builder cannot meet the requirements for a properly paved street for reasons beyond its control, the Director may extend this requirement for a period not to exceed 45 days.

**(10)** All storm and sanitary sewers serving the lots for which a Residential Use Permit is requested must be completed and approved.

**(11)** Curb and gutter in front of the structure must be complete and in place.

**(12)** All trails and walkways required by the provisions of subsection 8100.7.E must be clearly delineated by stakes, and the minimum of a gravel surface must be in place.

**(13)** Street name signs must be installed and official building numbers (street addresses) posted.

**(14)** The performance standards must be satisfied under Sections 5102 and 5109 before a Non-~~r~~Residential Use Permit will be issued.

**(15)** If the property is subject to a Pro Rata Road Reimbursement District established under Article 3, Chapter 101 of the County Code, the reimbursement payment requirements of Section 101-3-11 must be satisfied.

**(16)** If the property is in a floodplain, the provisions of subsection 5105.6.I must be satisfied.

## C. Permit Does Not Validate Any Violation[1295]

A Residential or Non-~~r~~Residential Use Permit does not validate any violation of any law or ordinance.

## D. Revocation of Permit[1296]

The Zoning Administrator may revoke an approved Residential or Non-~~r~~Residential Use Permit when the Zoning Administrator determines that the approval was based on a false statement or misrepresentation of fact by the applicant, or as provided for in Section 8106.

[1295] Carried forward from 18-706.
[1296] Carried forward from 18-707.

# 10. Appeals

## A. Appeal Processing

### (1) Initiation[1297]

(a) The applicant must submit materials in accordance with Section 8101.

(b) An appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, commission, or authority of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance. An appeal that relates to a proffered condition, however, must be taken to the Board as provided for in subsection 8100.2.D(3)(d).

### (2) Time Limit on Filing[1298]

(a) Except as set forth below, all appeals must be filed within 30 days from the date of the decision appealed from by filing an appeal application with the Zoning Administrator and the BZA.

(b) Appeals from notices of violation involving the following violations must be filed within ten days from the date of the notice by filing an appeal application with the Zoning Administrator and the BZA:[1299]

1. Occupancy of a dwelling unit in violation of subsection 4102.3.A.
2. Parking a commercial vehicle in an R district or a residential area of a P district in violation of subsections 4102.1.B(2) and 4102.1.E(4)
3. Parking of vehicles on an unsurfaced area in the front yard of a single-family detached dwelling in the R-1, R-2, R-3, or R-4 Districts in violation of subsection 6100.2.A(3).
4. Installation of prohibited signs on private property in violation of subsection 7100.5.B and subsections 7100.5.C(1) and 7100.5.C(5).
5. Installation, alteration, refacing, or relocation of a sign on private property in violation of subsection 7100.3.A(1).
6. Other short-term, recurring violations similar to those listed above.

(c) All appeal applications must specify the grounds for the appeal.

### (3) Stay of Proceedings[1300]

An appeal will stay all proceedings related to the action appealed unless the Zoning Administrator certifies to the BZA, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In that case, the proceedings will not be stayed unless the BZA or a court of record issues a restraining order, on application and on notice to the Zoning Administrator and for good cause shown.

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[1297] Carried forward from 18-301.
[1298] Carried forward from 18-303.
[1299] The provision referencing Chapter 110 of the County Code is not carried forward here, nor is Par. 16 of Sect. 10-102, which references the same Chapter. Those regulations are addressed outside of the zoning ordinance.
[1300] Carried forward from 18-307.

**(4) Withdrawal of Application for Appeal[1301]**

An application for appeal may be withdrawn at any time by the appellant or the appellant's agent by giving written notice to the Zoning Administrator. No fee or partial fee will be refunded for a withdrawn application.

### B. Review and Decision

**(1) Authorization[1302]**

The BZA hears and decides all appeals as set forth in this section. The BZA also hears and decides applications for interpretation of any district boundary if uncertainty remains after the Zoning Administrator applies the rules specified in subsection 2100.4.

**(2) Processing[1303]**

(a) Before the public hearing, the Zoning Administrator will forward to the BZA the records that form the basis for the decision being appealed.

(b) The BZA will process all applications for appeal in accordance with the provisions of subsection 8100.10.

**(3) Decision on Appeals[1304]**

(a) The BZA may affirm or reverse, wholly or partly, or may modify the order, requirement, decision, or determination appealed from.

(b) The concurring vote of four members of the BZA is required to reverse any order, requirement, decision, or determination of the Zoning Administrator or any other administrative officer under this Ordinance.

(c) The BZA will make a decision within 90 days after acceptance of the application, unless an extended period is mutually agreed to by the appellant and the BZA.

# 8101. Submission Requirements[1305]

## 1. General Requirements for All Applications

A. Submission requirements for appeals and applications in Section 8100 are included in this section. Submission requirements are generally divided into three categories: (i) administrative and property documentation; (ii) plan or plat requirements; and (iii) supporting reports and studies.

B. Regardless of the number of copies specified below, if the application is submitted electronically, only one copy of each submission requirement is needed, unless otherwise

[1301] Carried forward from 18-308.
[1302] Carried forward from 18-302. Reference to the Zoning Administrator is captured in Article 1 with their duties.
[1303] Carried forward from 18-305. Updated this subsection and A(3) to reflect current practice for transmission to BZA.
[1304] Carried forward from 18-306.
[1305] The submission requirements for individual procedures were relocated to this new standalone section and were modified to consolidate similar materials where possible and clarify current county practice. Additional notes on specific changes are provided throughout this section. It is anticipated that companion charts will be created by application type.

determined by the Zoning Administrator or Director. Staff may request one or more paper copies of any of the materials at any point in the process.[1306]

**C.** All applications, except for Minor Site Plans and Site Plans, must include a complete application signed by the applicant on forms provided by the County.

**D.** All applications must include the applicable fee in accordance with Section 8102 or Appendix Q of the County Code.

**E.** Submission requirements, except for the application form, legal description, affidavit, and application fee, if applicable, may be modified or waived by the Zoning Administrator or Director when one of them has determined that the requirement is not necessary for review of the application.[1307]

**F.** All statements, plans, profiles, elevations, and other submitted become part of the record of the hearing on an application.[1308]

**G.** Stormwater Management Plan:[1309]

For all generalized development plans, final development plans, PRC development plans, PRC plans, and, except where noted, for special exception and special permit plats, the following stormwater management information must be included on the plan or plat:

**(1)** The approximate location, size of the footprint in acres, and type of all proposed stormwater management facilities, including the full extent of side slopes, embankments, spillways, dams, and approximate water surface elevation for design storms, if applicable.

**(2)** A preliminary stormwater management plan with information about the adequacy of downstream drainage, including the capacity of any storm drainage pipes and other conveyances where the stormwater runoff from the site will be conveyed.

**(3)** In addition to the above, when there is 2,500 square feet or more of land disturbing activity occurs on the entire application property, the preliminary stormwater management plan must contain the following:

**(a) A graphic depicting:**

***1.*** The approximate footprint of the stormwater management facility and, where applicable, the height of the dam embankment and the location of the emergency spillway outlet for each stormwater management facility.

***2.*** The approximate on-site and off-site areas to be served by each stormwater management facility, along with the acreage draining to each facility.

***3.*** A preliminary layout of all on-site drainage channels, outfalls and pipes, including inlet and outlet pipes within the stormwater management facility.

***4.*** The approximate location or alternative locations, if any, of any maintenance access road or other means of access to the stormwater management facility, and the identification of the types of surfaces to be used for any such road.

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[1306] New standard to allow for electronic submissions of any type of application or plan.

[1307] New standard that builds on other provisions for modification of submission requirements.

[1308] Carried forward from Par. 17 of Sect. 18-202 and applied generally to all applications.

[1309] Carried forward from Par. 2J of Sect. 8-011, Par. 2J of Sect. 9-011, Par. 1N of Sect. 9-615, Par. 2A of Sect. 9-622, Par. 4L of Sect. 16-302, Par. 1O of Sect. 16-303, Par. 2K of Sect. 16-501, Par. 1A and 2A of Sect. 16-502, and Par. 3F of Sect. 18-203.

5. Proposed landscaping and tree preservation areas in and near the stormwater management facility.

6. The approximate limits of clearing and grading on-site and off-site for the stormwater management facility, storm drainage pipes, spillways, access roads and outfalls, including energy dissipation, storm drain outlet protection or stream bank stabilization measures.

**(b) A preliminary stormwater management narrative setting forth the following:**

1. Descriptions of how the water quantity, water quality, and adequate outfall requirements of the Stormwater Management Ordinance and Public Facilities Manual will be met.[1310]

2. The estimated area and volume of storage of the stormwater management facilities proposed to meet water quantity, water quality, and adequate outfall requirements.

3. For each watercourse into which drainage from the property is discharged, a description of the existing outfall conditions, including any existing ponds or structures in the outfall area. The outfall area must include all land located between the point of discharge from the property that is located farthest upstream, down to the point where the drainage area of the receiving watercourse exceeds 100 times the area of that portion of the property that drains to it or to a floodplain that drains an area of at least one square mile, whichever comes first.

## 2. Zoning Map Amendments (Rezonings)

### A. Administrative and Property Documentation[1311]

The following information is required for any rezoning application submitted by property owners, contract purchasers, or a condominium, or their agents:

**(1)** Four copies of a certified plat of the property with the following information:

**(a)** Boundaries of the property, with bearings and distances of: (i) the perimeter property lines, and (ii) each existing and proposed zoning district;

**(b)** Total area of the property and each existing and proposed zoning districted in square feet or acres;

**(c)** Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat;

**(d)** Location of all existing building and structures;

**(e)** Names and route number of all boundary roads or streets, and width of existing rights-of-way; and

**(f)** Seal and signature of person preparing the plat.

**(2)** Four copies of a legal description of the property, including metes and bounds of each zoning district proposed.

[1310] Revised to reference the Stormwater Management Ordinance and PFM.
[1311] Carried forward from Sect. 18-202.

**(3)** One copy of the portion of the current Fairfax County Zoning Map showing the boundaries of the subject site clearly outlined, covering the area generally within a 500-foot radius of the proposed use.[1312]

**(4)** An application filed by an agent, contract purchaser, or lessee, must include a notarized statement, signed by the property owner, indicating endorsement of the application. For a condominium, a notarized written statement by the property owner must be provided in accordance with Section 8105.

**(5)** An affidavit is required for all applications for map amendments and when a final development plan is not submitted in conjunction with a conceptual development plan, except: a) an application constituting a comprehensive zoning plan; b) an ordinance applicable throughout the County; or c) an application initiated by the Board that involves more than ten parcels that are owned by different individuals, trusts, corporations, or other entities. The affidavit must: [1313]

**(a)** Be completed on the affidavit form approved by the Board and provided by the County;

**(b)** Be signed by the applicant or the applicant's authorized agent and notarized;

**(c)** Include a statement whether a member of the Board or Planning Commission, or any member of the member's immediate household owns or has any financial interest in the subject land either individually, by ownership in stock in a corporation, or through an interest in a partnership;

**(d)** Include a certified statement showing the agent's authorization to act on behalf of the applicant if the applicant's agent completes the application or affidavit; and

**(e)** Be reaffirmed before each public hearing on the application in accordance with the reaffirmation procedure outlined on the affidavit form.

***1.*** For an affordable dwelling unit development, include for each parcel of the site or portions thereof at one location, as defined in subsection 5101.2.A: the names of the owners; and the Fairfax County Property Identification Map Number, parcel size, and zoning district classification.

**(6)** For a PRC Plan, an applicant must provide a boundary survey of the property with an error of closure within the limit of one in 20,000 related to true meridian and showing the location and type of boundary evidence. The survey may be related to the U.S.C. & G.S., State grid north, if the coordinates of two adjacent corners are shown. This information may be obtained from recorded plats in the case of lots and subdivisions recorded subsequent to September 1, 1947.

## B. Plan Requirements for Residential, Commercial, and Industrial Districts[1314]

Twenty-three copies of a Generalized Development Plan (GDP) must be submitted. The GDP and any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The GDP must be on a maximum sheet size of 24" x 36", and if presented on more than one

[1312] Updated language because section sheets are no longer needed.
[1313] Carried forward from Paragraphs 1G and 2I of Sect. 16-502.
[1314] Carried forward from 18-203. The provision to submit a development plan within 60 days after acceptance is not carried forward.

sheet, match lines must indicate where the several sheets join. In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted. The GDP must include the following:

**(1)** Scale of not less than 1" = 100';

**(2)** North arrow, with north, to the extent feasible, oriented to the top of the plan;

**(3)** Except for single-family detached dwellings, the approximate location and dimensions of all proposed structures and uses, to include the maximum height in feet of all structures and penthouses;[1315]

**(4)** The proposed traffic circulation plan, including major streets and pedestrian, bike or bridle paths, and the location of all trails required by the Comprehensive Plan;

**(5)** Proposed major open space areas , including the percent of site area, and community and public facilities;[1316]

**(6)** Proposed plan for major sanitary sewer improvements;

**(7)** A stormwater management plan in accordance with subsection 8101.1.G;

**(8)** Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities.;[1317]

**(9)** The number of required and provided parking spaces;

**(10)** Existing topography with a maximum contour interval of two feet and a statement indicating whether it is air survey or field run;

**(11)** A delineation of scenic areas or natural features deserving of protection or preservation, and a statement of how it will be accomplished;

**(12)** A statement or visual presentation of how adjacent and neighboring properties will be protected from adverse effects from the proposed development, to include vehicular access plans and dimensions of all peripheral yards;

**(13)** A delineation of all existing structures, their date of construction, if known, and whether they will be retained or demolished;

**(14)** The proposed maximum gross floor area and FAR for all uses other than residential;

**(15)** The proposed maximum number of dwelling units, and the density and open space calculations in accordance with subsections 5100.2.E and 5100.3;

**(16)** A statement of the proposed special amenities;

**(17)** A statement of the public improvements, both on and off-site, that are proposed for dedication or construction, and an estimate of the timing for the improvements;

**(18)** The approximate development schedule;

**(19)** Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the

[1315] All references to angle of bulk plane are deleted throughout.
[1316] Change since 3/10/2020 draft: Added percent of site area.
[1317] Revised to require all easements to be shown, not only those over 25' in width. Change since 6/30/2020 draft: Added requirement to show preliminary location of new or relocated utilities.

floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;

**(20)** Any proposed improvements to the public right(s)-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way;

**(21)** A plan showing existing vegetation, including the limits of clearing and vegetation to be preserved, and proposed landscaping and screening in accordance with the provisions of Section 5108, and an existing vegetation map when there is 2,500 square feet or more of land disturbing activity;

**(22)** Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site.

**(23)** A statement that confirms the ownership of the property, and describes the applicant's interest; and

**(24)** A delineation of any existing dam break inundation zone and, when a state regulated impoundment is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone.

## C. Plan Requirements for Planned Districts Except the PRC District

**(1)** Twenty-three copies of a **Conceptual Development Plan** (CDP) must be submitted. A CDP is subject to the same requirements as a Generalized Development Plan above, except as modified below:[1318]

### Rezoning to the PDH, PDC, PRM, or PCC District

**(a)** Additional or revised requirements for a rezoning to the PDH, PDC, PRM, or PCC District:

***1.*** A vicinity map at a scale of not less than 1" = 2,000';

***2.*** A statement or visual presentation of how adjacent and neighboring properties will be protected from any adverse effects prompted by the proposed development, to include vehicular access plans, proposed measures of screening, and dimensions of all peripheral yards;

***3.*** Instead of the stormwater management plan in subsection B(7), the CDP must indicate the approximate location and estimated size of all proposed stormwater management facilities, and a statement as to the type of facility proposed;

***4.*** The existing topography as required by subsection B(10) may have a maximum contour interval of five feet instead of two feet; and

***5.*** The density calculations in subsection B(15) must also specify those units obtained by the bonus provisions, and a breakdown of the approximate number of units by type and the range of approximate lot sizes for single-family detached dwellings.

[1318] Carried forward from 16-501, except the standards for submitting a concurrent FDP have been deleted, as the FDP requirements are already covered below.

**(b)** The following do not need to be provided for a rezoning to the PDH, PDC, PRM, or PCC District:

1. The proposed plan for major sanitary sewer improvements in subsection B(6);
2. The distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor in subsection B(19); and
3. The proposed landscaping and screening in accordance with the provisions of Section 5108 in subsection B(21).

**Rezoning to the PTC District:**

**(c)** Additional or revised requirements for a rezoning to the PTC District:

1. A vicinity map at a scale of not less than 1" = 2,000';
2. Existing topography as required by subsection B(10) must be shown with a maximum contour interval of two feet, and a statement indicating whether it is air survey or field run. Where existing ground is on a slope of less than two percent, either one foot contours or spot elevations must be provided where necessary, but not more than 50 feet apart in both directions;
3. The approximate location and arrangement of all proposed structures and uses, including the proposed build-to lines, the distances of all structures from the development boundaries and streets, the streetscape and landscape treatments to be provided, and the maximum height in feet of all structures and penthouses;
4. The on-site vehicular and pedestrian circulation system, including the location and width of all streets, driveways, entrances to parking areas, parking structures and loading areas, walkways, bicycle paths, and all trails required by the Comprehensive Plan. Connections with off-site streets and trails that are existing or are required by the Comprehensive Plan, including the grid of streets and streetscape;
5. Instead of the stormwater management plan required by subsection B(7), the CDP must indicate the approximate location and estimated size of all proposed stormwater management facilities, and a statement as to the type of facility proposed;
6. In subsection B(14), a statement setting forth the maximum gross floor area and FAR proposed for all uses, including the amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application;
7. The density calculations in subsection B(15) must also specify those units obtained by the bonus provisions, and a breakdown of the approximate number of units by type and the range of approximate lot sizes for single-family detached dwellings; and
8. The open space calculations in subsection B(15) must also include off-site open space and the area in developed recreational open space in accordance with the Comprehensive Plan and generally based on the provisions of subsection 5100.3.

**(d)** The following do not need to be provided for a rezoning to the PTC District:

1. The proposed plan for major sanitary sewer improvements in subsection B(6); and
2. In subsection B(21), the limits of clearing and the proposed landscaping and screening in accordance with the provisions of Section 5108.

**(2)** Twenty-three copies of a **Final Development Plan** (FDP) must be submitted. The FDP, any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The FDP must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted. The FDP must include the following:[1319]

**(a)** Scale of not less than 1" = 100';

**(b)** North arrow, with north, to the extent feasible, oriented to the top of the plan;

**(c)** A vicinity map at a scale of not less than 1" = 2,000';

**(d)** Bearings and distances of the perimeter property lines;

**(e)** Total area of the property in square feet or acres;

**(f)** Names and route numbers of boundary streets and the width of existing right(s)-of-way;

**(g)** Any proposed improvements to the public right(s)-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way;

**(h)** Existing topography and a statement indicating whether it is air survey or field run, with a maximum contour interval of two feet. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations must be provided where necessary, but not more than 50 feet apart in both directions;

**(i)** The location and arrangement of all proposed uses and structures, including a preliminary subdivision layout, if subdivision is proposed;[1320]

**(j)** The approximate maximum height in feet, to include penthouses, of all buildings, and the number of floors both above and below or partially below finished grade;[1321]

**(k)** The distances of all structures from the development boundaries and streets.

**(l)** The vehicular and pedestrian circulation system, including the location and width of all streets, driveways, entrances to parking areas, parking structures and loading areas, walkways, bicycle and bridle paths, and all trails required by the Comprehensive Plan;

**(m)** Off-street parking and loading areas and structures;

[1319] Carried forward from Sect. 16-502.
[1320] Edited for consistency among P districts.
[1321] Change since 3/10/2020 draft: Added "approximate" for consistency with PRC plan. Deleted exemption for single-family dwellings.

**(n)** Open space areas, specifying the percent of the site, their proposed treatment or improvement and delineating the areas proposed for specific types of recreational facilities;[1322]

**(o)** A plan showing existing vegetation, including the limits of clearing and vegetation to be preserved, and proposed landscaping and screening in accordance with the provisions of Section 5108, and an existing vegetation map when there is 2,500 square feet or more of land disturbing activity;[1323]

**(p)** Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site;

**(q)** A plan or statement showing how public utilities are, or will be, provided;

**(r)** A stormwater management plan in accordance with subsection 8101.1;

**(s)** Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities;[1324]

**(t)** Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;

**(u)** When the development is to be constructed in sections, a final sequence of development schedule showing the order and an approximate completion date for each section; and

**(v)** The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone must be provided.

**(w)** In the PDH, PDC, PRM, and PCC Districts, a table with the following data, when applicable to a given development plan: [1325]

***1.*** Total number of dwelling units by type.

***2.*** Residential density in units per acre.

***3.*** Total floor area and floor area ratio for each type of use, except residential uses.

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[1322] Change since 3/10/2020 draft: Added requirement to include the percent.

[1323] Edited to reference relocated Article 13 for consistency with SE plat requirements.

[1324] Revised to require all existing easements to be shown, not only those over 25' in width, as well as proposed easements. Change since 6/30/2020 draft: Revised the requirement to show proposed easements to show the preliminary locations of new or relocated easements.

[1325] Carried forward from Paragraphs 1B and 1D of Sect. 16-502.

4. Total area in open space.
5. Total area in developed recreational open space.
6. Total number of off-street parking and loading spaces provided and the number required by Article 6.
7. Amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application.

(x) In the PDH, PDC, PRM, and PCC Districts, architectural sketches of typical proposed structures, including lighting fixtures and signs.[1326]

**(3)** An FDP in the PTC District is subject to the same requirements as an FDP above, except as modified below:

**(a)** In addition to the circulation system in subsection B(4), connections with off-site streets and trails that are existing or are required by the Comprehensive Plan, including the grid of streets and streetscape must be included;

**(b)** The open space areas in subsection B(15) also includes any off-site open space;

**(c)** Detailed building design plans must be provided to include architectural sketches or elevations of structures; information on the type, location and height of all rooftop structures and features and the percent of roof area covered by such structures; information on building materials and signs; and

**(d)** A statement and graphic depiction must be provided of the types, sizes and locations of the urban design amenities proposed within the PTC District including pedestrian linkages, plazas, courtyards, bicycle trails, outdoor recreation facilities, ponds, fountains, public parks and any seating, lighting, or special paving.

## D. Plan Requirements for the PRC District:

**(1) Comprehensive Plan Amendment**[1327]

**(a)** The submission of a proposed amendment to the Comprehensive Plan of the County to establish a planned residential community (PRC District) must include the items listed below.

1. A list of the tax map reference numbers;
2. A statement explaining the relationship of the proposed PRC District to the Comprehensive Plan;
3. The proposed densities of population and the proposed number of dwelling units in low-density, medium-density, and high-density residential areas;
4. The general location and intensity of proposed neighborhood convenience centers, village centers, town centers, and convention and conference centers;
5. The general location of proposed major open space and recreation areas, including the nature of proposed recreational facilities and parks;

[1326] Change since 3/10/2020 draft: Deleted "if available." The submission requirement could be waived if appropriate.
[1327] Carried forward from 16-301.

***6.*** The general location of public or community uses including schools and religious assembly;

***7.*** The general location and character of the proposed major roads, public transportation, trails, public utility, and storm drainage systems;

***8.*** The proposed general development schedule;

***9.*** A statement of the public facilities, roadway improvements, and public utilities that will be required to serve the PRC District; And

***10.*** Any additional information as deemed necessary by the Director of DPD.

**(b)** Once the PRC District is established, any amendment to the Comprehensive Plan initiated by an applicant, other than the Planning Commission or Board, will require submission of those items deemed necessary for the review by the Director of DPD.

**(2)** Twenty-three copies of a **PRC Development Plan** must be submitted. A PRC Development Plan is subject to the same requirements as a Generalized Development Plan in subsection 8101.2.B above, except as modified below:[1328]

**(a)** A vicinity map at a scale of not less than 1" = 2,000' must be included;

**(b)** The maximum building height must be shown, except for a development plan for the initial establishment of a PRC District, building height is optional.

**(c)** A delineation of any Resource Protection Area and Resource Management Area must be included;

**(d)** Instead of subsection B(3), the following must be shown: the general location of all proposed land uses, including neighborhood convenience, village, convention, and conference and town centers;

**(e)** The traffic circulation plan required in subsection B(4) may be modified for a development plan for the initial establishment of a PRC District to show the approximate location of the required features;

**(f)** For subsection B(9), the parking schedule is optional for a development plan for the initial establishment of a PRC District;

**(g)** The maximum gross floor area and FAR for all uses other than residential as required by subsection B(14) may be modified for a development plan for the initial establishment of a PRC District to indicate the approximate gross floor area and FAR;

**(h)** Instead of subsection B(15), the following must be included: a tabular statement with the maximum number of dwelling units proposed by type, the corresponding population totals based on the computation factors of subsection 2105.3.B(4), the maximum density calculation based on subsection 5100.2.E, and the range of approximate lot sizes for single-family detached dwellings. However, for a development plan for the initial establishment of a PRC District, the applicant may choose to include only the approximate number, type, and density of dwelling units in the residential areas;

**(i)** For subsection B(21) , only an existing vegetation map when there is 2,500 square feet or more of land disturbing activity must be included;

[1328] Carried forward from 16-302.

**(j)** The following subsections are not required: B(6), B(12), B(13), B(17), B(19), and B(20).

**(3)** 23 copies of a **PRC Plan** must be submitted. The PRC Plan, any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The plan must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted. The PRC Plan must include the following:[1329]

**(a)** Scale of not less than 1" = 100';

**(b)** North arrow, with north, to the extent feasible, oriented to the top of the plan;

**(c)** A vicinity map at a scale of not less than 1" = 2,000';

**(d)** Total area of the property in square feet or acres;

**(e)** Existing topography and a statement indicating whether it is air survey or field run[1330], with a maximum contour interval of two feet;

**(f)** The general location and arrangement of all existing and proposed uses and structures, and, if known, on adjacent properties;

**(g)** The approximate maximum height in feet, to include penthouses, and the number of floors both above and below or partially below finished grade of all buildings on the site and, if known, on adjacent properties;[1331]

**(h)** The distances of all structures from the development boundaries and streets;

**(i)** The vehicular and pedestrian circulation system, including the location and width of all existing, platted, and proposed streets and easements, including names and route numbers, the approximate width and typical cross sections, including acceleration, deceleration, and turn lanes, service drives, entrances to parking areas and parking structures, the location and width of walkways, bicycle and bridle paths, and all trails required by the Comprehensive Plan;

**(j)** Off-street parking and loading areas and structures with typical space and aisle dimensions;

**(k)** Open space areas, specifying their proposed treatment or improvement and delineating the areas proposed for specific types of recreational facilities;

**(l)** Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site;

**(m)** A plan or statement showing how public utilities are, or will be, provided. In addition, the approximate location of existing and proposed storm and sanitary sewer lines;

**(n)** A stormwater management plan in accordance with subsection 8101.1;

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[1329] Carried forward from 16-303.

[1330] Change since 3/10/2020 draft: Added requirement for topography to be by air survey or field run for consistency with all other P Districts.

[1331] Added references to penthouses and above and below grade for consistency with FDP requirements. Change since 3/10/2020 draft: Added "maximum" for consistency with FDP. Deleted exemption for single-family dwellings.

**(o)** Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities;[1332]

**(p)** Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;[1333]

**(q)** When the development is to be constructed in sections, a proposed sequence of development schedule showing the order and an approximate completion date for each section; and

**(r)** The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone must be provided.

## E. Supporting Reports and Studies

The following additional information must be submitted:

**(1)** A map identifying the classification of soil types at a scale not less than 1" = 500', based upon the County of Fairfax Soils Identification Maps.[1334]

**(2)** A statement of justification, dated and signed.[1335]

**(3)** A statement explaining the compliance of the development with the criteria of the Comprehensive Plan.

**(4)** A statement that the proposed development conforms to all applicable ordinances, regulations, and adopted standards. Any waiver, exception, or variance must be noted with the justification for the modification.

**(5)** If the proposal includes a request for a waiver of the setbacks abutting certain principal arterial highways and railroad tracks, it must include a study showing the projected noise impacts, proposed mitigation measures, and their effectiveness.

**(6)** A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management

[1332] Revised to require all existing easements to be shown, not only those over 25’ in width as well as proposed easements. Change since 6/30/2020 draft: Revised requirement to show proposed easements to show the preliminary locations of new or relocated utilities.
[1333] Revised and expanded for consistency with FDP requirements.
[1334] This requirement has been changed from five copies to one copy. Revised for consistency to be required for all application types in this section, not just residential for certain types.
[1335] This requirement has been changed from four copies to one copy.

Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, used, stored, treated, or disposed of on-site and the size and contents of any existing or proposed storage tanks or containers.

**(7)** An Archaeological Survey Data Form and a Phase I Archaeological Survey (if required) to the Fairfax County Park Authority for applications resulting in 2,500 square feet or more of land disturbing activity located wholly or partially within or contiguous to a Historic Overlay District, as required by subsection 3101.6.F.

**(8)** Any additional information that the applicant may desire to proffer in the consideration of the application.

**(9)** PRC Plan submissions require the following additional information :[1336]

**(a)** A table with the following data, where applicable:

***1.*** Total number of dwelling units by type to include the corresponding population totals and density type based on the computation factors in subsection 2105.3.B(4) and the maximum density provisions of subsection 5100.2.E.

***2.*** Total floor area and floor area ratio for each type of use, except residential uses.

***3.*** Total area in open space.

***4.*** Total number of off-street parking and loading spaces provided and the number required by Article 6.

***5.*** Amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application.

**(b)** A statement of the architectural concepts and typical bulk of the proposed structures, and schematic architectural sketches.[1337]

**(c)** A statement indicating the landscaping concepts, proposed screening measures and compliance with the tree conservation provisions of the Public Facilities Manual.

**(d)** Identification of the need for floodplain studies, drainage studies, soil reports, and for easements or letters of permission for off-site construction.

**(10)** Rezonings to the PTC District require the following additional information:

**(a)** A statement as to whether any of the development is located within the TOD and/or Non-TOD Districts, and if within the TOD Districts, the delineation of the one-eighth (1/8), one-quarter (1/4), one-third (1/3) and one-half (1/2) mile distance from the Metro Station entrance, as applicable, as set forth in the Comprehensive Plan.[1338]

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[1336] Carried forward from Par. 2 of Sect. 16-303.

[1337] Change since 3/10/2020 draft: Deleted "if available" in regard to architectural sketches. If appropriate, the submission requirement could be waived.

[1338] The requirement to show the 1/3 mile distance has been added, as this is also called out in the Comprehensive Plan.

**(b)** The phasing plan, if applicable, that identifies each phase.[1339] Such plan must at a minimum specify for each phase of the development: (i) the location and the mix of uses, including interim uses; (ii) the streetscape and landscape treatments to be provided; (iii) the amount and location of all parking, stacking and loading spaces; (iv) the anticipated phasing for construction; and (v) a statement as to how each phase of development will provide the necessary infrastructure and on and off-site public improvements, including, but not limited to parking, grid of streets and public facilities necessary to achieve the redevelopment option set forth in the Comprehensive Plan.

**(c)** A parking plan as set forth in subsection 2105.6.C(2).

**(d)** A shadow analysis demonstrating how projected shadows from the proposed development will affect adjacent buildings and properties in terms of the loss of received sunlight.

**(e)** Graphics or photo simulations that depict the proposed structures as viewed from adjacent sidewalks, streets, properties and other sensitive viewing areas.

**(11)** Final development applications in the PTC District require the following additional information:

**(a)** A final statement in tabular form which sets forth the following data, where applicable:

***1.*** Total number of dwelling units by type.

***2.*** Total floor area and floor area ratio for each type of use.

***3.*** Total area in open space, including off-site open space.

***4.*** Total area in developed recreational open space.

***5.*** Total number of off-street parking and loading spaces provided and the number required by subsection 2105.6.C(2).

***6.*** Amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application.

***7.*** Amount of gross floor area, FAR, or number of dwelling units approved for the land area subject to the rezoning to the PTC District and the amount of gross floor area, FAR, or number of dwelling units constructed as of the date of the submission of the FDP application.

**(b)** Detailed building design plans, including: (i) architectural sketches or elevations of structures; (ii) information on the type, location, and height of all rooftop structures and features and the percent of roof area covered by the structures; and (iii) information on building materials and signs.

**(c)** A statement and graphic depiction of the types, sizes, and location of the urban design amenities to be provided, including pedestrian linkages, plazas, courtyards, bicycle trails, outdoor recreation facilities, ponds, fountains, public parks, and any seating, lighting, or special paving.

[1339] The "anticipated order of the proposed development" requirement has been deleted, as this is typically unknown and is not required for review.

**(d)** Detailed streetscape and landscape plans in accordance with the urban design guidelines of the Comprehensive Plan.

# 3. Special Exceptions, Special Permits, and Variances

## A. Administrative and Property Documentation

All special exception, special permit, and variance applications require the following:

**(1)** One copy of the portion of the current Fairfax County Zoning Map showing the boundaries of the property clearly outlined, covering the area generally within a 500-foot radius of the proposed use.[1340]

**(2)** A statement that confirms the ownership of the property[1341]. If the applicant is not the owner of the property, evidence must be submitted showing that the applicant has the right to use the property as proposed.

**(3)** An affidavit on the affidavit form approved by the Board and provided by the County which:

**(a)** Is signed by the applicant or the applicant's authorized agent and is notarized;

**(b)** Includes a statement whether a member of the Board, Planning Commission, BZA, or any member of the member's immediate household owns or has any financial interest in the property either individually, by ownership in stock in a corporation, or through an interest in a partnership;

**(c)** Includes a certified statement showing the agent's authorization to act in such capacity if the applicant's agent completes the application or affidavit; and

**(d)** Is reaffirmed before each public hearing on the application in accordance with the reaffirmation procedure outlined on the affidavit form.

**(e)** For an affordable dwelling unit development, includes for each parcel of the site or portions thereof at one location, as defined in subsection 5101.2.A(1): (i) the names of the owners; and (ii) the Fairfax County Property Identification Map Number, parcel size, and zoning district classification.

**(4)** Photographs of the property and abutting properties showing existing structures, terrain, and vegetation as viewed from all lot lines and street lines of the application property. All photographs must be clearly dated and labeled with the location and direction from which they were taken. Digital photographs are preferred. [1342]

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[1340] Updated language because section sheets are no longer needed.

[1341] The first sentence of this regulation has been expanded to apply to variance applications to match the requirement of a special exception and special permit.

[1342] Did not carry forward requirement for a disk containing the digital photos, since the technology will continue to evolve. Language updated to be consistent with other application types. Requirements for photographs provided for a variance have been expanded to include labels and the digital photography preference to match those requirements of a special exception and special permit.

## B. Plat Requirements

Twenty-three copies of a special exception plat, and ten[1343] copies of a special permit or variance plat, including any resubmissions of the plat and supporting graphics, must be submitted and be:

**(1)** Drawn to a designated scale of not less than 1" = 50'; but if the proposal cannot be accommodated at a scale of 1' = 50', a scale of not less than 1' = 100' may be used;

**(2)** Signed, sealed, and certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State;

**(3)** On a maximum sheet size of 24" x 36." One 8 ½" x 11" reduction must also be provided; and

**(4)** If presented on more than one sheet, match lines must clearly indicate where the several sheets join.

**Unless modified below by specific application requirements, the plat must contain the following information:**

**(5)** Boundaries of the entire property, with bearings and distances of the perimeter property lines and of each zoning district;

**(6)** Total area of the property and of each zoning district in square feet or acres;

**(7)** Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat on all supporting graphics;

**(8)** Location, dimensions, and maximum height in feet of all existing and proposed structures, including penthouses, and if known, the construction date(s) of all existing structures and an indication whether they will be retained or demolished;[1344]

**(9)** All required minimum setbacks to include front, side, and rear; distances from all existing and proposed structures to lot lines; and if applicable, transitional screening yards;

**(10)** Public right-of-way, indicating name, route numbers, width, any required or proposed improvements to public right-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way;[1345]

**(11)** Proposed means of ingress and egress to the property from a public street;

**(12)** Location of existing and proposed parking spaces, indicating the minimum distance from the nearest property line(s), and the number of required and provided parking spaces;

**(13)** Location of well and septic, or indication that the property is served by public water and sewer. Where applicable, a statement from the Fairfax County Health Department that available facilities are adequate for the proposed use;[1346]

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[1343] Certain application types require 15 or 23 copies, but this standard has been revised to apply the 10-copy requirement to all special permit and variance application types.

[1344] Deleted the reference to the location, dimensions, and lighting of signs. Expanded the requirement to provide construction dates, if known, and an indication of whether a structure will be retained or demolished to a variance application.

[1345] Expanded the requirement to delineate the ROW centerline and include dimensions to a variance application.

[1346] Expanded this requirement to variance applications.

**(14)** Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities; and;[1347]

**(15)** Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site.

**The following additional plat requirements apply to special exception and special permit applications:**

**(16)** A stormwater management plan in accordance with subsection 8101.1;

**(17)** A statement setting forth the maximum gross floor area and FAR proposed for all uses other than residential, and the maximum density of dwelling units, if applicable;

**(18)** Existing topography with a maximum contour interval of two feet, and a statement indicating whether it is an air survey or field run;

**(19)** A plan showing existing vegetation, including the limits of clearing and vegetation to be preserved, and proposed landscaping and screening in accordance with the provisions of Section 5108, and an existing vegetation map when there is 2,500 square feet or more of land disturbing activity;

**(20)** Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;

**(21)** Where applicable, seating capacity, usable outdoor recreation area, emergency access, bicycle parking, fencing, outdoor lighting, and loudspeakers;

**(22)** Location of all trails required by the Comprehensive Plan; and

**(23)** The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone must be provided.

## C. Supporting Reports and Studies

The following additional information must be submitted:

**(1)** For all special exception applications proposing residential development, a map identifying classification of soil types at a scale not less than 1" = 500', based upon the County of Fairfax Soils Identification Maps.[1348]

[1347] Revised to require all existing easements to be shown, not only those over 25’ in width, as well as proposed easements. Change since 6/30/2020 draft: Revised requirement to show proposed easements with preliminary locations of new or relocated utilities.
[1348] This requirement has been changed from five copies to one copy.

**(2)** For all special exception and special permit applications, a written statement provided by the applicant describing the proposed use, giving all pertinent information, specifically including:

- **(a)** Type of operation;
- **(b)** Hours of operation;
- **(c)** Estimated number of patrons/clients/patients/pupils/etc.;
- **(d)** Proposed number of employees/attendants/teachers/etc.;
- **(e)** Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of these trips by mode and time of day;
- **(f)** Vicinity or general area to be served by the use;
- **(g)** Description of building façade and architecture of any proposed new building or additions;
- **(h)** A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4, 302.4, and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, or disposed of on-site and the size and contents of any existing or proposed storage containers; and
- **(i)** A statement that the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards, and any applicable conditions. If any waiver, exception, or variance is sought by the applicant from these ordinances, regulations, standards, and conditions, it must be specifically noted with the justification for any modification.

**(3)** For all variance applications, a written statement provided by the applicant including:

- **(a)** The specific provision from which a variance is sought and the nature and extent of the variance sought.
- **(b)** How the application complies with the required standards in subsection 8100.6.B(2).

**(4)** An Archaeological Survey Data Form and a Phase I Archaeological Survey (if required) to the Fairfax County Park Authority for applications resulting in 2,500 square feet or more of land disturbing activity located wholly or partially within or contiguous to a Historic Overlay District, as required by subsections 3101.6.D and 3101.6.F.

## D. Additional or Modified Submission Requirements for Specific Special Exception Applications

The following are additional or modified submission requirements for special exception applications for:

**(1) Adult Day Care Center**[1349]

- **(a)** An estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the center.

[1349] Carried forward from Sect. 9-315.

**(b)** Identification of a safe, appropriately sized, and conveniently located outdoor area used by persons receiving adult day care services.

### (2) Adult Day Support Center[1350]

An estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the center.

### (3) Airport, Helipad, and Transit Facility[1351]

**(a)** All such uses proposed by a public authority must include a copy of the law, ordinance, resolution, or other official act adopted by the governmental body proposing the use, authorizing the establishment of the proposed use at the proposed location.

**(b)** All applications must include evidence that the proposed facility will meet the standards and requirements imposed by such agencies as the Federal Aviation Administration and all other federal, State, or local statutes, ordinances, rules or applicable regulations.

**(c)** A statement must be provided detailing all noise abatement procedures, methods, and devices that will be employed in the operation of the facility, and sufficient analysis must be presented to indicate what adjoining lands will be affected by the anticipated noise.

**(d)** In the case of airports, a map must be presented showing the landing and take-off corridors as projected, such map to cover an area within at least a 5,000-foot radius of the boundaries of the proposed facility.

### (4) Alternate Use of Public Facility[1352]

**(a)** A copy of the law, ordinance, resolution or other official act adopted by the governmental body proposing the use, authorizing the establishment of the proposed use at the proposed location.

**(b)** A statement by an official or officer of the governmental body must be presented giving the exact reasons for selecting the site as the location for the proposed facility.

### (5) Child Care Center, Private School, and Specialized Instruction Center[1353]

**(a)** In addition to the plat requirements required by subsection 8101.3.C(2), any outdoor recreation area must be delineated on the plat.

**(b)** An estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the center.

[1350] Change since 6/20/2020 draft: This is a new use with a new submission requirement.
[1351] Carried forward from 9-403. Change since 3/10/2020 draft: Deleted requirement for the copy to be certified.
[1352] Carried forward from 9-303. Change since 3/10/2020 draft: Deleted requirement for the copy to be certified.
[1353] Carried forward from 9-309.

### (6) Cluster Subdivision[1354]

In addition to the special exception plat requirements required by subsection 8101.3.C(2), the special exception plat for a cluster subdivision must contain the following information:

- **(a)** Area of open space in square feet or acres and percent of total area that is open space.
- **(b)** Type of open space, whether common open space or dedicated open space, and the proposed uses.
- **(c)** Maximum number of dwelling units proposed, and the density and open space calculations in accordance with subsections 5100.2.E and 5100.3.
- **(d)** Proposed layout of lots, streets, and open space.
- **(e)** Location, where applicable, of recreation areas, parks, schools, and other public or community uses.
- **(f)** Indication that the property is served by public water and sewer or private water and septic field.
- **(g)** Designation of minimum lot areas and yards that will be provided on lots adjacent to major thoroughfares and adjacent to the peripheral lot lines of the subdivision.

### (7) Containment Structure[1355]

- **(a)** Detailed information relating to the anticipated trajectory of balls or other sports equipment and the need for a containment structure to keep this equipment on the property.
- **(b)** The height, location, color, and materials of the proposed containment structure, including the size of mesh for any netting.

### (8) Farm Winery, Limited Brewery, or Limited Distillery[1356]

- **(a)** A copy of the license issued or pending issuance by the Virginia Alcoholic Beverage Control Board.
- **(b)** For any new or expanded buildings or structures that will be accessed by the public, a copy of plans certified by a structural engineer. The structural integrity of the building must be certified by the structural engineer once construction is complete. These plans must be made available for review upon request.

### (9) Heavy Production or Processing[1357]

An evaluation of the use by a qualified person or firm, indicating how the use can comply with the earthborn vibration standards of Section 5102 and the outdoor lighting standards of Section 5109, if applicable.

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[1354] From current 9-615.
[1355] Carried forward from 9-624.
[1356] Carried forward from 9-630.
[1357] Carried forward from 9-511. Outdoor lighting and earthborn vibration are specified because the other performance standards are replaced with references to state and federal regulations.

### (10) Increase in Fence or Wall Height[1358]

Architectural depictions supporting the need for the height increase and identifying the location(s) where relief is requested, including the height, location, color, and materials, and any associated berm or landscaping in order to show the visual impact on nearby properties.

### (11) Independent Living Facility[1359]

In addition to the plat requirements required by subsection 8101.3.C(2), the plat must include the total gross floor area (including the dwelling unit area and all non-dwelling unit areas), the floor area ratio, and the number of dwelling units.

### (12) Interim Off-Street Parking in Metro Station Area[1360]

In addition to the special exception plat requirements required by subsection 8101.3.C(2), a special exception plat for interim off-street parking in Metro station area must include grading plans and plans for drainage facilities.

### (13) Light Utility Facility, Heavy Utility Facility, and Wireless Facility

**(a)** Four copies of a map showing the utility system of which the proposed use will be an integral part, together with a written statement outlining the functional relationship of the proposed use to the utility system.

**(b)** A statement, prepared by a certified engineer, describing in detail the technical reasons for selecting the property as the location for the proposed facility and certifying that the proposed use will meet the performance standards of the district in which located.[1361]

**(c)** In complying with subsections (a) and (b) above, the applicant is not required to provide any proprietary, confidential, or other business information to justify the need for the project.[1362]

**(d)** An application for a landfill must also include a list of the types of debris and materials proposed to be deposited on the site.

### (14) Modifications, Waivers, Increases, and Uses in a Commercial Revitalization District[1363]

In addition to the special exception plat requirements required by subsection 8101.3.C(2), the special exception plat for modifications, waivers, increases, and uses in a Commercial Revitalization District must contain the following information:

**(a)** A statement of the architectural concepts, building materials, and color of any proposed structures, and schematic architectural sketches, if available.

**(b)** The location, dimensions, style, and lighting of all signs.

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[1358] Change from 3/10/20 draft: Relocated from Article 4. Carried forward from Sect. 10-104, Par. 3H

[1359] Change since 6/30/2020 draft: This submission requirement has been relocated from the use-specific standards in Article 4.

[1360] Carried forward from Par. 3 of Sect. 9-520.

[1361] This requirement has been revised from four copies to one copy.

[1362] Standard 3 Is new.

[1363] Carried forward from 9-622.

**(c)** The distances of all existing structures that are proposed to remain and all proposed structures from the lot boundaries and abutting streets.[1364]

**(d)** Location of all existing and proposed parking spaces, indicating minimum distance from the nearest property line(s), and a schedule showing the number of parking spaces provided and the number required by the provisions of the Commercial Revitalization District. If parking spaces are to be located off-site, the location, number and access to such spaces.

**(e)** A plan showing the open space areas and how the development meets any applicable streetscape and urban design guidelines set forth in the Comprehensive Plan, with a statement of the percent of open space required and percent of open space provided. The plan must also include the limits of clearing, existing vegetation, and when there is 2,500 square feet or more of land disturbing activity, an existing vegetation map; proposed landscaping in accordance with the Commercial Revitalization District regulations to include interior and peripheral parking lot landscaping and screening and barrier measures.

**(f)** Where applicable, seating capacity, useable outdoor recreation area, emergency access, bicycle parking, fencing, outside lighting, and loudspeakers.

**(g)** In addition, an application must include a statement and any supporting materials detailing any requested modification, waiver, increase and the justification for same.

### (15) Residence Hall[1365]

In addition to the special exception requirements for a statement of justification, the applicant must also include information on the following:

**(a)** Parking and loading;

**(b)** Trash removal and clean-up;

**(c)** Exterior lighting and sound;

**(d)** Meetings and social functions;

**(e)** Number of occupants;

**(f)** Number of students and non-student employees to serve as counselors or advisors; and

**(g)** Any other use or activity that may impact the surrounding properties and the neighborhood.

## E. Additional or Modified Submission Requirements for Specific Special Permit Applications

The following are additional or modified submission requirements for special permit applications for:

[1364] Did not carry forward reference to bulk plane requirement.
[1365] Carried forward from 9-312.

**(1) Accessory Living Unit**[1366]

**(a)** The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13) and B(14).

**(b)** A dimensioned floor plan depicting the internal layout and gross floor area of both the principal and accessory living unit, with the use of each room and points of egress to the dwelling clearly labeled.

**(c)** Digital photographs of the rooms and area used by the accessory living unit, which are clearly dated and labeled.

**(d)** If one of the residents is 55 years in age or older, proof of identity certifying the persons date of birth must be provided.[1367]

**(e)** If one of the residents is a person with a disability, documentation from the Social Security Administration, the Veterans Administration, or similar agency, or a certification from a licensed medical doctor that confirms the resident meets the definition of a person with a disability as defined in the Fair Housing Amendments Act of 1988, as amended, must be provided.[1368]

**(2) Campground**[1369]

Evidence that the proposed development meets all requirements of the Fairfax County Health Department.

**(3) Caretaker Quarters**[1370]

Documentation verifying the occupants of the caretaker quarters, their work responsibilities, and the hours worked and a copy of the recorded covenant.

**(4) Certain Additions to an Existing Single-Family Detached Dwelling**[1371]

The plat information required by 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the location, type, and height of any existing and proposed landscaping and screening.

**(5) Containment Structure**[1372]

**(a)** Detailed information relating to the anticipated trajectory of balls or other sports equipment and the need for a containment structure to keep this equipment on the property.

**(b)** The height, location, color, and materials of the proposed containment structure, including the size of mesh for any netting.

[1366] Carried forward from Sect. 8-918.
[1367] New submission requirement for proof of age.
[1368] Revised to reference the new definition for a person with a disability and revised documentation requirement.
[1369] Carried forward from 8-605.
[1370] These standards have been codified from existing longstanding interpretation.
[1371] Carried forward from Sect. 8-924.
[1372] Carried forward from Sect. 8-920.

**(6) Extraction Activity**[1373]

**(a)** Instead of the plat information required by subsection 8101.3.C(2), the plat, prepared by an engineer or surveyor licensed by the State, at a scale of 1" = 100' requires the following information:

***1.*** The boundary of the entire tract with bearings and distances;

***2.*** Limits and current field topography, including locations of water courses, the part of the tract that is proposed to be used for the operations, and the contiguous area within 250 feet of the limits. A distance greater than 250 feet may be specified by the Director;

***3.*** Average thickness of overburden within the limits; and

***4.*** Means of vehicular access, indicating the proposed type of surface treatment.

**(b)** One aerial photograph[1374], certified as flown within six months of the application submission, including:

***1.*** All land included in the application;

***2.*** All contiguous land which is or has been used by the applicant for this use or a related use;

***3.*** All public roads providing access to the property; and

***4.*** All residentially zoned land within 500 feet of the property.

**(c)** A report that describes the use and includes the following:

***1.*** A detailed list of the type and quantity of equipment to be used, including bulldozers, cranes, washers, crushing equipment, trucks, and all other mechanical equipment

***2.*** An estimate of the number of trucks proposed to enter and leave the property per day

***3.*** The proposed hours of operation each day, and the proposed days of operation during the week

***4.*** The proposed period of time necessary to complete the use proposed, and the time schedule for a restoration program. This must include the time when the applicant believes that all uses under the application should be completed and all restoration complete.

**(d)** A plan for operation of the extraction activity, prepared by an engineer or surveyor licensed by the State, covering the same area as the vertical aerial photograph above. All of the following applicable items must be delineated, including the location, limits, and title of each of the items, and the area in square feet of each provided on a one-page supplemental report:[1375]

***1.*** Area of any previous, currently active, and proposed excavation.

***2.*** Area of active settling ponds and washing facilities.

***3.*** Areas of existing and proposed crushing or treatment facilities.

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[1373] Carried forward from Sect. 8-103.

[1374] The requirements of a 1" = 500' scale from the original photography flown at a negative scale no smaller than 1" = 1000' has been removed.

[1375] The requirement for this plan to be a transparent overlay has been deleted.

4. Areas of existing and proposed storage of extracted material.
5. Areas of existing and proposed production facilities or resource related uses.
6. Location and type of any existing and proposed erosion control facilities.

**(e)** A plan for the restoration of the site, prepared by an engineer or surveyor licensed by the State, covering the same area as the vertical aerial photograph above. All of the following applicable items must be delineated, including the location, limits, and title of each of the items, and the area in square feet of each provided on a one-page supplemental report: [1376]

1. The area proposed to be restored
2. The area of any current restoration now in progress
3. The area of any previous restoration
4. The area currently used for topsoil and overburden storage

**(f)** A final grading plan for the site, prepared by an engineer or surveyor licensed by the State, covering the same area as the vertical aerial photograph above. All of the following applicable items must be delineated:

1. Final proposed topography of the site after completion of all proposed restoration
2. Proposed depth of topsoil and location of any planting restoration, including type of plant material
3. The direction of all drainage, shown by arrows, after restoration
4. Any roadways and driveways which are not proposed to be removed during restoration, and their surfacing material

**(g)** A letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the Director, law enforcement agents, and County inspectors for the purpose of inspecting, and bringing law enforcement to the property, during the term of any permit which may be issued.

**(h)** A soils analysis of the property, including test borings as required by the Director, and a written report setting forth the effects, if any, of the proposed operation upon the stability of soils, the water table, wells and septic fields within the area, and other soil factors which may have an effect upon nearby properties.

### (7) Home-Based Business[1377]

**(a)** A dimensioned floor plan depicting the internal layout of the residence, including identification and gross floor area of all rooms or facilities to be used by the home-based business, as well as ingress and egress from the dwelling.

**(b)** Digital photographs of the rooms and facilities used by the home-based business, which are clearly dated and labeled.

[1376] The requirement for this plan to be a transparent overlay has been deleted.
[1377] Carried forward from Sect. 8-907.

### (8) Home Day Care Facility[1378]

(a) The plat information required by subsections 8101.3.B(1) through 8101.3.B(9), 8101.3.B(11), 8101.3.B(13), and 8101.3.B(14), and the dimensions, size, and location of all outdoor recreation space in relation to all lot lines.

(b) A dimensioned floor plan identifying all rooms or facilities to be used by the home day care, including gross floor area and points of ingress and egress from the dwelling.

(c) Digital photographs of the rooms and facilities used by the home day care, which are clearly dated and labeled.

### (9) Increase in Fence Height[1379]

(a) The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the following:

*1.* For nonresidential uses, the location of parking spaces, indicating the minimum distance from the nearest property line; and

*2.* The location, type, and height of any existing and proposed landscaping and screening.

(b) Architectural depictions supporting the need for the height increase and identifying the location(s) where relief is requested, including the height, location, color, and materials, and any associated berming or landscaping in order to show the visual impact on nearby properties.[1380]

### (10) Increase in Minimum Rear Setback Coverage[1381]

The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the following:

(a) Location, type, and height of any existing and proposed landscaping and screening; and

(b) A calculation on the plat showing the percentage of the required rear setback that is covered with any accessory use and structure in accordance with subsection 4102.7.A(5).

### (11) Keeping of Animals[1382]

Instead of the plat information required by subsection 8101.3, the following information is required on a plat for the keeping of animals that may be prepared by the applicant:

(a) The dimensions and boundary lines of the lot or parcel, and the area of land;

(b) The dimensions, height, and distance to all lot lines of any existing or proposed building, structure, or addition where animals are to be kept;

(c) The delineation of any Resource Protection Area and Resource Management Area; and

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[1378] Carried forward from Sect. 8-305.
[1379] Carried forward from Sect. 8-923.
[1380] Change from 3/10/20 draft: relocated from Article 4 to here. Carried forward from Sect. 10-104, Par. 3H.
[1381] Carried forward from Sect. 8-926.
[1382] Carried forward from Sect. 8-917.

**(d)** The signature and certification number, if applicable, or the person preparing the plat.

### (12) Noise Barrier[1383]

A noise impact study that demonstrates the need for the barrier and the level of mitigation to be achieved. The study must include the barrier height, proposed location on the property, acoustical design and structure features, and type of building materials used in construction. The study must also include the proposed measures to mitigate any visual impacts of the barrier on adjacent properties, including the location and design of the barrier, and the use of berms and landscaping.

### (13) Reduction of Setbacks for an Error in Building Location[1384]

**(a)** The plat information required by 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), and the following:

***1.*** For nonresidential uses, the location of parking spaces, indicating the minimum distance from the nearest property line; and

***2.*** A calculation on the plat showing the percentage of the required rear setback that is covered with any accessory use and structure in accordance with subsection 4102.7.A(5).

**(b)** A statement of justification explaining how the error in building location occurred and any supportive material, such as aerial photographs, building permit applications, County assessment records, a copy of the contract to build the structure that is in error, or a statement from a previous owner indicating how the error in building location occurred.

### (14) Reduction of Setback Requirements[1385]

**(a)** The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the following:

***1.*** For nonresidential uses, the location of parking spaces, indicating the minimum distance from the nearest property line;

***2.*** The location, type, and height of any existing and proposed landscaping and screening; and

***3.*** A calculation on the plat showing the percentage of the required rear setback that is covered with any accessory use and structure in accordance with subsection 4102.7.A(5).

**(b)** Architectural depictions of the proposed structure as viewed from all lot lines and street lines that includes building materials, roof type, window treatment, and any associated landscaping and screening.

[1383] Carried forward from Sect. 8-919.
[1384] Carried forward from Sect. 8-914.
[1385] Carried forward from Sect. 8-922.

### F. Additional Submission Requirements for Specific Variance Applications[1386]

The following are additional or modified submission requirements for variance applications for:

**(1) Minimum Lot Width**

The plat information required by subsections 8101.3 B(1) through B(15) and the following:

(a) Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor; and

(b) An existing vegetation map when there is 2,500 square feet or more of land disturbing activity.

**(2) Minimum Yards for Dwellings**

The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13) and B(14).

## 4. Site Plans and Minor Site Plans

Site plans and minor site plans must be prepared in accordance with the provisions of the Public Facilities Manual, unless otherwise approved by the Director.[1387]

### A. Minor Site Plans[1388]

Minor site plans must include the following:

**(1)** Name of applicant/firm and address; relationship of applicant to property owner;

**(2)** Name of current and previous property owner;

**(3)** Tax map number, street address and magisterial district of the site;

**(4)** Existing, previous, and proposed uses and improvements;

**(5)** All proffered conditions and all development conditions of an approved rezoning, special exception, special permit, or variance;

**(6)** Sufficient information to verify compliance with applicable provisions of this Ordinance and Public Facilities Manual, such as the zoning district of the property, the existing and proposed floor area ratio, and any existing, proposed, and required parking, landscaping, and transitional screening;[1389]

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[1386] Carried forward from 18-403.
[1387] Carried forward from Sect. 17-106 (site plans) and extended to minor site plans.
[1388] Carried forward from Paragraphs 2 – 5 of Sect. 17-105. Applicability of Minor Site Plans was relocated to an earlier section.
[1389] Change since 3/10/2020: Added requirement to show landscaping.

**(7)** Type, number, date of approval, date of expiration, and conditions, including a narrative on how the conditions are addressed, of any requested and approved modifications or waivers of required improvements on the property;

**(8)** Location of any street lights, trails, walkways, service drives, or travel lanes on or adjacent to the property;

**(9)** Delineation of any Resource Protection Area and Resource Management Area, buildable areas on each lot, description of existing or proposed outfall system and how stormwater quality, quantity, and detention will be accommodated in accordance with the Public Facilities Manual, Chapter 118 and Chapter 124 of the County Code;

**(10)** The location of any water, storm, and sanitary sewer easements and all conveyances and easements dedicated or to be dedicated to Fairfax County, the State of Virginia and the Virginia Department of Transportation;

**(11)** Existing and proposed topography must be shown except where proposed improvements do not change existing topography, as determined by the Director. The maximum contour interval is two feet, except for sites where the ground has a slope of less than two percent, in which case either one-foot contour intervals must be used or supplemental spot elevations must be provided with a maximum of 50 feet in any horizontal direction between elevations.[1390]

**(12)** The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan;

**(13)** Minor site plans or any portion of such plan involving engineering, architecture, landscape architecture, or land surveying must be respectively certified by an engineer, architect, landscape architect, or land surveyor authorized by the State to practice as such; and[1391]

**(14)** Any other information as may be required by the Director to evaluate the plan.

## B. Site Plans[1392]

Site plans must include the following:

**(1)** A cover sheet as prescribed by the Director;

**(2)** Site plans or any portion of such plan involving engineering, architecture, landscape architecture, or land surveying must 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 of a site plan submitted under the County's Plans Examiner Program in accordance with Chapter 117 of the County Code, Expedited Land Development Review, must include a statement that certifies that the plan or portion of the plan has been reviewed and recommended for submittal by a Designated Plans Examiner;

[1390] Change since 6/30/2020 draft: This is a new requirement based on current practice.
[1391] Change since 3/10/20 draft: This is a new standard.
[1392] Carried forward from 17-106. Did not carry forward paragraph 17 related to bulk plane requirements. The provision for modification of requirements is addressed generally for all application types.

**(3)** Site plans must be prepared to a scale of 1" = 50' or larger and all lettering must be at least 1/10" in height. The sheet(s) must be 24" by 36" and, if prepared on more than one sheet, match lines must clearly indicate where the sheets adjoin;

**(4)** Location of the site shown on a vicinity map at a scale of not less than 1" = 2,000' 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;

**(5)** Every site plan must show the name and address of the owner and developer, north arrow (with source of meridian), date and scale of drawing, sheet numbers, and total number of sheets;

**(6)** A boundary survey of the entire site, with a maximum permissible error of closure within the limit of one in 20,000, related to the Virginia Coordinate System of 1983 (VCS 83, with appropriate reference frames and necessary velocities) North Zones. Two adjacent corners or two points on every plan sheet must be referenced to the VCS 83 with coordinate values shown in feet. Plans referenced to VCS 83 must be annotated as follows:

**(a)** "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)."

**(b)** 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.

**(c)** The entire site should be shown with boundary annotated. If a conversion from meters to feet is necessary, the foot definition used for conversion is the U.S. Survey Foot of one 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 or both of the nearest VCS 83 monuments, with distance measured along a straight line from each monument to the closest point on the property boundary.

**(7)** 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;

**(8)** A map identifying classification of soil types at a scale of not less than 1" = 500', based on the County of Fairfax Soils Identification Maps or, if not mapped, based on soils identified by a professional authorized by the State to provide such information;

**(9)** Horizontal dimensions shown on the site plan must be shown in feet and decimal fractions of a foot accurate to the closet one-hundredth of a foot (.00). All bearings in degrees, minutes, and seconds must be shown to a minimum accuracy of ten seconds;

**(10)** Existing and proposed topography must be shown except where proposed improvements do not change existing topography, as determined by the Director. The maximum contour interval is two feet, except for sites where the ground has a slope of

less than two percent, in which case either one-foot contour intervals must be used or supplemental spot elevations must be provided with a maximum of 50 feet in any horizontal direction between elevations;[1393]

**(11)** Proposed finished grading by contours, supplemented by spot elevations where necessary, including at those locations along lot lines where building height is measured;[1394]

**(12)** 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;

**(13)** The proposed location, general use, number of floors, and the net and gross floor area for each building, to include outside display and storage areas; the proposed floor area ratio; the number, size, and type of dwelling units; and the amount of required and provided open space;

**(14)** The height of each building and the ground elevations required by the provisions of the Zoning District in which located;

**(15)** Location, type, size, and height of any fencing and retaining walls;

**(16)** All off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces required by Article 6, or an approved development plan, as applicable, for each use and the total number of spaces provided;

**(17)** Horizontal location of all proposed trails and vertical location of any trail that is proposed to exceed an eight percent grade;

**(18)** Location of solid waste and recycling storage containers in accordance with Chapter 109.1 of the County Code and the Public Facilities Manual. In addition, a solid waste and recycling system plan statement must be included on the cover sheet of all site plans;

**(19)** Sufficient information to show how the physical improvements associated with the proposed development interrelate with existing or proposed development of record on adjacent properties;

**(20)** Existing and proposed street light pole locations, including distances from face of pole to face of curb, bracket length and luminaire size, in accordance with the Public Facilities Manual;[1395]

**(21)** Location and height of all light poles, including parking lot and walkway light poles, illustrations of each style of freestanding lighting fixture that demonstrate that such fixture is either a full cut-off or directionally shielded lighting fixture, as required by Section 5109 and a statement by the owner or developer certifying that all outdoor lighting provisions of Section 5109 will be met.

**(22)** For outdoor recreation, sports facility, and playing fields and courts, a sports illumination plan must be submitted as required by Section 5109, and for vehicle fueling stations and vehicle sales, rental, and service establishments, a photometric plan must be submitted as required by Section 5109. For those facilities that had a sports

[1393] Change since 6/30/2020 draft: Clarified language based on current practice.
[1394] Did not carry forward the reference to angle of bulk plane since bulk plane was not carried forward in the development standards module.
[1395] Deleted reference to lumens, consistent with the current PFM.

illumination plan or photometric plan approved by the BZA in conjunction with the approval of a special permit or by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning, the approved plan must be included in the site plan;

**(23)** Any plan incorporating private streets must contain the statement "privately owned, privately maintained" to advise that the streets will not be maintained by either the State or the County. If the private streets are to be constructed to Virginia Department of Transportation standards, the plan must contain the following statement:

> "The private streets in this development are not intended for inclusion in the system of state highways and will not be maintained by the Virginia Department of Transportation or Fairfax County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board."

Any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways must be privately maintained and are not eligible for acceptance into the system of state highways unless improved to current Virginia Department of Transportation standards with funds other than those appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board. If the private streets are not to be constructed to Virginia Department of Transportation standards, the plan must contain the following statement:

> "The private streets in this development do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Virginia Department of Transportation or Fairfax County, and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board."

**(24)** Identification of any grave, object, or structure marking a place of burial on the site and if none, a statement to that effect;

**(25)** Provisions for elements required to provide an accessibility improvement or other reasonable accommodation;

**(26)** Land within an adopted Pro Rata Road Reimbursement District must be designated, with the pro rata road reimbursement payment calculations for each proposed use and the sum total of payments to be reimbursed;

**(27)** A statement by the owner or developer certifying that all wetlands permits required by law will be obtained before commencing land disturbing activities in any areas requiring such permits;

**(28)** The plan must include all proffered conditions and all development conditions of an approved rezoning, special exception, special permit, or variance. A narrative indicating how these conditions are addressed by the plan must be submitted separately as required by the Director;

**(29)** A tree conservation plan that addresses the tree conservation and vegetation preservation requirements of Chapters 104 and 122 of the County Code and the policies and requirements of the Public Facilities Manual;

**(30)** A landscape plan as specified in the Public Facilities Manual, drawn to scale, showing existing vegetation to be preserved and any of the following proposed landscape materials required to be installed:

- **(a)** Parking lot landscaping, transitional screening, and tree conservation as required by the provisions of Section 5108, to include the location, type, and height of barriers.
- **(b)** Replacement vegetation in accordance with the policies and requirements of the Public Facilities Manual.
- **(c)** Plantings required by a proffered condition or development condition of an approved rezoning, special exception, special permit, or variance.

**(31)** All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types, and grades and where connection is to be made to the County or to another utility system;

**(32)** Provisions for the adequate disposition of natural and stormwater in accordance with Chapter 124 of the County Code and the Public Facilities Manual, indicating the location, size, type, and grade of ditches, catch basins, and pipes and connections to existing drainage systems, existing and proposed storm drainage easements, and on-site stormwater detention and water quality control facilities where deemed appropriate and necessary by the Director;

**(33)** Provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction as required by the Public Facilities Manual;

**(34)** A soils report or geotechnical requirements in accordance with Chapter 107 of the County Code and the Public Facilities Manual;

**(35)** Delineation of Resource Protection Areas and Resource Management Areas, buildable areas on each lot, site specific determination of water bodies with perennial flow, and a Water Quality Impact Assessment and required measures in accordance with Chapter 118 of the County Code and the Public Facilities Manual;

**(36)** The location of any stream valleys and floodplains;

**(37)** The location of all existing transmission pipelines and their respective easements in accordance with the Public Facilities Manual;

**(38)** Provisions for common or shared utility easements in accordance with Va. Code Sect. 15.2-2241(A)(6) and the Public Facilities Manual. In addition, a note must be included on all plans stating that any future easement or authorization for electric, cable, telephone, or gas services to be furnished to the property must comply with ~~the provisions of~~ Va. Code Sect.15.2-2241(A)(6);

**(39)** Such additional information as required by other County agencies, such as the Fire Marshal and the Water Authority;

**(40)** The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan;

**(41)** Identification that the development is subject to the Affordable Dwelling Unit Program provisions of Section 5101, with the specific lots or dwelling units that are affordable dwelling units designated on the site plan. However, in the case of a multiple family development which is under single ownership and is a rental project, the affordable dwelling units need not be specifically identified; instead, the number of affordable dwelling units by bedroom count and the number of market -rate dwelling units by bedroom count must be noted on the site plan. For multiple section developments where not all the required affordable dwellings units are to be provided in the first section of the development, the site plan for the first section and all subsequent sections must contain a notation identifying in which section(s) the affordable dwelling units will be or have been provided and a total of all affordable dwelling units for which such site plan(s) have been approved. Additionally, at the time of site plan submission, the owner or applicant must submit an affidavit that includes:

**(a)** The names of the owners of each parcel of the sites or portions of sites, as defined in subsection 5101.2.A(1); and

**(b)** The Fairfax County Property Identification Map Number, parcel size, and zoning district classification for each parcel that is part of the site or portion thereof.

**(42)** Any other information as may be required by this Ordinance, the County Code, or the PFM.

## 5. Building Permits[1396]

### A. Plan Requirements

**(1)** An approved site plan, when the building or structure is required to be shown on a site plan that has been approved under the provisions of subsection 8100.7, and an approved agreement and security package required under subsection 8100.7.F(5) to ensure completion of the physical improvements as shown on the approved site plan, including any revisions, or those plans and agreements as may be required by the Director for the approval of a building permit in accordance with the USBC; or

**(2)** When the building or structure does not require site plan approval but will require approval of a site-related plan (e.g., grading plan or conservation plan) in accordance with subsections 5104.1.A and 5104.1.B, a plan, certified by a land surveyor, engineer, landscape architect, or architect authorized by the State to practice as such, must be submitted that includes siltation and erosion control measures in conformance with Chapter 104 of the Code, and contains the information listed in subsection (3) below. The required number of copies of the form and plan will be determined by the Director; or[1397]

**(3)** When the building or structure does not require site plan approval, and does not require approval of a site-related plan, provide a plat certified by a land surveyor, engineer, landscape architect, or architect authorized by the State to practice as such in a format approved by the Director. Plats submitted for additions to an existing single-family dwelling or related accessory structures may be hand drawn or otherwise added to an

[1396] Carried forward from Sect. 18-602, except Par. 3 is addressed with the overlay districts.
[1397] New paragraph to provide clarification.

existing plat that meets the certification requirements. Each plat must indicate the following: [1398]

**(a)** The dimensions of the lot or parcel, the lot lines, and the area of land contained on the subject site.

**(b)** Delineation of any major underground utility easements and the location of any water, storm, and sanitary sewer easements and all conveyances and easements dedicated or to be dedicated to Fairfax County, the State, and the Virginia Department of Transportation.

**(c)** The location, dimensions, and height of any building, structure, or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level and for accessory structures, the height of the highest point of the structure from finished ground level.

**(d)** The distance from all property lines and any floodplain to the proposed building, structure or addition, including any extensions from the vertical plane of the proposed building, structure, or addition, shown to the nearest one-tenth of a foot. For features that extend into the minimum required setbacks in accordance with subsection 5100.2.D(5), in addition to showing the distance of the feature to all lot lines, the plat must also include the specific dimensions that qualify the feature for the permitted extension.

**(e)** The proposed elevation of the first-floor level and of the lowest floor level of any proposed new building. These elevations are not required for additions unless the proposed elevation of the lowest floor level of that addition is below the lowest floor elevation of the structure to which it is added or is required to demonstrate compliance with the floodplain regulations set forth in Section 5105.

**(f)** The existing and intended use of each building or structure or part of a building or structure, including the number of dwelling units within a dwelling.

**(g)** The location and configuration of any existing or proposed off-street parking space(s), the number of spaces proposed to be provided, and the proposed surfacing of such areas.

**(h)** The signature and certification number, if applicable, of the person preparing the plat.

**(i)** Delineation of any Resource Protection Area and Resource Management Area.

**(j)** Delineation of any mapped floodplain and floodplain easement.

**(k)** Delineation of any access easement to contiguous properties.

**(l)** Delineation of any conservation, restrictive planting, or vegetative buffer easement.

**(m)** Other information, which may include photographs of the lot, existing and proposed buildings, existing and proposed uses on the site, and any other information regarding contiguous lots as necessary for proper review of the application.

[1398] Change since 3/10/2020 draft: A specific number of copies has been deleted because of electronic submissions.

**(n)** When the building permit application is for a new single-family detached dwelling, a statement, where applicable, that the lot is subject to the affordable dwelling unit development zoning district regulations.

## 6. Residential Use Permits [1399]

### A. Plan Requirements

For single-family detached dwelling units, five copies of an as-built house location survey plat must be submitted to the Zoning Administrator for review and approval within 30 days of the issuance of the Residential Use Permit. Such plat must be presented on a sheet drawn to a designated scale of not less than 1" = 50' or larger, unless a smaller scale is required to accommodate the development, with the scale clearly indicated. Such plat, regardless of the area of the lot, must be prepared in accordance with the Virginia Administration Code, 18VAC10-20-380, and must also show the following:

**(1)** The distance from all structures including any extensions from the vertical plane of the building, structure, or addition shown to the nearest one-tenth of a foot to all lot lines and any floodplain. For features that extend into the minimum required setbacks in accordance with subsection 5100.2.D(5), in addition to showing the distance of the feature to all lot lines, the plat must also include the specific dimensions which qualify the feature for the permitted extension;

**(2)** For pipestem lots and lots abutting a pipestem driveway, the location of the pipestem driveway;

**(3)** The deed book and page number(s) for the easements and conveyances shown on the plat;

**(4)** Delineation of any mapped floodplain;

**(5)** Delineation of any Resource Protection Area and Resource Management Area;

**(6)** Delineation of any access easement to contiguous properties;

**(7)** Delineation of any conservation, restrictive planting or vegetative buffer easement; and

**(8)** Delineation of any major underground utility easements and the location of any water, storm and sanitary sewer easements, and all conveyances and easements dedicated to Fairfax County, the State of Virginia and the Virginia Department of Transportation.

## 7. Administrative Permits[1400]

The Zoning Administrator may require any information found to be necessary for the review and administration of the standards in Article 4, such as a floor plan, photographs, site layout, parking, access, hours of operation, provisions for sanitation and safety, and architectural renderings[1401].

[1399] Carried forward from 18-704.
[1400] Carried forward from Sect. 8-010 and broadened to apply to all types of administrative permits. Change since 11/24/2020 draft: Added "parking … safety" to the types of information that may be required.
[1401] Change since 6/30/2020 draft: Added examples of submission requirements.

## 8. Appeals[1402]

### A. Supporting Reports and Studies

Appeals filed of an order, requirement, decision, or determination require the following:

**(1)** A statement signed by the appellant with the following information:

**(a)** A copy of the order, requirement, decision, or determination that is the subject of the appeal;

**(b)** The date when the decision was made; and

**(c)** The appellant's grounds for the appeal and the reasons for the appeal. If the appellant is a County officer, department, board, or bureau, the statement must specify how the appellant is affected; otherwise, the statement must specify how the appellant is an aggrieved person.

**(2)** Any other supportive data as the appellant may desire in the record, including plats, plans, drawings, charts, or related material.

**(3)** An appellant must also simultaneously submit one copy of the submission requirements to the BZA.

# 8102. Fee Schedule[1403]

## 1. Fee Schedule

All applications and appeals provided for in this Ordinance and requests for zoning compliance letters must be accompanied by the filing fee set forth in the following table unless otherwise waived by the Board for good cause shown; except that no fee is 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 must be made payable to the County of Fairfax. Receipts for fees paid will be issued in duplicate, and one of the duplicates will be maintained on file with the Department of Planning and Development.

**TABLE 8102.1: FEE SCHEDULE**
**This table includes standard fees related to approvals under the Zoning Ordinance. Additional fees may apply related to review or approval by other County departments or governmental or quasi-governmental agencies, or in accordance with Appendix Q of the County Code.**

| APPLICATION TYPE | | FEE [1] |
|---|---|---|
| **MISCELLANEOUS PERMITS AND APPROVALS** | | |
| **General** | | |
| Interpretation of Approved Zoning Application or Minor Variation to Proffered Conditions | | $520 |
| Modification to the Affordable Dwelling Unit Program | | $2,755 |
| Non-Residential Use Permit (Non-RUP) | | $70 |
| Zoning Compliance Letter | Dwelling, Single-Family, Per Lot | $115 |
| | All Other Uses, Per Lot | $320 |

[1402] Carried forward from 18-304.
[1403] Change since 3/10/2020 draft: This section incorporates current 18-106 with changes and new fees as footnoted throughout.

| | | |
|---|---|---|
| General Public Facilities | 2232 Review with Public Hearing | $1,500 |
| | 2232 Review without Public Hearing | $750 |
| **Signs** | | |
| Sign Permits and Administrative Comprehensive Sign Plans | | $95 |
| Comprehensive Sign Plans in Planned Districts | | $8,260 |
| Amendments to Comprehensive Sign Plan in Planned Districts | | $4,130 |
| Waiver of Certain Sign Regulations Special Exception[1404] | | $8,260 ***[advertised range of $8,260 - $16,375]*** |
| **Wireless Telecommunications** | | |
| Wireless Reviews to Determine Compliance with Sect. 6409 of the Spectrum Act | | $500 |
| Wireless Facilities | Standard Process Project | $6,200 |
| **Variance [2]** | | |
| Increase in Maximum Fence or Wall Height | Residential District | $435 |
| | Commercial or Industrial District | $2,500 |
| Modification of Residential Setback | | $910 |
| Modification of Residential Accessory Structure Use or Location Standards per subsection 4102.7 | | $910 |
| Modification of Grade for Single-Family Detached Dwelling | | $910 |
| All Other Variances | | $8,180 |
| **Appeal** | | |
| Appeal to BZA | | $600 |
| Appeal to Board | | $600 |
| **ADMINISTRATIVE PERMITS** | | |
| General Fee Unless Otherwise Listed | | $205 |
| **Accessory Uses** | | |
| Accessory Living Unit[1405] | Permit | $200 ***[advertised range of $0 – $435]*** |
| | Renewal Fee | $70 ***[advertised range of $0 - $70]*** |
| Family Health Care Structure | | $100 |
| Home-Based Business[1406] | | $100 ***[advertised range of $50 – $200]*** |
| Limited Riding or Boarding Stable | | $50 |
| Short-Term Lodging | Two Year Permit | $200 |
| **Temporary Uses** | | |
| Community Garden | Permit | $205 |
| | Two Year Renewal Fee | $50 |
| Farmer's Market | Permit | $205 |
| | Two Year Renewal Fee | $50 |

[1404] This is a reduction from the current fee of $16,375 to match the cost of the Comprehensive Sign Plan, which is a similar application type and review.
[1405] This is a new fee for the new administrative permit accessory living unit.
[1406] This new fee replaces the current $50 home occupation fee and $16,375 home professional office/barber shop or beauty salon special exception fee.

| | | |
|---|---|---|
| Food Truck | One Year Operation Permit | $100 |
| | Location Permit | $100 |
| Portable Storage Container | | $0 |
| **SPECIAL PERMITS [2][1407]** | | |
| Standard fees for special permit approvals are listed below. | | |
| General Fee Unless Otherwise Listed | | $16,375 |
| **Principal Uses** | | |
| Community Swim, Tennis and Recreation Club | | $4,085 |
| Group Household or Religious Group Living | | $1,100 |
| Marina, Private Noncommercial | | $4,085 |
| Religious Assembly | | $1,100 |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | Private School, Specialized Instruction Center, or Child Care Center with fewer than 100 children | $1,100 |
| | Private School, Specialized Instruction Center, or Child Care Center with 100 children or more | $11,025 |
| Stable, Riding or Boarding | | $8,180 |
| **Accessory and Temporary Uses** | | |
| Accessory Living Unit | Special Permit | $435 |
| | Renewal Fee[1408] | $70 ***[advertised range of $0 - $70]*** |
| Caretaker Quarters[1409] | | $435 |
| Community Garden | | $435 |
| Home Day Care Facility | | $435 |
| Home-Based Business[1410] | | $435 ***[advertised range of $435 – $910]*** |
| **Other Special Permits** | | |
| Increase in Wall or Fence Height | Dwelling, Single-Family | $435 |
| | All Other Uses | $2,500 |
| Increase in Percentage of Rear Setback Coverage | | $910 |
| Installation or Modification of a Noise Barrier on a Single Residential Lot | | $910 |
| Modification of Grade for Single-Family Detached Dwelling | | $910 |
| Modification of Limits to Keeping of Animals | | $435 |

[1407] For internal consistency, the $16,375 SP or SE fee currently applicable to Health Club and Private School of Special Education (now consolidated into Health and Exercise Facility, Small) was not carried over, because the new use is now listed as a Permitted use in those districts where it is allowed. Similarly, the $16,375 fee currently applicable to Adult Book Stores, Auction Establishments, and Retail Sales Establishments (now consolidated into Retail Sales, General) was not carried over for those districts where this new use is listed as a Permitted use. Group 8 Special Permits have been recategorized as Administrative Permits and appear in that portion of the fee schedule.

[1408] This fee replaces the current renewal fee, which is 1/8 the application cost ($54.38).

[1409] This is a new fee since the use now requires a special permit.

[1410] This is a new fee that replaces the Home Professional Office fee of $16,375.

| | | | |
|---|---|---|---|
| Modification of Minimum Setback Requirements | Error in Building Location | | $910 |
| | Certain Existing Structures and Uses | | $910 |
| | Certain Additions to Existing Single-Family Detached Dwelling | | $910 |
| | All Other Uses | | $8,180 |
| **SPECIAL EXCEPTIONS [2][1411]** | | | |
| Standard fees for special exception approvals are listed below. | | | |
| General Fee Unless Otherwise Listed[1412] | | | $16,375 |
| **Principal Uses** | | | |
| Adult Day Care Center | Fewer Than 100 Adults | | $1,100 |
| | 100 of More Adults | | $11,025 |
| Adult Day Support Center[1413] | Fewer Than 100 Adults | | $1,100 |
| | 100 of More Adults | | $11,025 |
| Alternative Use of Historic Building[1414] | | | $8,180 ***[advertised range of $8,180 - $16,375]*** |
| Bed and Breakfast | | | $8,180 |
| Child Care Center | Fewer Than 100 Children | | $1,100 |
| | 100 or More Children | | $11,025 |
| Club, Service Organization, or Community Center | | | $4,085 |
| Congregate Living Facility[1415] | | | $8,180 ***[advertised range of $4,085 - $16,375]*** |
| Farm Winery, Limited Brewery, or Limited Distillery | R-C District: Development of a new use or expansion of an existing use for any agricultural building or structure: | That does not permit access by any member of the public, whether a customer, guest, or attendee at a public or | $1,000 |

[1411] For internal consistency, the $16,375 SP or SE fee currently applicable to Health Club and Private School of Special Education (now consolidated into Health and Exercise Facility, Small) was not carried over, because the new use is now listed as a Permitted use in those districts where it is allowed. Similarly, the $16,375 fee currently applicable to Adult Book Stores, Auction Establishments, and Retail Sales Establishments (now consolidated into Retail Sales, General) was not carried over for those districts where this new use is listed as a Permitted use.
[1412] This fee now applies to the new Solar Power Facility and the new Banquet or Reception Hall uses, which the current fee schedule does not address. This apparent fee exemption for "Establishment for scientific research, development, and training" was not carried forward, as all of the overlapping office, research, and development uses are subject to the standard Special Exception review fee. Similarly, the current classification of Data Center as a Telecommunications Facility resulted in a fee exemption for that use, but the new listing of Data Center as a separate use includes a requirement for Special Exception approval for large facilities, and the general SE fee of $16,325 would now apply to those larger Data Centers.
[1413] Change since 6/30/2020 draft: This is a new use.
[1414] Change since 6/30/2020 draft: This has been proposed to be reduced from the current $16,375 fee.
[1415] Change since 6/30/2020 draft: This has been proposed to be reduced from the current $16,375 fee.

| | | | |
|---|---|---|---|
| | | private event or activity | |
| | | With no construction of buildings or structures over 400 SF in GFA or no land disturbance over 2,500 SF | $4,090 |
| | R-C District: Establishment of a new use or expansion of an existing use with construction of buildings or structures over 400 SF in GFA or land disturbance over 2,500 SF | | $8,180 |
| | R-A, R-C, R-E, And R-1 District: Modification of the number of attendees, frequency and/or duration of events or activities | | $4,090 |
| Group Household or Religious Group Living | | | $1,100 |
| Independent Living Facilities for Low Income Tenants per Subsection 4102.4.P(1)(c) [3] | | | $1,100 |
| Marina, Private Noncommercial | | | $4,085 |
| Quasi-Public Park, Playground, or Athletic Field[1416] | | | $8,180 ***[advertised range of $8,180 - $16,375]*** |
| Religious Assembly | | | $1,100 |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | Private School, Specialized Instruction Center, or Child Care Center with fewer than 100 children | | $1,100 |
| | Private School, Specialized Instruction Center, or Child Care Center with 100 children or more | | $11,025 |
| School, Private | Fewer than 100 students | | $1,100 |
| | 100 of more students | | $11,025 |
| Specialized Instruction Center | Fewer than 100 students | | $1,100 |
| | 100 or more students | | $11,025 |
| Stable, Riding or Boarding | | | $8,180 |
| **Other Special Exceptions** | | | |
| Modification of Shape Factor | | | $8,180 |
| Modification of Grade for Single-Family Detached Dwellings | | | $910 |

[1416] Change since 6/30/2020 draft: This has been proposed to be reduced from the current $16,375 fee.

| | | |
|---|---|---|
| Modification of Minimum Setback Requirements per Sect. 5100.2.D(1)(g) | Certain Existing Structures and Use | $910 |
| | Reconstruction of Certain Single-Family Detached Dwellings that are Destroyed by Casualty | $0 |
| Waiver of Minimum Lot Size Requirements | | $8,180 |
| Addition to or Replacement of a Single-Family Detached Dwelling Existing as of [*insert effective date of this Ordinance*] in a Floodplain[1417] | | $8,180 ***[advertised range of $8,180 - $16,375]*** |
| **ZONING MAP AMENDMENTS [5]** | | |
| **District Requested** | | |
| Residential District | | $27,280 plus $570 per acre |
| Commercial, Industrial, or Overlay District | | $27,280 plus $910 per acre |
| PRC District | Rezoning with Concurrent Development Plan | $27,280 plus $910 per acre |
| | Rezoning with Concurrent Development Plan and PRC Plan | $27,280 plus $1345 per acre |
| | PRC Plan | $13,640 plus $435 per acre |
| | PRC Plan with Concurrent DPA, PCA, Special Exception, or Special Permit | $16,375 plus $435 per acre |
| PDH, PDC, PRM, PTC and PCC Districts | Rezoning with Concurrent Conceptual Development Plan | $27,280 plus $910 per acre |
| | Rezoning with Concurrent Conceptual and Final Development Plans | $27,280 plus $1,345 per acre |
| | Final Development Plan after Prior Approval of Rezoning and Conceptual Development Plan | $13,640 plus $435 per acre |
| **AMENDMENTS TO PENDING APPLICATIONS AND EXTENSIONS OF TIME [4][5]** | | |
| **Applications for Variances or AP, SP, or SE Approvals** | | |
| Extension of Time for a Special Permit or Special Exception Per Subsection 8100.3.D(3) or 8100.4.D(3) | | 1/8 of Application Fee |
| Amendment to a Pending Application for a Variance, Special Permit, or Special Exception | | 1/10 or Application Fee |
| Amendment to a Previously Approved and Currently Valid Special Permit | Change of Permittee Only | $500 or 1/2 of Application Fee, Whichever is Less |
| | With No New Construction | 1/2 of New Application Fee |
| | With New Construction | New Application Fee |
| **Applications for Zoning Map and Related Plan Approvals** | | |
| Amendment to a Pending Amendment to Zoning Map in all Districts | | $4,545 plus applicable per acre fee for acreage affected by the amendment |

[1417] This is a new fee for one single-family detached dwelling located in a floodplain, which is a reduction from the current $16,375 fee. Multifamily dwellings or multiple single-family detached dwellings would continue to require the $16,375 fee. Change since 6/30/2020 draft: Further limited the lower fee to additions to or replacements of existing single-family detached dwellings and included an advertised range to keep the current fee.

| | | |
|---|---|---|
| Pending Application for a Final Development Plan or Development Plan Amendment or PRC Plan | | $4,130 |
| 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 or Wall Height on a Single-Family Lot | $435 |
| | Increase in Fence or Wall Height on All Other Uses | $2,500 |
| | Reduction of Certain Setback Requirements on a Single-Family Lot | $910 |
| | Reduction of Certain Yard Requirements on All Other Uses | $8,180 |
| | Increase in Coverage Limitation for Minimum Required Rear Setbacks | $910 |
| | The Addition of or Modification to an Independent Living Facility for low Income Tenants | $1,100 |
| | All Other Uses With New Construction | 1/2 of prevailing fee plus applicable per acre fee for acreage affected by the amendment |
| | All Other Uses Without New Construction | 1/2 of prevailing fee |
| | Deletion of Land Area Only | 1/4 of prevailing fee ***[advertised range of ¼ to ½]*** |
| **Deferrals of Public Hearings** | | |
| Before the Planning Commission or Board of Supervisors | After Public Notice Has Been Given and that are Related Solely to Affidavit Errors | $260 plus actual costs of advertising, up to a maximum of $1,000 |

**Notes:**

[1] In calculating fees that based on acreage, any portion of an acre will count as a full acre.

[2] When one application is filed by one applicant for (1) two or more Variances on the same lot, or (2) two or more Special Permit uses on the same lot, or (3) two or more Special Exception uses on the same lot, or (4) a combination of two or more Variances or Special Permits on the same lot, only one filing fee will be required, and that fee will be the highest of the fees required for the individual uses included in the application.

[3] Applies to a new application or an amendment to a previously approved and currently valid application, with or without new construction.

[4] 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.

[5] For purposes of computing acreage fees, any portion of an acre is counted as an acre.

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# 8103. Review and Decision-Making Bodies[1418]

## 1. Board of Supervisors[1419]

The Fairfax County Board of Supervisors (the "Board") is the legislative body for the County. It has the powers and duties under this Ordinance and other actions the Board deems desirable and necessary to implement the provisions of this Ordinance and Virginia Law.

## 2. Planning Commission[1420]

### A. Purpose[1421]

The Fairfax County Planning Commission ("Planning Commission") will advise the Board on all matters related to the orderly growth and development of Fairfax County. More specifically, the Planning Commission, with the advice and assistance of the County staff, will:

**(1)** Review and recommend a Comprehensive Plan for the physical development of the County and review the plan at least once every five years.

**(2)** Review and recommend amendments to the Zoning Ordinance.

**(3)** Review and recommend amendments to the Subdivision Ordinance.

**(4)** Review and recommend amendments to a Capital Improvement Program.

**(5)** Review and make recommendations on all amendments to the Zoning Map.

**(6)** Review and make recommendations on applications for special exceptions filed with the Board, and when deemed necessary on appeals and applications for special permits filed with the BZA.

**(7)** Approve final development plans in accordance with the provisions of subsection 8100.2.E(2).

**(8)** Approve or disapprove the general or approximate location, character, and extent of all public facilities in the County, including streets, parks, or other public areas, public buildings, public structures, public utilities, or public service corporations other than railroads, whether publicly or privately owned.

### B. Authority and Establishment[1422]

The Planning Commission was established in conformance with a resolution adopted by the Board on July 6, 1938~~ under the provisions of Va. Code Sect. 15.2-2303~~.

[1418] Carried forward from Article 19, with revisions as noted. Section 19-500, Tree Commission, is not carried forward in the Zoning Ordinance and will be relocated to Chapter 122 of the County Code. Section 19-600, Geotechnical Review Board, is not carried forward in the Zoning Ordinance and will be relocated to Chapter 107 of the County Code.
[1419] This language is new.
[1420] Carried forward from 19-100.
[1421] Carried forward from 19-101, except the reference to an Official Map has been deleted, as Fairfax County does not have one.
[1422] Carried forward from 19-102.

## C. Powers and Duties[1423]

The Planning Commission has the following powers and duties:

**(1)** The election of officers from its own membership.

**(2)** The general supervision of, and the making of regulations for, the administration of its affairs.

**(3)** The adoption of its own bylaws and procedures, consistent with the ordinances of the County and the general laws of the State.

**(4)** The employment or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services within the limits of funds appropriated by the Board.

**(5)** The supervision of its fiscal affairs and responsibilities, under rules and regulations as prescribed by the Board.

**(6)** The preparation and submittal of an annual budget in the manner prescribed by the Board.

**(7)** The conduct of public hearings on specific items.

**(8)** The hearing and decision on all matters referred to and upon which it is required to pass by this Ordinance and the Code of Virginia.

**(9)** The performance of those activities established in subsection 8103.2.A above.

**(10)** The preparation, publication and distribution of reports, ordinances, and other material relating to its activities.

**(11)** The preparation and presentation to the Board of an annual report concerning the operation of the Commission and the status of planning within the County.

**(12)** The preparation and presentation to the Board of a report, at intervals of not greater than five years, on whether a general revision of this Ordinance should be undertaken. If the Commission should recommend such a revision, it must describe the conditions necessitating such revisions, outlining in general the areas in which the Ordinance can be improved. Further, it must indicate the scope of the revisions that it believes to be necessary.

**(13)** The establishment of advisory committees when deemed advisable.

## D. Membership[1424]

**(1)** The Planning Commission will consist of not less than five nor more than 15 members, appointed by the Board, all of whom are residents of the County, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the appointed members must be Fairfax County landowners, and there must be one member from each District.

**(2)** Members will be appointed for four years and terms of appointment will be staggered. Members of the Commission may receive compensation as may be approved by the Board.

**(3)** Any vacancy in membership must be filled by appointment by the Board. It must be for an unexpired term only.

[1423] Carried forward from 19-107. Added "powers" to heading for consistency with other boards and commissions.
[1424] Carried forward from 19-103.

**(4)** Any appointed member may be removed by the Board for malfeasance in office.

## E. Officers[1425]

**(1)** The officers of the Planning Commission consist of a Chair~~man~~person, a Vice-Chair~~man~~person, a Secretary, and a Parliamentarian.[1426]

**(2)** The officers of the Planning Commission must be elected from the members for a one-year term by the Commission at the third meeting of the calendar year. If an appointment to the membership by the Board is pending, the election will be held at the first meeting following the appointment.[1427]

**(3)** A candidate receiving a majority vote of the entire membership of the Commission will be declared elected. The officer will take office immediately and serve for one year or until a successor takes office.

**(4)** Vacancies in office must be filled immediately by regular election procedures.

## F. Meetings[1428]

**(1)** Regular meetings of the Planning Commission are held weekly, or as the work of the Commission may require, at a time and place to be designated by the Commission.[1429]

**(2)** All regular meetings and adjourned meetings are open to the public except as provided for in the Virginia Freedom of Information Act.

**(3)** Special meetings of the Commission may be called by the Chair~~man~~person or by two members upon written request to the Secretary.

- **(a)** The Secretary will cause to be mailed to all members, at least five days in advance of a special meeting, a written notice fixing the time and place and purpose of the meeting.
- **(b)** Written notice of a special meeting is not required if the time of the special meeting has been fixed at a previous regular meeting or if all members are present at the special meeting, or if they filed a written waiver of the required notice.
- **(c)** Special meetings may be either open to the public or may be closed, but no official action on any matter may be taken by the Commission at any closed meeting.

**(4)** All public hearings conducted by the Planning Commission must be in accordance with the provisions of subsection 8100.1.C.

**(5)** A majority of the membership of the Commission constitutes a quorum.

**(6)** No action of the Commission is valid unless approved by a majority vote of those present and voting.

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[1425] Carried forward from 19-104.
[1426] Change since 1/19/2021 draft: Replaced “chairman” with “chairperson” throughout the Ordinance.
[1427] Revised to reflect current practice and bylaws of the Planning Commission.
[1428] Carried forward from 19-105.
[1429] Revised to reflect current practice of the Planning Commission.

### G. Records[1430]

The Planning Commission must keep minutes of all its proceedings, showing information presented, the names and addresses of all witnesses giving testimony, findings of fact by the Commission, and the vote of each member upon each question, or if absent or failing to vote, such fact. These minutes are part of the public record.

## 3. Board of Zoning Appeals[1431]

### A. Purpose[1432]

Recognizing that many of the provisions of this Ordinance are nonspecific and general, and may require interpretation[1433], the Fairfax County Board of Zoning Appeals (the "BZA") is established to vary specific terms of the Ordinance in order to achieve the intent of the provisions, but only in a manner that maintains and upholds the spirit of the Ordinance. In addition, the BZA is established to perform those duties as set forth in ~~Va. Code Sect. 15.2-2303~~state law and those duties as set forth in this Ordinance.

### B. Authority and Establishment[1434]

The BZA was established in accordance with the provisions of ~~Va. Code Sect. 15.2-2303~~state law.

### C. Powers and Duties[1435]

The BZA has the following powers and duties:

**(1)** To hear and decide appeals from any order, requirement, decision, interpretation or determination made by the Zoning Administrator or any other administrative officer in the administration or enforcement of this Ordinance.

**(2)** To approve upon application in specific cases a variance as defined in Va. Code Sect. 15.2-2201 from the terms of this Ordinance that is not contrary to the public interest, when due to special conditions, a ~~literal enforcement~~strict application of the provisions will unreasonably restrict the utilization of the property~~,~~; provided that the purpose of the Ordinance will be observed.

**(3)** To hear and decide applications for such special permits as authorized under this Ordinance.

**(4)** To hear and decide applications for the interpretation of the Zoning Map where there is uncertainty as to the location of a zoning district boundary. After notice to the owners of the property affected by any such interpretation, and after a public hearing, the BZA will interpret the Map in such a way as to carry out the purpose and intent of this Ordinance for the particular district in question. The BZA does not have the power, however, to

[1430] Carried forward from 19-106. Replaced "evidence" with "information."
[1431] From Sect. 19-200.
[1432] Carried forward from 19-201.
[1433] Did not carry forward the statement that the ordinance "may not be perfect."
[1434] Carried forward from 19-202.
[1435] Carried forward from 19-209. Did not carry forward the reference to other matters required by this Ordinance as this is redundant. Change since 1/19/2021 draft: Replaced "literal enforcement" with "strict application."

rezone property or to change substantially the location of zoning district boundaries as established by this Ordinance.

**(5)** To make, alter, and rescind rules and forms for its procedures, consistent with the ordinances of the County and the general laws of the State.

**(6)** To prescribe procedures for the conduct of public hearings that it is required to hold.

**(7)** To perform those additional activities set forth in this subsection 8103.3.

**(8)** To employ or contract for, within the limits of funds appropriated by the Board, legal counsel, consultants, and other technical and clerical services.[1436]

## D. Membership[1437]

**(1)** The BZA consists of seven members appointed by the Circuit Court of Fairfax County, Virginia, and the members may receive compensation as may be approved by the Board. All members must be residents of the County.

**(2)** The term of the membership must be for five years, except that the original appointment of the first five members must be made so that the term of one member expires each year. The original appointment of the additional two members must be for terms of one member for two years and one member for three years.

**(3)** The Clerk of the BZA must notify the Circuit Court and the Board at least 60 days in advance of the expiration of any term of office and must also notify the Court and Board promptly of any vacancy. Appointments to fill such vacancies may only be for the unexpired portion of the term. Members may be reappointed to succeed themselves.[1438]

**(4)** A member whose term expires will continue to serve until his successor is appointed and qualifies.

**(5)** Members of the BZA may not hold any other public office in the County, except that one member may be a member of the Planning Commission.

**(6)** Any BZA member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause by the Court which appointed the member, after a hearing is held with at least 15 days prior notice to the member sought to be removed.

## E. Officers[1439]

At its first meeting in January of each year, the BZA must elect a Chair~~man~~person and a Vice-Chair~~man~~person by a majority vote of the entire membership, and must appoint a Clerk, whose compensation will be fixed by the Board.

[1436] Deleted secretaries and clerks as these are employed by the Department of Planning and Development.
[1437] Carried forward from 19-203.
[1438] Added that the Board must be notified. Change since 3/10/2020 draft: Changed advance notice from 30 days to 60 days.
[1439] Carried forward from 19-204.

## F. Meetings[1440]

**(1)** Before the start of each year, the BZA must adopt a meeting schedule by resolution, identifying the time and place of all meetings for the following year.

**(2)** Four members of the BZA constitutes a quorum but a lesser number may meet and adjourn.

**(3)** Special meetings may be called by the Chairperson so long as at least five days' notice of such hearing is given to each member in writing.

**(4)** The BZA may adjourn a regular meeting if all applications or appeals cannot be disposed of that day and no further public notice is necessary for such a meeting. Adjournment is mandatory ten hours after the start of a meeting.

**(5)** All public hearings conducted by the BZA must be in accordance with the provisions of subsection 8100.1.C. All hearings are open to the public, and any person may appear and testify at such hearing, either in person or by an authorized agent or attorney.

## G. Referral to Planning Commission[1441]

**(1)** The Clerk of the BZA will transmit to the Planning Commission a copy of every appeal or application made to the BZA and must also notify the Commission of the date of the hearing for such appeal or application.

**(2)** If, before the time of the hearing, the Planning Commission submits to the BZA a recommendation that an application for a special permit be denied, that specified conditions be prescribed in connection with a particular special permit, or that specified conditions be prescribed in connection with a particular variance, the BZA may not act contrary to such recommendation except by a majority vote of all the members of the BZA.

## H. Records[1442]

**(1)** The BZA must keep records of all its proceedings, showing evidence presented, findings of fact by the BZA, and the vote of each member upon each question, or if absent or failing to vote, such fact.

**(2)** Unless otherwise specifically provided in this Ordinance, every decision of the BZA must be made by resolution setting forth the circumstances of the application and the findings on which the decision is based, and must be adopted by a majority of all of the members present.

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[1440] Carried forward from 19-205, except (i) based on current practice, updated requirement for the BZA to hold at least one meeting each month with the requirement for the BZA to adopt a meeting schedule of all meetings for the following year, and (ii) deleted the requirement that all appeals and applications be heard/considered in the order in which they are filed, as the requirement states that applications *should* be scheduled in the order in which they are filed.

[1441] Carried forward from 19-206.

[1442] Carried forward from 19-207. Updated to reflect current practice. Standard forms are no longer used. Reference to filing protocols not carried forward. The requirement that records must be "written" has been removed.

### I. Periodic Report[1443]

The BZA must report to the Board once a year, summarizing all appeals, applications, and decisions made since its previous report. Copies of the report must be filed at the same time with the County Executive, Planning Commission, County Attorney, and Director.

### J. Limitations[1444]

All provisions of this Ordinance relating to the BZA are strictly construed. The BZA, as a body of limited jurisdiction, must act in full conformity with this Ordinance. Any action taken by the BZA beyond the authority specifically conferred by this Ordinance ~~are~~ is deemed to be of no force and effect.

### K. Decisions Subject to Judicial Review[1445]

All decisions and findings of the BZA that resolve the merits of an appeal or application before the BZA, or that dismiss such a filing with prejudice on a procedural basis, are final decisions, and are, in all instances, subject only to judicial review in the manner provided by ~~Va. Code Sect. 15.2-2303~~state law.

## 4. Architectural Review Board[1446]

### A. Purpose[1447]

The purpose of the Architectural Review Board is to administer the provisions of Section 3101 and to advise and assist the Board in its efforts to preserve and protect historic, cultural, architectural, and archaeological resources in the County.

### B. Authority and Establishment[1448]

The Fairfax County Architectural Review Board ("ARB") is established in accordance with this section.

### C. Powers and Duties[1449]

The ARB has the following powers and duties:

**(1)** In a Historic Overlay District, to hear and decide applications for building permits and sign permits.

[1443] Carried forward from 19-208, except revised from "once every six months" to "once a year" to be consistent with state code requirements. The requirement for the County Attorney to submit a summary of observations is not carried forward.
[1444] Carried forward from 19-210.
[1445] Carried forward from 19-211.
[1446] From 19-300.
[1447] Carried forward from 19-301.
[1448] Carried forward from 19-302.
[1449] Carried forward from 19-307.

**(2)** To review and make recommendations on all applications for rezoning, special exception, special permit, and variance, and any site plan, subdivision plat, grading plan, and sports illumination 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, 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 assist the Zoning Administrator in reviewing of applications for new utility distribution or transmission poles 50-feet or lower in height proposed to be constructed within the right-of-way of a Virginia Byway, or on property that is both adjacent to a Virginia Byway and listed on the County Inventory of Historic Sites. To assist the Zoning Administrator, the ARB may provide application specific recommendations or formulate general recommended criteria or design guidelines for the installation of such poles in these areas.

**(6)** To advise owners of historic buildings or structures on problems of preservation.

**(7)** 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.

**(8)** To advise the Board of Supervisors in the preservation, restoration, and conservation of historic, cultural, or archaeological buildings, sites, or areas in the County by cooperating with and enlisting 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.

**(9)** 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 to be made for permanent keeping in the library's historical collection.

**(10)** To employ secretarial assistance and pay salaries, wages, and other incurred necessary expenses, in accordance with appropriations by the Board.

## D. Membership[1450]

**(1)** The ARB is composed of 11 voting members who must be residents of the County. The members appointed by the Board must include:

**(a)** Two licensed architects, at least one of whom must meet the Secretary of the Interior's Professional Qualification Standards for Historic Architecture as published in 36 CFR Part 61.

**(b)** One licensed landscape architect.

**(c)** One lawyer who is an active member in good standing with the Virginia State Bar.

**(d)** One archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology as published in 36 CFR Part 61.

[1450] Carried forward from 19-303.

**(e)** One historian who meets the Secretary of the Interior's Professional Qualification Standards for History as published in 36 CFR Part 61 or one architectural historian who meets the Secretary of the Interior's Professional Qualification Standards for Architectural History as published in 36 CFR Part 61.

**(f)** One member must be an ex-officio member from the Fairfax County History Commission, who will be drawn from the ranks of related professional groups or who meets the Secretary of the Interior's Professional Qualification Standards for one of the disciplines cited above in (a), (d), or (e).

**(g)** The other members appointed by the Board will be drawn from the ranks of related professional groups such as historians, architectural historians, architects, landscape architects, archaeologists, engineers, land-use planners, lawyers, and real estate brokers.

**(2)** Members other than the member from the History Commission, who is chosen by the History Commission, must be appointed to serve for a term of three years or until their successor has been appointed. Terms will be staggered with three members appointed every year except that four members will be appointed every third year. An appointment to fill a vacancy may only be for the unexpired portion of the term. Members may be reappointed to succeed themselves.

**(3)** Members must exempt themselves from voting on any action in which their financial interests or those of their immediate family or employer are directly involved.

**(4)** Members must possess a demonstrated interest, competence, and knowledge of historic preservation.

## E. Officers[1451]

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

## F. Meetings[1452]

**(1)** Meetings of the ARB will be scheduled as needed. Meetings must be held at a time and place to be designated by the Chairperson, and all members will be notified of such at least five days in advance of the meeting.

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

## G. Records[1453]

The ARB must keep records of all its proceedings and the records will be made available on request for public inspection.

[1451] Carried forward from 19-304.
[1452] Carried forward from 19-305.
[1453] Carried forward from 19-306.

# 5. Affordable Dwelling Unit Advisory Board[1454]

## A. Powers and Duties

**(1)** The Affordable Dwelling Unit (ADU) Advisory Board advises the County Executive respecting the setting of the amount and terms of all sales and rental prices of affordable dwelling units.

**(2)** The ADU Advisory Board is authorized to hear and make final determinations or grant requests for modifications of the requirements of the Affordable Dwelling Unit Program, except that the ADU Advisory Board does not have the authority to:

- **(a)** Modify or reduce the Affordable Dwelling Unit Adjuster required in accordance with subsection 5101.4 above;
- **(b)** Modify the unit specifications established by the Authority in accordance with 5101.5.E(1) above;
- **(c)** Modify the eligibility requirements for participation in the ADU Program;
- **(d)** Modify any proffered condition, development condition or special exception condition specifically regarding ADUs;
- **(e)** Modify the zoning district regulations applicable to ADU developments;
- **(f)** Hear appeals or requests for modifications of affordable dwelling unit sales or rental prices;
- **(g)** Modify the provisions of subsection 5101.4 above regarding the percentage of affordable dwelling units required or to allow the construction of affordable dwelling units which are of a different dwelling unit type from the market rate units on the site; or
- **(h)** Modify the provisions of subsection 5101.7.B(4) or 5101.7.B(5) above regarding the conversion of rental developments to condominium and the establishment of new condominium developments.

## B. Membership

**(1)** The ADU Advisory Board consists of nine members appointed by the Board. Members must be qualified as follows:

- **(a)** Two members must be either civil engineers or architects, each of whom must be registered or certified with the relevant agency of the State, or planners, all of whom must have extensive experience in practice in Fairfax County.
- **(b)** One member must be a representative of a lending institution which finances residential development in Fairfax County.
- **(c)** Four members must consist of:
  1. A representative from the Fairfax County Department of Housing and Community Development.
  2. A residential builder with extensive experience in producing single-family detached and attached dwelling units.

[1454] Carried forward from Sect. 2-814, with revisions as noted.

***3.*** A residential builder with extensive experience in producing multifamily dwelling units.

***4.*** A representative from either the Fairfax County Department of Land Development Services or the Department of Planning and Development.[1455]

**(d)** One member must be a representative of a nonprofit housing group which provides services in Fairfax County.

**(e)** One member must be a citizen of Fairfax County.

**(f)** At least four members must be employed in the private sector.

**(2)** Each member of the ADU Advisory Board are appointed to serve a four-year term. Terms are staggered such that the initially constituted Board consists of four members appointed to four-year terms; three members appointed to three-year terms; and two members appointed to two-year terms.

### C. Officers, Rules, Regulations, and Procedures

**(1)** The ADU Advisory Board elects its Chairperson and may adopt rules and regulations regarding its formulation of a recommendation regarding the amounts and terms of sales and rental prices of affordable dwelling units and the procedures to be followed by an applicant seeking a modification of the requirements of the Affordable Dwelling Unit Program.

**(2)** Any determination by the ADU Advisory Board requires the affirmative vote of a majority of those present. A quorum consists of no less than five members. All determinations and recommendations must be rendered within 90 days of receipt of a complete application.

## 6. Health Care Advisory Board[1456]

### A. Purpose[1457]

The Health Care Advisory Board was created to be a citizen group to develop expertise in all phases of health care and use that expertise to advise and otherwise assist the Board in the development and implementation of a comprehensive plan of health programs and facilities.

### B. Authority and Establishment[1458]

The Health Care Advisory Board was established in conformance with a resolution adopted by the Board on July 11, 1973.

[1455] Change since 3/10/2020 draft: Department names were updated.
[1456] Carried forward from 19-400.
[1457] Carried forward from 19-401.
[1458] Carried forward from 19-402.

## C. Powers and Duties[1459]

The powers and duties of the Health Care Advisory Board apply only to the extent that they do not contradict specifically outlined duties of the Fairfax-Falls Church Community Services Board, and include, but are not limited to, the following:

**(1)** Participation in the periodic review of a comprehensive health plan for the County, to include recommendations for the provision of health care facilities, as well as an evaluation of current health resources and an assessment of future program needs.

**(2)** Initiation of an on-going health care information process in coordination with local, regional, state, and federal agencies.

**(3)** Annual review of the County Executive's budget priorities for physical health-related County and contributory agencies.

**(4)** Review of proposed medical care facilities, continuing care facilities, and adult day care centers in accordance with other provisions of this Ordinance.

**(5)** Evaluation of the specifications and methodology of proposed County third party contracts for health service studies and programs.

**(6)** Review of materials provided the County by the Inova Health System pertaining to certain provisions of the Fairfax County and Inova Health System Agreement and requiring the review or approval of the Board.[1460]

**(7)** The undertaking of other appropriate related to the evolving character of health care delivery.

## D. Membership[1461]

The Health Care Advisory Board must consist of 11 members serving four-year terms with at least two physicians or other health care provider appointed at large by the Chair~~man~~person of the Board of Supervisors and the other nine members appointed one from each District.[1462]

## E. Officers[1463]

The Health Care Advisory Board will establish rules of procedure as it sees fit and elect such officers as it deems necessary to the fulfillment of its duties.

## F. Meetings[1464]

The Health Care Advisory Board will hold such meetings, including hearings, as it deems necessary to the fulfillment of its duties.

[1459] Carried forward from 19-407.
[1460] Updated Fairfax Hospital Association to Inova Health System.
[1461] Carried forward from 19-403.
[1462] Corrected number of HCAB members
[1463] Carried forward from 19-404.
[1464] Carried forward from 19-405. Change since 11/24/2020 draft: Added reference to hearings.

### G. Records[1465]

The Health Care Advisory Board is directly responsible to the Board. Records of its actions are maintained by the Health Department.[1466]

# 8104. Nonconformities[1467]

This section establishes the regulations for development, redevelopment, and continued existence of uses or structures, lawfully existing on the effective date of this Ordinance or prior ordinances, but that do not conform to the requirements of this Ordinance.

## 1. Regulations Controlling Nonconformities, Generally[1468]

### A. General Standards

**(1)** Any nonconforming use, other than those specified in subsection 8104.2 below, or any nonconforming structure may be continued but may not be enlarged, intensified, extended, or structurally altered, except for as may be permitted by the following:

**(a)** The Board in accordance with Section 8104.4; or

**(b)** Where the modification provides an accessibility improvement or other reasonable accommodation as determined by the Zoning Administrator.

**(2)** Any nonconforming use may be extended to occupy any part of a building that was lawfully and clearly arranged or designed for the use at the time of the effective date of this Ordinance, but may not be extended to occupy any land or building area greater than was occupied by the use before the effective date of this Ordinance, except as provided in subsection 8104.2 below.

**(3)** The rights that apply to a nonconforming use or building do so without regard to the ownership of the land or building or the nature of the occupancy of the building where such nonconforming use is conducted.

**(4)** Provisions relating to nonconforming uses and buildings apply to all nonconforming uses and buildings existing on the effective date of this Ordinance and to all uses and buildings that become nonconforming by reason of any amendment to this Ordinance. The provisions do not apply to any use established or building erected in violation of the law, regardless of when the use was established or building erected.

### B. Repair and Maintenance of Nonconforming Use or Structure

Nothing in this section prevents keeping in good repair a nonconforming building or a building in which a nonconforming use is conducted. However, a nonconforming building may not be restored, repaired, or rebuilt once it has been declared by any authorized County official to be

[1465] Carried forward from 19-406.
[1466] Revised to indicate records are kept with Health Department, not the County Executive, based on current practice.
[1467] From Article 15, *Nonconformities*.
[1468] From Sect. 15-103. Revised to apply more broadly to all nonconformities, rather than just uses.

so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely or has occurred.[1469]

## C. Removing or Relocating a Nonconforming Use or Structure

**(1)** If a building in which a nonconforming use is conducted is moved or relocated for any reason, then any future use of such building must conform with this Ordinance for the zoning district in which the subject building is located.

**(2)** If a building in which a nonconforming use is conducted is removed or demolished, the subsequent use of land or of any building subsequently located on that land must conform with this Ordinance for the zoning district where the land is located.

## D. Destroyed or Damaged Nonconformities

**(1)** In accordance with Va. Code Sect. 15.2-2307, a nonconforming building that is destroyed or damaged by natural disaster may be repaired, rebuilt, or replaced to its original nonconformity or to a reduced nonconforming condition within two years of the date of the natural disaster. However, if the nonconforming building is located in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the building may be restored to its original nonconforming condition or to a reduced nonconforming condition within four years of such disaster. A natural disaster includes a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, or fire caused by lightning or wildfire. Owners of property damaged by a fire have the same rights to rebuild such property as if it were damaged by a natural disaster, except if the owner commits arson.[1470]

**(2)** A nonconforming building that is destroyed or damaged by any casualty other than a natural disaster as defined above or a building in which a nonconforming use is conducted that is destroyed or damaged by any casualty to an extent not exceeding 50 percent of its current assessed value according to the records of the Department of Tax Administration, exclusive of foundations, may be restored within two years after such destruction or damage but may not be enlarged except as provided in subsection 8104.2 below. If any such building is destroyed or damaged to an extent exceeding 50 percent of its value, it may not be reconstructed except:

**(a)** To contain a conforming use;

**(b)** If the building is used for agricultural purposes and the floors and foundation walls are of concrete or other masonry;[1471]

**(c)** If the nonconforming location is necessary to meet any requirement or regulation of the Health Department; or

**(d)** If the nonconforming building is a single-family detached dwelling, it may be reconstructed within two years from the date of destruction or damage to occupy

[1469] Revised "unsafe or unlawful" to tie to definition of unsafe structure in the Virginia Maintenance Code.
[1470] Edited to delete the phrase "act of God." Removed the reference to "accidental" fire to allow for other classifications of fire and added the exception of arson from Va. Code 15.2-2307.E.
[1471] Deleted "and are not practical to move" from Par. 6B of Sect. 15-103.

all or a portion of the same space that it occupied before such destruction or damage.

### E. Nonconformities Created by Zoning Ordinance Amendment #89-185

**(1)** If a building or use was made nonconforming solely based on the condition that:

**(a)** The building is nonconforming based on floor area ratio; or

**(b)** The use is an office in a C-5, C-6, C-7, or C-8 District and fails to comply with the use standards for office uses in subsection 4102.5.M; then,

**(2)** The building or use may be reconstructed provided that the construction commences and is diligently pursued within four years after the destruction or damage. This period may be extended by the Zoning Administrator if the Zoning Administrator determines that the owner has made a good faith attempt to commence construction within four years after the destruction or damage. The building height and floor area ratio of the reconstructed use may not exceed that which existed at the time of destruction or damage.

**(3)** The reconstruction as described in subsection (2) above applies to the following:

**(a)** A building or use in the C-5, C-6, C-7, or C-8 District that was a conforming use immediately before December 12, 1989, the effective date of Zoning Ordinance Amendment #89-185; or

**(b)** A building or use that was constructed in accordance with an approved special exception special permit, building permit, or site plan ~~grandfathered~~ that was entitled to continue under the provisions relating to previous approvals under ~~from~~ Zoning Ordinance Amendment #89-185.[1472]

### F. Abandoned or Terminated Nonconforming Uses

**(1)** If any nonconforming use ceases for any reason for a continuous period of two years or more, except for provisions of subsection 8104.1.D(2) above, or is changed to or replaced by a conforming use, the land and building devoted to such nonconforming use is subject to the regulations for the zoning district in which such land and building are located.

**(2)** A use that is accessory to a principal nonconforming use may not continue after such principal use ceases.

## 2. Continuation and Expansion of Specific Nonconforming Uses or Structures[1473]

**A.** The following nonconforming uses or structures may be continued, and after approval of a special exception from the Board in accordance with subsection 8100.3, the use may be enlarged subject to the conditions set forth in subsections B through D below:

**(1)** Single-family detached dwelling in a C or I district or an R district where such a dwelling is not permitted by this Ordinance.

[1472] Change since 3/10/2020 draft: Added building permit and site plan from current Ordinance.
[1473] From Sect. 15-102.

**(2)** A commercial use, allowed as a permitted, special exception, or special permit use in a C district of one class under the provisions of this Ordinance, but located in a C district of another class where such use is not allowed.

**B.** Enlargement(s) in accordance with subsection A above may not exceed:

**(1)** A cumulative total of 25 percent of the land area occupied by such nonconforming use or structure;

**(2)** A cumulative total of 25 percent of the gross floor area of the building in which such nonconforming use is conducted; and

**(3)** The maximum floor area ratio for the zoning district in which located.

**C.** Structural alterations may be made in a building containing a nonconforming use set forth in subsection A above, but the value of those alterations may not exceed a total of 50 percent of the building's current assessed value according to the records of the Department of Tax Administration.

**D.** A single-family detached dwelling that is remodeled or enlarged in accordance with the provisions of this subsection, may not be used to accommodate a greater number of dwelling or lodging units than was accommodated before the remodeling or enlargement.

**E.** Any modification to an existing nonconforming building or use to provide an accessibility improvement or other reasonable accommodation is permitted and does not require approval of a special exception.

## 3. Exceptions to Nonconforming Status[1474]

### A. Generally

A structure or use is considered noncompliant rather than nonconforming if it was a conforming structure or use before the effective date of this Ordinance and would otherwise meet the provisions of this Ordinance, but does not meet the minimum district size, lot size, setback, shape factor, or building height requirements of the zoning district in which located. Additionally, if the minimum parking requirements are not met but were met at the time of development, it is considered noncompliant rather than nonconforming. A noncompliant structure or use may be continued. A noncompliant structure or use may be enlarged if the enlargement complies with the regulations of the current zoning district except for the lot size or shape factor requirements and if the enlargement meets the minimum parking requirements in Article 6.[1475]

### B. Reconstruction of Damaged Single-Family Detached Dwellings

If a noncompliant single-family detached dwelling in accordance with subsection 3A is destroyed or damaged by any casualty that is not intentionally caused by the owner or owner's agents, it may be reconstructed if:

**(1)** The dwelling is reconstructed in accordance with a building permit that is approved within two years after the damage or destruction;

[1474] From Sect. 15-101.
[1475] Added a reference to noncompliant parking in accordance with long-standing interpretation.

**(2)** No additional stories are allowed for any portion of the reconstructed dwelling that did not previously comply with the minimum setback requirements of the district in which the dwelling was located at the time of the casualty; and

**(3)** A dwelling reconstructed under this section may not result in any setback that is less than the required setback in existence immediately before the casualty or that complies with the current minimum required setbacks, whichever is applicable. The Board may approve a special exception in accordance with subsection 5100.2.D(5)(d) to allow an extension into the minimum required setback for single-family detached dwellings that are destroyed by casualty.

## C. Special Exception and Special Permit Uses

### (1) Generally

**(a)** Any use or structure existing before the effective date of this Ordinance and currently allowed within a zoning district as a special exception or a special permit use by this Ordinance, is a noncompliant use or structure in that district and may continue. However, except as qualified below, any subsequent replacement or enlargement of the use or of any structure in which the use is conducted or construction of any additional structure for the use beyond the extent which existed before the effective date of this Ordinance, requires special exception or special permit approval in accordance with this Ordinance.

**(b)** If the noncompliant use or activity ceases for any reason for a continuous period of two years or more, special exception or special permit approval would be required to re-establish the use.[1476]

### (2) Minor Modifications for Noncompliant Religious Assembly Uses

Minor modifications, including the expansion of an existing building or the addition of a new building or accessory structure, may be permitted without the requirement for approval of a special permit or special exception in subsection (1) above for a religious assembly use or a religious assembly with private school, specialized instruction center, or child care center when[1477]:

**(a)** The Zoning Administrator determines that the modifications do not:

***1.*** Permit an increase in the number of seats, parking spaces, or students, if applicable, by more than ten percent of the existing amount;

***2.*** Reduce the effectiveness of existing transitional screening, buffering, landscaping, or open space;

***3.*** Permit changes to bulk, mass, orientation, or location of the buildings or uses in a way that would adversely impact adjacent property;[1478]

***4.*** Exceed a total of 500 square feet of gross floor area, or five percent of the existing gross floor area up to a maximum of 2,500 square feet of gross floor area; or

***5.*** Exceed the maximum permitted FAR for the zoning district.

[1476] Change since 3/10/2020 draft: This is a new standard.
[1477] Revised to match new naming conventions for uses in the new draft use regulations, Article 4.
[1478] Simplified for clarity.

**(b)** A request for approval of a minor modification in accordance with this subsection (2) requires written notice by the requester in accordance with the following:

***1.*** The notice must include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and

***2.*** The notice must be sent to the last known address of the owners, as shown in the real estate assessment records of the Department of Tax Administration, of all property abutting and across the street from the site, or portion of the site subject to the request, and must be delivered by hand or sent by certified mail, return receipt requested.

**(c)** The request submitted to the Zoning Administrator must include:

***1.*** An affidavit from the requester affirming that the required notice has been provided in accordance with subsection (b) above;

***2.*** The date that the notice was delivered or sent;

***3.*** The names and addresses of all persons notified; and

***4.*** The Tax Map references for all parcels notified.

**(d)** The Zoning Administrator will not consider a request unless the affidavit has been provided in accordance with subsection (c) above.

**(e)** When the Zoning Administrator determines that a modification is not allowed under the above provisions, the modification can then only be obtained by submission and approval of a special exception or special permit application.

**(f)** Modifications to an existing structure or use to provide an accessibility improvement or other reasonable accommodation are permitted and do not require approval of a special exception or special permit.

### D. Noncompliance Resulting from Government Acquisition[1479]

If a governmental acquisition of land for a public purpose results in a structure or land no longer complying with the Zoning Ordinance, that structure or use is considered noncompliant and can remain. Any enlargement or replacement of the use, however, must meet the current Zoning Ordinance provisions.

## 4. Modifications to a Nonconformity[1480]

**A.** The Board may approve a special exception to allow a structural alteration to any nonconforming building or to a building in which a nonconforming use is conducted subject to the following:

**(1)** It is determined that the alteration is necessary as a result of a condemnation or other acquisition by any government agency for a public improvement.

**(2)** It is determined that the allowance of such alteration provides more of a public benefit than not allowing the alteration, even if the use may not be in harmony with the Comprehensive Plan or the standards of subsection 4102.1.F.

[1479] Change since 3/10/2020 draft: New subsection added.
[1480] From Sect. 9-619.

**(3)** A plan must be submitted depicting the proposed alteration and the overall impact or effect of the alteration to the structure. The alteration may not result in an increase in building square footage, an increase in the area of the building occupied by the nonconforming use, or in the relocation of the building on the site.

**(4)** The special exception may permit the existing nonconformity and any additional nonconformity that may be created by the public improvement to continue as nonconformities.

**B.** Upon approving a special exception, the Board may impose such conditions as deemed necessary to address any impacts of the nonconformity or proposed modification.

# 8105. Condominiums, and Condominium and Cooperative Conversions[1481]

## 1. Authority

**A.** As long as the declarant has the right to create additional units or to complete the common elements and is not the owner of the land, the declarant has the authority to execute, file, and process any site plan, parking tabulations, application for special exception, special permit, variance, or rezoning, including a development plan, conceptual development plan, final development plan, generalized development plan, or proffered conditions, with respect to the common elements or a plan or application affecting more than one unit. However, if such plan or application creates an affirmative obligation on the unit owners' association, then the consent of such association is required.

**B.** Once the declarant no longer has the authority referenced in subsection A above, in accordance with ~~Va. Code subsection B of Sec. 55-79.80~~the Virginia Condominium Act, and if the unit owners' association is not the owner of the land, the executive organ of the unit owners' association if one exists, and if not, then a representative appointed by the unit owners' association, has the authority to execute, file, and process any site plan, parking tabulation, special exception, special permit, variance, or rezoning, including a development plan, conceptual development plan, final development plan, generalized development plan or proffered condition, with respect to the common elements or a plan or application affecting more than one unit. However, if such plan or application creates an affirmative obligation on the declarant, then the consent of the declarant is required. Such plan or application may not adversely affect the rights of the declarant to develop additional land.

**C.** A site plan, special exception, special permit, variance, or proffered condition amendment affecting only one unit may be filed by the unit owner.[1482]

**D.** For purposes of obtaining Building, Residential or Non-r~~R~~esidential Use Permits, and sign permits, the unit owner, including the declarant if the declarant is the unit owner, must apply for permits for the unit, and the unit owners' association must apply for permits for the common elements, except that the declarant must apply for permits for convertible land. For the purposes of this Section, condominium, declarant, common elements, unit, unit owners'

[1481] Carried forward from Sect. 2-518, revised for clarity.
[1482] The reference to a rezoning of an individual unit has been deleted.

association, and convertible land are defined in the ~~Va. Code, Title 55, Chapter 4.2, The~~Virginia Condominium Act.

### 2. Condominium or Cooperative Standards

**A.** In addition to the specific minimum lot size and setback requirements specified for a given zoning district, a single-family detached or attached dwelling condominium development may be permitted under the ~~Va. Code, Title 55, Chapter 4.2, The~~Virginia Condominium Act, subject to the following provisions:

**(1)** Single-family detached dwelling developments are subject to the following requirements:

**(a)** The minimum lot size and setback requirements of the zoning district in which located must be met as if lot lines existed; and

**(b)** All dwelling units are subject to the same requirement to have access to a dedicated public street as single-family dwelling units located on lots that result from a subdivision of land, except as provided for by the provisions of Section 5107 and Chapter 101 of the County Code, The Subdivision Ordinance.

**(2)** In a single-family attached or stacked townhouse dwelling development, the minimum lot size and setback requirements of the zoning district in which located must be met as if lot lines existed.

**(3)** The location of any community structure, such as a clubhouse or swimming pool, is governed by the setback requirements for all other structures in the zoning district in which located.

**(4)** Accessory structures are permitted as determined by the Zoning Administrator.

**(5)** Such developments must comply with the maximum density and other provisions of the zoning district in which it is located.

**B.** Any existing structures and its related lot may be converted to a condominium or cooperative, provided the development conforms to the applicable Zoning Ordinance provisions, to include, if applicable, an approved site plan. Proposed condominium and cooperative conversions that are nonconforming are subject to the approval of a special exception in accordance with the provisions of subsection 8100.3.

## 8106. Enforcement, Violations, and Penalties[1483]

### 1. Types of Violations[1484]

The following are violations of this Ordinance, unlawful, and subject to enforcement and penalties as expressed in this Ordinance and the County Code:[1485]

**A.** Any building erected or improvements constructed contrary to any of the provisions of this Ordinance;

[1483] From current Article 18, Part 9, 18-900, *Violations, Infractions, and Penalties*.
[1484] From Sect. 18-901, renamed from "general provisions."
[1485] This introductory sentence is new.

**B.** 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; and

**C.** When a building permit is required, demolishing, razing, or moving a building or structure located in a Historic Overlay District without the prior approval of the Architectural Review Board or the Board of Supervisors.[1486]

## 2. Enforcement[1487]

### A. Enforcement of Ordinance[1488]

**(1)** Unless otherwise specifically qualified, this Ordinance will be enforced by the Zoning Administrator in accordance with Section 1108.

**(2)** No officer, board, agency, or employee of the County may issue, grant, or approve any permit, license, certificate, or other authorization for the construction of any building or for any use of any land or building that would not be in full compliance with this Ordinance. Any permit, license, certificate, or other authorization issued, granted, or approved in violation of this Ordinance is deemed null and void and of no effect without the necessity of any proceedings for revocation or nullification, and any work undertaken or use established pursuant to any permit, license, certificate, or authorization is deemed unlawful. No action may be taken by any officer, board, agency, or employee of the County, purporting to validate any such violation. [1489]

### B. Applicability

Any person, whether owner, lessee, principal, agent, employee, tenant, occupant, or otherwise, who violates any of the provisions of this Ordinance, permits any such violation, fails to comply with any of the requirements of this Ordinance, or who erects any building or uses any building or land in violation of the provisions of this Ordinance is subject to these enforcement provisions.

### C. Enforcement Procedures[1490]

**(1) Issuing Notice**

Upon becoming aware of any violation of any provisions of this Ordinance, the Zoning Administrator may serve a notice of violation on the person committing or permitting the violation. This notice will require the violation to cease within a specified time. The notice of violation may also include a warning that any previously issued use permit will be revoked upon expiration of the appeal period, unless an appeal has been filed or the violation has ceased.

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[1486] New to this section but carried forward from penalties section for this type of violation in subsection 8106.3.B.
[1487] From Sect. 18-901, organized with subheadings for clarity.
[1488] From Sect. 18-101.
[1489] Carried forward from 18-114.
[1490] From Sect. 18-901

**(2) Failure to Comply with Notice**

After such notice is sent, if the violation has not been abated within the specified timeframe, the Zoning Administrator may proceed to remedy the violation as provided in subsection 8106.3, unless an appeal has been timely filed. Except as provided in subsection 8100.10.A(3), if a permit revocation is timely appealed, it does not take effect until the appeal has been withdrawn by the appellant or decided by the BZA.

**(3) Right to Appeal**

Any written notice of a zoning violation or a written order of the Zoning Administrator must include a statement informing the recipient of a right to appeal the notice of a zoning violation or written order within 30 days in accordance with Va. Code Sect. 15.2-2311 and Sec. 8100.10, except that a written notice of violation or a written order of the Zoning Administrator involving the violations set forth in subsection 8100.10.A(2)(b) must include a statement informing the recipient that the recipient has a right to appeal the notice of violation or written order within ten days. The decision, determination, or order specified in the notice of violation or written order and the permit revocation, if applicable, will be final and unappealable if not appealed within the specified timeframes set forth in the notice or written order. The appeal period does not commence until such statement is given and the Zoning Administrator's written order is sent by registered or certified mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There will be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission.[1491]

### D. Other Enforcement Remedies[1492]

The Zoning Administrator or designated agent may seek the issuance of an inspection warrant, initiate an injunction, mandamus, or any other appropriate action to prevent, enjoin, abate, or remove such structure or use in violation of any provision of this Ordinance. Nothing in this Ordinance may be construed to authorize an unconstitutional inspection or search. All searches or inspections authorized by this Ordinance require a warrant, court order, consent, or another exception to the warrant requirement.

## 3. Penalties

### A. Infractions and Civil Penalties[1493]

**(1)** A violation of this Ordinance, except for the posting of signs on public property or public rights-of-way, is deemed an infraction and is punishable by a civil penalty of $200 for the first violation. Subsequent violations arising from the same set of operative facts are punishable by a civil penalty of $500 for each separate offense.

[1491] Change since 3/10/2020 draft: The last two sentences are from Va. Code Sect. 15.3-2311.
[1492] Change since 3/10/2020: the language "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" has been removed, as there is no third-party zoning enforcement in Virginia.
[1493] From Sect. 18-903.

**(2)** Each day during which any violation of the provisions in (1) above is found to have existed constitutes a separate offense. However, in no event will any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor will a series of such violations arising from the same set of operative facts result in civil penalties that exceed a total of $5,000.

**(3)** The designation of a violation of this Ordinance as an infraction in accordance with (1) above is in lieu of criminal sanctions, and such designation precludes 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 (1) above total $5,000 or more for such violation. If the civil penalties for a violation under (1) above total $5,000 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 Ordinance provisions under (1) above and if such violation has not ceased within the timeframe specified in such notice, then, upon the approval of the County Attorney, the Zoning Administrator will cause a summons to be served upon such person.

**(5)** Such summons must 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.
- **(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 must 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 72 hours before the time and date fixed for trial and, by such appearance, may waive of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons must provide that a signature to an admission of liability has the same force and effect as a judgment of court, however, an admission is not deemed a criminal conviction for any purpose.

**(7)** If a person charged with a violation does not elect to waive trial and admit liability, the violation must 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 is not deemed a criminal conviction for any purpose.

**(8)** The remedies provided for in this section are cumulative and not exclusive and are in addition to any other remedies provided by law.

## B. Civil Penalty for Demolishing, Razing, or Moving Buildings in Historic Overlay Districts[1494]

**(1)** When a building permit is required, demolishing, razing, or moving a building or structure located in a Historic Overlay District without the prior approval of the Architectural Review Board or the Board of Supervisors as provided in subsection 3101.6.C is punishable by a civil penalty.

**(2)** Such civil penalty may 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 must 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 requires 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 must be brought against the party or parties deemed responsible for such violation. It is 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 are in addition to any other remedies provided by law.

## C. Affordable Dwelling Unit Program Violations

In addition to the provisions set forth in this Section 8106, the following apply whenever any person, whether owner, lessee, principal, agent, employee or otherwise, violates any provision of Section 5101, or permits any such violation, or fails to comply with any of the requirements of Section 5101:

**(1)** Owners of affordable dwelling units who fail to submit executed affidavits or certifications as required by this section will be fined 50 dollars per day per unit until such affidavit or certificate is filed, but only after written notice and a reasonable time to comply is provided. Fines levied in accordance with this subsection will become liens upon the real property and will accumulate interest at the judgment rate of interest.

**(2)** Renters of affordable dwelling units who fail to submit executed affidavits or certifications as required by this Part, are subject to lease termination and eviction procedures as provided in subsection 5101.8.D.

**(3)** Owners and renters of affordable dwelling units who falsely swear or who execute an affidavit or certification required by this section knowing the statements contained in that affidavit or certification to be false are guilty of a misdemeanor and will be fined $1,000.00.

**(a)** Fines levied against owners under this subsection 5101.8.D(3) will become liens upon the real property and will accumulate interest at the judgment rate of interest.

**(b)** Renters of affordable dwelling units who falsely swear or who execute an affidavit or certification required by this section knowing the statements contained in that affidavit or certification to be false are also subject to lease termination and eviction procedures as provided in subsection 5101.8.D.

[1494] From Sect. 18-904.

**(4)** Owners of individual affordable dwelling units who falsely swear that they continue to occupy their affordable dwelling unit as their domicile are subject to mandamus or other suit, action or proceeding to require such owner to either sell the unit to someone who meets the eligibility requirements established under this section or to occupy such affordable dwelling unit as a domicile.

## D. Criminal Violations and Penalties[1495]

**(1)** Except as otherwise provided by law, any violation of this Ordinance is deemed a misdemeanor and, upon conviction of such violation, is punishable by a fine of not more than $1,000.

**(2)** Failure to remove or abate a zoning violation within the timeframe established by the Court constitutes a separate misdemeanor offense punishable by a fine of not more than $1,000; any such failure during a succeeding ten-day period constitutes a separate misdemeanor offense punishable by a fine of not more than $1,500; and any such failure during any succeeding ten-day period constitutes a separate misdemeanor offense for each ten-day period punishable by a fine of not more than $2,000.

**(3)** The remedy provided for in this section is in addition to any other remedies provided by law; however, the designation of a particular violation of this Ordinance as an infraction in accordance with subsection A(1) above will preclude criminal prosecution or sanctions, except for any infraction also resulting in injury to any person or persons or civil penalties that total $5,000 or more.

[1495] From Sect. 18-902.

# Article 9 - Definitions and Ordinance Interpretation[1496]

## 9100. Interpretations[1497]

Words and terms used in this Ordinance are to be interpreted as follows:

1. Words used in the present tense include the future tense; words in the singular include the plural; and words in the plural include the singular, unless the obvious construction indicates otherwise.
2. The words 'must' and 'shall' are mandatory.[1498]
3. Unless otherwise specified, all distances must be measured horizontally and at right angles to the line in relation to which the distance is specified.
4. Unless otherwise specified, the term 'day' means a calendar day.
5. The word 'building' includes the word 'structure,' and the word 'structure' includes the word 'building'; the word 'used' also includes 'designed, ' 'intended,' or 'arranged to be used.'[1499]
6. The word 'structure' also includes 'or parts thereof.'[1500]
7. The terms 'land use' and 'use of land' include the terms 'building use' and 'use of building.'
8. The word 'adjacent' means nearby and not necessarily contiguous; the words 'contiguous,' 'abut,' and 'abutting' mean touching and sharing a common point or line.
9. The word 'State' means the Commonwealth of Virginia. The word 'County' means the County of Fairfax, Virginia; and the term 'County boundary' means any exterior boundary of the County and any boundary of unincorporated territory within the County.

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[1496] Definitions are carried forward from Article 20; however, many revisions have been incorporated. New definitions are footnoted below as such. Other definitions have been updated, and in some instances, details have been relocated to use or development standards in other articles. Some definitions have been added below that are carried forward from the current Ordinance and that were not reflected in a previously posted draft. The definitions that have been determined to no longer be needed are: amusement machines, animal unit, antenna, automobile graveyard, A-weighted sound level, block, building under construction, bulk plane, camping trailer, carnival, circus, columbarium, commercial recreation restaurant, commonly accepted pets, cul de sac, day night average sound level, district core, drug paraphernalia, dustless surface, modular dwelling unit, effective building height, electromagnetic radiation, festival, frozen food locker, garage, horse show, industrial/flex, industrial park, livestock, lot boundary, lot depth, low income family, low income dwelling unit, mass transit facility and related street improvement, mausoleum, mobile home park, moderate income family, moderately-priced housing unit, monopole, noise barrier, noise sensitive use, occupancy load, office park, off-site, opaque shielding, public utility, quasi-public use, regional shopping center, repeat station, satellite earth station, stream valley, telecommunication, telecommunication central office, telecommunication facility, transmission tower, utility transmission easement, water supply reservoir, and wetlands,

[1497] Carried forward from Part 2, 20-200. Change since 11/24/2020 draft: Deleted "plot" from subsection 5.

[1498] The word "shall" has been eliminated in the revised Ordinance, but it is included here for the interpretation of existing proffers.

[1499] Interpretation of the term "erected" is not carried forward.

[1500] This has been relocated from the definition of "structure."

10. The terms 'Board of Supervisors,' 'Planning Commission,' 'Board of Zoning Appeals,' 'County Executive,' 'Director of Land Development Services,' 'Zoning Administrator,' 'Health Officer,' and other similar offices or officials includes their duly authorized agents.
11. The term 'R district' means any residential district and where appropriate, the residential areas in a P district; the term 'C district' means any commercial district; the term 'I district' means any industrial district; and the term 'P district' means any planned development district.
12. The term 'rezoning' means an amendment to the Zoning Map and any related amendment.[1501]
13. The terms 'architect,' 'engineer, ' 'landscape architect,' and 'land surveyor' refer to those professionals who are registered with the Virginia Department of Professional and Occupational Regulation to practice those professions.[1502]

## 9101. List of Abbreviations[1503]

Abbreviations used in this Ordinance are listed below with the term they abbreviate.

1. ac – acre
2. ARB – Architectural Review Board
3. Board – Board of Supervisors
4. BZA – Board of Zoning Appeals
5. Director – Director of Land Development Services or duly authorized agent
6. du – dwelling unit
7. FAR – Floor Area Ratio
8. max – maximum
9. min – minimum
10. n/a – not applicable
11. PC – Planning Commission
12. Sect. – Section
13. sf – square feet
14. County Code – the Code the County of Fairfax, Virginia 1976
15. Va. Code – the Code of Virginia
16. USBC – Uniform Statewide Building Code
17. WMATA – Washington Metropolitan Area Transit Authority
18. ZA – Zoning Administrator

[1501] Change since 3/10/20 draft: added "and any related amendment" for clarity.
[1502] Replaced respective definitions with this interpretation.
[1503] New section.

# 9102. General Terms

**Accessibility Improvement**

The provision of ramps and other facilities or equipment, such as elevator shafts and bathroom fixtures, or accessible parking spaces, related access aisles and accessible routes for persons with disabilities in accordance with the design specifications set forth in the USBC and the Public Facilities Manual whether such improvement is mandated by Federal or State law or is provided voluntarily.

**Affordable Dwelling Unit**[1504]

An affordable dwelling unit is a rental or for-sale dwelling unit for which the rental or sales price is controlled in accordance with the provisions of this Ordinance.

**Alley**

A narrow strip of land intended for vehicular traffic that has a minimum width of 20 feet and is designed to give access to the side or rear of properties with principal frontage on another street.

**Architect**

A professional who is registered with the State Department of Professional and Occupational Registration as an architect.

**Basement**

A portion of a building partly underground but having less than one-half (½) its clear height below the grade plane. For purposes of administering the floodplain regulations contained in Section 5105, a basement is defined in Section 9104.

**Building**

Any structure used or intended for supporting or sheltering any use or occupancy.

**Building Group**

A group of two or more main buildings and any accessory uses that have any yard in common and occupy a lot in one ownership.

**Building, Principal**

A building in which the primary use of the lot is conducted.

**Bulk Regulations**

Regulations controlling the size of structures and the relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include provisions controlling (a) maximum building height, (b) maximum floor area ratio, and (c) setback requirements.

**Carport**[1505]

Any space outside and attached to a building, wholly or partly covered by a roof, used to shelter parked motor vehicles. An existing carport as of [*insert effective date of this Ordinance*] that extends into the

[1504] Relocated from current Sect. 2-801.

[1505] Carried forward from the current definition for carport and revised to reflect the change where existing carports are allowed to extend into the side setback, but new carports are not. Change since 6/30/2020 draft: Replaced “contiguous” with “attached” based on long-standing interpretation.

minimum side setback may not have any enclosure that is more than 18 inches in height, other than the minimum required supports for its roof, and the side of the building to which the carport is attached.

**Cellar**

The portion of a building partly underground, having at least one-half (½)of its clear height below the grade plane. For purposes of administering the floodplain regulations contained in Section 5105, a basement will include cellar as defined in subsection 5105.7.

**Center Line**

A line lying midway between the side lines of a street or alley right-of-way.

**Commercial Vehicle**

A vehicles which bears or displays indicators that the vehicle is designed or used for commercial purposes, including but not limited to box trucks, step vans, or vehicles specifically designed to carry tools or specialized equipment, regardless of capacity, or which is licensed as a 'for hire' vehicle. For the purpose of this Ordinance, commercial vehicles do not include: (1) vehicles operated by a public agency except those vehicles set forth in; (2) farm vehicles or equipment located on property used for agricultural purposes; (3) motor homes, camping trailers, boats, boat trailers, horse trailers, or similar recreational equipment recognized as personal property and not for hire; (4) vehicles actively providing delivery, repair, or moving services; (5) public or private vehicles used exclusively for the transportation of persons to and from a school, religious assembly, or related activities; (6) and vehicles primarily used for the non-commercial transport of passengers which may display Virginia Department of Motor Vehicles issued transportation network company identifications or other small emblems and do not include any other commercial indicators.

**Comprehensive Plan**

The official document adopted by the Board intended to guide the physical development of the County or portions of it. This plan~~,~~ may include~~ing~~ maps, plats, charts, policy statements, ~~or~~ and descriptive material, and ~~must be~~is adopted in accordance with Va. Code Sect. 15.2-2226.

**Condominium**

Ownership of any real property that includes fee simple title to a residence or place of business and undivided ownership, in common with other purchasers, of the common elements in one of more structures, including the land and its appurtenances.

**Condominium Conversion**

A subdivision of one or more existing buildings and its related lots to a condominium in accordance with ~~Va. Code Title 55.1, Chapter 19,~~the Virginia Condominium Act.

**Construction Permit**

A permit that allows construction of physical improvements as shown on an approved plan.[1506]

**Contributing Property**

A property located within a Historic Overlay District that adds to or supports the historic, architectural, or archaeological significance of the district as determined through the establishment of a Historic Overlay District.

[1506] Deleted reference to land disturbance because there is now a separate land disturbance permit. Change since 10/11/2019 draft: Revised to delete “bonded” because not all improvements are bonded.

**Cooperative**

An association that holds real estate so that each of its members is entitled to exclusive possession of a unit by virtue of their ownership interest in the association.

**Curb line**

The face of a curb along private streets, travelways, service drives, and parking bays and lots.

**Deck**[1507]

Any balcony, terrace, porch, portico, or similar projection from an outer wall of a building, other than a carport. A deck includes any associated stairs. An open deck is any deck that is unroofed, and a roofed deck is any deck that is either completely or partially roofed, even by open beams or lattice work, except as allowed by subsection 5100.2.D(5)(c). An at-grade patio or paved area is not a deck.

**Density**

The number of dwelling units per acre, except in the PRC District where it means both the number of dwelling units per acre and the number of persons per acre.[1508]

**Developer**

The legal or beneficial owner or owners of the land proposed to be included in a development, or the authorized agent of the land. In addition, the holder of an option or contract to purchase, a lessee having a remaining term of not less than 30 years, or other persons having an enforceable proprietary interest in that land is a developer for the purpose of this Ordinance.

**Development Plan**[1509]

A required submission for a rezoning that generally characterizes the planned development of the subject lot. A development plan must be prepared and approved in accordance with the provisions of Article 8. The specific types of development plans are defined below.

**Development Plan, Conceptual**

A required submission at the time of filing for an amendment to the Zoning Map for a P district other than the PRC District that generally characterizes the planned development of the subject lot. A conceptual development plan must be prepared and approved in accordance with the provisions of subsection 8100.2.E(1).

**Development Plan, Final**

A required submission following the approval of a conceptual development plan and rezoning application for a P district other than a PRC District that generally characterizes the planned development of the subject lot. A final development plan must be prepared and approved in accordance with the provisions of subsection 8100.2.E(2). For the purpose of this Ordinance, a final development plan is not to be construed as a site plan as required by subsection 8100.7.

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[1507] Carried forward from the definition for deck, with revisions. Patio has been deleted and added as a separate definition. The provision relating to the railing has been relocated to the standards for deck extensions. The standards prohibiting enclosures have not been carried forward and revised standards have also been added to the standards for deck extensions. Change since 10/11/2019 draft: Added clarification of a roofed deck.

[1508] Change since 10/11/2019 draft: Added dwelling units per acre for the PRC District, consistent with the edit to new Article 2.

[1509] New definition.

**Development Plan, Generalized**

A required submission at the time of filing for an amendment to the Zoning Map for all districts other than a P district that generally characterizes the planned development of the subject lot. A generalized development plan must be prepared and approved in accordance with subsection 8100.7.

**Development Plan, PRC**[1510]

A required submission for a PRC District that generally characterizes the planned development of the subject lot. A PRC development plan must be prepared and approved in accordance with the provisions of subsection 8100.2.F(2).

**Driveway**

That space or area of a lot that is specifically designated and reserved for the movement of motor vehicles within the lot or from the lot to a public street.

**Dwelling or Dwelling Unit**

A residential building or portion of a building that is arranged, designed, used, or intended for residential occupancy with provisions for living, sleeping, eating, cooking, and sanitation. These terms do not include a unit in a continuing care facility, a hotel or motel, residence hall, hospital, or other accommodation used for more or less transient occupancy, except a dwelling may be used for short-term lodging.

**Easement**

A grant by a property owner of the use of their land by another party for a specific purpose.

**Eligible Lender**

An institutional lender holding a first priority purchase money deed of trust on a rental project or on an individual for sale affordable dwelling unit or a refinancing of such institutionally financed purchase money deed of trust by an institutional lender, provided that such refinancing does not exceed the outstanding principal balance of the existing purchase money first trust indebtedness on the unit at the time of refinancing.

**Engineer**

A professional who is registered with the State Department of Professional and Occupational Registration as a professional engineer.

**Existing Vegetation Map**

A depiction of the location of the existing vegetation cover types, as defined in the Public Facilities Manual, with statements regarding amount of acreage, existing tree species, successional stage, health and condition, and a list of prominent non-native invasive species present in any cover type.[1511]

**Fence**

A freestanding structure of metal, masonry, wood, composite material,[1512] or any combination of these materials resting on or partially buried in the ground, rising above ground level, and used for confinement, screening, or partition purposes.

[1510] Revised to eliminate reference to food and beverage production requirements.
[1511] Revised to be more general. The details are contained in the PFM.
[1512] Change since 10/11/2019 draft: changed from “composition” to “composite material”.

**Flag**

A single piece of cloth or similar material shaped like a pennant, rectangle, or square, regardless of content, ~~attachable~~attached by one straight edge to a pole. For purposes of this Ordinance, a minor sign is not a flag.[1513]

**Floodplain**

See "floodplain" in Section 9104.

**Floor Area, Gross**

The sum of the total horizontal areas of each floor of all buildings on a lot, measured from the interior faces of exterior walls. Gross floor area includes:

1. Basements;
2. Elevator shafts and stairwells on each floor;
3. Floor space used for mechanical equipment with structural headroom of six feet, six inches or more;
4. Penthouses, except as qualified below;
5. Attic space providing structural headroom of six feet, six inches or more, whether or not a floor has actually been laid;
6. Interior balconies; and
7. Mezzanines.

Gross floor area does not include:

1. Cellars;
2. Outside balconies that do not exceed a projection of six feet beyond the exterior walls of the building;
3. Above or below grade parking structures;
4. Rooftop mechanical equipment;
5. Penthouses enclosing only mechanical equipment;
6. Enclosed or structural walkways designed and used exclusively for pedestrian access between buildings or parking structures; and
7. Floor space created incidental to the replacement of an existing building façade.

**Floor Area, Net**

The sum of the total horizontal areas of each floor of all buildings on a lot, measured from the interior faces of exterior walls and from the center line of walls separating two or more buildings. The term 'net floor area' will include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products. Net floor area does not include areas designed for permanent uses such as toilets, utility closets, malls (whether or not they are enclosed), truck tunnels, enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where the headroom in 50 percent of that area is less than

[1513] Change since 11/24/2020 draft: Added "regardless of content" and deleted the reference to being attached at the top and draped. Change since 1/19/2021: Relocated from sign definitions to general terms and replaced "attachable" with "attached."

six feet, six inches. For purposes of determining off-street parking requirements, the term 'net floor area' includes cellars used exclusively for storage.

**Floor Area Ratio**

Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

**Footcandle**

A measure of light falling on a surface. One footcandle equals the amount of light generated by one candle shining on one square foot surface located one foot away. Footcandle measurements must be made with a photometric light meter.

**Glare**

The sensation produced by a bright light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss in visual performance. Disability glare is the effect of stray light in the eye where visibility and visual performance are reduced.

**Grade**

A reference plane representing the average ground level. For the purposes of this Ordinance, grade for the following structures is determined as follows:

1. For a single-family detached dwelling, grade is the average ground level adjoining a building at all exterior walls. The building height measurements for the dwelling and any additions to the dwelling must use the lower average ground level of either the pre-existing or finished grade elevation that exists or is proposed at the time the building permit is issued for the dwelling.
2. For any other principal structures, grade is the average finished ground level adjoining a building at all exterior walls.
3. For an accessory structure, grade is the lowest point of finished ground level adjacent to the structure.
4. Finished grades that are established by a retaining wall must extend:
    a) Ten feet from the principal structure in order to include the higher grade elevation toward the average grade calculation; and
    b) Five feet from an accessory structure in order to be considered the adjacent finished ground level.

    Grades established by a retaining wall that extend less than ten feet from a principal structure and less than five feet from an accessory structure are measured at the base of the retaining wall. For the purpose of determining the height of a fence or wall, the higher grade elevation established by a retaining wall is considered the finished ground level.[1514]

For the purpose of administering the floodplain regulations, grade is determined based on the basement definition contained Section 9104.

[1514] Change since 6/30/2020 draft: Subsection 4 is new to codify current practice based on Technical Bulletin 19-01 and interpretation for accessory structures. The distance for accessory structures is reduced from the current interpretation of six feet to five feet.

**Ground Truthing**

The excavation of a small hole to determine the nature of the material detected through remote sensing and to determine whether it is a cultural resource.

**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 feet from the front lot line, or from the grade in all other cases.

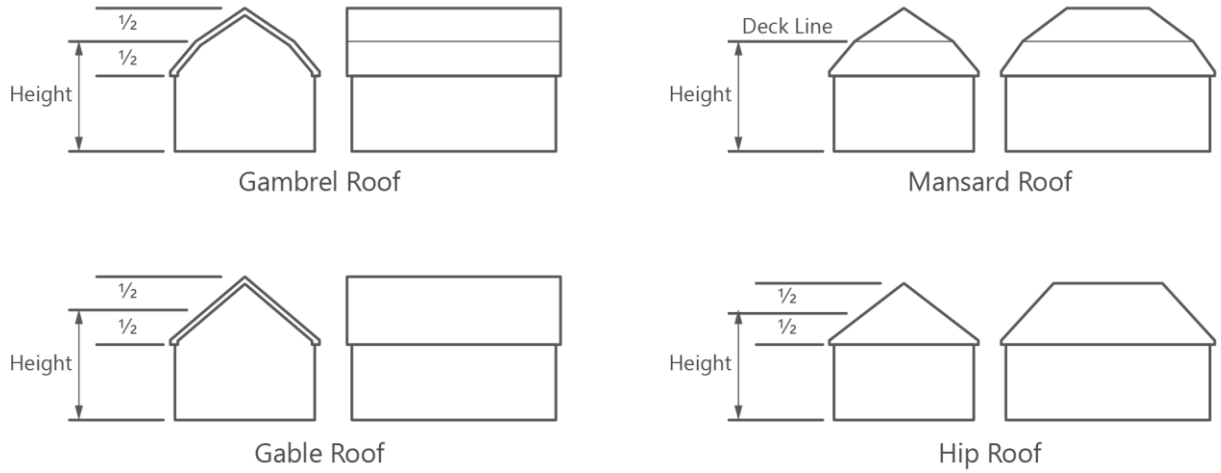



**Figure 9102.1: Height Measurement by Roof Type**

**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 the purpose of applying the floodplain regulations contained in Section 5105, an 'Historic Property' must be based on the 'Historic Structure' definition contained in subsection 5105.7.

**Infraction**

Any violation of this Ordinance that has been declared an infraction under subsection 8106.3.A(1). For the purpose of this Ordinance, an infraction is a civil offense. An admission or finding of guilt is not a criminal conviction and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

**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, the Planning Commission, or the BZA is in substantial conformance with the approved zoning. This determination is typically made in the form of a letter and may include interpretations of proffers, development conditions, development plans, and plats.

**Kinship Care**[1515]

The raising of children by one or more grandparents or other extended family members, which need not include legal guardianship.

[1515] This is a new definition for a term that is referenced in the standards for accessory living unit and is included in the general occupancy standards for Household Living uses.

**Land Disturbance Permit**

A permit that allows land disturbing activity in accordance with Chapter 104 of the Code.[1516]

**Landscape Architect**

A professional who is registered with the State Department of Professional and Occupational Registration as a certified landscape architect.

**Landscaping**[1517]

The improvement of a lot with grass, shrubs, trees, other vegetation, and ornamental features. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statues, trellises, and other similar natural and artificial features.

**Light Pole**

A freestanding vertical support used for the purpose of elevating a light source.

**Lighting Fixture**[1518]

A complete lighting unit consisting of the lamp, lens, optical reflector, housing, and any electrical components necessary for ignition and control of the lamp, which may include a ballast, starter, and photo control. A **full cut-off** lighting fixture emits no light output at or above a horizontal plane drawn through the bottom of the lighting fixture.[1519] A **directionally shielded** lighting fixture contain visors, louvers, and other types of shields or lenses designed to direct light onto a targeted area and to minimize stray light.

**Loading Space**

Off-street space for the loading or unloading of goods designed in accordance with the provisions of Section 6101.

**Lot**

A parcel of land that is designated at the time of application for a special permit, a special exception, building permit, residential use permit, or non-residential use permit, as a tract all of which is to be used, developed, or built on as a unit under one ownership. A parcel of land will be deemed to be a lot, regardless of whether its boundaries coincide with the boundaries of lots or parcels shown on any map of record.

**Lot Area**

The total horizontal area included within the lot lines of a lot.

**Lot, Corner**

A lot at the junction of and abutting on two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees. However, when one of the intersecting streets is an interstate highway, the resultant lot is deemed not to be a corner lot.

[1516] New definition for a currently issued permit that is separate from a building or construction permit.
[1517] "Trellises" have been added to the definition. Specific limitations have been added to Article 4 – Accessory Structures. Change since 10/11/2019 draft: Language "designed and arranged to produce an aesthetically pleasing effect" was deleted.
[1518] Change since 10/11/2019 draft: Definition revised to incorporate full cut-off and directionally shielded fixtures.
[1519] The second sentence regarding parking structures is relocated to Section 5109.

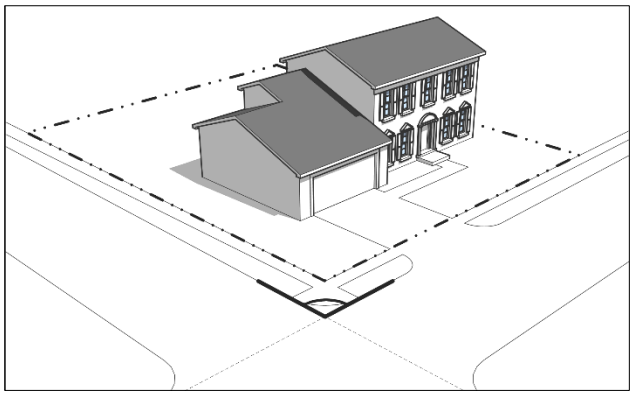


Figure 9102.2: Interior Angle of Intersection

**Lot Coverage**

Determined by dividing that area of a lot that is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

**Lot, Interior**

Any lot, including a through lot, other than a corner lot.

**Lot Line**[1520]

Any boundary line of a lot. Where applicable, a lot line will coincide with a street line.

**Lot Line, Front**

A street line that forms the boundary of a lot; or, in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line that faces the principal entrance of the main building. Each lot has only one front lot line. (See Figure 9102.3)[1521]On a corner lot, the shorter street line is the front lot line, regardless of the location of the principal entrance or approach to the main building. (See Figure 9102.3)




**Figure 9102.3: Lot Lines and Yards**

[1520] Change since 8/9/2019 draft: Included revised definition from recently adopted ordinance ZO-20-485.
[1521] Change since 8/9/2019 draft: This sentence is new.

**Lot Line, Rear**

That lot line that is most distant from, and is most nearly parallel with, the front lot line. Each lot has only one rear lot line.[1522] If a rear lot line is less than ten feet in length, or if the lot comes to a point at the rear, the rear lot line is a ten foot line parallel to the front lot line, lying wholly within the lot for the purpose of establishing the required minimum rear setback. (See Figure 9102.3)[1523]

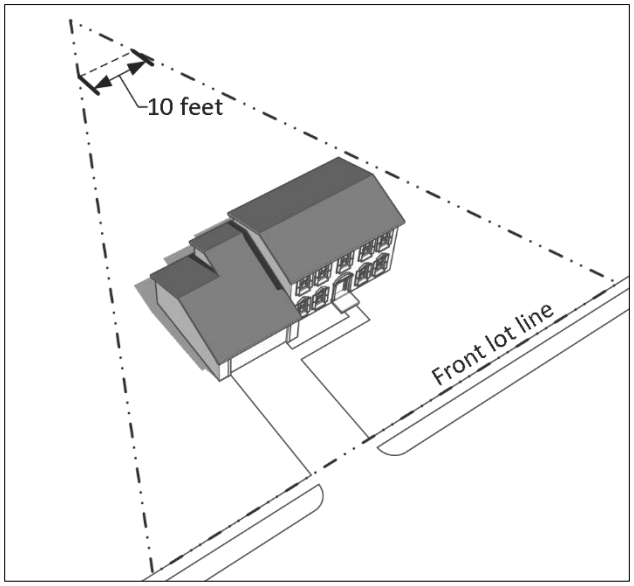



**Figure 9102.4: Lot that Comes to a Point**

**Lot Line, Side**

All lot lines that are neither a front lot line nor a rear lot line. (See Figure 9102.3)

**Lot, Outlot**

Any lot, except as provided for under subsection 5100.2.J, that does not comply with (1) the current minimum lot width, lot area, or shape factor requirements of the district in which located, or (2) the frontage provisions of Chapter 101 of the County Code (Subdivision Ordinance)**.**

**Lot, Pipestem**

A lot approved in accordance with subsection 5100.2.L that does not abut a public street other than by its driveway that affords access to the lot.

**Lot, Reverse Frontage**

A residential through or corner lot designed so the front lot line faces a local street rather than facing a parallel major thoroughfare.

**Lot Size Requirements**

Restrictions on the dimensions of a lot, to include a specified zoning district size, lot area, and lot width, all established to limit the minimum size and dimension of a lot in a given zoning district.

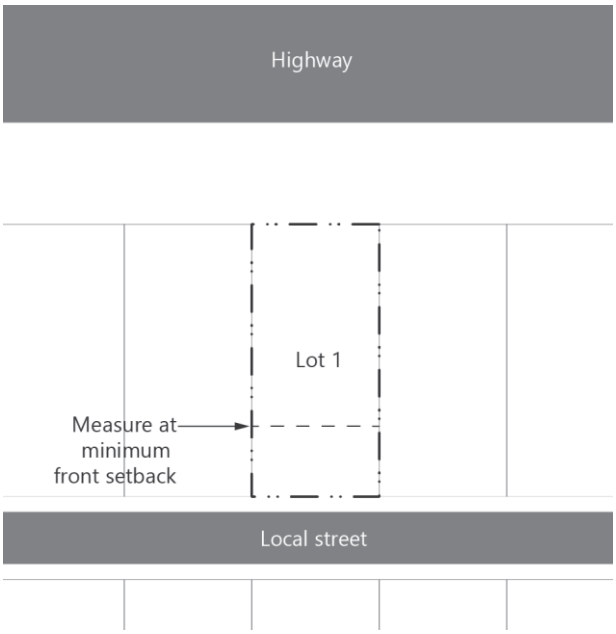
[1522] Change since 8/9/2019 draft: This sentence is new.
[1523] Illustration updates current illustration in Appendix 2.

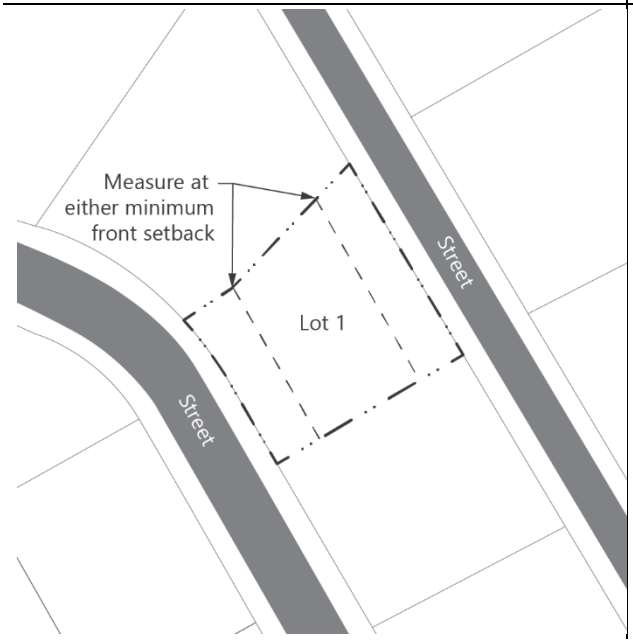
**Lot, Through**

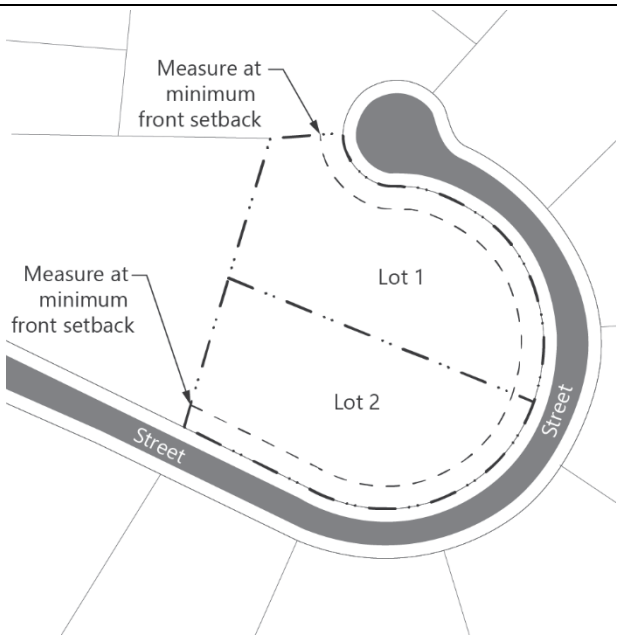
An interior lot, but not a corner lot, abutting on two or more public streets, but not including an alley. A through lot is subject to the regulations of an interior lot.

**Lot Width**[1524]

The length of a line parallel to the front street line and lying within the lot at a distance from the street line equal to the required minimum front setback on the lot. In the case of a lot that has an area in excess of five acres, the width may be measured at any point where the minimum lot width is at least 200 feet if the point is also where the front setback is established by the location of the principal structure. On reverse frontage lots, lot width is measured in the yard facing the local street. On through lots, lot width may be measured from any street line.




[1524] Change since 8/9/2019 draft: Included revised definition from recently adopted ordinance ZO-20-485.

**Lumen**

A quantitative unit measuring the amount of light emitted from a light source. When a light fixture contains two or more light bulbs, the lumen output measurement represents the cumulative total of all light emitted from the fixture.[1525]

**Maintained Lighting Level**

A level of illumination that results when the initial output of a lamp is reduced by certain light loss factors. Light loss factors typically include lamp deprecation and dirt accumulation on lenses and other lighting fixture components. For the purposes of this Ordinance, the maintained lighting level represents an average footcandle value measured over a specified area and is determined by multiplying the initial raw lamp output specified by the manufacturer by a light loss factor of not less than 0.72 for high intensity discharge (HID) lamps or 0.85 for light emitting diode (LED).[1526]

**Manufactured Home Park[1527]**

A parcel of land designed for use by one or more manufactured homes that provides the infrastructure and utilities necessary for single-family occupancy of those homes. This term does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purposes of inspection and sale.

**Manufactured Home Lot[1528]**

A space within a manufactured home park designated for the placement of one manufactured home.

**Modular Dwelling Unit**

A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location on a permanent foundation. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements incorporated into a structure at the site. For the purpose of this Ordinance, a modular unit is deemed a single-family dwelling and is not deemed a manufactured home.

**Natural Resources**

Any material naturally occurring beneath the surface of the land which may be removed for the purpose of sale. Natural resources include but are not be limited to soapstone, granite, sandstone, asbestos, oil, copper, gold, iron, sand, and gravel.

**Noncompliant[1529]**

A noncompliant structure or use is a structure or use that lawfully existed on the effective date of this Ordinance or prior ordinances, that does not conform with the regulations of the zoning district in which it is located in terms of lot size, setback, shape factor, building height, or parking. For the purposes of the nonconformities provisions in Section 8104, a noncompliant structure or use is not considered nonconforming.

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[1525] Change since 10/11/2019 draft: Revised per adopted amendment ZO-20-486.
[1526] Updated light loss factors.
[1527] Modifies the current definition of "mobile home park" to eliminate the minimum lot area, which is included in the R-MHP District dimensional standards, and to clarify that utilities and infrastructure are provided as necessary for single-family occupancy of the manufactured homes.
[1528] New definition.
[1529] New term and definition.

**Nonconforming Building or Use**

A building or use, lawfully existing on the effective date of this Ordinance or prior ordinances, that does not conform with the regulations of the zoning district in which it is located, except as may be qualified by Section 8104 of this Ordinance.

**One Ownership**

Possession of land under single or unified control, whether by sole, joint, common, or other ownership, or by a lessee having a term of not less than 30 years.

**On-Site**

That area which is within the boundary of a lot.

**Open Space**[1530]

The area of a lot intended to provide light and air, and is designed for natural or recreational purposes. Open space must, in general, be available and accessible by the residents or occupants of the development. Open space may include features such as lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, undisturbed natural areas, community gardens, wooded areas, water bodies, and those areas where landscaping and screening are required by the provisions of Section 5108. Open space does not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small as to have no substantial value for the purposes stated in this definition. Within a residential subdivision, open space is composed of only those areas not contained in individually owned lots. Open space includes landscaped open space, common open space, dedicated open space, and usable open space, all as defined in this Ordinance.

**Open Space, Common**

Open space that is designed and set aside for use and enjoyment by residents of a development. Common open space includes open space not dedicated as public lands that remains in the ownership of a homeowners association or of a condominium in accordance with Section 5106.

**Open Space, Dedicated**

Open space that is to be dedicated or conveyed to the County or an appropriate public agency, board, or body for public use as open space.

**Open Space, Landscaped**

Open space that is designed to enhance the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include lawns, decorative plantings, flower beds, sidewalks/walkways, ornamental features such as fountains, statues, and other similar natural or artificial features, wooded areas, and water courses. Landscaped open space may be either common open space or dedicated open space as defined in this Ordinance.[1531]

[1530] Carried forward from recently adopted ordinance ZO-19-481, revised for clarity. Change since 6/30/2020 draft: replaced “scenic” with the term “natural.”

[1531] Change since 6/30/2020 draft: Deleted reference to “aesthetically pleasing effect.”

**Open Space, Usable**

Open space that is designed for recreation. Examples include athletic fields and courts, swimming pools, golf courses, playgrounds, and boating docks. This may also include natural areas with walking/hiking, bicycle, and bridle trails.[1532]

**Outstanding First Trust Debt**

Outstanding indebtedness on an affordable dwelling unit owed to the Eligible Lender including principal, interest, and fees that together in the aggregate do not exceed the amount of the owner's purchase price, and other reasonable and customary costs and expenses. See subsection 5101.8.C(8)(b)9.

**Owner**

Any person who has legal title to the land real property, or the lessee of the real property having a remaining term of not less than 30 years.

**Parking Lot**

An area not within a building where motor vehicles may be stored for temporary, daily, or overnight off-street parking. For the purpose of Section 6100, a parking lot consists of the entire surface of the parking lot, vehicular access to the parking lot, loading spaces, drive-through spaces, and the exposed surfaces of parking decks. The term parking lot includes vehicle display lots, vehicle storage lots, and commercial parking lots.

**Parking, Off-Street**

Any space, whether or not required by the provisions of this Ordinance, specifically allotted to the parking of motor vehicles as an accessory use. The space may not be in a dedicated right-of-way, a travel lane, a service drive, or any easement for public ingress or egress.

**Patio[1533]**

An at-grade paved outdoor area without any walls or roof that is accessory to a principal use or structure.

**Person**

A public or private individual, group, company, firm, corporation, partnership, association, society, joint stock company, or any other combination of individuals.

**Person with a Disability[1534]**

An individual who has a mental, physical, or developmental impairment that substantially limits one or more of the person's major life activities. This term includes a person who is handicapped, as defined in the Fair Housing Amendments Act of 1988, as amended.

**Phase I Archaeological Survey**

An archaeological investigation conducted by a qualified archaeological consultant to (1) locate and identify archaeological sites in a survey area; (2) estimate site size and boundaries of the archaeological site; (3) provide an explanation as to how the estimate was made; and (4) make recommendations for additional archaeological work or a recommendation that no further work is required. The

[1532] Change since 6/30/2020 draft: Added reference to "natural areas."
[1533] New definition. Currently a patio is defined as a deck.
[1534] This new non-use definition is included because it is referred to and needed to understand the scope of several use definitions.

archaeological consultant must meet the Professional Qualification Standards established by the Secretary of the Interior.

**Photometric Diagram**

A diagram depicting the location of all light poles and building mounted lighting fixtures in a specified area and a numerical grid of the maintained lighting levels that the fixtures will produce in that specified area.

**Pipestem Driveway**

A driveway or means of access to a lot or several lots that do not abut a street other than by the pipestem driveway that is a part of the lot(s).

**Planned Development**[1535]

Any lot under one ownership intended to be developed as a single entity and classified as a Planned (P) district.

**PRC Plan**

A required submission, following the approval of a development plan for a PRC District, 8100.2.F(3)that further details the planned development of the subject lot. A PRC Plan must prepared and approved in accordance with the requirements of subsection 8100.2.F(3). For the purpose of this Ordinance, a PRC plan is not to be construed as a site plan as required by the provisions of subsection 8100.2.F(4).

**Principal Use**

The main use of land or structures as distinguished from a secondary, accessory, or temporary use.[1536]

**Pro Rata Share**

The payment by a subdivider or developer for their share of the cost of providing reasonable and necessary drainage facilities located outside the property limits of their land, when the facilities are necessitated or required, at least in part, by the construction or improvement of the subdivision or development.

**Public Facility**[1537]

Any street, area, structure~~use~~, facility, or other feature that is subject to Planning Commission review under Va. Code Sect. 15.2-2232.

**Recreational Vehicle or Travel Trailer**[1538]

A vehicle that is built on a chassis and designed to be self-propelled or permanently towable, for use as temporary living quarters for travel, camping, recreational, or vacation use. This term does not include a manufactured home or any unit that requires a special permit for long, wide, or heavy loads to be moved on public highways.

**Remote Sensing**

A group of techniques that permit the detection of underground phenomena unobserved by the human eye. Remote sensing employs devices that can obtain readings from materials buried beneath the

[1535] Revised to specify "planned" versus simply "P."
[1536] Carried forward the current definition but added "temporary."
[1537] From Sect. 2-521. Change since 1/19/2021 draft: Replaced "use" with "street, area, structure" based on State Code.
[1538] This definition consolidates "travel trailer" and creates a new definition for recreational vehicle. Since the term has been broadened to include recreational vehicles, limitations on identification and size have been removed.

ground. Examples of remote sensing devices include proton magnetometers, electronic resistivity meters, ground-penetrating radar, metal detectors and other radar based testing equipment. When remote sensing gives a positive reading that something is present beneath the soil, ground truthing is conducted.

**Resource Management Area (RMA)**

As established in accordance with Chapter 118 of the County Code, that component of the Chesapeake Bay Preservation Area comprised of lands that have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area if improperly used or developed.

**Resource Protection Area (RPA):**

As established in accordance with Chapter 118 of the County Code, that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction, or assimilation of sediments, nutrients, and potentially harmful or toxic substances from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.

**Right to Cure**

A right to cure any delinquency or default provided by an Eligible Lender with respect to an individual for sale affordable dwelling unit in accordance with subsection 5101.8.C(8)(b)7.

**Right to Acquire**

A right to acquire an individual for sale affordable dwelling unit, subject to foreclosure notice, provided by an Eligible Lender with respect to an individual for sale affordable dwelling unit in accordance with subsection 5101.8.C(8)(b)7.

**Setback**[1539]

The minimum distance a building or structure must be separated from the lot lines and public streets. Setbacks are specified as front, side, and rear, and are located within the corresponding yards.

**Shape Factor**

A shape factor is designed to prevent the creation of irregularly shaped lots by providing a measurement to evaluate the compactness and degree of regularity of the shape of a lot. Shape factor (SF) is the non-dimensional ratio of the lot perimeter (P) squared, divided by the lot area (A), where P and A are derived from the same unit of measurement. Typically, the measurement will be provided in feet. The mathematical formula to determine the shape factor of a lot is $SF = (P^2/A)$.

**Shopping Center**

Any group of two or more commercial uses which (1) are designed as a single commercial group, whether or not located on the same lot; (2) are under common ownership or are subject to reciprocal parking and ingress and egress agreements or easements; (3) are connected by party walls, partitions, canopies or other structural members to form one continuous structure, or if located in separate buildings, are interconnected by common parking areas, travel lanes, walkways or accessways designed to facilitate customer interchange between the uses on-site; (4) share common points of vehicular

[1539] New definition. The rear setback for corner lots in the R-E through R-8 Districts has been revised to no longer permit the rear setback to be equal to the minimum dimension of the side setback requirements of the district.

access; and (e) otherwise present the appearance of one continuous commercial area. For the purpose of this Ordinance, a grouping of predominantly office uses which meet these characteristics are not be deemed to be a shopping center.

**Shovel Testing**

Small test excavations, referred to as shovel test pits, measuring approximately 18 inches in width and excavated to soil levels that have not been disturbed by human activity. Shovel test pits are systematically excavated on a grid system across a site to determine the presence or absence of archaeological resources and are dug according to natural strata.

**Shrub**

A woody plant that usually remains low and produces shoots or trunks from the base. It is usually tree-like or single-stemmed.

**Sign**[1540]

Any device or structure, or part of such device or structure that is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images, that is visible from any public or private street. For nonresidential developments, this definition is not intended to include private streets or other privately maintained access ways that do not directly connect to a public street.

**A-Frame Sign**

A minor freestanding sign constructed to form a two-faced sign with supports that are connected at the top and separated at the base, forming an "A" shape.

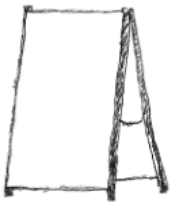


**Figure 9102.5: A-Frame Sign**

**Building-Mounted Sign**

Any sign attached to and supported by a building, awning, canopy, marquee, or similar architectural feature, or permanently attached, etched, or painted onto a window or door. For purposes of Article 7, temporary window signs are not considered building-mounted signs.




**Figure 9102.6: Building-Mounted Sign**

**Changeable Copy Sign**

A sign designed to accommodate manual changes in messages.

[1540] This definition and the indented definitions below it are carried forward from Sect. 12-102.

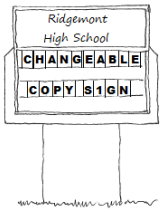



**Figure 9102.7: Changeable Copy Sign**

### Electronic Display Sign

Any sign that contains light emitting diodes (LEDs), fiber optics, light bulbs, plasma display screens, or other illumination methods, that are electronically controlled and that contain a fixed or changeable copy or a change to the intensity of light or colors displayed.

### ~~Flag~~

~~A single piece of cloth or similar material shaped like a pennant, rectangle, or square, regardless of content, attachable by one straight edge to a pole. For purposes of this Ordinance, a minor sign is not a flag.~~[1541]

### Freestanding Sign

Any sign other than a building-mounted sign, that is permanently supported by a fence, retaining wall, entrance feature, or by upright structural members or braces on or in the ground, such as a pole, pylon, or monument style structure.




**Figure 9102.8: Freestanding Sign**

### Frontage

A use is deemed to have frontage on a street if the use is clearly visible from the street and is located on a lot that is contiguous to and has a lot width of 50 feet at the public street right-of-way. The use is deemed to have frontage even if there is no direct access between the use and the street, or the principal entrance(s) to the building(s) associated with the use does not face the street.

### Minor Sign

Any sign that is designed to be easily moved, typically not permanently attached to a structure or the ground and is not illuminated. Such signs include, but are not limited to, A-frame signs,

[1541] ~~Change since 11/24/2020 draft: Added "regardless of content" and deleted the reference to being attached at the top and draped.~~ Change since 1/19/2021 draft: Relocated definition to General Terms

banners, posters, window signs, yard signs, or other moveable signs. For purposes of Article 7, flags and vehicle signs are not considered minor signs.

**Monument Sign**

A freestanding sign, typically no more than eight feet in height, that is supported primarily by an internal structural framework or that is integrated into landscaping or solid structural features other than support poles.

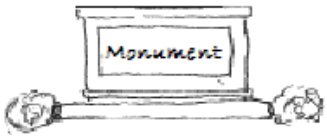



**Figure 9102.9: Monument Sign**

**Moving or Windblown Sign**

Any sign of which all or any part is in motion by natural or artificial means (including fluttering, rotating, undulating, swinging, oscillating) or by movement of the atmosphere. For purposes of Article 7, a flag is not a moving or windblown sign.

**Off-Premise Sign**

A sign that directs attention to a product, service, attraction, event, or the like that is being offered at a location other than the premises on which the sign is located.

**Roof Sign**

Any sign or portion of a sign affixed to a building that extends above the lowest point of the roof level of the building, including signs painted onto a roof structure, or that is located on a chimney or other similar rooftop. For purposes of Article 7, a roof sign does not include a sign attached to the penthouse of a building.

**Sign Face**

The part of a sign that is or can be used for visual representation or communication, including any background or surrounding material, panel, trim or ornamentation, color, and illumination that differentiates the sign from the building, structure, backdrop surface, or object upon or against which the sign is placed. The term does not include any portion of the sign's support structure if no representation or message is placed or displayed on, or designed as part of, the support structure.

**Tenant**

An individual, entity, partnership, or corporation renting, leasing, or owning nonresidential space.

**Vehicle Sign**

Any sign that is painted, mounted, adhered, magnetically attached, or otherwise permanently affixed to or incorporated into a vehicle or trailer, except for any signs not exceeding a total of eight square feet for the entire vehicle or trailer and bumper stickers.




**Figure 9102.10: Vehicle Sign**

**Window Sign**

A minor sign that is attached to the glass area of a window or placed behind the glass of a window and is easily read from outside the building.

**Yard Sign**

A minor sign associated with a residential use, that is attached to a structure or placed upon or supported by the ground independently of any other structure.

**Significant Archaeological Resources**

Cultural resources that may be eligible for listing in the National Register of Historic Places or considered to have public significance as defined by the County's Heritage Resource Management Plan.

**Site Plan**

A required submission contains detailed engineering drawings of the proposed uses and improvements required in the development of a given lot and is prepared and approved in accordance with Article 8 which. In this Ordinance, where the term site plan is used, it also includes the term minor site plan, except where it is used in subsections 8100.7 and 8101.4,or where otherwise specifically noted. A site plan is not a development plan as required by this Ordinance. Parking tabulations and redesignations are considered types of site plan applications.[1542]

**Soil**

The surface, or surface covering of the land, not including the minerals beneath it or the vegetation upon it.

**Solid Waste**

Any material defined as 'solid waste' in Chapter 109.1 of the County Code (Solid Waste Management).

**State-Regulated Impounding Structure (Dam)[1543]**

A man-made structure, whether a dam across a watercourse or structure outside a watercourse, used or to be used to retain or store waters or other materials that is subject to the requirements of the Virginia Dam Safety Act (§ 10.1-604 et seq.) and the Virginia Dam Safety Regulations (4 VAC 50-20).

**State-Regulated Impoundment[1544]**

A body of water or other materials retained or stored by a state-regulated impounding structure.

**Story[1545]**

That part of a building between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, than that part of the building between the level of the

[1542] The last sentence which considers tabulations and redesignations as site plan applications has been added.
[1543] From ZO-19-483.
[1544] From ZO-19-483.
[1545] Carried forward from the current definition, but deleted the exception for a dwelling by a janitor or watchman.

highest finished floor and the top of the roof beams. A basement is a story only if the ceiling is more than six feet above the level from which the height of the building is measured or if it is used for business purposes other than storage or for dwelling purposes.

**Street**

A strip of land intended primarily for vehicular traffic and providing the principal means of access to property, including but not limited to road, lane, drive, avenue, highway, boulevard, or any other thoroughfare.

**Street, Collector**

A street that provides for principal internal movements at moderate operating speeds within residential developments, neighborhoods, and Commercial or Industrial Districts. It also provides the primary means of circulation between adjacent neighborhoods and can serve as a local bus route. A collector street functions to distribute trips from arterials to local and other collector streets. Conversely, it collects traffic from local streets and channels it into the arterial system. The collector street provides for the dual purpose of land access and local traffic movement. In line with its dual function, there must be continuity in the pattern of these streets.

**Street, Local**

A street which primarily provides direct access to residential, commercial, industrial, or other abutting property. The local street system includes all facilities not classified as a principal arterial, minor arterial, or collector street. A local street offers the lowest level of mobility and usually does not serve a bus route. Overall operating speeds are low in order to permit frequent stops or turning movements to be made with maximum safety. Service to through traffic movement is deliberately discouraged.

**Street, Major Thoroughfare**

A public street including a minor arterial, principal arterial, or primary highway, all as defined, or those roads, or portions of them, as set forth in the Roadway System Functional Classification in the Comprehensive Plan's Policy Plan.

**Street, Minor Arterial**

The minor arterial street interconnects and augments the principal arterial street system and provides service to trips of moderate length at a somewhat lower level of travel mobility than a principal arterial. Such a street also serves intra-urban trips between smaller geographic areas than those associated with the higher system and may carry local bus routes providing intra-community continuity. It may also function as a principal arterial street when sufficient capacity is not provided on the principal arterial system. Ideally, a minor arterial street does not penetrate identifiable neighborhoods, and the facility is designed with a greater emphasis on traffic movement or services than on providing access to abutting land. Either a minor arterial or a principal arterial may be referred to as an arterial street.[1546]

**Street, Primary Highway**

Any street classified as a Primary Highway by the Virginia Department of Transportation and bears a route number less than 600. Primary highways do not include interstate highways.

**Street, Principal Arterial**

A street that carries the major portion of the trips entering and leaving an urban area, as well as the majority of through movements to bypass a central city. Significant intra-area travel and important intra-urban and intercity bus services are served by this class of street. Because of the nature of travel

[1546] Change since 10/11/ 2019 draft: The last sentence is new.

served by a principal arterial street, almost all fully and partially controlled access streets are a part of this functional class, including freeways and expressways. On a principal arterial street, the concept of service to the abutting land is subordinate to the provision of travel service to major traffic movements. Either a minor arterial or a principal arterial may be referred to as an arterial street.[1547]

**Street, Private**

A local or collector street that is guaranteed to be maintained by a private corporation and is not a component of the State primary or secondary system. A private street is subject to the provisions of Section 5107.

**Street, Public**

A platted street that is dedicated as a component of the State system[1548] for the use of the general public and is graded and paved in order that every person has the right to pass and to use it at all times, for all purposes of travel, transportation, or parking to which it is adapted and devoted.

**Street, Secondary Highway**

Any street classified as a Secondary Highway by the Virginia Department of Transportation and bears a route number of 600 or greater.

**Street, Service Drive**

A public street that is parallel and contiguous to a major thoroughfare and is designed primarily to promote safety by providing free access to adjoining property and limited access to major thoroughfares. All points of ingress and egress are subject to approval by the appropriate County authorities and the Virginia Department of Transportation.

**Street, Travel Lane**

A right-of-way, commonly but not always located on the front of a lot, that provides access from one lot to another and serves the same function as a service drive, although not necessarily a public street.

**Street Line**

The dividing line between a street and a lot; same as a right-of-way line of a public street, or the curb line of a parking bay, travel lane or private street (See Figure 9102.3).

**Structural Alteration**

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

**Structure**

That which is built or constructed. For purposes of applying the floodplain regulations in Section 5105, a structure is based on the definition contained in Section 9104.

**Subdivider**

Any person who subdivides land in accordance with Chapter 101 of the County Code, The Subdivision Ordinance.

**Subdivision**

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

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[1547] Change since 10/11/ 2019 draft: The last sentence is new.
[1548] Change since 10/11/2019 draft: Added “as a component of the State system”.

**Subdivision, Cluster**

An alternate means of subdividing a lot in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts based on the concept of reducing lot size requirements in order to provide common open space within the development, in accordance with the provisions of subsection 5100.2.O.

**Subdivision, Conventional**

The subdivision of a lot in the R-E, R-1, R-2, R-3, and R-4 Districts in accordance with the lot size requirements and bulk regulations specified in the district regulations.

**Substantial Conformance**

Substantial conformance is as determined by the Zoning Administrator upon consideration of the record and means that conformance that leaves a reasonable margin for minor modification provided that the modification is:

1. 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;
2. Consistent with any proffered or imposed conditions that govern development of the site; and,
3. In accordance with the requirements of this Ordinance.

**The County Code**

The Code of Ordinances of Fairfax County, Virginia.

**Tiny House**[1549]

A small structure constructed on a frame and capable of being transported on its own wheels. For the purposes of this Ordinance, if a tiny house includes a permanent foundation and is intended for continuous occupancy, it is considered a single-family detached dwelling and must meet the USBC. Otherwise, a tiny house is considered to be a recreational vehicle or travel trailer.

**Transient Occupancy**

Use of a dwelling or manufactured home, or part thereof, for sleeping or lodging purposes for fewer than 30 consecutive nights.

**Transmission Pipeline**

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

**Tree**

Any self-supporting woody plant that visually produces one main trunk, and a distinct and elevated head with many branches that typically reach at least 15 feet in maturity.

**Tree Conservation**

Tree preservation and tree planting efforts as required by Chapter 122 of the County Code and the Public Facilities Manual.

[1549] New definition added for clarification.

**Use**

Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in or on a structure or on a tract of land.

**Vibration**

A reciprocating movement transmitted through the earth, both in horizontal and vertical planes. The following terms are defined as they relate to the provisions of Section 5102:

**Acceleration**

The rate of change of particle velocity.

**Amplitude**

The maximum displacement of the earth from the normal rest position. Amplitude is usually reported as inches or millimeters.

**Displacement**

The amount of motion involved in earthborn vibration. It is referred to the normal rest position of the earth and is, therefore, one-half of the total excursion for a steady state vibration. Displacement is usually reported in inches or decimal fractions of an inch.

**Frequency**

The number of times that a displacement completely repeats itself in one second of time. Frequency is designated in hertz (Hz).

**Impact**

An earthborn vibration generally produced by two or more objects striking each other causing separate and distinct pulses.

**Particle Velocity**

A characteristic of vibration that depends on both displacement and frequency. If not directly measured, it can be computed by multiplying the frequency by the amplitude times the factor of 6.28. The particle velocity will be reported in inches per second, when the frequency is expressed in cycles per second and the amplitude in inches.

**Seismograph**

An instrument that measures vibration characteristics simultaneously in three mutually perpendicular planes. The seismograph may measure amplitude and frequency, particle velocity, or acceleration.

**Steady State**

A vibration that is continuous, as from a fan, compressor, or motor.

**Yard**[1550]

Any open space on a lot lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in that open space by this Ordinance.

[1550] Did not carry forward second half of this definition: "On any lot which is occupied by an attached dwelling, no minimum required yard shall be occupied by any part of a vehicular travel way or parking space that is owned and

**Yard, Front**[1551]

A yard extending across the full width of a lot and lying between the front lot line and the principal building. (See Figure 9102.3)

**Yard, Privacy**

A small area contiguous to a building.[1552]

**Yard, Rear**

The yard extending across the full width of the lot and lying between the rear lot line and the principal building group. On a corner lot, the rear yard will be on the opposite side of the building from the front lot line (which is the shorter street line), and extends from the front yard line on the one side to the opposite side lot line. (See Figure 9102.3)

**Yard, Side**

The yard between the side lot line of the lot and the principal building and extending from the front yard to the rear yard, or, in the absence of either a front or rear yard, to the front or rear lot lines. (See Figure 9102.3)

**Zoning Compliance Letter**

A letter by the Zoning Administrator or agent that provides the applicable zoning of a lot, to include: (1) any approved proffered conditions, development conditions, or other zoning approvals; (2) whether any existing development on a lot is in accordance with the Zoning Ordinance; and (3) whether there are any pending zoning applications or zoning violations on a lot. For the purpose of this Ordinance, a request for a determination under subsection 5100.2.J or for a Residential or Non-rResidential Use Permit is not deemed a zoning compliance letter.

# 9103. Uses

## 1. Purpose

This section is intended to provide a systematic framework for identifying, describing, categorizing, consolidating, and distinguishing land uses in a way that makes it easier to determine whether a particular use, activity, or combination of activities should be considered an allowable use in the use tables in Section 4101, or is subject to other use-specific provisions in this Ordinance. This subsection is also intended to guide interpretations of how to categorize a particular unlisted use and to address future additions to the use table.

maintained by a homeowner's association, condominium, or by the public. For the purpose of this Ordinance, there shall be a distinction between 'yard' and 'minimum yard required'. The minimum yard requirements set forth in this Ordinance represent that minimum distance which the principal building(s) shall be set back from the respective lot lines." This was combined with the new definitions for "setbacks."

[1551] Change since 8/9/2019 draft: Qualifications on yard measurements were removed because they are already addressed in the lot and bulk regulations in 5100.2.

[1552] Change since 8/9/2019 draft: Requirement for a privacy yard to be enclosed on at least two sides with a fence or wall has not been carried forward.

# 2. Agricultural and Related Uses

## A. Agricultural and Related Uses

The Agricultural and Related Uses category is characterized by activities related to the bona fide production of plants or animals for food and other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables.

### Agricultural Operation[1553]

Any commercial operation, including related structures, on a minimum of five acres of land that is devoted to the bona fide production, harvesting, and sale of agricultural products, including livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silviculture, and other agricultural products. An agricultural operation does not include a garden center, commercial stockyard/feed lot, landscape contracting services, on-site processing of agricultural products, or the above ground application or storage of sewage sludge. An agricultural operation must specifically qualify under all state and local laws in order to use any exemptions or special provisions afforded to such uses by the Code of Virginia.

### Farm Winery, Limited Brewery, or Limited Distillery[1554]

An establishment located on a property used for an agricultural operation where agricultural products are grown, processed, and containerized on the premises, as specifically regulated and licensed by the Virginia Alcoholic Beverage Control Board. This use is more specifically identified as:

#### Farm winery

A farm winery must include a producing vineyard, orchard, or similar growing area and facilities for fermenting and containerizing wine or cider on the premises.

#### Limited brewery

A limited brewery must include a growing area for barley, hops, other grains, or fruit and facilities to produce and containerize beer on the premises.

#### Limited distillery

A limited distillery must include a growing area for agricultural products used in the production of spirits and facilities to produce and containerize alcoholic beverages other than wine, cider, or beer on the premises.

[1553] This replaces the definition of “agriculture” in the current Zoning Ordinance.

[1554] This definition carries forward, reorganizes, and simplifies the definitions of “farm winery,” “limited brewery,” and “limited distillery” in the current Zoning Ordinance. The use carries forward the uses “farm winery,” “limited brewery,” and “limited distillery” and “expansion of an existing or development of a new farm winery, limited brewery, and limited distillery in the R-C District and for certain events and activities associated with such uses when located in the R-A, R-P, R-E and R-1 Districts” in the current Zoning Ordinance.

**Stable, Riding or Boarding**[1555]

An establishment where horses or ponies, not including horses or ponies owned by a resident of the property, are kept, maintained, or boarded, or where riding lessons are made available to the general public or members of a private club. These services may be offered for a fee or free of charge. This use may include the hosting of events, competitions, exhibitions, or other displays of equestrian skills. The keeping of horses or ponies as an accessory use in accordance with subsection 4102.7.K and subsection 4102.7.L is not considered a riding or boarding stable.

# 3. Residential Uses

## A. Household Living

The Household Living category includes uses characterized by the residential occupancy of a dwelling unit that functions as a single household (see subsection 4102.3.A).

**Affordable Dwelling Unit Development**

Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program set forth in Section 5101.

**Dwelling, Multifamily**[1556]

A residential building, other than a single-family attached dwelling or stacked townhouse dwelling, containing individual dwelling units located on a single lot or parcel of ground. A multifamily dwelling, which can include rental or condominium ownership, generally has one or more common outside entrance(s) for all the dwelling units, and the units may be located side-by-side, stacked vertically, or both.

**Dwelling, Single-Family Attached**[1557]

A single-family dwelling unit that is in a single structure with other single-family dwelling units. Each dwelling unit must:

1. Be separated from the others by a fire-rated vertical common party wall running from the foundation to the roof of the building; and
2. Have its own individual entry to an outdoor sidewalk or walkway without the need to pass through a lobby or shared use area of the structure.

This definition includes dwellings commonly referred to as rowhouses, "side-by-side" townhouses, and duplexes. The dwelling units may be located on a single parcel or on adjoining lots.[1558]

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[1555] This definition builds on the definition of "riding/boarding stable" in the current Zoning Ordinance. It includes new language regarding events, competitions, exhibitions, and other displays of equestrian skill, which is intended to clarify that those activities are a part of this use. Provisions addressing the number of horses or ponies and minimum lot size are included in the standards for this use.

[1556] This replaces the current definition of "dwelling, multiple family."

[1557] This replaces the current definition of "dwelling, single-family attached." Standards in the current definition are carried forward in Article 4.

[1558] Change since 7/1/2019 draft: Language "back-to-back townhouses" deleted.

**Dwelling, Single-Family Detached**[1559]

A single-family residential building, other than a single-family attached dwelling or manufactured home, containing only one principal dwelling unit on a single lot.

**Dwelling, Stacked Townhouse**[1560]

A residential building in which dwelling units are arranged in vertical stacks of two units, with each vertical stack separated from other stacks by a fire-rated vertical common party wall running from the foundation to the roof of the building. This definition includes dwellings commonly referred to as "piggyback" townhouses and "two-over-two" townhouses.

**Group Residential Facility**[1561]

A residential facility, with one or more resident or nonresident staff persons, in which no more than: (a) eight mentally ill, intellectually disabled, or developmentally disabled persons reside, and the facility is licensed by the Virginia Department of Behavioral Health and Developmental Services; or (b) eight persons who are aged, infirm, or disabled reside and the facility is licensed by the Virginia Department of Social Services; or (c) eight persons with disabilities reside. The terms mentally ill, intellectually disabled, developmentally disabled, or persons with disabilities do not include current illegal use or addiction to a controlled substance as defined in Va. Code Sect. 54.1-3401 or as defined in Sect. 102 of the Controlled Substance Act (21 U.S.C. 802). A group residential facility is considered residential occupancy by a single household under this Ordinance in accordance with Va. Code Sect. 15.2-2291. A group residential facility does not include a group household[1562]~~keeping unit~~, an assisted living facility, a dwelling unit, or a facility for more than four persons who do not meet the criteria set forth above or for more than eight disabled, mentally ill, intellectually disabled, or developmentally disabled persons is deemed a congregate living facility.

**Live-Work Development**[1563]

A structure or part of a structure with areas specifically designed for occupancy by a single owner, tenant, or user to accommodate a residential dwelling unit and a flexible work space. This use does not include a home-based business that would be permitted in a single-family detached dwelling.

**Manufactured Home**[1564]

A transportable residential dwelling that was: (a) fabricated at an off-site manufacturing facility on a permanent chassis, and (b) designed to be transported after fabrication on its

[1559] This simplifies the current definition of "dwelling, single-family detached." It no longer excludes "zero lot line" development. Change since 7/1/2019 draft: Language changed from "A residential building . . ." to "A single-family residential building . . ."

[1560] This is a new definition for a new use. Change since 7/1/2019 draft: Language changed from "A building . . ." to "A residential building . . ."

[1561] This definition carries forward the definition of "group residential facility" in the current Zoning Ordinance, with minor modifications, including the addition of a reference to the Virginia Code.

[1562] Change since 1/19/2021 draft: Revised to new use name.

[1563] This is a new definition for a new use.

[1564] This is a new definition for a use which encompasses the current uses "dwelling, manufactured home" and "dwelling, mobile home." Change since 7/1/2019 draft: Replaced "structure" with "dwelling" in order to tie to the definition of a dwelling which precludes transient occupancy, which carries forward a use limitation for mobile home parks in Par. 3 of Sect. 3-M05.

own wheels, on detachable wheels, or on a flat bed or other trailer . For purposes of administering the floodplain regulations contained in Section 5105, the definition of 'manufactured home' in subsection 5105.7 applies. This use does not include a modular dwelling or a recreational vehicle.

## B. Group Living

The Group Living category includes uses characterized by residential occupancy by a group of persons who do not constitute a household (see subsection 4102.3.A). Group living structures typically have a common eating area for residents, and individual living units often consist of a single room or group of rooms that may include cooking and eating facilities. Residents may receive care, training, or treatment, and caregivers may also reside on-site. This use category does not include uses where persons generally occupy living units for periods of less than 30 days, such as a hotel or motel, which are categorized in the Food and Lodging use category, or uses where residents or inpatients are routinely provided healthcare services, such as assisted living and nursing facilities, which are categorized in the Health Care use category. This use category does not include group residential facilities, which are considered residential occupancy of a dwelling unit as required by Va. Code Sect. 15.2-2291.

### Congregate Living Facility[1565]

A facility that provides housing and general care on a permanent or temporary basis, including the provision of on-site supportive services, such as special care and treatment, in a supervised setting with on-site counselors or other staff. This use includes facilities providing in-patient alcohol and addiction treatment and services and facilities for the care of more than eight persons with disabilities. This term does not include a group household unit, group residential facility, assisted living facility, specialized instruction center, or any facility providing services or treatment to nonresidents of the facility.

### Group Household[1566]

A dwelling unit that does not meet the occupancy limitations for a household (see subsection 4102.3, Residential Uses), which contains: (a) five to ten persons not related by blood or marriage, or (b) a family and more than two roomers or boarders. This definition does not include a group residential facility, congregate living facility, religious group living, residence hall, assisted living facility, continuing care facility, or independent living facility.

### Religious Group Living[1567]

A residence for persons under religious vows, such as a convent or monastery.

### Residence Hall[1568]

A place of residence that is occupied by and maintained for persons associated with an educational or a religious institution. This definition includes dormitories and fraternity and sorority houses. This definition does not include a bed and breakfast, group household, hotel

[1565] This carries forward the current definition for a congregate living facility.
[1566] This is a new definition for the current use "group housekeeping unit."
[1567] This is a new definition for a use that encompasses "convents, monasteries, seminaries, and nunneries," which are not currently defined.
[1568] This is a new definition to encompass "dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls," which are not defined in the current Zoning Ordinance.

or motel, or other accommodations used for occupancy that is typically more transient in nature.

# 4. Public, Institutional, and Community Uses

## A. Community, Cultural, and Educational Facilities[1569]

The Community, Cultural, and Educational Facilities category includes uses that provide a local service (e.g., cultural, educational, recreational, counseling, training, religious) directly to people of the community. These uses are generally of a public, quasi-public, nonprofit, or charitable nature. This category does not include commercial health clubs or recreational facilities (categorized in the Recreation and Entertainment use category), or counseling in an office setting (categorized in the Office use category).

### Adult Day Support Center[1570]

A nonresidential facility offering structured activities, training programs, and supportive services (including task learning, social, behavioral, and pre-vocational skills), and personal care during part of a 24-hour day to adults who have intellectual or developmental disabilities. This use does not include an adult day care center or any facility that provides for the primary diagnosis or treatment of a medical or mental health condition.

### Alternate Use of Public Facility[1571]

A use conducted in a facility held or controlled by the Fairfax County Government under the direct authority of the Board of Supervisors, the Fairfax County School Board, or the Fairfax County Park Authority, that is otherwise allowed as a special exception or special permit use in the district where the facility is located.

### Child Care Center[1572]

A facility where a person or organization supervises, protects, and is responsible for the well-being of at least one child in the general absence of a parent or guardian for less than a 24-hour period. This use does not include a home day care facility.

### Club, Service Organization, or Community Center[1573]

A facility operated by a nonprofit corporation, fraternal organization, association, or group of people for social, educational, recreational, or service-oriented activities. This use may include meeting rooms, game rooms, clubhouses, swimming pools, courts, exercise equipment, snack bars, kitchens, and similar facilities. This use does not include standalone community swim, tennis, and recreation clubs, which are a different use in this category, or commercial indoor or outdoor recreation facilities, which are in the Recreation and Entertainment category.

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[1569] This category includes institutions and facilities primarily characterized by the fact that they support community activities, regardless of whether they are commercial or non-profit enterprises.
[1570] Change since 6/30/2020 draft: This is a new use and new definition.
[1571] This is a new definition for a term that is not currently defined.
[1572] This is a new definition.
[1573] This is a new definition. This use consolidates the following uses in the current Zoning Ordinance: “private club,” “public benefit association,” “community clubs, centers, meeting halls,” and “community clubs, centers, meeting halls, swimming, pools, archery ranges,” and “any other recreational/social use operated by a by non-profit, where membership is limited to residents of nearby residential areas.”

**College or University**[1574]

An institution that is certified to operate as a college or university by the State Council of Higher Education for Virginia, that offers a program of post-secondary education and instruction leading to degrees or certificates. This use does not include instructional programs that are intended solely for recreation, enjoyment, or personal interest.

**Community Swim, Tennis, and Recreation Club**[1575]

An outdoor facility not operated for profit providing primarily recreation facilities with membership limited to residents of nearby residential areas. This use must be under the control and direction of a board of managers that includes residents of the area served by the facility.

**Convention or Conference Center**[1576]

A building or buildings containing exposition halls, exhibit halls, and facilities to house cultural or civic events, conferences, or conventions of political, industrial, fraternal, commercial, trade, or other similar associations.

**Cultural Facility or Museum**[1577]

A building or area operated to present cultural, historic, heritage, scientific, or academic material, or to provide access to a location having particular historic significance. The facility or museum may include curated exhibits, interactive or experiential exhibits or events, live theater and dance performances, musical concerts, cinema, or lectures; or an institution for the acquisition, preservation, study, and exhibition of works of artistic, historical, or scientific value. Accessory uses may include offices, meeting rooms, gift shops, restaurants or snack bars, and gardens.

**Public Use**[1578]

Any land, building, or structure held, used, or controlled primarily for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia, or the Fairfax County government under the direct authority of the Board, the Fairfax County School Board, or the Fairfax County Park Authority, regardless of the land, building, or structure's ownership. For the purpose of this Ordinance, any use that is (a) sponsored or operated by another county, city, or town within or outside of the Commonwealth of Virginia or an agency such as the Fairfax County Water Authority, Social Services Board, Redevelopment and Housing Authority, Economic Development Authority, Juvenile Court, or Fairfax-Falls Church Community Services Board, and (b) not under the direct authority of the Board, is not

[1574] This is a new definition for a use that is not currently defined.
[1575] This use carries forward language in Sect. 8-403 pertaining to the current use "swimming club and tennis club/courts."
[1576] This definition incorporates language in Sections 6-202, 6-302, and 6-502 of the current Zoning Ordinance. This use carries forward the current use "exposition halls and facilities to house cultural or civic events or conventions of political, industrial, fraternal or similar associations."
[1577] This combines the definitions of "cultural center" and "museum" in the current Zoning Ordinance. The requirement for a cultural center to be a nonprofit enterprise has not been carried forward.
[1578] This carries forward the definition of "public use" in the current Zoning Ordinance, with minor revisions for readability.

considered a public use and is subject to the applicable Zoning Ordinance provisions for the proposed use.

**Religious Assembly**[1579]

A structure or place for worship or ceremonies, rituals, and education, together with its accessory buildings and uses (including buildings used for educational, social, and recreational activities), operated, maintained, and controlled under the direction of a religious group. Examples include churches, mosques, synagogues, and temples. This use includes those activities and functions sponsored and administered directly by the religious group in furtherance of its religion.

**School, Private**[1580]

Any school offering a curriculum for the elementary school or secondary school level leading to a high school diploma, that is not a public use. A private school includes a public school operated by other counties, cities, or towns within or outside of the State.

**Specialized Instruction Center**[1581]

A center primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, scientific, performing arts, or other special subjects. This use does not include a child care center, home day care facility, health and exercise facility, or riding school.

## B. Funeral and Mortuary Services

The Funeral and Mortuary Services category consists of establishments that provide services related to the death of a human being or an animal.

**Cemetery**[1582]

A place where lots or niches are sold for the burial of human or animal remains, which may include a columbarium and mausoleum but not a crematory.

**Crematory**[1583]

A place where human or animal bodies are incinerated and the ashes are collected for permanent burial, scattering, or storage in urns.

[1579] This is a new definition. This use carries forward the use "churches, chapels, temples, synagogues and other places of worship" in the current Zoning Ordinance.
[1580] This definition builds on the definition of "private school of general education" in the current Zoning Ordinance.
[1581] This definition builds on the definition for "private school of special education" in the current Zoning Ordinance. Change since 11/24/2020 draft: Added "performing arts."
[1582] This is a new definition. This use consolidates the current uses "cemetery for human or animal interment" and "columbarium/mausoleum w/cemetery."
[1583] This carries forward the definition of "crematory" in the current Zoning Ordinance.

**Funeral Home**[1584]

A building or part of a building used for funeral services. The building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; or (d) the storage of funeral vehicles. This use may include a columbarium but not a crematory.

## C. Health Care

The Health Care category includes uses providing a variety of health care and supportive services, including surgical or other intensive care and treatment, various types of medical treatment, and nursing care. Care may be provided in a protective setting during part of the day, or on an inpatient, overnight, or outpatient basis. Although a continuing care facility includes household living uses and health care uses (e.g., nursing facilities), it is categorized as a Health Care use because of its focus on the present or future provision of health and personal care. This category does not include professional offices for physicians, dentists, or similar occupations.

**Adult Day Care Center**[1585]

A facility licensed by the State that that provides health monitoring, therapeutic, and other supportive services in a protective setting during part of a 24-hour day to four or more adults who are aged, infirm, or who have cognitive or physical disabilities and who reside elsewhere. This use does not include any licensed facility that provides for the primary diagnosis or treatment of a medical or mental health condition. This use also does not include a medical care facility, group residential facility, congregate living facility, or adult day support center.

**Continuing Care Facility**[1586]

A development under unified operation that provides a variety of accommodation options offering a continuum of care and services. A continuing care facility must be developed as an integrated continuum of accommodation types and service features that allows for the ability to move between levels of support as an individual's care needs change. At a minimum, a continuing care facility must offer or provide care and services to include the on-site provision of meals, general housekeeping, facilitation of transportation, recreation, health- or hygiene-related care, assistance with activities of daily living, and other services integral to the personal, health, and therapeutic care of persons.

**Independent Living Facility**[1587]

A residential development ~~that is primarily limited to occupancy~~occupied by persons who qualify for the age-related exemptions of the Federal Fair Housing Amendments Act of 1988

[1584] This carries forward the definition of "funeral home" in the current Zoning Ordinance. This use consolidates the current uses "funeral home," and "funeral chapel." Change since 11/24/2020 draft: Added reference to columbarium.

[1585] Change since 6/30/2020 draft: This carries forward the current definition, with edits to differentiate this use from the new Adult Day Support Center.

[1586] This carries forward the current definition of "continuing care facility."

[1587] This carries forward the current definition of "independent living facility." Change since 1/19/2021 draft: Removed the indication that the development would only be "primarily limited to" persons who qualify for age-related exemptions since some facilities are entirely age restricted.

(FFHA) or persons with disabilities. Such a facility must include: (a) dwelling units with complete kitchen facilities; and (b) adequate and appropriate supportive services, which could include a meal program, in-unit personal emergency response systems, recreation and transportation services, or other individually or communally used features, amenities, or services for residents of the facility; and (c) universal design features in common areas and individual units, which may include features such as wider doorways and hallways, accessible-ready bathrooms, door levers and lower light switches, or any other feature that would facilitate the use of the units by the intended residents; and (d) on-site staff. This use does not include a continuing care facility or any development providing only age-restricted housing with no on-site meal service, supportive services, or staff.

**Medical Care Facility**[1588]

Any institution, place, building, or agency that offers or provides health services and medical, psychiatric, or surgical care to two or more persons, primarily as inpatients, suffering from a health condition, illness, disease, injury, or other physical or mental condition, including but not limited to persons with disabilities. For the purposes of this Ordinance, this term includes a hospital, assisted living facility, nursing facility, and other facilities that may be described as a behavioral health care facility, intermediate/extended care facility, medical school, and other similar institutions or facilities. This term does not include a congregate living facility, continuing care facility, group residential facility, independent living facility, physician's office, first aid station for emergency medical or surgical treatment, medical laboratory, or medical office providing out-patient services.

**Assisted Living Facility**[1589]

A licensed facility for persons who are unable to live independently that provides all of the following: (a) private or semi-private accommodations, which include a sleeping area, access to an accessible bathroom, and may include limited food and drink preparation facilities (excluding an oven and cooktop), (b) supervision and general care, including but not limited to the provision of daily meals, general housekeeping, health- or hygiene-related care, and (c) assistance with activities of daily living. For the purpose of this Ordinance, an assisted living facility includes facilities for memory care.

**Hospital**[1590]

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 a specific medical specialty such as cardiac, eye, ear, nose, throat, pediatric, orthopedic, skin, cancer and obstetric cases, or other similar specialty.

[1588] This carries forward the current definition of “medical care facility.” Change since 11/24/2020 draft: Revised to delete stigmatizing language.
[1589] This carries forward the current definition of “assisted living facility,” except the reference to medical care facility is deleted.
[1590] This carries forward the current definition of “hospital.”

**Nursing Facility**[1591]

A licensed facility containing beds for two or more patients, established for the purpose of providing domiciliary or nursing care for chronic or convalescent patients on a temporary or permanent basis. Such facility is not for the primary care of a person with a drug or alcohol addiction, or mental or developmental disability, when that person does not also require nursing care. This use includes facilities that may otherwise be referred to as a nursing home, extended care home, rehabilitation center, skilled nursing facility, rest home, or convalescent home.

## D. Transportation

The Transportation category includes uses associated with the operation of airplanes, trains, buses, and other vehicles designed and used for the transport of people or goods.

**Airport**[1592]

A place where aircraft, including airplanes and helicopters, may take off or land, discharge or receive cargo or passengers, be repaired or serviced, take on fuel, or be stored. This definition includes any landing areas, runways, and other facilities designed, used, or intended to be used for the landing or taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces, as well as terminals, parking facilities, and passenger loading and unloading areas.

**Helipad**[1593]

A designated takeoff and landing area for helicopters. A helipad includes only tie down space and additional facilities required by law, ordinance, or regulation.

**Regional Rail Transit Facility**[1594]

A transit facility associated with a rapid rail transit system that serves only the Washington metropolitan region or parts thereof, including but not limited to WMATA Metrorail facilities.

**Transit Facility**[1595]

A stations and its associated pedestrian connections, bus bays, parking areas, service yards, and inspection yards associated with rail or non-rail transit systems, including but not limited to WMATA Metrorail and Virginia Railway Express (VRE) facilities. A transit facility does not include a facility containing only administrative offices operated by a transit facility authority or entity.

[1591] This carries forward the current definition of "nursing facility," except the reference to medical care facility is deleted.
[1592] This is a new definition for a use that consolidates the current uses "airports" and "heliports."
[1593] This revises the definition of "helistop" in the current Zoning Ordinance.
[1594] This is a new definition for a term used in the use standards for Transit Facilities.
[1595] This simplifies and generalizes the definition of "electrically powered regional rail transit facilities" in the current Zoning Ordinance. It includes all transit facilities, including "electrically powered regional rail transit facilities," "accessory electrically powered regional rail transit facilities," and "regional non-rail transit facilities."

## E. Utilities

The Utilities category includes both heavy utilities, which are infrastructure services that provide regional or community-wide service, and light utilities, which are infrastructure services that need to be located in or near where the service is provided. Solar power facilities and wireless facilities are included in this category. Services may be publicly or privately provided and may include on-site personnel. Accessory uses may include offices, monitoring, and storage areas.

**Solar Power Facility**[1596]

A facility that is the principal use of a lot, consisting of a system of components that produces heat or electricity, or both, from sunlight.

**Utility Facility, Heavy**[1597]

A major component of an infrastructure system. Examples of heavy utility facilities include potable water treatment plants, wastewater treatment plants, solid waste facilities, gas compressor stations, and electricity generating plants and facilities, other than solar power facilities. This use does not include a petroleum products storage facility.

**Utility Facility, Light**[1598]

A structure or facility generally related to the distribution or collection of utility products or services, rather than the production of those products or services, that needs to be in or near the neighborhood or near utility consumers. Examples of light utility facilities include water and sewage pump stations, telephone local exchanges, water storage facilities, and electrical substations including distribution centers and transformer substations. This use does not include (1) ordinary distribution facilities for delivery of utilities to customers that are in the public right-of-way or in easements or strips of property owned in fee simple not more than 25 feet in width; or (2) transmission lines approved by the State Corporation Commission ~~in accordance with Va. Code Sect. 56-46.1, as amended~~.

[1596] This is a new definition for a new use. It is based on the definition of "solar energy system" in Sect. 56-576 of the Code of Virginia.

[1597] This is a new definition. This use consolidates the following uses in the current Zoning Ordinance: "electrical generating plants and facilities," "local office space and maintenance facility incidental to heavy public utility use," "sewage treatment and disposal facilities," "sewage treatment and disposal facilities (regional only)" "supply yards for any public utility" and "water purification facilities."

[1598] This is a new definition. This use consolidates the following uses in the current Zoning Ordinance: "electric substations and distribution centers including transformer stations," "natural gas, oil and other petroleum product metering, regulating, compressor, control and distribution stations, and local office space incidental thereto and necessary for the operation of such station, but not including any storage facilities," "sewerage pumping facilities," "telecommunication facilities," "telecommunication facilities, including central offices and repeat stations, but not including ordinary telephone or telegraph transmission poles and lines located in public rights-of-way or easements of not more than twenty-five (25) feet in width," and "utility transmission facilities, including but not limited to poles, structures, wires, conduits, cables, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of telephone or other communication, electricity, gas or water."

**Wireless Facility**[1599]

As defined by Va. Code Sect. 15.2-2316.3, a wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (1) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (2) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

The following terms are defined in Va. Code Sect. 15.2-2316.3: administrative review-eligible project, standard process project, co-locate, existing structure, new structure, project, small cell facility, wireless facility, wireless infrastructure provider, wireless services provider, and wireless support structure; however, the term small cell facility as used in this Ordinance is expanded to include the placement of such facilities on utility poles or transmission poles.

**Associated Support Structure**

Includes wireless support structures, existing structures, new structures, and administrative review-eligible project structures; however, the term does not include any monopoles that exceed 50 feet in height.

**Base Station**

A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

**Eligible Facilities Request**

Any request for a modification of an existing tower or base station that involves: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

**Standard Process Projects**

Wireless facilities and their associated support structures that do not meet the provisions of subsections 4102.4.X(3), (4), (5), and (7), are standard process projects under Va. Code Sect. 15.2-2316.3.

**Utility Distribution or Transmission Pole**

A utility distribution or transmission pole is a ground-mounted self-supporting vertical structure made of fabricated metal, treated wood or concrete used to elevate electrical and communication distribution lines, antennas, wireless facilities, small cell facilities, and related facilities and equipment to a suitable height, whose primary function is the

[1599] Carried forward the current definition and added new definitions.

support of wires, conductors, and associated apparatus used for the distribution of electrical energy, communication signals, or other similar utilities.

**Wireless Telecommunication Hub (Site)**

An equipment cabinet or structure that serves a wireless facility system when there are no antennas located on the same lot as the equipment cabinet or structure.

# 5. Commercial Uses

## A. Animal-Related Services

The Animal-Related Services use category is characterized by uses related to the provision of medical services, general care, and boarding services for household pets and domestic animals.

**Animal Shelter**[1600]

A place designated to provide for the temporary accommodation of five or more animals that are stray or abandoned by their owner. This definition does not include a kennel, a veterinary hospital, or a zoo.

**Kennel**[1601]

An establishment primarily engaged in boarding, keeping, training, breeding, or handling dogs, cats, birds, or other small domestic animals for a fee.

**Pet Grooming Establishment**[1602]

An establishment, other than a kennel or veterinary hospital, for cleaning and maintaining the appearance of dogs, cats, birds, or other small domestic animals.

**Veterinary Hospital**[1603]

A building or structure for the diagnosis and medical or surgical care of animals, including facilities for the temporary housing of those animals.

## B. Food and Lodging

The Food and Lodging use category consists of establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, and establishments providing lodging units or rooms for transient stays of fewer than 30 consecutive nights for rent, lease, or interval occupancy. This use category does not include residence halls, which are generally occupied for tenancies of a month or longer; or short-term lodging accessory to an owner- or tenant-occupied dwelling.

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[1600] This definition carries forward the definition and use of "animal shelter" in the current Zoning Ordinance, with refinement and excluding language regarding the disposition of pets.

[1601] This definition builds on the definitions of "kennel" in the current Zoning Ordinance and clarifies that a kennel may provide services to domestic animals besides dogs. Provisions pertaining to density were deleted. The use consolidates the following uses from the current Zoning Ordinance: "kennels," "kennels (indoors)," and "kennels, outdoor."

[1602] This is a new definition for a new use.

[1603] This carries forward the definition of "veterinary hospital" in the current Zoning Ordinance.

**Bed and Breakfast**[1604]

An establishment located in an owner- or manager-occupied dwelling unit which rents five or fewer guest rooms without cooking facilities to transient visitors for fewer than 30 consecutive nights.

**Catering**[1605]

An establishment whose primary business is to prepare food on-site, then to transport and serve the food off-site. Catering may include retail sale of food or beverages for consumption on the premises as an ancillary use.

**Hotel or Motel**[1606]

Any part of a building or group of buildings that provide sleeping accommodations in six or more separate units or rooms for transient visitors on a daily, weekly, or similar short-term basis. This use includes establishments designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, tourist home, or other similar designations. A hotel or motel also includes any establishment that provides residential living accommodations for transient visitors on a short-term basis, such as an apartment hotel. A hotel or motel may include accessory restaurants, meeting rooms, and conference facilities.

**Restaurant**[1607]

An establishment whose primary business is to prepare and sell food or beverages in a ready-to-consume state for consumption on or off the premises. A restaurant with drive-through, carryout restaurant, convenience store, or craft beverage production establishment as defined herein, is not considered a restaurant.

This use does not include a snack bar or refreshment stand at a public or non-private recreational facility that is operated solely by the agency or group operating the recreational facility as an accessory use for the convenience of the patrons of the facility. Entertainment that is provided for the enjoyment of the patrons and is incidental to the principal dining function may be considered accessory to a restaurant. This entertainment may include dancing by patrons, subject to the licensing requirements of Chapter 27 of the County Code.

**Restaurant, Carryout**[1608]

Any establishment whose primary business is to prepare and sell ready-to-consume food or beverages, primarily for consumption off-site. Up to eight seats may be provided for on-site consumption or customer waiting. A restaurant with more than eight seats is considered a

[1604] This carries forward the definition of "bed and breakfast" in the current Zoning Ordinance. The requirement that the bed and breakfast be a single-family detached dwelling unit is not included in the definition but is instead addressed in the use-specific standards.
[1605] This is a newly defined use. Catering establishments are currently interpreted to be either a business service and supply establishment or an establishment for production/processing.
[1606] This carries forward the definition and use of "hotel, motel" in the current Zoning Ordinance, with refinements. Limitations on the location of restaurants are included as use-specific standards in Article 4: Use Regulations.
[1607] This carries forward the definition of "restaurant" in the current Zoning Ordinance. The limit on the size of a dance floor has been modified and relocated to the use standards.
[1608] This carries forward the definition and use of "carryout restaurant" in the current Zoning Ordinance.

restaurant. A carryout restaurant does not include a restaurant with drive-through facilities, convenience store, or craft beverage production establishment.

**Restaurant with Drive-Through**[1609]

Any establishment with a drive-through whose primary business is to prepare and sell ready-to-consume food or beverages for consumption on or off the premises. A food truck that does not comply with the provisions set forth in subsection 4102.8.E is considered a restaurant with drive-through.

**Retreat Center**[1610]

A facility used for professional, educational, or religious meetings, conferences, or seminars, which may provide meals, housing, and recreation only for participants during the period of the retreat program. This use does not include a hotel or motel or a restaurant.

## C. Office and Financial Institutions

The Office and Financial Institutions use category includes buildings housing activities conducted in an office setting, generally focusing on professional services (e.g., lawyers, accountants, engineers, architects), financial services (e.g., banks, lenders, brokerage houses, tax preparers), and medical and dental services. Office uses may also include research and experimentation, including the prototype production, computer software production, demographic and market research, technical or academic consulting services, data processing, wet labs, research and experimentation in a laboratory, and similar activities.

**Alternative Lending Institution**[1611]

An establishment providing short-term loans to individuals, which may include short-term loans offered online if associated appraisal, application, or other services are provided in-person at the establishment, including short-term loans as regulated by Chapter 18, Title 6.2, Code of Virginia and motor vehicle title loans as regulated by Chapter 22, Title 6.2, Code of Virginia. For purposes of this Ordinance, an alternative lending institution does not include an office, pawnshop, drive-in financial institution, financial institution or any other state or federally chartered bank, savings and loan institution, or credit union.

**Drive-Through Financial Institution**[1612]

Any financial institution that offers its services to persons within motor vehicles.

[1609] This carries forward the definition and use of "restaurant with drive-through" in the current Zoning Ordinance.
[1610] This is a new definition. This use carries forward the use "conference centers and retreat houses, operated by a religious or nonprofit organization" from the current Zoning Ordinance. The requirement for the center to be operated by a religious or nonprofit organization has not been carried forward.
[1611] This carries forward the definition and use of "alternative lending institution" in the current Zoning Ordinance. Change since 7/1/2019 draft: "payday lenders" has been replaced with "short-term loans" per a recent State Code change. Change since 6/30/2020 draft: Clarified that online short-term loans associated with appraisal, application, or other services provided in-person are also included in this definition.
[1612] This carries forward the current definition "drive-in financial institution," but deletes the inclusion of a standalone automated teller machine.

**Financial Institution**[1613]

Any establishment where the primary occupation is State regulated businesses such as banking, savings and loans, loan companies and investment companies; however, for the purpose of this Ordinance, any financial institution having a drive-through window or drive-through automated teller machine will be deemed to be a drive-through financial institution.

**Office**[1614]

A building or portion of a building used for the professional, executive, management, financial, research, or administrative business of commercial entities. An office may also include an artist's studio, research and experimentation in a laboratory, and medical or dental services.

## D. Personal and Business Services

The Personal and Business Services use category includes businesses that primarily provide routine business support functions for the day-to-day operations of other businesses or frequent or recurrent needed services of a personal nature to individuals.

**Business Service**[1615]

An establishment primarily engaged in rendering services on a fee or contract basis to the business, commercial, industrial, or institutional community. Examples of this use include packing and shipping services and printing services. This definition does not include any use listed separately in this Ordinance.

**Household Repair and Rental Service**[1616]

Any establishment primarily engaged in the repair, general service, or rental of common home goods and appliances such as photocopiers, televisions and radios, washing machines, dryers, vacuum cleaners, power tools, refrigerators, ovens, lawnmowers, sewing machines, or musical instruments.

[1613] This carries forward the current definition "financial institution."

[1614] This is a new definition for a use that consolidates the following uses in the current Zoning Ordinance: "establishment for scientific research, development, and training," "establishments for scientific research and development," "establishments for scientific research and development to include assembly, integration and testing of experimental prototype products as an incidental use," "establishments for scientific research, development and training where assembly, integration and testing of products in a completely enclosed building is incidental to the principal use of scientific research, development and training," "establishments for scientific research, development and training, where manufacturing, fabrication, production, testing, repair, storage, sale or resale of materials, goods and products is incidental to the principal use of scientific research, development and training," "offices," and "offices, to include the display and sales of scientific, electronic or medical equipment of a type not customarily retailed to the general public." Change since 6/30/2020 draft: Massage is deleted from office and now is a separate use.

[1615] This builds on the definition of "business service and supply service establishment" in the current Zoning Ordinance.

[1616] This builds on the definition of "repair service establishment" in the current Zoning Ordinance. Interior decorating services have not been carried forward as they have been interpreted to be office.

**Massage Therapy Establishment**[1617]

Any fixed place of business that provides treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body.

**Personal Service**[1618]

An establishment primarily engaged in rendering frequent or recurrent services of a personal nature to individuals. Examples of this use include barber shops and beauty salons, tattoo parlors, laundromats, limited-scale laundry and dry-cleaning sites, tailors, shoe cleaning or repair shops, and other similar places of business. This definition does not include any use listed separately in this Zoning Ordinance.

## E. Recreation and Entertainment

The Recreation and Entertainment use category includes uses providing indoor or outdoor facilities for recreation or entertainment-oriented activities by patrons or members. It does not include public uses or facilities that are reserved for use by a particular residential development's residents and their guests.

**Banquet or Reception Hall**[1619]

Any establishment operated for profit where the facilities are leased on an event-specific basis for private wedding receptions, meetings, banquets, and other similar events. This use may include facilities for preparing food and areas for dancing, dining, and other entertainment activities typically found in association with banquets or receptions.

**Campground** [1620]

An establishment renting space to transient visitors for the occupancy of camping trailers, self-propelled campers, tents, or lodges.

**Commercial Recreation, Indoor**[1621]

An establishment providing recreational activities predominantly indoors.[1622] Examples of this use include movie theaters, music venues, bowling alleys, indoor skating facilities,

[1617] Change since 6/30/2020 draft: Definition for a new use, based on the current definition of "massage and massage establishment." The types of massages are listed in the use standards.
[1618] This definition builds on the current definition of "personal service establishment." This use consolidates the current uses "garment cleaning establishments" and "personal service establishments." Change since 6/30/2020 draft: Massage is deleted from personal service and now is a separate use.
[1619] This is a new definition for a new use.
[1620] This carries forward portions the definition of "camp or recreation ground" in the current Zoning Ordinance. Text pertaining to miniature golf courses, golf ranges, etc., is deleted.
[1621] This is a new definition for a new use that consolidates a number of indoor recreation and entertainment uses in the current Zoning Ordinance, including: "amusement arcades," "bowling alley," "commercial recreation centers," "commercial recreation use, any other similar," "commercial swimming pools, tennis courts and similar courts (indoor only)," "indoor archery ranges, fencing and other similar indoor recreational uses," "indoor firing ranges," "indoor firing ranges, archery ranges, fencing and other similar indoor recreational uses," "miniature golf courses, indoor," "skating facilities, indoor," and "theaters."
[1622] Change since 7/1/2019 draft: The language "Instruction may be provided on site" is deleted. Change since 6/30/2020 draft: Added "music venues" as an example.

amusement arcades, indoor shooting and archery ranges, tennis and similar courts, recreational crafting activities,[1623] and similar establishments where the predominant recreation or entertainment activity takes place inside a building. Consumption of food and beverages may occur but is not the primary activity. This use does not include any use meeting the definition of a golf course or country club; quasi-public park, playground, or athletic field; restaurant; or public entertainment.

**Commercial Recreation, Outdoor[1624]**

A commercial facility devoted to passive or active recreation where activities predominately take place outdoors. Examples of this use include outdoor swimming pools, outdoor athletic fields or courts, outdoor shooting ranges, and similar facilities where the predominant recreation activity takes place outside of a building. This use does not include any use meeting the definition of a golf course or country club or quasi-public parks, playgrounds, and athletic fields.

**Entertainment, Adult[1625]**

Any establishment that the public may enter, with or without an admission charge, where nudity is exhibited by employees, entertainers, or other persons. For the purpose of this Ordinance, “nudity” means any exposure to public view of the human male or female genitals, pubic area, buttocks or any portion of the female breast below the top of the areola, with less than a fully opaque covering. This use also includes the showing of films, motion pictures, or similar photographic reproductions presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to 'Specified Sexual Activities' or 'Specified Anatomical Areas' for observation by patrons within the facility, or an establishment used for presenting such material that limits its customers to persons over 18 years of age.

For the purpose of this definition, ’Specified Sexual Activities’ is defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and
3. Fondling or other erotic touching of the human genitals, pubic region, buttock, or female breast.

And “Specified Anatomical Areas” is defined as:

1. Less than completely and opaquely covered: (a) human genitals, (b) pubic region, (c) buttock, and (d) female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

[1623] Change since 7/1/2019 draft: This example is added.

[1624] This is a new definition for a new use that consolidates a number of outdoor recreation and entertainment uses in the current Zoning Ordinance, including: “baseball hitting and archery ranges, outdoor,” “commercial recreation parks, including mechanical or motorized amusement rides/devices,” “commercial recreation use, any other similar,” “commercial swimming pools, tennis courts and similar courts,” “drive-in motion picture theaters,” “golf driving ranges,” “miniature golf course,” “miniature golf course ancillary to golf driving ranges,” “skating facilities,” and “skeet and trapshooting ranges.”

[1625] This consolidates and carries forward the definitions for “commercial nudity establishment” and “adult mini motion picture theatre” in the current Zoning Ordinance.

Nothing contained in this definition may be construed to limit the application of any State Statute relating to obscenity or relating to distribution of materials to juveniles.

**Entertainment, Public**[1626]

An establishment resembling a nightclub or bar that is open to the general public, where the primary use includes music, dancing, live entertainment, or other similar activities predominantly catering to adult customers. This use typically has business hours that extend beyond 10:00 p.m., may serve alcohol, and may require payment of an entrance fee through ticket sales or a cover charge. A restaurant with entertainment that exceeds the standard in subsection 4102.5.G(1) or a smoking lounge that meets this definition is deemed to be public entertainment.

**Golf Course or Country Club**[1627]

A tract of land designed with a course containing nine or more holes for playing the game of golf and improved with tees, greens, fairways and hazards, or an area designed for driving golf balls into an open area for collection and reuse. This use may include one or more structures containing a clubhouse, restaurant, meeting facilities, lounges, snack bars, swimming pool, tennis or squash courts, shelters, and maintenance facilities. This use may include putting and chipping greens but may not include a miniature golf course in which only golf putters are used.

**Health and Exercise Facility, Large**[1628]

An indoor facility, other than a small health and exercise facility, where patrons participate in exercise or similar activities designed to improve and preserve physical fitness, including health clubs and gyms. Accessory uses to serve the members may include child care, restaurant, retail sales, massage therapy, and personal service. This definition does not include a community center.

**Health and Exercise Facility, Small**[1629]

An indoor facility having a maximum gross floor area of 6,000 square feet where patrons participate in exercise or similar activities designed to improve and preserve physical fitness, including health clubs, fitness classes, training, and instruction. Accessory uses to serve the members may include child care, restaurant, retail sales, massage therapy, and personal service. This definition does not include a community center or a specialized instruction center.

[1626] This is a new definition for a use that subsumes the current uses “billiard and pool halls” and “dance halls.”
[1627] This is a new definition for a use that carries forward the current use “golf courses, country clubs.” It builds on the current definition of “country club” in Article 20.
[1628] This definition replaces the definition of “health club” in the current Zoning Ordinance. Change since 6/30/2020 draft: Added massage therapy as an accessory use (large and small).
[1629] This is a new definition for a new use based on the current use “health club” and the exercise-related classes that are currently a school of special education.

**Marina, Commercial**[1630]

A waterfront facility that provides for the berthing, mooring, or water storage of boats. The use may include facilities such as major and minor boat repair; boat docks, piers, and slips; boat fueling; dry land boat maintenance and storage; pump-out stations; boat and boat part sales; and restaurants.

**Marina, Private Noncommercial**[1631]

A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than a facility for minor servicing or repair.

**Quasi-Public Park, Playground, or Athletic Field**[1632]

An outdoor land area designed or designated to be used for community recreation leagues, exercise, sports, education, or similar activities, or an area intended to enhance the enjoyment of natural features or natural beauty. This use must be under private ownership or control and not meet the definition of a public use, indoor commercial recreation, outdoor commercial recreation, or golf course or country club. This use may include outdoor playfields, athletic fields or courts, other recreation facilities, and water features, picnic areas, natural areas, boating facilities, fishing facilities, arboreta, and botanic gardens.

**Smoking Lounge**[1633]

An establishment where the principal activity is the recreational inhaling of smoke or other vapors. This may include cigar or pipe bars, hookah lounges, vapor bars, and other similar establishments. This use does not include any use meeting the definition of a restaurant or public entertainment.

**Stadium or Arena**[1634]

A building or structure used for spectator sports, entertainment events, expositions, and other public gatherings.

**Zoo or Aquarium**[1635]

A facility in which animals are kept for viewing or contact by the public. This definition does not include pet stores, kennels, riding or boarding stables, horse or dog shows, horse races, or temporary events such as State and County fairs, livestock shows, and rodeos.

## F. Retail Sales

The Retail Sales use category includes uses involved in the sale, rental, and incidental servicing of goods and commodities that are generally provided on the premises to a consumer. This use category does not include sales or service establishments related to

[1630] This is a new definition of a use that carries forward the current use "marina, dock, and boating facilities, commercial."
[1631] This carries forward the definition for "private noncommercial marina" in the current Zoning Ordinance. This use carries forward the current use "marina, dock, and boating facilities of a private, nonprofit nature."
[1632] This is a new definition for a use that carries forward "quasi-public parks, playgrounds, athletic fields, and related facilities."
[1633] This is a new definition for a new use.
[1634] This is a new definition. This use carries forward the use "sports arenas, stadiums as a principal use."
[1635] This replaces the definition "zoological park" in the current Zoning Ordinance.

vehicles (the Vehicle Sales and Services use categories), establishments primarily selling supplies to contractors or retailers (categorized as the Warehousing, Wholesaling, and Freight Movement use category), the provision of financial, professional, or business services in an office setting (categorized in the Offices use category), uses providing recreational or entertainment opportunities (categorized in the Recreation and Entertainment use categories).

**Convenience Store**[1636]

Any building that contains less than 6,000 square feet of gross floor area and is characterized by the frequent turnover of customers, and the retail sale of food, beverages, and other frequently needed items for household use or consumption. This definition does not include a Vehicle Fueling Station or a small grocery, specialty, or gourmet food stores, which are considered general retail sales.

**Drive-Through, Other**[1637]

Any use of land not otherwise defined that provides goods or services to the occupants of a motor vehicle. This definition does not include parking spaces designated for curbside pickup, which are considered accessory to the principal use.

**Drive-Through Pharmacy**[1638]

A retail sales establishment that provides medicine and various other items, such as toiletries, cosmetics, and packaged foods for sale, and that offers drop-off and pick-up service exclusively for prescriptions and associated medical items to persons within a motor vehicle.

**Drug Paraphernalia Establishment**[1639]

Any retail sales establishment where drug paraphernalia is displayed, sold, offered for sale, or given away.

**Garden Center**[1640]

An establishment for the propagation, cultivation, growing and sale of nursery stock, such as trees, plants, shrubs, sod, and seeds. A garden center may also include the sale of related items. Landscape contracting services using nursery stock grown on the property may be permitted as an accessory use to the garden center.

**Pawnshop**[1641]

An establishment where a pawnbroker conducted business. A pawnbroker includes any person who (1) lends or advances money or other things for profit on the pledge and

[1636] This carries forward the definition of "quick service food store" in the current Zoning Ordinance, with minor revisions. The net floor area limit in the current definition is converted to gross floor area.
[1637] This carries forward the definition of "automobile-oriented use" in the current Zoning Ordinance.
[1638] This carries forward the definition of "drive-through pharmacy" in the current Zoning Ordinance.
[1639] New definition of "drug paraphernalia establishment" That removes specific details from the current definition.
[1640] This carries forward the current definition of "plant nursery" in the current Zoning Ordinance, modified for readability and to remove reference to limited retail sales approved by the Board of Supervisors, which is addressed in the standards for this use. The garden center use would apply in all districts where permitted and the retail/wholesale distinctions in the current definition are not carried forward.
[1641] This carries forward the definition and use of "pawnshop" in the current Zoning Ordinance.

possession of personal property, or another valuable thing, other than securities or written or printed evidences of indebtedness, or (2) who purchases personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

**Retail Sales, General**[1642]

An establishment where the primary occupation is the sale or rental of goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, that does not meet the definition for another use in this Ordinance. This use includes grocery stores, drug stores, pet stores, photographic and portrait studios, specialty or gourmet food stores, hardware stores, bookstores, clothing stores, discount stores, auction houses, and similar establishments.

**Retail Sales, Large**[1643]

Any establishment containing 80,000 square feet or more of gross floor area where merchandise is sold primarily for consumption by the immediate purchaser, rather than to a reseller. This definition does not include any uses in the Vehicle Sales and Services category.

## G. Vehicle-Related Uses

The Vehicle Related Uses category includes a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. This category does not include the repair of special equipment and heavy vehicles (categorized in the Industrial Services use category). Accessory uses may include offices, sales of parts, maintenance facilities, outdoor display, and vehicle storage.

**Car Wash**[1644]

A structure, or portion of a structure, containing facilities for washing motor vehicles by hand or by using production-line, automated, or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning, or similar mechanical device.

**Commercial Off-Street Parking**[1645]

An area, other than accessory off-street parking serving a principal use on the site, where, for a charge or permit, motor vehicles may be parked in delineated spaces for the purpose of temporary, daily, or overnight off-street parking. This use does not allow the storage of commercial vehicles.

[1642] This is a new definition for a use that consolidates the following uses in the current Zoning Ordinance: "auction establishments," "adult book stores," "convenience centers" "prescription establishments and the selling of pharmaceutical supplies," and "retail sales establishments."
[1643] This builds on the definition of "retail establishments-large" in the current Zoning Ordinance. This use consolidates the current uses "retail establishment-large" and "retail sales establishments-large, when located in a multiple story structure designed to contain at least one or more other permitted uses."
[1644] This carries forward the definition of "car wash" in the current Zoning Ordinance.
[1645] This carries forward the current definition of "commercial off-street parking." This use carries forward the current use "parking, commercial off-street as a principal use." Change since 7/1/2019 draft: The definition has been edited; for instance, instead of vehicles being "stored," it now states that they must be parked in delineated spaces.

**New Vehicle Storage**[1646]

An area where new vehicles are parked or stored off-site from the associated vehicle sale and rental service establishment.

**Truck Rental Establishment**[1647]

Buildings and premises for the rental and ancillary minor servicing of trucks, utility trailers, and related items generally used by persons to move their personal and household belongings.

**Vehicle Fueling Station**[1648]

An establishment engaged in the retail sale of motor vehicle fuel that is stored on-site, such as gasoline, diesel fuel, natural gas, hydrogen, and electricity. Accessory uses may include a convenience retail store, and light vehicle repair and maintenance.

**Vehicle Repair and Maintenance, Heavy**[1649]

A building or premises in which the primary use is vehicle repair and servicing, such as major mechanical and body work, transmission and differential repair, straightening of body parts, painting, welding, or other similar work.

**Vehicle Repair and Maintenance, Light**[1650]

A building or premises primarily used for vehicle maintenance and servicing or vehicle repair that does not require the removal of engines or transmissions or require body or frame work.

**Vehicle Sales, Rental, and Service**[1651]

Buildings and premises for the sale, rental, and ancillary servicing of vehicles in operating condition, including the following:

1. Automobiles and motorcycles;
2. Vans, but not including any vehicle designed primarily for the transportation of ten or more passengers;
3. Boats such as outboard motor boats, Sunfishes, or other similar-sized boats; and
4. Specialized vehicles such as recreational vehicles and boat trailers having a maximum length of 17 feet.

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[1646] This carries forward the definition of "new vehicle storage" in the current Zoning Ordinance, except standards in current definition are now in Sect. 4102, Use Standards.
[1647] This carries forward the definition and the use of "truck rental establishment" in the current Zoning Ordinance, except that some standards in current definition are now in Sect. 4102, Use Standards.
[1648] This is a new definition for a use that consolidates the uses "service station" and "service station/mini-mart" in the current Zoning Ordinance. Standards in the current definitions of those uses are included in Sect. 4102, Use Standards.
[1649] This carries forward and simplifies the definition of "vehicle major service establishment" in the current Zoning Ordinance.
[1650] This replaces the definition of "vehicle light service establishment" in the current Zoning Ordinance.
[1651] This carries forward and refines the current definition of "vehicle sale, rental and ancillary service establishment."

**Vehicle Transportation Service**[1652]

Buildings and premises for a "for hire" chauffeured transportation service involving the storage and dispatch of taxicabs, limousines, executive sedans, ambulances, passenger vans, or other similar vehicles, administrative offices, and the ancillary servicing and maintenance of company vehicles.

# 6. Industrial Uses

## A. Freight Movement, Warehousing, and Wholesale Distribution

The Freight Movement, Warehousing, and Wholesale Distribution category includes uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. There is little on-site sales activity with the customer present. This use category does not include a contractor's office and shop, which is located in the Industrial Services use category, or uses included in the Waste and Recycling Facilities use category.

**Data Center**[1653]

A facility containing one or more large-scale computer systems used for data storage and processing for off-site users. Typical supporting equipment includes back-up batteries and power generators, cooling units, fire suppression systems, and enhanced security features.

**Freight Distribution Hub**[1654]

A building or area in which freight that is brought in by truck is assembled or stored for routing and reshipment, or where semitrailers, including tractor or trailer units, are parked or stored.

**Goods Distribution Hub**[1655]

A facility for the receipt, transfer, short-term storage, and dispatching of retail and other similar goods transported by truck or other vehicle.

**Self-Storage**[1656]

A building consisting of individual, self-contained units that are leased or owned for the storage of business and household goods.

**Warehouse**[1657]

An establishment primarily engaged in the storage of products, supplies, and equipment.

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[1652] This carries forward the definition of "vehicle transportation services establishment" in the current Zoning Ordinance.
[1653] This is a new definition for a use that is currently interpreted under the use "telecommunication facilities," but is a separate and distinct use in this draft.
[1654] This carries forward the definition of "motor freight terminal" in the current Zoning Ordinance.
[1655] This is a new definition for a new use. Change since 6/24/2020 draft: Added "or other vehicle."
[1656] This carries forward the definition of "mini-warehousing establishment" in the current Zoning Ordinance, except it deletes reference to storage of contractor's supplies.
[1657] This carries forward the definition of "warehousing establishment" in the current Zoning Ordinance with the replacement of "goods and merchandise" with "products, supplies, and equipment."

**Wholesale Facility**[1658]

A facility in which the sale of commodities in quantity to retailers, other businesses, industries, or institutions occurs.

**Wholesale Sales**

The sale of goods, merchandise, and commodities in gross, primarily for purposes of resale.

## B. Industrial Services and Extraction of Materials

The Industrial Services category includes uses involving the repair servicing, or storage of industrial, business, or consumer machinery equipment, products or by-products, or uses involving the extraction of natural resources from the ground. Few customers from the general public come to the site. Examples of Industrial Services uses include welding shops, landscaping and lawn maintenance companies, electric motor repair services, and HVAC services.

**Building Materials Storage and Sales**[1659]

An establishment for the storage and sale of lumber, rock, sand, gravel, landscaping, and other similar materials. Operations may be indoor or outdoor. Sales are principally to the commercial, industrial, or institutional community, and not to the general public except as a secondary and subordinate activity.

**Contractor's Office and Shop**[1660]

Establishments that provide services and store necessary vehicles, equipment, or materials for the installation and servicing of items which may include, but are not limited to, air conditioners, electrical equipment, flooring, painting, plumbing, roofing, tiling, and heating and ventilating equipment. This use also includes establishments for the planting and maintenance of gardens, grounds, and yards, such as landscape contractors and lawn maintenance services. This use cannot include retail sales to the general public, except as an accessory use.

**Extraction Activity**[1661]

An activity related to the extraction of soil, sand, gravel, stone, and other similar naturally occurring materials. This use includes excavating, stripping, dredging, mining, quarrying, and any similar activity.

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[1658] This carries forward and modifies the definition for "wholesale trade establishment." The limit on retail sales has been placed in a use standard.

[1659] This is a new definition that incorporates language in Sect. 5-502 and Sect. 5-602 of the current Zoning Ordinance. This use carries forward the use "lumber yards and building material yards to include rock, sand and gravel" in the current Zoning Ordinance.

[1660] This carries forward the definition and use of "contractor's offices and shops" in the current Zoning Ordinance, except language pertaining to specific standards is not included here but in the standards for this use.

[1661] This definition includes language from Sect. 8-101 of the current Zoning Ordinance. This use consolidates the following current uses: "crushing, treating, washing and/or processing of materials resulting from a use permitted as an extraction and excavation use when conducted on the same property," "extraction of materials other than those specified in Group 1 SP uses," "removal of sand or gravel by excavating, stripping, dredging, mining or

**Petroleum Products Storage Facility**[1662]

A facility for the storage of natural gas, oil and other petroleum products. This use does not include a vehicle fueling station.

**Specialized Equipment and Heavy Vehicle Sale, Rental, or Service**[1663]

Buildings and premises for the sale, rental, and servicing of any of the following:

1. Farm and construction machinery or equipment;
2. Trucks that have more than two axles, are more than 17 feet long or 12 feet in height, or require a commercial driver's license to operate;
3. Buses and vans designed primarily for the transportation of ten or more passengers;
4. Recreational vehicles, trailers, and boats larger than those permitted as part of a vehicle sale and rental establishment; and
5. Manufactured homes.

**Storage Yard**[1664]

The use of any space, inside or outside of a building, for the storage or keeping of construction or landscaping equipment and materials, machinery, vehicles or vehicle parts, boats, farm machinery, or other large items.

**Vehicle Storage or Impoundment Yard**[1665]

An area designed to temporarily store wrecked, inoperative, or abandoned motor vehicles. Service and towing vehicles used for the operation of the establishment may also be stored on the property. This use does not include the dismantling, wrecking, or sale of vehicles or their parts.

## C. Production of Goods

The Production of Goods use category includes uses involving the manufacturing, processing, production, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, transfer to other industrial operations, or for order by businesses or consumers.

**Craft Beverage Production Establishment**[1666]

A facility, licensed in accordance with Title 4.1 of the Code of Virginia, as amended, in which beer, wine, cider, mead, distilled spirits, or other similar beverages are brewed, fermented, or distilled. Production is limited to 20,000 barrels of beer, or 36,000 gallons of distilled spirits,

otherwise taking other than as permitted by right under the provisions of Sect. 2-601; but not including the treating, crushing or processing of the same," "removal of soil by excavating, stripping, dredging, mining or otherwise taking other than as permitted by right under the provisions of Sect. 2-601; but not including the treating, crushing or processing of the same," and "stone quarrying."

[1662] This is a new definition for the current use "storage facilities for natural gas, oil and other petroleum products."

[1663] This carries forward the definition of "heavy equipment and specialized vehicle sale, rental, and service establishment" in the current Zoning Ordinance.

[1664] This builds on the definition of "storage yard" in the current Zoning Ordinance.

[1665] This carries forward the definition and use of "motor vehicle storage and impoundment yard" in the current Zoning Ordinance. Change since 7/1/2019 draft: Included sentence to allow parking of towing vehicles on site.

[1666] This carries forward the definition and use of "craft beverage production" in the current Zoning Ordinance.

wine, cider, or mead annually. An establishment exceeding those production quantities is deemed a production or processing use.

**Production or Processing**[1667]

An establishment primarily engaged in the printing, production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of goods or products, that does not meet the definition for a Production or Processing, Heavy use. Goods are generally not displayed or sold on-site; however, limited retail sales and other related non-production activities may be allowed if they are accessory to the primary production activity.

**Production or Processing, Heavy**[1668]

An establishment engaged in large-scale fabrication, assembly, storage, processing, or heavy industrial activities. This includes, but is not limited to, stockyards, slaughterhouses, and rendering facilities; processing of animal hides, wool, and similar materials; manufacturing of glue, gelatin, soap, and similar products; manufacturing of explosives, fertilizer, insecticides, ammonia, chlorine, corrosive acid, alcohol, plastic or synthetic resins, and similar substances; manufacturing of lime, cement, gypsum, or plaster of paris; refining and production of petroleum; processing of charcoal or coal; refining and casting of metals; mixing or batching of asphalt or concrete; garbage incineration other than incidental to the operation of hospital, hotels, and dwellings; and similar activities.

**Small-Scale Production Establishment**[1669]

An establishment where shared or individual tools, equipment, or machinery are used to make or grow products on a small scale, including the design, production, processing, printing, assembly, treatment, testing, repair, and packaging, as well as any incidental storage, retail or wholesale sales and distribution of such products. Typical small-scale production establishments include, but are not limited to, vertical farming or the making of electronics, food products, non-alcoholic beverages, prints, household appliances, leather products, jewelry and clothing/apparel, metal work, furniture, glass, ceramic or paper, together with accessory uses such as training or educational programs. Agriculture, craft beverage production establishment, restaurant, restaurant with drive-through, or carryout restaurant are not small-scale production establishments.

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[1667] This is a new definition that includes language from use descriptions in various locations (e.g., Sect. 6-502.11) of the current Zoning Ordinance. This use consolidates the following uses from the current Zoning Ordinance: "establishments for printing of any size, production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of materials, goods or products and associated retail sales," "establishments for printing of any size, production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and associated retail sales," "establishments for production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of materials, goods or products," and "food and beverage manufacturing, production and processing establishments." Current prohibitions on outdated list of heavy industrial uses in Sect. 9-501.13 has been generalized to a prohibition on all heavy industrial uses meeting this definition.

[1668] This is a new definition. This use consolidates many of the heavy industrial uses in Sect. 9-501 of the current Zoning Ordinance.

[1669] This carries forward the definition of "small-scale production establishment."

## D. Waste and Recycling Facilities

The Waste and Recycling Facilities use category includes uses involving receiving solid or liquid waste from others for on-site disposal, storage, or processing, or transfer to another location for processing or disposal. This use category also includes uses that manufacture or produce goods or energy from the composting of organic material, and the reuse, recycling, or processing of scrap or waste material.

**Junkyard**[1670]

The use of any space, inside or outside of a building, for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, other vehicles or machinery, or their parts. This use includes the placement of more than five inoperative motor vehicles on any lot or place that is exposed to the weather.

**Mixed Waste Reclamation Facility**[1671]

A facility for the removal or reclamation of recyclable materials from solid waste. This use does not include a recycling center.

**Recycling Center**[1672]

A facility for the collection of nonputrescible recyclable materials that have been separated at their source (source-separated) before shipment to others who will use those materials to manufacture new products. A recycling center use can include a Materials Recovery Facility as defined by Chapter 109.1 of the County Code (Solid Waste Management), and commonly referred to as a "clean" MRF.

**Solid Waste Disposal Facility**[1673]

A use designed and operated as:

1. A land depository, excavation, or area conducted in a controlled manner for the dumping of debris or inert material;
2. A facility for the temporary storage or collection and transfer of solid waste;
3. A disposal site that compacts and covers solid waste at least once each day with an approved material; or
4. A facility for incinerating solid waste. This use includes both debris landfills and sanitary landfills as defined in Chapters 104 and 109.1 of the County Code.

[1670] This carries forward the definition of "junk yard" in the current Zoning Ordinance, with minor revisions.
[1671] This carries forward the definition of "mixed waste reclamation facility" in the current Zoning Ordinance.
[1672] This carries forward the definition of "recycling center" in the current Zoning Ordinance.
[1673] This builds on the definition of "landfill" in the current Zoning Ordinance, modified to include incinerators and facilities for temporary storage or collection and transfer of solid waste. This use consolidates the uses "landfills" and "solid waste disposal and treatment facilities including incinerators and landfills" in the current Zoning Ordinance.

# 7. Accessory Uses

**Accessory Living Unit**[1674]

A secondary dwelling unit established in conjunction with and clearly subordinate to a single-family detached dwelling unit.

**Accessory Structure**[1675]

A building or structure that:

1. Is subordinate in purpose to a principal building or a principal use legally existing on the same lot; and
2. Contributes to the comfort, convenience, or necessity of the occupants, business, or industry of the principal structure or principal use served on that lot.

**Accessory Use**[1676]

A use that:

1. Is clearly subordinate to, customarily found in association with, and serves a principal use;
2. Is subordinate in purpose, area, or extent to the principal use served;
3. Contributes to the comfort, convenience, or necessity of the occupants, business enterprise, or industrial operation within the principal use served; and
4. Is located on the same lot as the principal use.

**Associated Service Use**[1677]

A use that:

1. Is located in the same building as the principal use it serves; and
2. Is primarily designed to provide goods and services to occupants, business enterprises, or industrial operations in that principal building.

**Caretaker Quarters**[1678]

A dwelling or rooms in which a caretaker of a residential or agricultural property and the caretaker's family resides. Caretakers must provide domestic services for the occupants of the dwelling, such as child care, housekeeping, or grounds maintenance. This use does not include a dwelling in a nonresidential use, which is considered a residence for a manager or employee.

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[1674] This carries forward the definition of "dwelling unit, accessory" in the current Zoning Ordinance.
[1675] New definition.
[1676] This carries forward the definition of "accessory use," except the language deeming agricultural buildings to be accessory is not included, as agricultural buildings are considered part of the use of an Agricultural Operation.
[1677] This is a new definition to replace the current definition of "accessory service use."
[1678] This definition is new. This use consolidates "quarters of a caretaker, watchman or tenant farmer, and his family" and "servants quarters." Change since 7/1/2019 draft: this definition may be modified as part of a pending amendment.

**Child Care Center for Occasional Care**[1679]

A facility located within the main structure in a regional shopping center where one or more children unattended by their parent or guardian receive care, protection, and supervision on an occasional basis.

**Donation Drop-off Box**[1680]

Any portable outdoor container intended or used for the donation, collection, and short-term storage of items, such as clothing, toys, books, and shoes, which are removed from the container on a periodic basis.

**Electric Vehicle Charging**[1681]

A vehicle parking space served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy by conductive or inductive means from the electric grid or other off-board electrical source to a battery or other energy storage device within a vehicle that operates, partially or exclusively, on electric energy.

**Family Health Care Structure**[1682]

A transportable residential structure that is permitted by Va. Code Sect. 15.2-2292.1, 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.

**Garage Sale or Yard Sale**[1683]

A temporary and occasional use of the premises of a dwelling for the sale to the public, of typical household and personal items that were not specifically purchased, produced, refurbished, or fabricated for resale.

**Gardening and Composting**[1684]

An area of cultivated ground or a structure such as a planter box, pot, or raised bed, devoted in whole or in part to (1) the growing of herbs, fruits, or vegetables for consumption, or (2) composting.

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[1679] This carries forward the definition of "child care center for occasional care" and incorporates the requirement that the center be located within a regional shopping center from Par. 32 of Sect. 10-102. The time limits in the current definition are included in the use standards.

[1680] This carries forward the definition of "donation drop-off box" in the current Zoning Ordinance, with minor revisions.

[1681] This is a new definition for a new accessory use.

[1682] This carries forward the definition of "temporary family health care structure" in the current Zoning Ordinance.

[1683] This is a new definition. This use carries forward the current use "garage and yard sales."

[1684] Change since 7/1/2019: Incorporates revisions from Zoning Ordinance Amendment ZO-19-481. Change since 6/30/20 draft: Removed "flowers and ornamental plantings" from the definition since those are considered landscaping.

**Home Day Care Facility**[1685]

A dwelling where during only a part of a 24-hour day, (1) at least one but not more than 12 children, exclusive of children who reside in the dwelling, receive care, protection, and supervision, unattended by a parent or legal guardian; or (2) up to three persons who are aged or infirm or persons with disabilities receive supportive services, health monitoring, protection, or supervision.

**Home-Based Business**[1686]

An occupation, profession, or trade that is conducted within a dwelling unit that is clearly incidental and subordinate to the residential purpose of the dwelling unit. Examples of home-based businesses include home offices, music lessons, art studios, home crafts, and home-based food production. A home-based business does not include any other accessory use defined in this Ordinance, including but not limited to, home day care facility or short-term lodging.

**Keeping of Animals**[1687]

The provision of accommodations for one or more animals on any lot for personal enjoyment.

**Limited Riding or Boarding Stable**[1688]

A riding or boarding stable operated as accessory to a residence, where horses or ponies, not including those owned by a resident of the property, are kept, maintained, or boarded, or where riding lessons are made available to the general public or members of a private club. These services may be offered for a fee or free of charge.

**Residence for Manager or Employee**[1689]

A residence for a manager or employee and their family located in the same building or in an accessory structure on the same lot as their place of occupation.

**Sawmilling**[1690]

An operation or facility for the purpose of sawing or planing logs or trees into rough slabs.

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[1685] This carries forward the definition of "home child care facility" in the current Zoning Ordinance, with minor revisions, and adds the ability to care for adults in accordance with State law.

[1686] This is a new definition for a use that is described in Sect. 10-300 et seq. of the current Zoning Ordinance but is not currently defined. This use supersedes the following current uses: "barber shop or beauty parlor as a home occupation," "home occupation," and "home professional office." Change since 11/24/2020 draft: Deleted reference to the business being conducted by a resident. The use standards address who can be involved in the business.

[1687] This is a new definition for an accessory use described in Sect. 2-512 of the current Zoning Ordinance.

[1688] This is a new definition. This use carries forward the current use "horseback riding lessons" as an accessory use.

[1689] This is a new definition. This use consolidates the following current uses: "dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use," "residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation," and "residence for an employee and his/her family located within the same building as a funeral home or chapel."

[1690] This is a new definition. This use carries forward the current use "sawmilling of timber."

**Short-Term Lodging**[1691]

The provision of a room or space that is suitable or intended for transient occupancy, in exchange for a charge for the lodging. This use does not include an accessory living unit, bed and breakfast, hotel or motel, or family health care structure. For purposes of subsection 4102.7.O, Short-Term Lodging, the following definitions apply:

**Authorized Agent**

An adult designated by a short-term lodging operator who consents to be available to address any issues or emergencies that may arise during any short-term lodging stay.

**Permanent Resident**

A person who occupies or intends to occupy a dwelling or mobile home for at least 185 days out of the calendar year for the purposes of establishing the dwelling or mobile home as that person's primary residence. A person may have only one permanent residence.

**Short-Term Lodging Operator**

An owner or tenant of a property who offers that property for short-term lodging.

**Solar Collection System**[1692]

A system, accessory to a principal use, consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in water heating or space heating and cooling, or that collects solar energy and converts it into electricity. Components may be mounted on the roof(s) of principal or accessory structures, other parts of structures, or the ground. Ground-mounted solar collection systems are designed to primarily meet on-site demands but may include the transfer of excess electricity to an electric utility grid.

**Wayside Stand**[1693]

A temporary structure or use of land designed for the display and retail sale of agriculture products grown on the premises, with no space for customers within the structure itself.

## 8. Temporary Uses

**Community Garden**[1694]

Any land or rooftop area used for the cultivation of herbs, fruits, flowers, vegetables, or ornamental plants by more than one person, household, or a nonprofit organization for personal or group use, consumption, or donation. This use does not include the bona fide production of crops, animals, or fowl. A community garden may be divided into separate plots for cultivation by one or more individuals or collectively by members of the group and may include common areas and accessory structures maintained and used by group members. A community garden does not include a private garden on a lot that contains a single-family

[1691] This carries forward the current definition of "short-term lodging" and supporting definitions in Sect. 10-105.
[1692] This is a new definition.
[1693] This carries forward the definition and use of "wayside stand" in the current Zoning Ordinance. The prohibition on using a tent is not carried forward.
[1694] This definition was adopted with a recent Zoning Ordinance amendment.

detached dwelling. Community gardens are not deemed to be an agricultural use, except when accessory to a lot that is principally used for agriculture.

**Construction Site Office and Storage**[1695]

A temporary structure, facility, or space associated with the staging, management, and security of new construction located on or adjacent to the construction site. This definition includes an office building, security building, storage buildings, construction waste and recycling receptacles, temporary sanitation facilities, employee parking areas, and areas for the storage of materials and supplies used in the actual construction of buildings on the site.

**Farmers Market**[1696]

A regularly occurring market that sells farm products or value-added farm products directly to the general public.

**Food Truck**[1697]

Any readily movable mobile food service establishment, to include any vehicle that is self-propelled, pushed, or pulled to a specific location.

**Interim Off-Street Parking in Metro Station Area**[1698]

A temporary, privately-operated off-street parking lot located near a Metro station.

**Model Home Sales or Leasing Office**[1699]

A trailer or model unit that is used for the real estate sales or leasing activities of the development pending construction and the initial sales of homes or units in the development.

**Portable Storage Container**[1700]

A purpose-built, fully enclosed, box-like container that is designed for temporary storage of household goods and equipment and which has signage on one or more of its outer surfaces. These containers are uniquely designed for ease of loading to and from a transport vehicle.

**Special Event**[1701]

A temporary outdoor activity held on private property, including, but not limited to, seasonal sales, the display of goods and merchandise associated with a retail use, community or cultural events, musical or arts events, celebrations, festivals, fairs, carnivals, and circuses.

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[1695] This is a new definition that supersedes the definition for "construction materials yard" in the current Zoning Ordinance. This use consolidates the current uses "construction materials yard accessory to a construction project" and "contractor's offices and equipment sheds to include trailers accessory and adjacent to an active construction project."

[1696] This definition was adopted with a recent Zoning Ordinance amendment.

[1697] This carries forward the definition of "food truck" in the current Zoning Ordinance.

[1698] This is a new definition for the current use "commercial off-street parking in Metro station areas as a temporary use."

[1699] This is a new definition. This use supersedes the use "subdivision and apartment sales and rental offices" as a temporary use in the current Zoning Ordinance.

[1700] This carries forward the definition of "temporary portable storage container" in the current Zoning Ordinance.

[1701] This is a new definition. This use subsumes the current use "carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other

**Temporary Dwelling or Manufactured Home**[1702]
The temporary use of a dwelling or manufactured home.

# 9104. Floodplain Definitions

The following definitions are only to be used in the interpretation and administration of the floodplain regulations in Section 5105.

**Base Flood**
A flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation**
The Federal Emergency Management Agency designated water surface elevation of a flood having a one percent chance of being equaled or exceeded in any given year shown on the Flood Insurance Rate Map (FIRM).

**Basement**
Any area of the building having its floor below grade (below ground level) on all sides.

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

**Floodplain**
Those land areas in and adjacent to streams and watercourses subject to continuous or periodic inundation from flood events with a one percent chance of occurrence in any given year (i.e., the 100-year flood frequency event also known as the base flood) and having a drainage area greater than 70 acres. For the purpose of administering Section 5105 Floodplain Regulations, minor floodplains are those floodplains which have a drainage area greater than 70 acres but less than 360 acres and major floodplains are those floodplains which have a drainage area equal to or greater than 360 acres. Floodplains include all areas of the County that are designated as a floodplain by the Federal Emergency Management Agency (FEMA), by the United States Geological Survey, or by Fairfax County. The basis for the floodplains designated by FEMA are the Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) for Fairfax County prepared by the FEMA, Federal Insurance Administration, dated September 17, 2010, as amended. Floodplains designated by FEMA on the FIRM are referred to as special flood hazard areas.

**Flood or Flooding**
1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
    a. The overflow of inland or tidal waters; or

similar activities." Change since 7/1/2019 draft: Added "outdoor" based on current practice. Change since 6/30/2020 draft: Revised definition to consolidated Business Promotional Activity use, and added other event examples like community uses and arts events.

[1702] This is a new definition for the current use "temporary dwellings or mobile homes."

b. The unusual and rapid accumulation or runoff of surface waters from any source.

c. Mudflows which are proximately caused by flooding as defined in 1.b. above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in 1.a. above.

**Flood Insurance Rate Map (FIRM)**

An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been produced and made available digitally is also commonly called a Digital Flood Insurance Rate Map (DFIRM). The official FIRM for Fairfax County is the FIRM/DFIRM prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 17, 2010, as amended.

**Flood Insurance Study (FIS)**

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow or flood-related erosion hazards. The official FIS for Fairfax County is the FIS prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 17, 2010, as amended.

**Flood Proofing**

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Historic Structure**

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on the Virginia Landmarks Register; or

4. Listed on the Fairfax County Inventory of Historic Sites.

**Lowest Floor**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for building access in an area other than a basement area is not considered a

building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR §60.3.

**Manufactured Home**

A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes a manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. A manufactured home does not include a recreational vehicle.

**New Construction**

For the purposes of determining insurance rates, new construction includes structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction includes structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Recreational Vehicle**

A vehicle that:

1. Is built on a single chassis;
2. Contains 400 square feet or less when measured at the largest horizontal projection;
3. Is designed to be self-propelled or permanently towable by a light duty truck; and
4. Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

**Special Flood Hazard Area**

The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as designated on the official Flood Insurance Rate Map for Fairfax County.

**Start of Construction**

For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether that alteration affects the external dimensions of the building.

**Structure**

For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home or other structure as defined in this Article. structure for insurance coverage purposes, means:

1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
2. A manufactured home; or
3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For insurance coverage purposes, structure includes a recreational vehicle, a park trailer or other similar vehicle, except as described in subsection 3 of this definition, or a gas or liquid storage tank.

**Substantial Damage**

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

**Substantial Improvement**

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. substantial improvement includes structures that have incurred substantial damage regardless of the actual repair work performed. substantial improvement does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**Violation**

See subsection 8106.1.A. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), or (c)(10) is presumed to be in violation until such time as that documentation is provided.

# Appendix 1 - Index of Amendments and Provisions Relating to Previous Approvals

Below are the general provisions for this Ordinance, followed by the provisions for specific Zoning Ordinance amendments relating to applicability and previous approvals. They are not part of the adopted Zoning Ordinance, but are provided here as a convenience. Additional information for any amendment may be obtained by contacting the Zoning Administration Division, Department of Planning and Development.

## 1. General Provisions Regarding Previous Approvals[1703]

Except as specified in the Ordinance, the specific uses, features, and structures on each of the following are entitled to continue under the previous approval(s) if the applicable due diligence standard is met. For the purpose of this statement, to "aggravate conflicts" means to create any new or additional noncompliance with the amended Ordinance such as expanding a use, feature, or structure that is not allowed by the new Ordinance, as determined by the Zoning Administrator.

**A.** Proffered rezonings and related development plans, special exceptions, special permits, variances, comprehensive sign plans, PRC plans, and parking reductions approved before [*insert effective date of this Ordinance*], and any plans and permits, including but not limited to site plans, subdivision plats, construction plans, building permits, and Residential and Non-rResidential Use Permits submitted in accordance with such approvals. The provisions of this Ordinance govern to the extent they are not in conflict with or superseded by the approval. Amendments to such approvals may be approved if they do not aggravate conflicts with this Ordinance.

**B.** Site plans, minor site plans, subdivision plans and plats, public improvement plans, grading plans, construction plans, building permits and other related subsequent plans, approvals and written determinations, approved before [*insert effective date of this Ordinance*]. The provisions of this Ordinance govern to the extent they do not preclude the approved uses, features, and structures. Revisions to such approvals may be approved if they do not aggravate conflicts with the new Ordinance.

**C.** Applications for rezonings and related development plans, special exceptions, special permits, variances, comprehensive sign plans, PRC plans, parking reductions, subdivision plats, site plans, parking tabulations and redesignations, building permits, public improvement plans, and grading plans submitted and accepted for review before [*insert effective date of this Ordinance*], provided: (a) approval is granted within 12 months of [*insert effective date of this Ordinance*] or, if corrections to a properly submitted and accepted plan are deemed necessary by the reviewing authority, revised plans are resubmitted within six months of its disapproval; (b) the approval remains valid; and (c) the uses, features, and structures are constructed in accordance with approved plans and permits. Required subsequent plan and permit submissions may be accepted and approvals may be granted, consistent with ~~a~~

[1703] Change since 3/10/2020 draft: Added general provisions recognizing previous approvals.

~~grandfathered~~ those approvals. Revisions to such approvals may be approved if they do not aggravate conflicts with the new Ordinance.

**D.** Lawfully existing uses, features, and structures as of [*insert effective date of this Ordinance*] ~~or grandfathered in accordance with A or B above, regardless of changes in ownership.~~[1704]

**E.** Lawfully existing freestanding accessory structures as of [*insert effective date of this Ordinance*] are not subject to the new standards for maximum height and maximum cumulative square footage in subsections 4102.7.A(6)(c) and 4102.7.A(6)(d). Additions or modifications to these structures that increase height are subject to this Ordinance, and all existing square footage will be counted toward the cumulative maximum for any new or expanded structures.

**F.** Lawfully existing home occupations, home professional offices, and barbershops or beauty parlors as a home occupation as of [*insert effective date of this Ordinance*], may continue, subject to any conditions of approval and the standards in effect at the time of approval. However, any modifications to the use will require approval of an administrative permit or special permit for a home-based business and conformance with this Ordinance.[1705]

**G.** Lawfully existing flags and flagpoles as of [*insert effective date of this Ordinance*], may remain; however, new or replaced flags and flagpoles are subject to this Ordinance.[1706]

## 2. Specific Provisions Regarding Previous Approvals

**A.** The provisions that are carried forward from the previous Ordinance are either incorporated into the text of the Ordinance or are specified below.

### (1) Commercial and Industrial Districts (ZO-92-225)

Revised provisions to ZOA 89-185 and ZOA 92-225 are as follows:

Properties subject to the provisions of Zoning Ordinance Amendment (ZOA) 89-185, adopted December 11, 1989, and Zoning Ordinance Amendment (ZOA) 92-225, adopted July 13, 1992, are subject to the following amended provisions regarding those properties, to the extent that uses, and FAR of those properties permitted before that date, have not otherwise been restored by any other approval such as a special exception:

**(a)** Uses for which building permits have been approved, provided the structure containing the use is constructed under the approved building permit.

**(b)** Uses shown on a site plan approved before December 12, 1989, provided a building permit(s) for the structure(s) shown on the approved site plan is issued in accordance with subsection 8100.7.F(3) and provided further that the structure(s) containing the use is in fact constructed in accordance with such building permit(s).

**(c)** Revisions to such approved site plans may be approved so long as such revision does not result in (a) an increase in FAR to include an increase in floor area for

[1704] Change since 1/19/2021 draft: Deleted reference to subsection A and B and change in ownership language as unnecessary.
[1705] Change since 6/30/2020 draft: New subsection.
[1706] Change since 1/19/2021 draft: New subsection.

office beyond that permitted under ZOA 92-225, or (b) an increase in building height.

**(d)** Uses shown on a site plan, which plan contains the required information as set forth in subsection 8101.4.A, Minor Site Plans, and is filed on or before December 12, 1989, provided such site plan is approved within 24 months of the return of the initial submission to the applicant or agent, a building permit(s) for the structure(s) shown on the approved site plan is issued in accordance with subsection 8100.7.F(3) and provided further that the structure(s) containing the use is in fact constructed in accordance with such building permit(s).

**(e)** Resubmissions of such filed site plans or revisions to such approved site plans may be approved so long as such resubmission/revision does not result in (a) an increase in FAR to include an increase in floor area for office beyond that permitted under ZOA 92-225, or (b) an increase in building height.

**(f)** Where a site plan was filed between September 18, 1989, and December 12, 1989, where site plans were approved before December 12, 1989, where site plans were approved in accordance with this subsection (c) subsequent to December 12, 1989, or where site plans were approved as a result of the Circuit Court declaration that ZOA 89-185 was invalid; and, in each of the foregoing cases, where such site plans were not approved or are no longer valid, such site plans may be resubmitted within 120 days of the adoption of ZOA 92-225, and may be approved, provided such plans comply with all current applicable County ordinances and regulations, except ZOA 89-185 and ZOA 92-225. Revisions to such site plans may be approved so long as such revision does not result in (a) an increase in FAR to include an increase in floor area for office beyond that permitted under ZOA 92-225, or (b) an increase in building height. For the purpose of this subsection, the term “site plan” is deemed to include parking tabulation revisions for a change in use.

**(g)** Special exception and special permit uses approved before December 12, 1989, provided a site plan is approved, a building permit issued, and construction commenced while the special exception or special permit is still valid, and provided further that the use is in fact constructed in accordance with such building permit.

**(h)** While the special exception or special permit is still valid, resubmissions of such site plans must be permitted and may be approved so long as such resubmission does not result in (a) an increase in FAR, (b) an increase in building height, (c) the addition of a use, or (d) an increase in floor area.

**(i)** Neither ZOA 89-185 nor ZOA 92-225 are applicable to proffered rezonings approved before the effective date of ZOA 92-225 and Section 1106 do not apply thereto as regards ZOA 89-185 or ZOA 92-225; provided, however, new uses added by ZOA 89-185 and ZOA 92-225 are permitted on properties subject to proffered rezonings adopted before the effective date of ZOA 92-225 to the same extent the new uses are permitted on similarly zoned properties without proffered conditions, so long as the new uses are not inconsistent with the proffered conditions. If the new uses are inconsistent with a proffered rezoning, a proffer condition amendment is required before the new uses are permitted. This ~~grandfather~~ provision continues to apply in the event of subsequent proffered condition amendments.

**(j)** For the purpose of ZOA 89-185 and ZOA 92-225, the word "replacement" as used in subsection 8104.3.C is not deemed to include the reconstruction of a building or use which was destroyed by casualty, either completely or in part, so long as such reconstruction does not result in an increase in total FAR, percent of office FAR or building height if any such increase would result in development or uses beyond that permitted by ZOA 92-225.

**B.** [placeholder for future amendments]