

**ARTICLE 9**  
**SPECIAL EXCEPTIONS**  
**TABLE OF CONTENTS**

<b>PART 0</b>	<b>9-000 GENERAL PROVISIONS</b>
SECTION	
9-001	Purpose and Intent
9-002	Authorization
9-003	Limits on Authority
9-004	Status of Special Exception Uses
9-005	Establishment of Categories
9-006	General Standards
9-007	Conditions and Restrictions
9-008	Time Limitations, Extensions, Renewals
9-009	Application for a Special Exception
9-010	(Deleted by Amendment #93-248, Adopted July 26, 1993)
9-011	Submission Requirements
9-012	Extension of a Special Exception
9-013	(Deleted by Amendment # 95-277, Adopted July 31, 1995, Effective August 1, 1995 at 12:01 AM)
9-014	Amendment of a Special Exception
9-015	Expiration of a Special Exception
9-016	Termination or Revocation of a Special Exception
<b>PART 1</b>	<b>9-100 CATEGORY 1 LIGHT PUBLIC UTILITY USES</b>
SECTION	
9-101	Category 1 Special Exception Uses
9-102	Districts in Which Category 1 Uses May be Located
9-103	Additional Submission Requirements
9-104	Standards for all Category 1 Uses
9-105	Additional Standards for Mobile and Land Based Telecommunication Facilities
<b>PART 2</b>	<b>9-200 CATEGORY 2 HEAVY PUBLIC UTILITY USES</b>
SECTION	
9-201	Category 2 Special Exception Uses
9-202	Districts in Which Category 2 Uses May be Located
9-203	Additional Submission Requirements
9-204	Standards for all Category 2 Uses
9-205	Additional Standards for Landfills
9-206	Additional Standards for Sewage Facilities and Water Treatment Facilities

FAIRFAX COUNTY ZONING ORDINANCE

**PART 3                    9-300 CATEGORY 3 QUASI-PUBLIC USES**

SECTION

- 9-301     Category 3 Special Exception Uses
- 9-302     Districts in Which Category 3 Uses May be Located
- 9-303     Additional Submission Requirements
- 9-304     Standards for all Category 3 Uses
- 9-305     Additional Standards for Conference Centers and Retreat Houses
- 9-306     Additional Standards for Independent Living Facilities
- 9-307     Additional Standards for Congregate Living Facilities
- 9-308     Additional Standards for Medical Care Facilities
- 9-309     Additional Standards for Child Care Centers and Nursery Schools
- 9-310     Additional Standards for Private Schools of General Education and Private Schools of Special Education
- 9-311     Additional Standards for Alternate Uses of Public Facilities
- 9-312     Additional Standards for Dormitories, Fraternity/Sorority Houses, Rooming/Boarding Houses or Other Residence Halls
- 9-313     Additional Standards for Cultural Centers, Museums and Similar Facilities
- 9-314     Additional Standards for Churches, Chapels, Temples, Synagogues or Other Such Places of Worship With a Child Care Center, Nursery School or Private School

**PART 4                    9-400 CATEGORY 4 TRANSPORTATION FACILITIES**

SECTION

- 9-401     Category 4 Special Exception Uses
- 9-402     Districts in Which Category 4 Uses May be Located
- 9-403     Additional Submission Requirements
- 9-404     Standards for all Category 4 Uses
- 9-405     Additional Standards for Electrically-Powered Regional Rail Transit Facilities

**PART 5                    9-500 CATEGORY 5 COMMERCIAL AND INDUSTRIAL USES OF SPECIAL IMPACT**

SECTION

- 9-501     Category 5 Special Exception Uses
- 9-502     Districts in Which Category 5 Uses May be Located
- 9-503     Standards for all Category 5 Uses
- 9-504     Additional Standards for Amusement Arcades
- 9-505     Additional Standards for Automobile-Oriented Uses, Car Washes, Drive-In Financial Institutions, Drive-Through Pharmacies, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Stations/Mini-Marts
- 9-506     Additional Standards for Commercial Recreation Restaurants
- 9-507     Additional Standards for Convenience Centers
- 9-508     Additional Standards for Drug Paraphernalia Establishments
- 9-509     Additional Standards for Establishments for Scientific Research and Development
- 9-510     Additional Standards for Funeral Chapels
- 9-511     Additional Standards for Heavy Industrial Uses
- 9-512     Additional Standards for Hotels, Motels
- 9-513     Additional Standards for Marinas, Docks and Boating Facilities, Commercial
- 9-514     Additional Standards for Mini-Warehousing Establishments
- 9-515     Additional Standards for Offices
- 9-516     Additional Standards for Parking, Commercial Off-Street

## SPECIAL EXCEPTIONS

- 9-517 Additional Standards for Plant Nurseries
- 9-518 Additional Standards for Vehicle Sale, Rental and Ancillary Service Establishments
- 9-519 Additional Standards for Wholesale Trade Establishments
- 9-520 Additional Standards for Commercial Off-Street Parking in Metro Station Areas as a Temporary Use
- 9-521 Additional Standards for Industrial/Flex Uses
- 9-522 Additional Standards for Pawnshops
- 9-523 Additional Standards for Mixed Waste Reclamation Facilities
- 9-524 Additional Standards for Retail Sales Establishments
- 9-525 Additional Standards for Truck Rental Establishments
- 9-526 Additional Standards for Bed and Breakfasts
- 9-527 Additional Standards for Outdoor Baseball Hitting and Archery Ranges
- 9-528 Additional Standards for Golf Courses, Country Clubs
- 9-529 Additional Standards for Golf Driving Ranges
- 9-530 Additional Standards for Kennels, Animal Shelters
- 9-531 Additional Standards for Miniature Golf Courses Ancillary to Golf Driving Ranges
- 9-532 Additional Standards for Veterinary Hospitals
- 9-533 Additional Standards for Retail Sales Establishments-Large

### **PART 6                    9-600   CATEGORY 6   MISCELLANEOUS PROVISIONS REQUIRING BOARD OF SUPERVISORS' APPROVAL**

#### SECTION

- 9-601 Category 6 Special Exception Uses
- 9-602 Additional Submission Requirements
- 9-603 (Deleted by Amendment #95-283, Adopted October 30, 1995, Effective October 31, 1995 at 12:01 AM)
- 9-604 (Deleted by Amendment #82-64, adopted August 2, 1982)
- 9-605 (Deleted by Amendment #82-64, adopted August 2, 1982)
- 9-606 Provisions for Uses in a Floodplain
- 9-607 Provisions for Approving an Increase in Building Heights
- 9-608 Provisions for Enlargement of Certain Nonconforming Uses
- 9-609 Provisions for Parking in R Districts
- 9-610 Provisions for Waiving Minimum Lot Size Requirements
- 9-611 Provisions for Approving Drive-In Financial Institutions, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Station/Mini-Marts in a Highway Corridor Overlay District
- 9-612 Provisions for Waiving Open Space Requirements
- 9-613 Provisions for Waiving Minimum Lot Width, Minimum Yard and Privacy Yard Requirements for Single Family Attached Dwelling Units
- 9-614 Provisions for Approval of Nonconforming Condominium and Cooperative Conversions
- 9-615 Provisions for a Cluster Subdivision
- 9-616 Driveways for Uses in a C or I District
- 9-617 Density Credit for Major Utility Easements
- 9-618 Increase in FAR
- 9-619 Provisions for Minor Modifications to a Nonconformity
- 9-620 Waiver of Certain Sign Regulations
- 9-621 Provisions for Outdoor Storage in Association with Warehousing Establishments in the Sully Historic Overlay District

## FAIRFAX COUNTY ZONING ORDINANCE

- 9-622 Provisions for Modifications/Waivers/Increases and Uses in a Commercial Revitalization District
- 9-623 Reduction of Yard Requirements for the Reconstruction of Certain Single Family Detached Dwellings that are Destroyed by Casualty
- 9-624 Additional Standards for Containment Structures Associated with Outdoor Recreation/Sports Facility Playing Fields/Courts and Golf Courses
- 9-625 Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses
- 9-626 Provisions for Modifying Shape Factor Limitations
- 9-627 Provisions for Modification of Grade for Single Family Detached Dwellings
- 9-628 Provisions for Increase in Parking in the PTC District
- 9-629 Provisions for Increase in FAR in the PTC District
- 9-630 Provisions for the Expansion of an Existing or Development of a New Farm Winery, Brewery or 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

**PART 7** (Deleted by Amendment #87-147, adopted July 27, 1987)

## ARTICLE 9

### SPECIAL EXCEPTIONS

#### **PART 0 9-000 GENERAL PROVISIONS**

##### **9-001 Purpose and Intent**

There are certain uses, like those regulated by special permit, which by their nature or design can have an undue impact upon or be incompatible with other uses of land. In addition, there are times when standards and regulations specified for certain uses allowed within a given district should be allowed to be modified, within limitations, in the interest of sound development. These uses or modifications as described may be allowed to locate within given designated zoning districts under the controls, limitations, and regulations of a special exception.

The Board of Supervisors may approve a special exception under the provisions of this Article when it is concluded that the proposed use complies with all specified standards and that such use will be compatible with existing or planned development in the general area. In addition, in approving a special exception, the Board may stipulate such conditions and restrictions, including but not limited to those specifically contained herein, to ensure that the use will be compatible with the neighborhood in which it is proposed to be located. Where such cannot be accomplished or it is determined that the use is not in accordance with all applicable standards of this Ordinance, the Board shall deny the special exception.

##### **9-002 Authorization**

In consideration of an application filed with the Zoning Administrator, the Board may authorize the establishment of those special exception uses that are expressly listed in a particular zoning district; provided, however, that no special exception shall be required for a use specifically permitted in a given district, notwithstanding that such use may also be included in a use category available by special exception.

##### **9-003 Limits on Authority**

The Board shall have no authority to waive any of the regulations or standards prescribed for any use or purpose for which a special exception is required, however, the Board may modify the additional standards for a special exception use where deemed necessary as long as the resultant development will not adversely affect the use or development of adjacent properties.

##### **9-004 Status of Special Exception Uses**

1. Once a special exception has been approved, such use may only be established in accordance with such approval and any site plan, subdivision plat, Building Permit, Residential or Non-Residential Use Permit hereafter submitted for the development or use of the property in accordance with the special exception shall be in substantial conformance with the approved special exception, and no development or use shall be approved by any County official in the absence of such conformance.
2. Once established, the use shall be conducted in substantial conformance with any conditions or restrictions imposed by the Board and all other requirements of this Ordinance. Except as may be permitted under Paragraphs 3 and 4 below, no use shall be

## FAIRFAX COUNTY ZONING ORDINANCE

enlarged, expanded, increased in intensity or relocated and no condition of the special exception shall be modified unless an application is made and approved for an amendment to the special exception in accordance with Sect. 014 below or a new special exception is approved.

3. Notwithstanding the above, any modification to an approved and currently valid special exception to provide an accessibility improvement shall be permitted and shall not require approval of an amendment to the special exception or a new special exception.
4. Minor modifications to an approved special exception may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved special exception and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(7) or 4B(7) below.
  - A. For approved special exceptions for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education the modifications shall, in no event:
    - (1) Change the amount of land area or permit a more intensive use which shall include but not be limited to an expansion of the hours of operation or an increase in number of seats, dwellings, students or employees from that approved pursuant to the special exception; or
    - (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A(7) below; or
    - (3) Permit uses other than those approved pursuant to the special exception, except that accessory uses in accordance with this paragraph may be permitted; or
    - (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
    - (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
    - (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
    - (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to

## SPECIAL EXCEPTIONS

buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:

- (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved special exception plat is less than 50,000 square feet; or
  - (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the approved special exception plat is 50,000 square feet or more; or
  - (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved special exception plat is 10,000 square feet or less; and
  - (d) the maximum permitted FAR for the zoning district in which located; or
  - (e) the maximum density permitted by the approved special exception.
- B. For approved special exceptions for places of worship and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:
- (1) Permit an expansion of the hours of operation from that approved pursuant to the special exception; or
  - (2) Permit an increase in the number of seats, parking spaces or students, if applicable, which exceeds more than ten (10) percent of the amount approved pursuant to the special exception; or
  - (3) Permit uses other than those approved pursuant to the special exception, except that accessory uses in accordance with this paragraph may be permitted; or
  - (4) Reduce the effectiveness of approved transitional screening, buffering, and landscaping or open space; or
  - (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
  - (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or

FAIRFAX COUNTY ZONING ORDINANCE

- (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that:
  - (a) the sum total of all such structures or additions shall not exceed the greater of 500 square feet of gross floor area, or five (5) percent of the approved gross floor area up to a maximum of 2500 square feet of gross floor area; and
  - (b) the maximum permitted FAR for the zoning district shall not be exceeded.
- C. For all approved special exception uses, any request for an addition shall require the provision of written notice by the requester in accordance with the following:
  - (1) the notice shall 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 shall be sent to the last known address of the owners, as shown in the real estate assessment files of the Department of Tax Administration, of all property abutting and across the street from the site, or portion thereof, which is the subject of the request, and shall be delivered by hand or sent by certified mail, return receipt requested.

The request for an addition submitted to the Zoning Administrator shall include: an affidavit from the requester affirming that the required notice has been provided in accordance with the above; the date that the notice was delivered or sent; the names and addresses of all persons notified; and the Tax Map references for all parcels notified. No request for an addition shall be considered by the Zoning Administrator unless the affidavit has been provided in accordance with this paragraph.

When it is determined by the Zoning Administrator that a modification is not in substantial conformance with the approved special exception, such modification shall require the approval of an amendment to the special exception in accordance with Sect. 014 below or a new special exception.

**9-005 Establishment of Categories**

For purposes of applying specific conditions upon certain types of special exception uses, and for allowing special exception uses to be established only in those zoning districts which are appropriate areas for such uses, all special exception uses are divided into categories of associated or related uses, as hereinafter set forth in this Article 9.

**9-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:



## SPECIAL EXCEPTIONS

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.

### **9-007 Conditions and Restrictions**

In addition to those standards set forth in this Article, the Board, in approving a special exception, may impose such conditions and restrictions upon the proposed use as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to protect the viability of the implementation of the adopted comprehensive plan. Such conditions or restrictions may include but need not be limited to a time limitation on the length of the exception in accordance with the provisions of Sect. 008 below and may require the posting of a guarantee or bond in a reasonable amount by the applicant.

### **9-008 Time Limitations, Extensions, Renewals**

In addition to the time limits set forth in this Article, the Board may require, as a condition of the approval of any special exception, that it shall be approved for a specified period of time; that it may be subsequently extended for a designated period by the Zoning Administrator; or that it

## FAIRFAX COUNTY ZONING ORDINANCE

may be periodically renewed by the Board. The procedure of granting an extension or renewal shall be as presented in Sections 012 and 014 below.

Unless otherwise stipulated by the Board, a specified period of time shall commence on the date of approval of a special exception.

### **9-009 Application for a Special Exception**

1. An application for a special exception may be made by any property owner, owner of an easement, possessor of the right of entry under the power of eminent domain, lessee, contract purchaser, official, department, board or bureau of any government or their agent, or condominium in accordance with the provisions of Sect. 2-518.
2. The application shall be filed with the Zoning Administrator on forms provided by the County. The application shall be complete, and shall be accompanied by those submission requirements set forth in Sect. 011 below, such specified information as may be required for a given category or use, and such additional information as may be required by the Board. The application shall be accompanied by a fee as provided for in Sect. 18-106. No application shall be deemed to be on file with the County until all required submissions have been presented. All applications shall be subject to the provisions of Part 1 of Article 18.
3. The Zoning Administrator shall transmit a copy of every special exception to the Planning Commission. The Planning Commission shall hold a public hearing on each application and shall make recommendations on each application setting forth any conditions or restrictions for consideration by the Board.
4. In addition, the Zoning Administrator shall forward a copy of the application to any other review body as may be specified for a particular use.
5. Every application shall be scheduled for public hearing in a timely manner, and shall be heard in the order in which accepted unless otherwise specified by the Board. All public hearings shall be conducted in accordance with the provisions of Sect. 18-109.

### **9-010 (Deleted by Amendment #93-248, Adopted July 26, 1993)**

### **9-011 Submission Requirements**

All applications for special exception uses shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Light Public Utility Uses, in Part 2 for all Heavy Public Utility Uses, in Part 3 for all Quasi-Public Uses, in Part 4 for all Transportation Facilities, in Part 5 for certain Commercial and Industrial Uses of Special Impact, in Part 6 for a Cluster Subdivision and Modifications/Waivers/Increases and Uses in a Commercial Revitalization District, and Part 9 of Article 2 for Uses in a Floodplain. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below or the archaeological submission requirement of Par. 9 below, if it is determined that the requirement is clearly not necessary for the review of the application.

## SPECIAL EXCEPTIONS

1. Four (4) copies of an application on forms provided by the County, completed and signed by the applicant.
2. Twenty-three (23) copies of a plat, including any resubmissions of the plat and supporting graphics, drawn to designated scale of not less than one inch equals fifty feet (1" = 50'), certified by a professional engineer, land surveyor, architect or landscape architect licensed by the State of Virginia, presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. If the proposal cannot be accommodated on one 24" x 36" sheet at a scale of 1" = 50', a scale not less than 1" = 100' may be used. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plat shall contain the following information:
  - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
  - B. Total area of the property and of each zoning district in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. Location, dimensions and maximum height in feet, including penthouses, of all existing and proposed structures, and if known, the location, dimensions and lighting of all signs, and the construction date(s) of all existing structures and an indication whether they will be retained or demolished.
  - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, transitional yards, and the distances from all existing and proposed structures to lot lines.
  - F. Public right(s)-of-way, indicating names, route numbers and width, any required and/or 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.
  - G. Proposed means of ingress and egress to the property from a public street(s).
  - H. Location of parking spaces, existing and/or proposed, 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 Article 11.
  - I. Location of well and/or septic field, or indication that the property is served by public water and/or sewer. Where applicable, a statement from the Health Department that available facilities are adequate for the proposed use.
  - J. Approximate location, estimated size of 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. In addition, a preliminary stormwater management plan that

## FAIRFAX COUNTY ZONING ORDINANCE

includes information about the adequacy of downstream drainage, including the sufficiency of capacity of any storm drainage pipes and other conveyances into which stormwater runoff will be conveyed. When there is 2500 square feet or more of land disturbing activity on the entire application property, in addition to the above, the preliminary stormwater management plan shall include:

- (1) A graphic depicting:
  - (a) 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.
  - (b) The approximate on-site and off-site areas to be served by each stormwater management facility, along with the acreage draining to each facility.
  - (c) A preliminary layout of all on-site drainage channels, outfalls and pipes, including inlet and outlet pipes within the stormwater management facility.
  - (d) 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.
  - (e) Proposed landscaping and tree preservation areas in and near the stormwater management facility.
  - (f) 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 and/or stream bank stabilization measures.
- (2) A preliminary stormwater management narrative setting forth the following:
  - (a) Description of how the detention and best management practice requirements will be met.
  - (b) The estimated area and volume of storage of the stormwater management facility to meet stormwater detention and best management practice requirements.
  - (c) 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 shall 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

## SPECIAL EXCEPTIONS

of that portion of the property that drains to it or to a floodplain that drains an area of at least 1 square mile, whichever comes first.

- (d) Description of how the adequate outfall requirements of the Public Facilities Manual will be satisfied.
  - K. 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.
  - L. Existing topography with a maximum contour interval of two (2) feet and a statement indicating whether it is air survey or field run.
  - M. A plan showing limits of clearing, existing vegetation, and proposed landscaping and screening in accordance with the provisions of Article 13, to include existing vegetation to be preserved, and when there is 2500 square feet or more of land disturbing activity, an existing vegetation map.
  - N. 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, and the approximate delineation of any environmental quality corridor as defined in the adopted 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.
  - O. Where applicable, seating capacity, usable outdoor recreation area, emergency access, bicycle parking, fencing, outside lighting, and loudspeakers.
  - P. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
  - Q. Location of all trails required by the adopted comprehensive plan.
  - R. Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.
  - S. Seal and signature of professional person certifying the plat.
3. One (1) copy of the current Fairfax County Zoning Section Sheet(s) at a scale of one inch equals five hundred feet (1" = 500'), covering the area within at least a 500 foot radius of the proposed use, showing the existing zoning classification for all land appearing on the map. If more than one (1) Zoning Section Sheet is required to cover the area, such sheets shall be attached so as to create an intelligible map. The boundaries of the subject site shall be outlined in red thereon.
  4. Photographs of the application property and abutting properties showing existing structures, terrain and vegetation as viewed from all lot lines and street lines of the

## FAIRFAX COUNTY ZONING ORDINANCE

application property. The photographs shall be clearly dated and labeled as to the location and direction from which the photographs were taken. The use of digital photography is preferred in which case a disk containing those digital photographs shall also be provided.

5. For all applications proposing residential development, five (5) copies of a map identifying classification of soil types at a scale of one inch equals five hundred feet (1" = 500'), covering the area within at least a 500 foot radius of the proposed use, showing the existing zoning classification for all land appearing on the map.
6. An affidavit, as presented on an affidavit form approved by the Board of Supervisors and provided by the County, completed, signed by the applicant or the applicant's authorized agent and notarized, including a statement indicating whether or not a member of the Board or Planning Commission or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership in stock in a corporation owning such land, or through an interest in a partnership owning such land. If the applicant's agent completes the application or affidavit on the applicant's behalf, a certified statement from the applicant must be submitted showing the agent's authorization to act in such capacity.

Prior to each public hearing on the application, the applicant shall reaffirm the affidavit required by this Paragraph in accordance with the reaffirmation procedure outlined on the affidavit form approved by the Board of Supervisors and provided by the County.

Additionally, for developments which are subject to the provisions of Part 8 of Article 2, the owner and or/applicant shall submit an affidavit which shall include:

- A. The names of the owners of each parcel of the sites or portions thereof, as such terms are defined in Par. 1 of Sect. 2-802; and
  - 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.
7. A written statement from the applicant describing the proposed use, giving all pertinent data, including specifically:
    - A. Type of operation(s).
    - 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 such trips by mode and time of day.
    - F. Vicinity or general area to be served by the use.
    - G. Description of building facade and architecture of proposed new building or additions.

## SPECIAL EXCEPTIONS

- 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/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, and/or disposed of on site and the size and contents of any existing or proposed storage tanks or containers.
  - I. A statement that the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modification.
- 8. A statement which confirms the ownership of the subject property, and the nature of the applicant's interest in same. If the applicant is not the owner of the property involved in the application, evidence must be submitted showing that the applicant will have the right to use the property as proposed. For a condominium, the provisions of Sect. 2-518 shall be applicable.
  - 9. Where applicable, any information as may be required by the provisions of Article 7, including the submission of the Archaeological Survey Data Form and a Phase I Archaeological Survey to the Fairfax County Park Authority as may be required pursuant to Sect. 7-210 for applications resulting in 2500 square feet or more of land disturbing activity and where the application property is located wholly or partially within or contiguous to a Historic Overlay District.
  - 10. An application fee as provided for in Sect. 18-106.

### **9-012 Extension of a Special Exception**

- 1. A request for an extension of a special exception shall be filed in writing with the Zoning Administrator a minimum of thirty (30) days before the expiration date of the exception unless a lesser time is approved by the Zoning Administrator for good cause shown. The exception shall remain valid until the request for extension is acted upon by the Zoning Administrator.
  - Failure to request the extension in a timely manner shall cause the special exception to expire without notice on the expiration date.
- 2. The Zoning Administrator shall inspect the special exception use; review the applicant's record of compliance with those conditions and restrictions previously imposed by the Board; and make a determination on whether the special exception use still satisfies the provisions of this Ordinance.
- 3. Upon a favorable finding, the Zoning Administrator shall approve an extension of the special exception for the period of time that may be specified for a particular category or use or that may have been specified by the Board.

FAIRFAX COUNTY ZONING ORDINANCE

4. If it is determined that the use is not in compliance with all conditions and restrictions previously imposed by the Board, the Zoning Administrator shall, depending on the nature of the noncompliance, either deny the request for extension or require the remedy of any violation within a specified time. If the request for extension is denied or the applicant fails to correct the violation within the time specified, the special exception shall expire. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use.
5. If it is determined that the use is no longer allowed as a special exception use in the zoning district in which located, the Zoning Administrator shall deny the request and the special exception shall expire.

If the use is not in compliance with any other applicable provisions of this Ordinance, the Zoning Administrator shall deny the request and notify the applicant by certified mail, return receipt requested. Within thirty (30) days of receipt, in order to continue the use, the applicant shall file an amendment application for renewal in accordance with the provisions of Sect. 014 below. Failure to file an application in a timely manner shall cause the special exception to expire.

**9-013**            **(Deleted by Amendment #95-277, Adopted July 31, 1995, Effective August 1, 1995 at 12:01 AM)**

**9-014**            **Amendment of a Special Exception**

1. Except as provided for in Paragraphs 3 and 4 of Sect. 004 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. An amendment application may be filed on a portion of the property subject to a currently valid special exception, upon a determination by the Zoning Administrator that the amendment (a) would not adversely affect the use of the property subject to the special exception but not incorporated into the amendment application, (b) 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 (c) would not increase the overall approved density/intensity for the development. Previously approved special exception conditions which are not subject to the amendment request shall remain in full force and effect. Except as qualified below, the procedure for an amendment of a special exception shall be the same as specified in this Part for the approval of the original exception, to include the imposition of conditions and restrictions, except the Zoning Administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.

An application to renew a special exception use to allow a new period of time for the operation of the use shall be filed prior to the expiration date of the exception and the exception shall remain valid until the application is acted upon by the Board. However, the Board shall not approve a renewal application for a use which is no longer allowed as a special exception use in the zoning district in which located. Failure to apply for renewal in a timely manner shall cause the special exception to expire without notice on the expiration date.

In reviewing a renewal application, the Board shall review the applicant's record of compliance with those conditions and restrictions previously imposed and determine if the



## SPECIAL EXCEPTIONS

use still satisfies the provisions of this Ordinance. Upon a favorable finding, the Board may approve the application. If it is determined that the use is not in accordance with all applicable provisions of this Ordinance, the Board may, depending on the nature of the noncompliance, deny the application or for an application solely requesting a new period of time, may impose such conditions and restrictions to ensure that the use will be harmonious with and will not adversely affect the use or development of neighboring properties. No alteration of a structure shall be required if such structure was in conformance with the provisions of this Ordinance, the Building Code and other applicable regulations at the time the special exception was first approved, unless the Board deems such alteration necessary to protect the public health, safety or welfare.

2. For an existing and currently valid special exception use which use is no longer allowed by special exception or special permit in the zoning district in which located, the Board, upon receipt of an application, may review and approve an amendment to said exception, provided such amendment does not permit the use to be enlarged, expanded, increased in intensity, relocated or continued beyond any time limitation specified in the existing exception.

### **9-015 Expiration of a Special Exception**

1. Except for Category 6 waivers, whenever a special exception is approved by the Board, the use authorized thereby shall be established or any construction authorized shall be commenced and diligently prosecuted within such time as the Board may have specified, or, if no such time has been specified, then within thirty (30) months from the approval date of such exception, unless additional time is approved by the Board in accordance with Par. 2 below.
2. The Board may approve a request for additional time, but only in accordance with all of the following:
  - A. A request is filed in writing with the Zoning Administrator prior to the expiration date. Such request shall specify the basis for and the amount of additional time requested and shall include an explanation of why the use has not been established or construction commenced and diligently prosecuted in accordance with the time specified in the approval of the special exception. Such explanation may include the occurrence of conditions unforeseen at the time of special exception approval.
  - B. It is determined by the Board that the use is in accordance with all applicable provisions of the Zoning Ordinance, unless the Board has specifically provided that an amendment adopted subsequent to 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.
3. If a request is timely filed, the special exception shall remain valid until the request for additional time is acted upon by the Board; however, during this period, the use shall not be established nor shall construction commence.
4. If the use or construction has not commenced in accordance with the above provisions, the special exception shall automatically expire without notice.

FAIRFAX COUNTY ZONING ORDINANCE

**9-016 Termination or Revocation of a Special Exception**

1. Unless a time limit is specified for a special exception, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of two (2) years or more, the special exception shall automatically terminate without notice. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use.
  
2. A special exception shall be revocable by the Board at any time because of the failure of the owner or operator of the use covered by the special exception to comply with the terms or conditions of the special exception.  
Before revoking any special exception, the Board shall conduct a public hearing and provide notice in accordance with the provisions of Sect. 18-110. The Board or its agent shall give the holder of the special exception at least twenty (20) days advance written notice of the hearing date either by certified mail, return receipt requested, or by hand delivery, and the notice shall contain:
  - A. The grounds for the proposed revocation of the special exception; and
  - B. The date, time and place of the public hearing.

The above provisions shall remain applicable to a use covered by a special exception which use has, subsequent to the approval of the special exception, 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 of Sect. 8-016 shall apply.

3. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of the provisions of this Ordinance.

## SPECIAL EXCEPTIONS

### **PART 1 9-100 CATEGORY 1 LIGHT PUBLIC UTILITY USES**

#### **9-101 Category 1 Special Exception Uses**

1. Electric substations and distribution centers including transformer stations.
2. 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.
3. Radio and television broadcasting tower facilities, microwave facilities and satellite earth stations.
4. Sewerage pumping facilities.
5. 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.
6. 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.  
For the purpose of this Part, utility transmission facilities shall not include:
  - A. Ordinary distribution facilities for delivery of such utilities to customers where such facilities are located in the public right-of-way or are located in easements, or strips of property owned in fee simple not more than twenty-five (25) feet in width; or
  - B. Transmission lines approved by the State Corporation Commission pursuant to Sect. 56-46.1 of the Code of Virginia, as amended.
7. Water storage, control, and pumping facilities.
8. Mobile and land based telecommunication facilities.

#### **9-102 Districts in Which Category 1 Uses May be Located**

1. Category 1 uses may be permitted by right in the following districts:
  - R-12, R-16, R-20, R-30 Districts: Limited to use 8
  - All P Districts: All uses when represented on an approved development plan or as permitted by Sect. 2-514
  - All C Districts: Limited to uses 5 and 8
  - I-1, I-2 Districts: Limited to uses 5 and 8
  - I-3, I-4, I-5, I-6 Districts: Limited to uses 1, 2, 4, 5, 6, 7 and 8

## FAIRFAX COUNTY ZONING ORDINANCE

2. Category 1 uses may be allowed by special exception in the following districts:

R-A District: Limited to uses 5, 6, 7 and 8

All other R Districts: All uses

All C Districts: All uses

I-I District: Limited to use 4

I-1, I-2 Districts: All uses

I-3, I-4, I-5, I-6 Districts: Limited to uses 3 and 8

### **9-103 Additional Submission Requirements**

In addition to the submission requirements set forth in Sect. 011 above, all applications for Category 1 uses shall be accompanied by the following items:

1. Four (4) 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.
2. Four (4) copies of a statement, prepared by a certified engineer, giving the exact technical reasons for selecting the particular site as the location for the proposed facility and certifying that the proposed use will meet the performance standards of the district in which located.

### **9-104 Standards for all Category 1 Uses**

In addition to the general standards set forth in Sect. 006 above, all Category 1 special exception uses shall satisfy the following standards:

1. Category 1 special exception uses shall not have to comply with the lot size requirements or the bulk regulations set forth for the zoning district in which located.
2. No land or building in any district other than the I-5 and I-6 District shall be used for the storage of materials or equipment, or 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. If the proposed location of a Category 1 use is in an R district, there shall be a finding that there is no alternative site available for such use in a C or I district within 500 feet of the proposed location; except that in the case of electric transformer stations and telecommunication central offices, there shall be a finding that there is no alternative site available in a C or I district within a distance of one (1) mile, unless there is a substantial showing that it is impossible for satisfactory service to be rendered from an available location in such C or I district.
4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

## SPECIAL EXCEPTIONS

### **9-105 Additional Standards for Mobile and Land Based Telecommunication Facilities**

1. Except for antennas completely enclosed within a structure, all antennas and their supporting mounts shall be of a material or color that closely matches and blends with the structure on which it is mounted.
2. Except for a flag mounted on a flagpole as permitted under the provisions of Par. 2 of Sect. 12-203, no commercial advertising or signs shall be allowed on any monopole, tower, antenna, antenna support structure, or related equipment cabinet or structure.
3. If any additions, changes or modifications are to be made to monopoles or towers, the Director shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modifications conforms to structural wind load and all other requirements of the Virginia Uniform Statewide Building Code.
4. No signals, lights or illumination shall be permitted on an antenna unless required by the Federal Communications Commission, the Federal Aviation Administration or the County, provided, however, that on all antenna structures which exceed 100 feet in height, a steady red marker light shall be installed and operated at all times, unless the Zoning Administrator waives the red marker light requirement upon a determination by the Police Department that such marker light is not necessary for flight safety requirements for police and emergency helicopter operations. All such lights shall be shielded to prevent the downward transmission of light.
5. All antennas and related equipment cabinets or structures shall be removed within 120 days after such antennas or related equipment cabinets or structures are no longer in use.

FAIRFAX COUNTY ZONING ORDINANCE

## SPECIAL EXCEPTIONS

### **PART 2 9-200 CATEGORY 2 HEAVY PUBLIC UTILITY USES**

#### **9-201 Category 2 Special Exception Uses**

1. Electrical generating plants and facilities.
2. Sewage treatment and disposal facilities.
3. Solid waste disposal and treatment facilities including incinerators and landfills.
4. Storage facilities for natural gas, oil and other petroleum products.
5. Supply yards for any public utility.
6. Water purification facilities.
7. Local office space and maintenance facilities incidental to any use set forth above.

#### **9-202 Districts in Which Category 2 Uses May be Located**

1. Category 2 uses may be permitted by right in the following districts:  
  
I-6 District: Limited to uses 1, 2, 3, 5, 6 and 7
2. Category 2 uses may be allowed by special exception in the following districts:  
  
R-C District: Limited to regional sewage treatment and disposal facilities  
R-E, R-1, R-2 Districts: Limited to uses 1, landfills, and 6  
  
PRC District: Limited to use 2  
  
I-I, I-1 Districts: Limited to use 2  
I-2, I-3, I-4 Districts: Limited to uses 1, 2, 3, 6 and 7  
I-5 District: Limited to uses 1, 2, 3, 5, 6 and 7  
I-6 District: Limited to use 4

#### **9-203 Additional Submission Requirements**

In addition to the submission requirements set forth in Sect. 011 above, all applications for Category 2 uses shall be accompanied by the following items:

1. Four (4) 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.
2. Four (4) copies of a statement, prepared by a certified engineer, giving the exact technical reasons for selecting the particular site as the location of the proposed facility and certifying that the proposed use will meet the performance standards of the district in which located.

## FAIRFAX COUNTY ZONING ORDINANCE

3. In addition, an application for a landfill shall be accompanied by those submission requirements set forth in Sect. 8-103, as deemed applicable by the Zoning Administrator, and a list of the types of debris and materials proposed to be deposited on the site.

### **9-204 Standards for all Category 2 Uses**

In addition to the general standards set forth in Sect. 006 above, all Category 2 special exception uses shall satisfy the following standards:

1. All uses shall comply with the lot size requirements of the zoning district in which located.
2. All buildings and structures, except below-ground facilities, shall comply with the bulk regulations of the zoning district in which located.
3. No land or building in any district other than the I-5 or I-6 District shall be used for the storage of materials or equipment, or 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.
4. It shall be conclusively established that the proposed location of the special exception use shall be necessary for the rendering of efficient utility service to consumers within the immediate area of the location.
5. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

### **9-205 Additional Standards for Landfills**

The following standards shall apply to all landfills that are not owned and/or operated by a public agency.

1. No special exception for a landfill shall be valid unless the Virginia Department of Environmental Quality approves the site for landfill use.
2. Every special exception for a landfill shall be deemed to incorporate as specific conditions all other provisions of law related to such use.
3. No special exception shall be granted unless the applicant demonstrates conclusively through comprehensive soil and groundwater investigations and subsequent design methods that no unacceptable pollutants will be introduced into surface or groundwater or otherwise cause a potential health hazard.
4. Every landfill shall be subject to such additional regulations as may be adopted by the Board of Supervisors. 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 adopted comprehensive plan.



## SPECIAL EXCEPTIONS

5. The Board shall establish the amount, per acre and total, of surety and bond adequate to guarantee the planned restoration.
6. The Director shall make an annual inspection of each landfill and shall make a report of the findings to the Board. Such report shall include the following:
  - A. A statement of whether or not the operation is in compliance with all of the requirements of the special exception.
  - B. A statement of changes which have occurred in the vicinity since the granting of the application, such as new development in the area.
  - C. A statement on the condition of roads in the area which might indicate the spillage of materials from trucks.
7. 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 such use. In such event, the Director shall transmit the findings to the Board which shall hold a public hearing, following notice in accordance with the provisions of Sect. 18-110.
8. Upon completion of operations, the land shall 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 adopted comprehensive plan. Further, sufficient drainage improvements shall be provided so as to prevent water pockets or erosion, and such improvements shall be designed in accordance with plans and specifications approved by the Director in conformance with the provisions of the Public Facilities Manual. Where restoration has not been accomplished, or where the restoration done was not in conformance with the approved restoration plan, the Director shall take appropriate action, including demand for performance or payment by the surety on the bond.
9. No improvements shall be constructed in or upon any landfill for a period of twenty (20) years after the termination of the landfill operation without the approval of the Board of Supervisors. No such approval shall be granted unless the applicant demonstrates that:
  - A. Any residual post-construction settlement will not affect the appearance or structural integrity of the proposed improvement.
  - B. 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.

### 9-206

#### **Additional Standards for Sewage Facilities and Water Treatment Facilities**

No sewage facility or water treatment facility shall be established except on approval by the Health Department, the Virginia Department of Environmental Quality, and other appropriate agencies of the County and the State having jurisdiction over the location, design, operation and

## FAIRFAX COUNTY ZONING ORDINANCE

maintenance of such a facility. The determinations by such agencies as to the technical aspects of the proposed facility shall be conclusive with respect to this Ordinance.

## SPECIAL EXCEPTIONS

### **PART 3 9-300 CATEGORY 3 QUASI-PUBLIC USES**

#### **9-301 Category 3 Special Exception Uses**

1. Colleges, universities.
2. Conference centers and retreat houses, operated by a religious or nonprofit organization.
3. Cultural centers, museums and similar facilities.
4. Independent living facilities.
5. Congregate living facilities.
6. Medical care facilities.
7. Private clubs and public benefit associations.
8. Quasi-public parks, playgrounds, athletic fields and related facilities.
9. Sports arenas, stadiums as a principal use.
10. Child care centers and nursery schools.
11. Private schools of general education.
12. Private schools of special education.
13. Alternate uses of public facilities.
14. Dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls providing off-campus residence for more than four (4) unrelated persons who are students, faculty members, or otherwise affiliated with an institution of higher learning.
15. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education.

#### **9-302 Districts in Which Category 3 Uses May be Located**

1. Category 3 uses may be permitted by right in the following districts:

PDH, PDC, PTC Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15 when represented on an approved development plan

PRC District: All uses when represented on an approved development plan

PRM District: Limited to uses 1, 3, 4, 5, 6, 7, 10, 11, 12 and 15 when represented on an approved development plan

C-1, C-2 Districts: Limited to quasi-public athletic fields, uses 10, 11, 12 and 15

C-3 District: Limited to uses 3, quasi-public athletic fields, 10, 11, 12 and 15

## FAIRFAX COUNTY ZONING ORDINANCE

C-4 District: Limited to uses 1, 3, quasi-public athletic fields, 10, 11, 12 and 15  
C-5, C-6, C-7, C-8 Districts: Limited to uses 1, 3, 7, quasi-public athletic fields, 11 and 12

C-9 District: Limited to quasi-public athletic fields, uses 11 and 12

I-I District: Limited to uses 10 and 11

I-1, I-2, I-3, I-4, I-5 Districts: Limited to quasi-public athletic fields, uses 10, 11 and 12

I-6 District: Limited to quasi-public athletic fields, uses 10 and 11

2. Category 3 uses may be allowed by special exception in the following districts:

R-A District: Limited to uses 8, nursery schools, 11 and 13

R-P District: Limited to uses 8, nursery schools, 11, 13 and 15

R-C District: Limited to uses 3, 5, private clubs, 8, nursery schools, 11, 13, 14 and 15

R-E, R-1 Districts: Limited to uses 1, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15

R-2, R-3, R-4, R-5, R-8 Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15

R-12, R-16, R-20, R-30, R-MHP Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15

PRM, PTC Districts: Limited to use 9

C-1, C-2 Districts: Limited to uses 1, 2, 3, 4, 5, 6, 7, 8, 13 and 14

C-3 District: Limited to uses 1, 2, 4, 5, 6, 7, 8, 13 and 14

C-4 District: Limited to uses 2, 4, 5, 6, 7, 8, 13 and 14

C-5, C-6 Districts: Limited to uses 2, 6, 8, 10, 13, 14 and 15

C-7, C-8 Districts: Limited to uses 2, 6, 8, 9, 10, 13, 14 and 15

C-9 District: Limited to uses 1, 3, 6, 7, 8, 9, 10, 13 and 15

I-I District: Limited to uses 10, 11 and 15

I-1 District: Limited to uses 1, 2, 3, 6, 7, 8, 10, 11, 13, 14 and 15

I-2, I-3 Districts: Limited to uses 1, 2, 3, 6, 7, 8, 9, 10, 11, 13, 14 and 15

I-4 District: Limited to uses 1, 2, 3, 6, 7, 8, 9, 10, 11, 13 and 15

I-5, I-6 Districts: Limited to uses 6, 7, 8, 9, 10, 11, 13 and 15

### 9-303

#### **Additional Submission Requirements**

In addition to the submission requirements set forth in Sect. 011 above, all applications for Category 3 uses shall be accompanied by the following items:

1. For public uses, a certified copy of the law, ordinance, resolution or other official act adopted by the governmental entity proposing the use, authorizing the establishment of the proposed use at the proposed location, shall be provided.
2. For public uses, a statement by an official or officer of the governmental body shall be presented giving the exact reasons for selecting the particular site as the location for the proposed facility.

## SPECIAL EXCEPTIONS

3. All applications for medical care facilities shall be filed at the same time as the application for a State Medical Facilities Certificate of Public Need. The application for the special exception shall be referred to the Health Care Advisory Board for a recommendation and report, which shall be developed in accordance with the provisions of Par. 1 and Par. 2 of Sect. 308 below and furnished to the Planning Commission and Board of Supervisors.

### **9-304 Standards for all Category 3 Uses**

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

1. For public uses, it shall be concluded that the proposed location of the special exception use is necessary for the rendering of efficient governmental services to residents of properties within the general area of the location.
2. Except as may be qualified in the following Sections, all uses shall comply with the lot size requirements of the zoning district in which located.
3. Except as may be qualified in the following Sections, all uses shall comply with the bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Category 3 use may be increased.
4. All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan as may be required by Part 9 of Article 14.
5. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.

### **9-305 Additional Standards for Conference Centers and Retreat Houses**

1. No building shall be located closer than 45 feet to any street line or closer than 100 feet to any lot line which abuts an R-A through R-4 District.

### **9-306 Additional Standards for Independent Living Facilities**

1. Housing and general care shall be provided only for persons who are sixty-two (62) years of age or over, couples where either the husband or wife is sixty-two (62) years of age or over and/or persons with handicaps (disabilities), as defined in the Federal Fair Housing Act Amendments of 1988, who are eighteen (18) years of age or older and with a spouse, if any. In addition, any dwelling unit within the facility may include a live-in aide. 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, 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.

An independent living facility may also provide for a resident care provider(s), subject to the provisions of this Section. A resident care provider is any person who lives in a

## FAIRFAX COUNTY ZONING ORDINANCE

separate dwelling unit within the independent living facility, who provides services that are determined to be essential to the care and well-being of one or more elderly or disabled persons living within the same facility and is further subject to the provisions of this Section.

The owner/manager of the facility shall be responsible for ensuring compliance with this occupancy criterion and shall, upon specific request by the Zoning Administrator, provide a copy of the document(s) used to verify occupancy qualifications of residents, live-in aides, and/or care providers.

2. The Board specifically shall find that applications under this Section adequately and satisfactorily take into account the needs of elderly persons and/or persons with handicaps (disabilities) for transportation, shopping, health, recreational and other similar such facilities and shall consider any specific facility maintenance and operating requirements to ensure that the facility meets the needs of the residents and is compatible with the neighborhood. The Board shall impose such reasonable conditions upon any exception granted as may be necessary or expedient to insure provisions of such facilities.
3. The Board shall find that such development shall be compatible with the surrounding neighborhood, shall not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use and shall not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
4. To assist in assessing whether the overall intensity of the proposed use is consistent with the scale of the surrounding neighborhood, 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 shall be shown on the plat submitted with the application.
5. No such use shall be established except on a parcel of land fronting on, and with direct access to, a collector street or major thoroughfare.
6. The density of such use shall be based upon the density of the land use recommendation set forth in the adopted comprehensive plan and as further modified by the corresponding multiplier and open space requirements set forth in the schedule provided below. Where the adopted comprehensive plan does not specify a density range in terms of dwelling units per acre, the density range shall be determined in accordance with Sect. 2-804. A minimum of fifteen (15) percent of the total number of dwelling units shall be Affordable Dwelling Units (ADUs). When 100 percent of the dwelling units are ADUs, the total number of units should be calculated using the high end of the residential density range as set forth in the adopted comprehensive plan plus the addition of a twenty (20) percent density bonus. All ADUs shall be administered in accordance with the provisions of Part 8 of Article 2. When not less than seventy (70) percent of the dwelling units are to be provided for those residents whose annual household income is not more than fifty (50) percent of the median income for the Washington Metropolitan Statistical Area (WMSA) and not more than thirty (30) percent of the dwelling units are provided for residents whose annual income is not more than seventy (70) percent of the median income for the WMSA, Part 8 of Article 2 shall not be applicable and the total number of units may be calculated using the high

## SPECIAL EXCEPTIONS

end of the residential density range, as set forth in the adopted comprehensive plan, plus the addition of a twenty-five (25) percent density bonus.

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

\*Excluding nursing facilities and assisted living facilities

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

FAIRFAX COUNTY ZONING ORDINANCE

In any event, the Board may modify such yard requirements to ensure compatibility with the surrounding neighborhood.

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

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



## SPECIAL EXCEPTIONS

2 or more bedrooms

100%

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

Initial lease terms shall be for not less than six (6) months and not more than one (1) year. Renewal terms may be on a month-to-month or other time basis, but shall not be longer than one (1) year for each renewal period.

- B. The owner or manager shall monitor the income level of tenants at the time of initiation and renewal of any lease term and shall establish that any live-in aide or resident care provider continues to meet the applicable requirements of this Section. The results of such monitoring shall be provided to the Zoning Administrator on an annual basis to assure on-going compliance with the tenancy and income limits. Such report shall include the dwelling unit number/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, such tenant shall vacate the unit at the end of the lease term in effect at the time of such over-qualification or within nine (9) months of such over-qualification, whichever time period is longer.
- C. Prior to the issuance of the first Residential Use Permit for any unit in the independent living facility, the owner shall 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.
- D. Such independent living facilities for low income residents shall not be subject to Part 8 of Article 2 of the Zoning Ordinance, the ADU Program, nor shall they be subject to the Board's policy for Workforce Dwelling Units.

### 9-307

#### **Additional Standards for Congregate Living Facilities**

1. Congregate living facilities located in a building, which but for its institutional use would be a single detached dwelling, shall comply with the applicable single family detached minimum yard requirements of the zoning district in which located. Such facilities located in any other structure shall be located no closer than 45 feet to any street line or closer than 100 feet to any lot line which abuts an R-1 through R-4 District.

### 9-308

#### **Additional Standards for Medical Care Facilities**

1. In its development of a recommendation and report as required by Par. 3 of Sect. 303 above, the Health Care Advisory Board shall, 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, provided that neither said Board nor the Board of

## FAIRFAX COUNTY ZONING ORDINANCE

Supervisors shall be bound by any such information or comment. The Health Care Advisory Board may hold such hearing or hearings as may seem appropriate, and may request of the Board of Supervisors such deferrals of Board action as may be reasonably necessary to accumulate information upon which to base a recommendation.

2. The Advisory Board, in making its recommendations, and the Board of Supervisors, in deciding on the issuance of such an exception, shall specifically consider whether or not:
  - A. There is a demonstrated need for the proposed facility, in the location, at the time, and in the configuration proposed. Such consideration shall take into account alternative facilities and/or services in existence or approved for construction, and the present and projected utilization of specialized treatment equipment available to persons proposed to be served by the applicant.
  - B. Any proposed specialized treatment or care facility has or can provide for a working relationship with a general hospital sufficiently close to ensure availability of a full range of diagnostic and treatment services.
  - 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 shall 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.
3. All such uses shall be designed to accommodate service vehicles with access to the building at a side or rear entrance.
4. No freestanding nursing facility shall be established except on a parcel of land fronting on, and with direct access to, an existing or planned collector or arterial street as defined in the adopted comprehensive plan.
5. No building shall be located closer than 45 feet to any street line or closer than 100 feet to any lot line which abuts an R-A through R-4 District.
6. In the R-E through R-5 Districts, no such use shall be located on a lot containing less than five (5) acres.
7. 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 in order to provide needed information to the public and that such signs will not have an adverse impact on adjacent properties. All proposed signs shall be subject to the maximum area and height limitations for hospital signs set forth in Article 12. All requests shall show the location, size, height and number of all signs, as well as the information to be displayed on the signs.

### 9-309

#### **Additional Standards for Child Care Centers and Nursery Schools**

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area shall be of such size that 100 square feet of usable

SPECIAL EXCEPTIONS

outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed.

For the purpose of this provision, usable outdoor recreation area shall be limited to:

- A. That area not covered by buildings or required off-street parking spaces.
  - B. That area outside the limits of the minimum required front yard, unless specifically approved by the Board in commercial and industrial districts only.
  - C. Only that area which is developable for active outdoor recreation purposes.
  - D. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.
2. All such uses shall be located so as to 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 use as determined by the Director. To assist in making this determination, each applicant, at the time of application, shall provide 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 facility. As a general guideline, the size of the use in relation to the appropriate street type should be as follows, subject to whatever modification and conditions the Board deems to be necessary or advisable:

Number of Persons	Street Type
1-75	Local
76-660	Collector
660 or more	Arterial

- 3. All such uses shall be located so as to permit the pick-up and delivery of all persons on the site.
- 4. Such use shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

**9-310 Additional Standards for Private Schools of General Education and Private Schools of Special Education**

- 1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area for a private school of general education shall be of such size that:
  - A. 200 square feet of usable outdoor recreation area shall be provided for each child in grades K-3 that may use the space at any one time, and
  - B. 430 square feet of usable outdoor recreation area shall be provided for each child in grades 4-12 that may use the space at any one time.

Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed.

## FAIRFAX COUNTY ZONING ORDINANCE

For the purpose of this provision, usable outdoor recreation area shall be limited to:

- A. That area not covered by buildings or required off-street parking spaces.
  - B. That area outside the limits of the required front yard.
  - C. Only that area which is developable for active outdoor recreation purposes.
  - D. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.
2. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area of a private school of special education shall be based upon a determination made by the Board; provided, however, that the proposed use conforms with the provisions set forth in Sect. 304 above.
  3. All private schools shall be subject to the provisions set forth in Par. 2 and 3 of Sect. 309 above. If applicable, such uses shall also be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.

### **9-311 Additional Standards for Alternate Use of Public Facilities**

The Board may approve a special exception to allow alternate uses of County public facilities which have space temporarily in excess of current needs, but only in accordance with the following conditions:

1. Proposed uses shall be limited to those uses allowed by special permit or special exception in the zoning district in which the public facility is located except as may be precluded by the additional standards for a particular use.
2. Uses located within existing structures shall not have to comply with the minimum lot size requirements or bulk regulations set forth for the zoning district in which located.
3. All uses shall comply with the off-street parking requirements of Article 11.
4. Signs as may be permitted in accordance with the provisions of Par. 2M of Sect. 12-208 shall be limited to one building-mounted and one freestanding sign for all alternate uses in a given public facility.
5. The Board shall determine that the proposed uses, if located in a residential district, shall not adversely impact the adjoining residential community in terms of traffic, vehicular access, parking, lighting, signs, and outside storage, length and intensity of outside activity, or general visual or noise impact. To this end, the additional standards set forth for particular proposed uses shall be used as a guide in considering all proposed uses.

### **9-312 Additional Standards for Dormitories, Fraternity/Sorority Houses, Rooming/Boarding Houses or Other Residence Halls**

## SPECIAL EXCEPTIONS

1. In addition to the submission requirements set forth in Sect. 011 above, the applicant shall provide a written statement addressing the plans and policies regulating the following uses and activities on the site:
  - 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 and/or advisors
  - G. Any other use or activity that may impact surrounding properties and the neighborhood
2. The Board shall determine that the proposed use together with all other similar uses within the area does not constitute sufficient change to modify or disrupt the predominant character of the neighborhood.
3. When such use is located in an R-C through R-4 District, the external appearance of the structure shall be in the form and character of a single family detached dwelling.
4. The Board may impose such conditions and restrictions as it may deem necessary to assure that the use will be compatible with and shall not adversely impact the adjacent area. Such conditions and restrictions may include time limitations as provided for in Sect. 008 above.
5. Any such use shall meet all applicable regulations for buildings, safety, health and sanitation.

### **9-313 Additional Standards for Cultural Centers, Museums and Similar Facilities**

1. The Board shall determine that the proposed use, if located in or adjacent to a residential district, will not adversely impact the adjoining residential area, especially in terms of traffic, vehicular access, parking, lighting, signs or any proposed outside activity. The Board shall impose such conditions and restrictions as deemed necessary to assure that the use will be compatible with the adjacent residential area.
2. Any proposed use located in the Water Supply Protection Overlay District shall provide water quality control measures in accordance with the provisions of Part 8 of Article 7.

### **9-314 Additional Standards for Churches, Chapels, Temples, Synagogues or Other Such Places of Worship With a Child Care Center, Nursery School or Private School**

## FAIRFAX COUNTY ZONING ORDINANCE

Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education may be approved as a special exception use in accordance with the provisions of this Part or as a special permit use in accordance with the provisions of Part 3 of Article 8. The choice of whether to file an application for a special permit or special exception shall be at the applicant's discretion. In either event, such use shall be subject to the additional standards set forth in Sections 309 and 310 above.

## SPECIAL EXCEPTIONS

### **PART 4 9-400 CATEGORY 4 TRANSPORTATION FACILITIES**

#### **9-401 Category 4 Special Exception Uses**

1. Airports.
2. Bus or railroad stations.
3. Heliports.
4. Helistops.
5. (Deleted by Amendment #05-374, Adopted July 25, 2005, Effective July 26, 2005)
6. Electrically-powered regional rail transit facilities.
7. Regional non-rail transit facilities.

When 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, electrically-powered regional rail transit facilities shall be subject to the provisions of Sect. 2-517.

#### **9-402 Districts in Which Category 4 Uses May be Located**

1. Category 4 uses may be permitted by right in the following districts when represented on an approved development plan:

PDH, PDC Districts: Limited to uses 2, 3, 4, 6 and 7

PRC District: All uses

PRM, PTC Districts: Limited to uses 2, 6 and 7

2. Category 4 uses may be allowed by special exception in the following districts:

R-E, R-1 Districts: All uses

R-2 through R-MHP Districts: Limited to uses 6 and 7

PRM, PTC Districts: Limited to uses 3 and 4

C-1, C-2 Districts: Limited to uses 6 and 7

C-3, C-4 Districts: Limited to uses 4, 6 and 7

C-5 District: Limited to uses 6 and 7

C-6 District: Limited to uses 2, 4, 6 and 7

C-7, C-9 Districts: Limited to uses 2, 3, 4, 6 and 7

C-8 District: Limited to uses 2, 4, 6 and 7

I-I District: Limited to use 3

I-1 District: Limited to uses 3, 4, 6 and 7

I-2 through I-6 Districts: All uses

## FAIRFAX COUNTY ZONING ORDINANCE

### **9-403 Additional Submission Requirements**

In addition to the submission requirements set forth in Sect. 011 above, all applications for Category 4 uses shall be accompanied by the following items:

1. All such uses proposed by a public authority shall include a certified copy of the law, ordinance, resolution or other official act adopted by the governmental entity proposing the use, authorizing the establishment of the proposed use at the proposed location.
2. All applications shall 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 regulations applicable thereto.
3. A statement shall be provided detailing all noise abatement procedures, methods and devices that will be employed in the operation of the facility, and sufficient analysis shall be presented to indicate what adjoining lands will be affected by the anticipated noise.
4. In the case of airports, a map shall be presented showing the landing and take-off corridors as projected, such map to cover an area within at least a 5000 foot radius of the boundaries of the proposed facility.

### **9-404 Standards for all Category 4 Uses**

In addition to the general standards set forth in Sect. 006 above, all Category 4 special exception uses shall satisfy the following standards:

1. Except for electrically-powered regional rail transit facilities, as further qualified in Sect. 405 below, all buildings and structures shall comply with the bulk regulations of the zoning district in which located.
2. Any rooftop surface or touchdown pad which will be utilized as an elevated helistop shall be designed and erected in a manner sufficient to withstand the anticipated additional stress.
3. Except in the I-6 District, all maintenance, repair and mechanical work, except that of an emergency nature, shall be performed in enclosed buildings.
4. All facilities shall be so located and so designed that the operation thereof will not seriously affect adjacent residential areas, particularly with respect to noise levels.
5. Except for elevated helistops, no area used by aircraft under its own power shall be located within a distance of 200 feet from any lot line. Elevated helistops shall be located in accordance with the bulk regulations of the zoning district in which located.
6. All areas used by aircraft under its own power shall be provided with an all-weather, dustless surface.
7. Except for elevated helistops, all areas used by aircraft under its own power shall be surrounded by a chain link fence, not less than six (6) feet in height, with suitable gates to



## SPECIAL EXCEPTIONS

effectively control access to such areas. Access to the landing area of an elevated helistop shall be through limited access points.

8. Before establishment, all uses, including modifications or alterations to existing uses, except regional non-rail transit facilities and electrically-powered regional rail transit facilities operated by WMATA, shall be subject to the provisions of Article 17, Site Plans. Regional non-rail transit facilities and electrically-powered regional rail transit facilities operated by WMATA shall be established in conformance with the provisions of the agreement between WMATA and the County.

### **9-405 Additional Standards for Electrically-Powered Regional Rail Transit Facilities**

1. Electrically-powered regional rail transit facilities shall not have to comply with the minimum lot size requirements of the district in which located.
2. Notwithstanding Par. 1 of Sect. 404 above, parking structures associated with electrically-powered regional rail transit facilities shall comply with the bulk regulations of the zoning district in which located.

FAIRFAX COUNTY ZONING ORDINANCE

**PART 5     9-500   CATEGORY 5   COMMERCIAL AND INDUSTRIAL USES OF SPECIAL IMPACT**

**9-501         Category 5 Special Exception Uses**

1.    Amusement arcades.
2.    Automobile-oriented uses.
3.    Car washes.
4.    Commercial recreation restaurants.
5.    Convenience centers.
6.    Drive-in financial institutions.
7.    Drive-in motion picture theatres.
8.    Drug paraphernalia establishments.
9.    Eating establishments.
10.   Establishments for scientific research and development.
11.   Fast food restaurants.
12.   Funeral chapels.
13.   Heavy industrial uses, to include:
  - A.    Abattoir.
  - B.    Ammonia, bleaching powder or chlorine manufacture.
  - C.    Asphalt mixing plant.
  - D.    Bag cleaning establishment.
  - E.    Blast furnace.
  - F.    Boiler works.
  - G.    Concrete mixing or batching plant.
  - H.    Distillation of coal, wood or bones.
  - I.    Distillation of turpentine or varnish.

## SPECIAL EXCEPTIONS

- J. Emery cloth manufacture.
- K. Fertilizer manufacture.
- L. Fireworks or explosives manufacture or storage.
- M. Fish canning, curing, grinding or smoking.
- N. Garbage incineration other than in municipal plants or incidental to the operation of hotels, eating establishments and dwellings.
- O. Glue, size or gelatin manufacture.
- P. Grinding, cooking, boiling, rendering or storing of slaughter-house refuse, or animal refuse, or rancid fats or refuse of dead animals.
- Q. Iron, steel or copper works or foundries.
- R. Lime, cement, gypsum or plaster of paris manufacture.
- S. Manufacture of concrete or mortar.
- T. Petroleum, alcohol or asphalt refining, mixing, or manufacture or storage.
- U. Pyroxylin or celluloid manufacture.
- V. Pulverizing of charcoal or coal.
- W. Smelting of iron.
- X. Soap manufacture.
- Y. Stockyards.
- Z. Sulphuric, nitric or hydrochloric acid manufacture.
- AA. Tanning, curing or storing of raw hides or skins.
- BB. Tetra-ethyl lead precipitate or liquid manufacture.
- CC. Vinegar manufacture.
- DD. Wool pulling and scouring.
- EE. Yeast plants.
- FF. Any other similar use which in the opinion of the Board might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause.

## FAIRFAX COUNTY ZONING ORDINANCE

14. Hotels, motels.
15. Marinas, docks and boating facilities, commercial.
16. Mini-warehousing establishments.
17. Offices.
18. Parking, commercial off-street, as a principal use.
19. Plant nurseries.
20. Quick-service food stores.
21. Service stations.
22. Theatres.
23. Vehicle light service establishments.
24. Vehicle major service establishments.
25. Vehicle sale, rental and ancillary service establishments.
26. Wholesale trade establishments.
27. Commercial off-street parking in Metro Station areas as a temporary use.
28. (Deleted by Amendment #ZO-17-459, Adopted February 28, 2017, Effective March 1, 2017.)
29. Industrial/flex.
30. Pawnshops.
31. Mixed waste reclamation facilities.
32. Retail sales establishments.
33. Service station/mini-marts.
34. Truck rental establishments.
35. Bed and breakfasts.
36. Drive-through pharmacies.
37. Baseball hitting and archery ranges, outdoor.

## SPECIAL EXCEPTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## FAIRFAX COUNTY ZONING ORDINANCE

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

R-A District: Limited to uses 19 and 40

R-P District: Limited to uses 15, 17, 19, 35, 38, 40 and 42

R-C District: Limited to uses 15, 17, 19, 35, 38, 39, 40 and 42

R-E, R-1 Districts: Limited to uses 10, 12, 15, 17, 19, 27, 35, 37, 38, 39, 40, 41 and 42

R-2 District: Limited to uses 5, 12, 15, 17, 19, 27, 35 and 38

R-3, R-4 Districts: Limited to uses 5, 12, 15, 17, 19, 27 and 38

R-5, R-8 Districts: Limited to uses 5, 12, 15, 17, 27 and 38

R-12, R-16, R-20 Districts: Limited to uses 12, 15, 27 and 38

R-30 District: Limited to uses 12, 15, 17, 27 and 38

R-MHP District: Limited to uses 12, 15, 27 and 38

PDH District: Limited to uses 11, 27 and 35

PDC District: Limited to uses 11, 16 and 27

PRC District: Limited to uses 27, 34 and 35

C-1 District: Limited to uses 10, 27 and 38

C-2 District: Limited to uses 6, 9, 10, 27 and 38

C-3 District: Limited to uses 6, 9, 10, 14, 18, 21, 22, 25, 27 and 38

C-4 District: Limited to uses 6, 9, 10, 14, 21, 22, 25, 27 and 38

C-5 District: Limited to uses 2, 3, 6, 11, 15, 17, 20, 21, 23, 27, 33, 34, 36, 37, 38, 39 and 41

C-6 District: Limited to uses 2, 3, 4, 6, 11, 14, 15, 17, 20, 21, 23, 25, 27, 30, 33, 34, 36, 37, 38, 39 and 43

C-7 District: Limited to uses 2, 3, 4, 6, 7, 8, 10, 11, 15, 17, 20, 21, 23, 25, 26, 27, 30, 33, 34, 36, 37, 38, 39 and 43

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

C-9 District: Limited to uses 2, 3, 4, 6, 10, 11, 17, 18, 20, 21, 23, 25, 26, 27, 33, 36, 37 and 43

I-I District: Limited to use 27

I-1 District: Limited to uses 27 and 38

I-2 District: Limited to uses 9, 14, 15, 18, 22, 27 and 38

I-3 District: Limited to uses 3, 6, 9, 14, 15, 16, 18, 21, 22, 25, 26, 27, 29, 37, 38, 39 and kennels (outdoor)

I-4 District: Limited to uses 3, 6, 9, 14, 15, 18, 19, 21, 22, 25, 27, 32, 37, 38, 39 and kennels (outdoor)

I-5 District: Limited to uses 3, 6, 7, 9, 11, 14, 18, 19, 20, 21, 23, 25, 27, 32, 33, 37, 38, 39 and kennels (outdoor)

I-6 District: Limited to uses 3, 6, 7, 11, 13, 18, 19, 20, 21, 23, 27, 31, 33, 37, 38, 39 and kennels (outdoor)

### 9-503

#### Standards for all Category 5 Uses

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

## SPECIAL EXCEPTIONS

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

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

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

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

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

## FAIRFAX COUNTY ZONING ORDINANCE

- D. In reviewing such a use or combination of uses, it shall be determined that the lot is of sufficient area and width to accommodate the use and that any such use will not adversely affect any nearby existing or planned residential areas as a result of the hours of operation, noise generation, parking, glare or other operational factors.
  - E. For a drive-through pharmacy, signs shall be required to be posted in the vicinity of the stacking area stating the limitations on the use of the window service and/or drive-through lane. Such signs shall not exceed two (2) square feet in area or be located closer than five (5) feet to any lot line.
2. In the C-3 and C-4 Districts, in addition to Par. 1 above:
- A. All such uses, except drive-in financial institutions, shall be an integral design element of a site plan for an office building or office building complex containing not less than 35,000 square feet of gross floor area.
  - B. Such a use shall have no separate and exclusive curb cut access to the abutting highway.
  - C. There shall be no outside storage or display of goods offered for sale.
  - D. Service stations shall not include any ancillary use such as vehicle or tool rental, and shall be limited to the servicing and retail sales of products used primarily by passenger vehicles.
  - E. Service stations shall not be used for the performance of major repairs, and no wrecked, inoperative or abandoned vehicles may be temporarily stored outdoors for a period in excess of seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, there shall be no more than (2) such vehicles on site at any one time.
3. In the C-5 and C-6 Districts, in addition to Par. 1 above:
- A. There shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station or service station/mini-mart.
  - B. Service stations and service station/mini-marts shall not be used for the performance of major repairs, and no wrecked, inoperative or abandoned vehicles may be temporarily stored outdoors for a period in excess of seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, there shall be no more than two (2) such vehicles on site at any one time.
4. In the C-7, C-8 and C-9 Districts, in addition to Par. 1 above:



## SPECIAL EXCEPTIONS

- A. In the C-7 or C-9 District, there shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station or service station/mini-mart.
  - B. Service stations and service station/mini-marts shall not be used for the performance of major repairs, and no wrecked, inoperative or abandoned vehicles may be temporarily stored outdoors for a period in excess of seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, there shall be no more than four (4) such vehicles on site at any one time.
  - C. The outdoor area devoted to any use such as vehicle or tool rental shall be limited to the area so designated on an approved special exception plat.
5. In the I-3, I-4, I-5 and I-6 Districts, in addition to Par. 1 above:
- A. All such uses, except drive-in financial institutions, shall be an integral design element of a site plan for an industrial building or building complex containing not less than 30,000 square feet of gross floor area.
  - B. In an I-3 or I-4 District, there shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station.
  - C. In an I-3 or I-4 District, service stations shall not be used for the performance of major repairs, and no wrecked, inoperative or abandoned vehicles may be temporarily stored outdoors for a period in excess of seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, there shall be no more than four (4) such vehicles on site at any one time.
  - D. No Building Permit shall be approved for such a use unless a Building Permit has been approved for the related industrial building(s).
  - E. The outdoor area devoted to any use such as vehicle or tool rental shall be limited to that area so designated on an approved special exception plat.
6. In the PDH and PDC Districts, in addition to Par. 1 above:
- A. In the PDH District, fast food restaurants may be permitted only in accordance with the provisions of Sect. 6-106 and the following:
    - (1) Such 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.
    - (2) Such use shall be designed and located so as to maintain the intended secondary nature of the use, and so that the associated impacts, including but

## FAIRFAX COUNTY ZONING ORDINANCE

not limited to 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.

(3) All direct vehicular access to the use shall be provided via the internal circulation system of a commercial area of the PDH development, which commercial area shall contain not less than three (3) non-automobile-related commercial establishments.

(4) The proposed development shall provide clearly designated pedestrian facilities for safe and convenient access from surrounding residential and commercial uses.

B. In the PDC District, fast food restaurants may be permitted only in accordance with the provisions of Sect. 6-206.

7. In the PTC District, car washes, drive-in financial institutions, drive-through pharmacies, fast food restaurants, quick-service food stores, service stations and service stations/mini-marts may only be permitted in accordance with the provisions of Sect. 6-505.

### 9-506

#### **Additional Standards for Commercial Recreation Restaurants**

1. All such uses shall be designed and operated as a combined use for family-oriented recreation and on-premise dining.
2. The sale and consumption of food, frozen deserts or beverages shall be limited to the premises. Notwithstanding the above, the establishment may provide a carry-out service provided that such carry-out service is clearly not the principal business of that portion of the establishment devoted to the sale and consumption of food, frozen desserts or beverages.
3. The recreation portion of the establishment shall not be advertised or operated as a separate facility.
4. Any areas devoted primarily to mechanical and/or electronic operated games shall encompass no more than twenty-five (25) percent of the total gross floor area of the establishment.

### 9-507

#### **Additional Standards for Convenience Centers**

1. No convenience center shall be approved in a neighborhood or subdivision which has been recorded or recorded in part prior to the effective date of this Ordinance. In addition, no convenience center shall be located on a lot adjacent to existing dwellings, unless such center was represented on an approved development plan.
2. The approval of a special exception for a convenience center shall be subject to the approval of a development plan prepared in accordance with the provisions of Sect. 16-502.

## SPECIAL EXCEPTIONS

3. No convenience center shall be located within a distance of one (1) mile from any other similar retail commercial use.
4. Uses within a convenience center shall be limited to retail sales establishments, personal service establishments and quick-service food stores oriented to serve the residents of the immediate neighborhood.
5. In no event shall the gross floor area of a convenience center exceed 2000 square feet.
6. A convenience center shall be so located and designed to be a homogeneous component of the neighborhood it serves. It shall have on all sides the same architectural features or shall be architecturally compatible with adjacent residential uses; and it shall be constructed of building materials common to residential uses.
7. Off-street parking and loading facilities shall be so located and screened that they are not visible from the first story window level of adjoining or nearby properties.
8. Lighting of parking areas shall be on standards which have a maximum height of three (3) feet.
9. All business, service, storage and display of goods shall be conducted within a completely enclosed building, and all refuse shall be contained in completely enclosed facilities.

### **9-508 Additional Standards for Drug Paraphernalia Establishments**

1. Such establishment shall not be located within 1000 feet of the property line of a parcel planned, zoned or used for residential use.
2. Such establishment shall not be located within 1000 feet of the property line of a park, place of worship, library, public school, school of general education, child care center or home child care facility.
3. Such establishment shall not be located within 1000 feet of the property line of another drug paraphernalia establishment.

### **9-509 Additional Standards for Establishments for Scientific Research and Development**

1. In all districts, no products shall be manufactured or goods produced except for the operation of a pilot plant incidental to the scientific research or development operations of the establishment, and no products shall be manufactured or goods produced for sale.
2. In the R-E, R-1, C-1, C-2, C-3 and C-4 Districts, there shall be no sale of goods or commodities on the site except that associated with an accessory service use which may be permitted in accordance with the provisions of Part 2 of Article 10.
3. In the C-1, C-2, C-3, C-4, C-7, C-8 and C-9 Districts, in addition to Par. 1 above, the assembly, integration and testing of products shall be permitted only within a completely enclosed building and shall be clearly incidental to the principal process of scientific research and development. To that end, the Board shall limit the amount of floor area

## FAIRFAX COUNTY ZONING ORDINANCE

devoted to such incidental use. In addition, the Board shall consider the type and nature of any proposed assembly, integration and testing of products and shall determine that the use is compatible with the adjacent area in accordance with the applicable zoning district regulations and the adopted comprehensive plan.

4. In the R-E and R-1 Districts, in addition to Par. 1 and 2 above:
  - A. The minimum lot size requirement shall be twenty (20) acres.
  - B. The minimum yard requirements shall be 320 feet from the center line of any street or 200 feet from any lot line which is not a street line.
  - C. No off-street parking or loading space shall be located within any required yard.
  - D. In lieu of the maximum floor area ratio presented in Par. 3 of Sections 3-E07 and 3-107, building bulk shall be controlled by a maximum lot coverage of twenty (20) percent.
  - E. No building shall exceed a height of sixty-five (65) feet, except that a part of any building, not exceeding in horizontal area twenty-five (25) percent of the total roof area of the building, may be erected to a height of not more than seventy-five (75) feet.
  - F. In order to provide the maximum protection to adjoining property, a plan shall be required showing the proposed landscaping of the site and the exterior appearance of all buildings.

### **9-510 Additional Standards for Funeral Chapels**

1. No such use shall be established except on a parcel of land fronting on, and with direct access to, an existing or planned collector or arterial street as defined in the adopted comprehensive plan. A service drive shall be provided such that the major thoroughfare need not be used for the forming of funeral processions. Such drives shall have direct, but limited, access to the major thoroughfare.
2. No building shall be located closer than forty-five (45) feet to any street line or closer than forty (40) feet to any lot line which abuts an R-A through R-4 District.
3. In R districts, the minimum lot size shall be not less than the minimum required for a single family detached dwelling in the district, or 20,000 square feet, whichever is greater.
4. In R districts, the external appearance of the funeral chapel and any accessory building shall be residential in character.

### **9-511 Additional Standards for Heavy Industrial Uses**

1. Each applicant for a heavy industrial use shall provide with his application an evaluation of his proposed use, by a person or firm qualified to make such evaluations, indicating

## SPECIAL EXCEPTIONS

how the use can be made to comply with the applicable performance standards in Article 14.

2. The Board may, in approving a special exception for a heavy industrial use, establish additional yard requirements, landscaping and screening and other standards that, in the opinion of the Board, will effect compatibility with the surrounding community.

### **9-512 Additional Standards for Hotels, Motels**

1. When located in an I district, such a use shall be an integral design element of a site plan for an industrial building or building complex containing not less than 100,000 square feet of gross floor area.

### **9-513 Additional Standards for Marinas, Docks and Boating Facilities, Commercial**

1. The minimum lot size requirement shall be two (2) acres.
2. Except for light poles, no structure used in connection with the use shall be located closer than 100 feet to any nonriparian lot line.
3. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.

### **9-514 Additional Standards for Mini-Warehousing Establishments**

1. Storage units shall be primarily for dead storage and all storage shall be within a completely enclosed building.
2. Loading docks shall not be permitted.
3. There shall be no incidental parking or storage of trucks and/or moving vans except for purposes of loading and unloading or unless approved as a part of a truck rental establishment.
4. In the PDC and PTC Districts, mini-warehousing establishments may only be permitted in accordance with the provisions of Sect. 6-206 and 6-505, as applicable.

### **9-515 Additional Standards for Offices**

1. The following standards shall apply to offices in residential districts:
  - A. Such a use shall be located only within a Community Business Center (CBC) as shown in the adopted comprehensive plan or such other area where such use is specifically designated in the adopted comprehensive plan.
  - B. Such a use shall be permitted only in a single family detached dwelling which was erected prior to February 26, 1973; additions erected subsequently may not be used for such activities.

## FAIRFAX COUNTY ZONING ORDINANCE

- C. Notwithstanding the provisions of Sect. 014 above, offices in residential districts approved prior to January 24, 1977 may be renewed for one five (5) year period under the ordinances in effect at the time the permit/exception was originally granted, provided that the principal user is the same as the one who originally received the special permit or exception. Thereafter, any renewal shall be subject to the provisions of this Ordinance.
- D. Notwithstanding the provisions of Par. A through C above, in the R-30 District, offices shall be subject only to the following standards:
  - (1) Such use shall be located only on the lower two (2) floors of the primary building, or in an accessory structure as may be approved by the Board.
  - (2) The aggregate floor area of all non-residential uses, to include offices, shall not exceed fifteen (15) percent of the total gross floor area.
  - (3) Adequate off-street parking shall be provided in accordance with the provisions of Par. 4 of Sect. 11-102.
- 2. In the C-5, C-6, C-7, C-8 and C-9 Districts, the Board may approve a special exception to allow office uses at a greater percentage of the maximum FAR than that permitted by right. For the purpose of this provision, maximum FAR shall mean the maximum FAR permitted by right, as set forth in the applicable zoning district, or as increased by an approved special exception in accordance with Sect. 618 below.

### 9-516

#### **Additional Standards for Parking, Commercial Off-Street**

- 1. In the C-3, I-2 and I-3 Districts, such parking facilities shall be allowed only as an integral design element of a site plan for an office, commercial or industrial building or building complex containing not less than 30,000 square feet of gross floor area.
- 2. Notwithstanding the bulk regulations of the zoning district in which located, any parking space that is located on the ground and is open to the sky may be located in any required yard but not closer to any front lot line than ten (10) feet, except as may be qualified by the provisions of Article 13.

Parking structures and any structure accessory to a commercial parking lot shall be subject to the bulk regulations of the zoning district in which located, except parking structures which are completely underground may be located in any required yard, but not closer than one (1) foot to any lot line.
- 3. Such parking facilities shall be used solely for the parking of vehicles in operating condition. No motor vehicle repair work except emergency service shall be permitted in association with such a parking facility.
- 4. Such parking facilities shall be provided with safe and convenient access to a street. If any parking space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings through the curb of such dimension, location and construction as may be approved by the Director in accordance with the Public Facilities Manual.

## SPECIAL EXCEPTIONS

5. All such parking facilities shall be in accordance with the provisions of Par. 11 of Sect. 11-102.
6. All lighting fixtures used to illuminate such parking facilities shall be in conformance with the performance standards for outdoor lighting set forth in Part 9 of Article 14.

### 9-517

#### **Additional Standards for Plant Nurseries**

1. As stated in the definition, a plant nursery shall be an establishment designed primarily for the propagation, cultivation, growing, and/or maintenance of nursery stock for gardens, grounds, yards, and indoor use, such as trees, plants, shrubs, sod, seeds and vines, and the retail sales of such nursery stock and of items designed solely to maintain and preserve the life and health of nursery stock such as soil, mulch, plant food/nutrients, fertilizers, herbicides and insecticides. A plant nursery shall be compatible with the adjacent residential or industrial area and shall not include the sale of a wide range of products normally associated with a hardware, building supply or craft store. However, if deemed appropriate, the Board may allow the retail sales of related items as an accessory use, in accordance with the following:
  - A. The type of accessory retail items to be sold shall be reviewed and approved by the Board and may include landscaping materials such as railroad ties, landscaping timbers, wall stones and pavers; pots/planters; garden accents such as statuary, birdhouses, birdfeeders, birdbaths, decorative plant hangers, arbors and trellises; water gardens, water plants, fish and other water garden animals; watering cans and sprinklers; gardening gloves, aprons and hats; gardening and horticulture books and publications; wheelbarrows; garden carts; firewood; non-powered hand tools commonly associated with gardening and landscaping; hoses and hose reels; and other similar items. Additionally, artificial/dried plants and flowers and seasonal/holiday decorations may be sold, provided that, during the months of February through October, the gross floor area devoted to the sale of such items shall not exceed twenty (20) percent, and during the months of November through January, the gross floor area devoted to the sale of such items shall not exceed fifty (50) percent, of the total gross floor area designated on the special exception plat for the sale of all retail items. However, in no event shall items such as the following be sold: electric or gasoline powered tools; motorized equipment; sheds and outdoor storage containers; play houses or play sets; indoor furniture or outdoor lawn or patio furniture; hot tubs, spas or pools; barbecue grills; propane fuel; foodstuffs (except in conjunction with an approved special event or festival); or clothing.
  - B. The area and extent of all indoor and outdoor areas used for accessory retail sales shall be designated on the special exception plat and shall be clearly subordinate to the plant nursery use. 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. For nurseries which sell artificial/dried plants and flowers and seasonal/holiday decorations in accordance with Par. 1A above, the floor area devoted to such sales shall be limited to one (1) fully enclosed structure. The location of the areas within

## FAIRFAX COUNTY ZONING ORDINANCE

such enclosed structure devoted to the sale of such retail items shall be designated by the applicant on the special exception plat. Through such designation, the applicant shall demonstrate compliance with the gross floor area limitations for such sales. Any change in the specific location of such retail items within the approved designated structure may be administratively approved in accordance with Par. 4 of Sect. 004 above.

2. Landscape contracting services utilizing nursery stock grown on the property and those accessory retail items permitted to be sold by the Board may be allowed as an accessory use to the plant nursery when clearly subordinate to the plant nursery use. Structures, equipment, vehicle storage and other areas dedicated to the landscape contracting services shall be delineated on the special exception plat. In residential districts, the area and amount of such structures, equipment, vehicle storage and other areas dedicated to landscaping services shall be consistent with the residential character of the area and shall not adversely impact neighboring properties.
3. The Board may approve the holding of special events, festivals or classes as an accessory use to a plant nursery. The Board may impose conditions on such activities, to include, but not be limited to, the type of allowable activities, the number of events, festivals or classes, the time of year for such events, festivals or classes, the area of the site devoted to such activities, the use of lighting and/or public address systems, and to ensure that adequate parking is available to accommodate special event, festival or class participants.
4. In the R-A through R-4 Districts, no plant nursery shall be established except on a lot which has a minimum lot area of five (5) acres and has frontage on an arterial street as defined in the adopted comprehensive plan.
5. In the R-A through R-4 Districts, no building or structure, except light poles, used for or in connection with such use shall be located closer than 100 feet to any lot line which abuts an R district.
6. In the R-A through R-4 Districts, no off-street parking or loading space shall be located closer than fifty (50) feet to any lot line which abuts an R district.
7. Plant nurseries shall be subject to the regulations of the zoning district in which located. In addition, in the R-A through R-4 Districts, the Board shall review the amount of the plant nursery lot devoted to accessory uses such as retail sales of items and landscape contracting services as set forth in Paragraphs 1A and 2 above, and shall determine that such accessory uses are clearly subordinate in purpose, area and extent to the principal use of growing and/or maintaining nursery stock and the retail sales of nursery stock and items designed solely to maintain and preserve the life and health of such stock. The Board may impose such conditions and restrictions as it may deem necessary to assure that the use will be compatible with the adjacent residential area. In particular, the Board may impose conditions on the following:
  - A. Location, size, height and use of structures;
  - B. Location and number of commercial vehicles and equipment;



## SPECIAL EXCEPTIONS

- C. Lighting, public address systems and hours of operation;
  - D. Location and type of nursery stock, materials and other items stored, displayed or offered for sale outside, provided, however, that no such storage, parking of equipment or vehicles used for landscape contracting services, display, or sales area shall be located in any minimum required yard.
8. In the R-A through R-4 Districts, notwithstanding the provisions of Sect. 9-003, the Board may vary, modify or waive the provisions of Paragraphs 4, 5 and 6 above and the provisions of Article 13 for a plant nursery which is accessory to a single family detached dwelling, provided the dwelling is the domicile of the nursery operator.
9. The off-street parking requirement shall be based on one (1) space per 200 square feet of net floor area for the first 1000 square feet, plus six (6) spaces per each additional 1000 square feet; plus one (1) space per 500 square feet of outdoor sales/display area to include greenhouses used for the sales/display of plant materials; plus one (1) space per employee and company/commercial vehicle and sufficient space for the parking of any related equipment for landscape contracting services as an accessory component. However, the Board, in its review of a plant nursery, may modify this parking requirement, based on the specific characteristics of the plant nursery use, such as the size and scale and/or the types of accessory uses, when the applicant has demonstrated that fewer parking spaces than those required above will adequately serve the plant nursery and all accessory uses. All off-street parking areas, including aisles and driveways shall 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.

### **9-518 Additional Standards for Vehicle Sale, Rental and Ancillary Service Establishments**

- 1. Outdoor storage, parking and display areas shall be permitted only on the same lot with and ancillary to a sales room, rental office or service facility, which shall be entirely enclosed on all sides.
- 2. The outdoor area devoted to storage, loading, parking and display of goods shall be limited to that area so designated on an approved special exception plat. Such areas shall not be used for the storage or display of vehicles that are not in operating condition.
- 3. Notwithstanding the bulk regulations of the zoning district in which located, any such outdoor area that is located on the ground and is open to the sky may be located in any required yard but not nearer to any front lot line than ten (10) feet, except as may be qualified by the provisions of Article 13.

All structures shall be subject to the bulk regulations of the zoning district in which located, except structures which are completely underground may be located in any required yard, but not closer than one (1) foot to any lot line.
- 4. All such uses shall be provided with safe and convenient access to a street. If any outdoor area is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings through the curb of such

FAIRFAX COUNTY ZONING ORDINANCE

dimension, location and construction as may be approved by the Director in accordance with the Public Facilities Manual.

5. All outdoor areas, including aisles and driveways, shall be constructed and maintained with an approved surface in accordance with Par. 11 of Sect. 11-102, and shall be improved in accordance with construction standards presented in the Public Facilities Manual.
6. All lighting fixtures used to illuminate such outdoor areas shall be in conformance with the performance standards for outdoor lighting set forth in Part 9 of Article 14.
7. In the C-3, C-4, I-3, I-4, I-5, and PRC Districts, only vehicle rental establishments may be allowed and such use shall be subject to Paragraphs 1 through 6 above and the following:
  - A. Vehicle rental establishments shall be limited to the rental of automobiles and passenger vans and the rental of trucks or other vehicles shall not be permitted.
  - B. There may be a maximum of twenty-five (25) rental vehicles stored on site and such vehicles shall be stored in a portion of the parking lot designated on the special exception plat for the storage of rental vehicles.

There shall be no maintenance or refueling of the rental vehicles on-site.

8. In the PTC District, vehicle sale, rental and ancillary service establishments may only be permitted in accordance with the provisions of Sect. 6-505.
9. In the PDC and PRM Districts, vehicle sale, rental and ancillary service establishments shall only be permitted when specifically identified on an approved final development plan and provided there shall be no outside display or storage of vehicles. All vehicle display or storage shall occur within an enclosed building or parking garage and any ancillary service establishment use shall occur within a completely enclosed building.

**9-519 Additional Standards for Wholesale Trade Establishments**

1. All business, service, storage and display of goods shall be conducted within a completely enclosed building.

**9-520 Additional Standards for Commercial Off-Street Parking in Metro Station Areas as a Temporary Use**

The purpose of this special exception is to provide for an interim solution to Metro Station parking deficiencies by allowing private property within a specified distance of a Metro Station to be used temporarily for parking. 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. To this end, the Board may approve a special exception to allow a privately operated commercial off-street parking lot, as a temporary use, in Metro Station areas, but only in accordance with the following provisions:

In all districts where permitted by special exception:

## SPECIAL EXCEPTIONS

1. The site for the proposed parking area shall not be used for any purpose other than to provide ground surface parking of motor vehicles for the general public. No motor vehicle repair work except emergency service shall be permitted in association with any such off-street parking area.
2. The applicant shall demonstrate that the use of a site for temporary off-street parking and all improvements thereof shall not preclude the ultimate development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and/or the adopted comprehensive plan.
3. In addition to the submission requirements set forth in Sect. 011 above, grading plans and plans for drainage provisions shall be provided. Any grading associated with the use of a site for temporary off-street parking shall be limited to that which should be allowed for the permanent development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and/or the adopted comprehensive plan.
4. Parking spaces for persons with disabilities shall be provided as set forth in Article 11. All other provisions of Article 11, however, shall not apply and, in lieu thereof, all such parking areas shall be subject to the following:
  - A. A temporary surfacing material for all such parking areas may be permitted if maintained in good condition at all times in accordance with the standards approved by the Director and provided that:
    - (1) Pavement shall be placed from the edge of existing pavement for a minimum distance of twenty-five (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 shall be provided within and adjacent to the parking area at those locations where significant pedestrian traffic is anticipated and safe and convenient pedestrian access shall be afforded from the parking area to the station entrance.
  - B. Provisions shall be made to organize parking, delineate parking spaces, and provide and maintain adequate aisle clearance and safe and convenient access to a street.
  - C. Additional conditions may include but need not be limited to the imposition of speed limits and provisions of dust control techniques.
5. Notwithstanding the bulk regulations of the zoning district in which located, any parking space or parking kiosk may be located in any required yard, but not closer than ten (10) feet to any public right-of-way or private street; provided, however, that there shall be no parking of vehicles closer to any lot line which abuts an R district than a distance equal to the dimension of the abutting corresponding yard as required by this Ordinance.

## FAIRFAX COUNTY ZONING ORDINANCE

6. Adequate lighting shall be provided and shall be subject to the outdoor lighting performance standards set forth in Part 9 of Article 14.
7. In addition to the above, the Board may impose such conditions and restrictions as it may deem necessary to assure that the off-street parking area will be compatible with and will not adversely impact the adjacent area or adversely impact the site itself so as to hinder future development in accordance with the existing zoning and adopted comprehensive plan. To this end, the Board may limit the size and location of the parking lot to ensure retention of such natural site features, including vegetation, which should be preserved for future analysis at the time of the establishment of the permanent use of the property.
8. On land zoned and planned residential, in addition to Paragraphs 1 through 7 above:
  - A. The major portion of the proposed parking area shall be located within a 1500-foot radius of a Metro Station platform entrance.
  - B. Any property to be used for temporary off-street parking shall be a minimum of five acres in size.
  - C. The temporary parking use shall be limited to replacing Metro Station parking spaces temporarily displaced during construction on the Metro Station site.
  - D. The number of temporary off-street parking spaces allowed within the vicinity of any one Metro Station shall not exceed the number of temporarily displaced Metro Station parking spaces.
  - E. Notwithstanding the provisions of Article 13, at a minimum, Transitional Screening 3 shall be required at the outer boundaries of the lot where the lot abuts or is across the street from residentially zoned land. In addition, the Board may require the preservation of any natural screening and plant materials, and shall require that adequate landscaping and screening be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity.
  - F. The Board shall impose a time limitation on the special exception such that the use shall not be operational prior to the displacement or subsequent to the re-establishment of the Metro Station parking spaces; provided, however, that such special exception may be renewed in accordance with the provisions of Sect. 014 above.
9. On land zoned commercial or industrial, or on land zoned residential but planned commercial or industrial, in addition to Paragraphs 1 through 7 above:
  - A. The major portion of the proposed parking area shall be located within a 2000-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 shall not exceed the difference between the ultimate number of Metro Station parking spaces planned for the respective station and the number existing at the time the application is filed; provided, however, in the case of an

## SPECIAL EXCEPTIONS

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. The applicant shall demonstrate to the satisfaction of the Board that there is presently a need for the provision of additional parking space.

- C. The provisions of Article 13 shall not apply; provided, however, that the Board may require the preservation of any natural screening and plant materials, and shall require that adequate landscaping and screening be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity.
- D. The Board may approve a special exception for this use for a period not to exceed three (3) years from the date of approval of the Non-Residential Use Permit; provided, however, that such special exception may be renewed in accordance with the provisions of Sect. 014 above.

Once established, the parking lot use shall 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, and no approvals to permit the commencement of land-disturbing activity contrary to the temporary parking use shall be issued during the life of the special exception or the one year notice period, whichever is applicable.

### **9-521 Additional Standards for Industrial/Flex Uses**

Industrial/flex uses may be permitted in the I-3 District only in accordance with the following:

1. Warehousing and wholesaling establishments shall not comprise more than thirty-five (35) percent of the gross floor area of the structure, and shall not include bulk storage of flammable materials for resale. All loading docks shall be screened from view of surrounding streets and properties through the use of landscape screening and/or decorative barriers.
2. All uses shall be conducted entirely within the enclosed structure.
3. The structure shall be designed to promote the intended character of the district through architectural design which is compatible with surrounding research and development and other clean industrial uses.
4. To preserve the character of the district and to promote the compatibility of the industrial/flex use with other permitted uses, a minimum of twenty-five (25) percent of the gross lot area shall be devoted to landscaped open space and/or transitional screening.

### **9-522 Additional Standards for Pawnshops**

1. The Board may impose such conditions and restrictions as it may deem necessary to assure that the use will be compatible with and not adversely impact adjacent properties and will not hinder future development in accordance with the existing zoning and adopted comprehensive plan.

FAIRFAX COUNTY ZONING ORDINANCE

2. Such a use shall be subject to the regulations of Chapter 33 of The Code.

**9-523 Additional Standards for Mixed Waste Reclamation Facilities**

All such uses shall 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.

**9-524 Additional Standards for Retail Sales Establishments**

The Board may approve a special exception to allow a retail sales establishment in an I-4 or I-5 District, subject to the following:

1. Such special exception use shall be limited to one of the following:
  - A. An establishment wherein a maximum of sixty (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; or
  - B. An establishment in which retail sales are conducted only on Fridays commencing at 6:00 PM, Saturday, Sundays, and Federal holidays.
2. The Board shall determine that the retail use will be compatible with and not adversely impact the adjacent properties, and will not hinder or be contrary to the adopted comprehensive plan for commercial and industrial development in the area. To that end, the Board may impose such conditions and restrictions which it may deem necessary to ensure compatibility and to mitigate potential adverse impacts, which may include, but need not be limited to the following:
  - A. Hours of operation
  - B. Site development or design standards
  - C. Transitional screening and landscaping requirements
3. The structure shall be designed to promote the character of the district through architectural design which is compatible with surrounding industrial uses.
4. The Board shall determine that parking as required by Article 11 is provided on-site or may approve a cooperative parking arrangement in accordance with the provisions of Article 11.
5. Such use shall be designed so that pedestrian and vehicular circulation are coordinated with that on-site and on adjacent properties and vehicular access to the site shall to the greatest extent possible be provided via the internal circulation system of the building complex.

## SPECIAL EXCEPTIONS

6. Such use shall be designed to provide safe and convenient access and to minimize any potential conflicts between industrial service and delivery vehicles, passenger vehicles and pedestrian traffic.
7. Any public improvements required as the result of the introduction of retail uses to an area designed and developed for industrial uses shall be provided.
8. All business, service, storage and display of goods shall be conducted within a completely enclosed building, and all refuse shall be contained in completely enclosed facilities.

### **9-525 Additional Standards for Truck Rental Establishments**

1. Such use shall be allowed only as an ancillary use to a principal use on a lot and shall be 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).
2. The maximum number and type of trucks/trailers to be kept on a lot shall be determined by the Board upon consideration of the lot characteristics, and a determination that the lot is of sufficient area and width to support the use, that the site has safe and efficient access and on-site circulation, and that any such use will not adversely affect any nearby existing or planned residential uses as a result of the hours of operation, noise generation, parking, outdoor lighting or other operational factors. The area used for the parking and storage of rental trucks and trailers shall not exceed ten (10) percent of the total area of the site.
3. All outdoor storage areas, including aisles and driveways, shall be designated on the special exception plat, and constructed and maintained with an approved surface in accordance with Sect. 11-102, and shall be improved in accordance with construction standards presented in the Public Facilities Manual. Such trucks and trailers stored on site shall be stored only in a portion of the site so designated on the special exception plat for the storage of rental trucks and trailers. Rental trucks and trailers shall not be parked or stored within fifteen (15) feet of the front lot line.
4. The outdoor storage areas shall not be used for the storage of trucks or trailers that are not in operating condition.
5. All such uses shall be provided with safe and convenient access to a street. The street frontage shall be curbed, and ingress and egress shall be provided only through driveway openings through the curb of such dimension, location and construction as may be approved by the Director in accordance with the Public Facilities Manual.
6. All lighting fixtures used to illuminate such outdoor areas shall be in conformance with the performance standards for outdoor lighting set forth in Part 9 of Article 14.

### **9-526 Additional Standards for Bed and Breakfasts Uses**

1. The Board shall determine that the proposed bed and breakfast use does not pose any adverse impacts on the surrounding properties and preserves the residential character of the adjacent area.

## FAIRFAX COUNTY ZONING ORDINANCE

2. All bed and breakfast uses shall be permitted only in residential structures, including normal residential accessory structures. Alterations undertaken on structures shall be limited to those which will not alter the exterior appearance of the structure from that of a dwelling or normal residential accessory structure.
3. A bed and breakfast shall not include an eating establishment, however breakfast and other light fare may be provided for resident guests. In addition, this provision shall not preclude the filing and approval of a separate Group 7 special permit application for a restaurant.
4. No off-street parking or loading space for the bed and breakfast use shall be located in any required side or rear yard that abuts an R district and all off-street parking spaces shall be adequately screened to minimize adverse impacts on adjacent residential properties. No more than three (3) parking spaces for the bed and breakfast use shall be located in any required front yard unless specifically permitted by the Board on a finding that such parking provisions will not adversely affect the character of the surrounding residential area.

### **9-527 Additional Standards for Outdoor Baseball Hitting and Archery Ranges**

1. The minimum lot size requirement shall be two (2) acres.
2. Except for containment structures approved pursuant to Part 6 of Article 9 and light poles, no structures used in connection with the use shall be located closer than 100 feet to any lot line.
3. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.

### **9-528 Additional Standards for Golf Courses, Country Clubs**

1. The minimum lot size requirement shall be fifteen (15) acres.
2. Except for containment structures approved pursuant to Part 6 of Article 9 and light poles, no structures used in connection with the use shall be located closer than fifty (50) feet to any lot line.
3. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.

### **9-529 Additional Standards for Golf Driving Ranges**

1. Except for containment structures approved pursuant to Part 6 of Article 9 and light poles, no structure used in connection with the use shall be located closer than 100 feet to any lot line.
2. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.



## SPECIAL EXCEPTIONS

### **9-530 Additional Standards for Kennels, Animal Shelters**

1. For a kennel or animal shelter in the R-A, R-P, R-C, R-E and R-1 Districts which has any outdoor facilities, there shall be a minimum lot size requirement of two (2) acres, and any outdoor structure for the confinement, care or breeding of animals shall be located no closer than 100 feet to any lot line.
2. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.
3. A kennel or animal shelter may be located within a completely enclosed building, provided such building is adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area.
4. All dogs more than four (4) months of age shall be kept in structures designed and maintained for secure confinement.
5. In reviewing an application for a permit, the Board shall consider the kinds and numbers of animals proposed to be kept, the characteristics thereof, the proposed management techniques and the location that such animals will be kept on the lot. The Board may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on adjacent property and no emission or noise and/or odor detrimental to other property in the area.

### **9-531 Additional Standards for Miniature Golf Courses Ancillary to Golf Driving Ranges**

1. The principal use of the lot shall be the golf driving range and, in the R-E and R-1 Districts, the minimum lot size requirement shall be twenty (20) acres.
2. Except for containment structures approved pursuant to Part 6 of Article 9 and light poles, no part of the miniature golf course shall be located closer than 100 feet to any lot line.
3. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.
4. The miniature golf course facility shall be located and oriented to the interior of the site such that the use is not visible from any abutting roadway and shall be adequately screened to mitigate impacts on adjacent properties. In the R-E and R-1 Districts, the use of sound emitting features as part of the miniature golf course facility shall not be permitted.
5. In reviewing an application for a special exception, the Board shall take into consideration factors such as noise, dust, lighting and traffic and shall impose such conditions as may be necessary 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.

FAIRFAX COUNTY ZONING ORDINANCE

**9-532 Additional Standards for Veterinary Hospitals**

1. All such facilities shall be within a completely enclosed building, such building being adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other property in the area.
2. The construction and operation of all such facilities shall be approved by the Health Department prior to issuance of any Building Permit or Non-Residential Use Permit.
3. In the R-A, R-P, R-C, R-E and R-1 Districts, there shall be a minimum lot size requirement of one (1) acre and veterinary hospitals shall be subject to the standards presented in Paragraphs 1, 2, 3 and 4 of Sect. 8-907.
4. No off-street parking or loading space shall be located within fifty (50) feet of any adjoining property which is in an R district.

**9-533 Additional Standards for Retail Sales Establishments-Large**

In the C-6, C-7, C-8, C-9, PDC, PRC and PTC Districts, the Board may approve a special exception to allow a retail sales establishment containing 80,000 square feet or more of gross floor area which is not otherwise permitted by right subject to the following standards:

1. The Board shall determine that a retail sales establishment-large will be compatible with and not adversely impact adjacent properties and the local area road system. The Board may impose such conditions and restrictions which it may deem necessary to ensure compatibility and to mitigate adverse impacts, which may include, but not be limited to the following:
  - A. Hours of operation and other operational restrictions;
  - B. Site development or design standards; and
  - C. Transitional screening and landscaping requirements.
2. The Board shall determine that parking as required by Article 11 is provided and is designed in such a manner as to minimize impacts on adjacent properties through the use of methods which may include, but are not limited to, structured parking, location and distribution of parking, and landscaping techniques. All required parking shall be provided on-site.
3. Such use shall be designed so that pedestrian and bicycle circulation is coordinated on-site and on adjacent properties for the purpose of maximizing ease of inter-parcel and intra-parcel movement.
4. Such use shall be designed to provide safe and convenient access, to minimize any potential conflicts between service and delivery vehicles, passenger vehicles and pedestrian traffic.

## SPECIAL EXCEPTIONS

5. Such use shall be designed in such a manner as to minimize noise from impacting adjacent properties.
6. Outdoor lighting associated with such uses shall 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; such lighting shall be subject to the provisions of Part 9 of Article 14.
7. The structures shall be designed to protect the character of the neighborhood in which located through the use of architectural design and site design methods. The layout and architecture shall be designed in such a manner that reduces monotonous effects and impacts caused by building bulk through the use of techniques that may include, but are not limited to, variations in roof lines, variations in building setbacks, landscaping and by enhanced architectural treatments to all sides of a building. In cases where there is a significant contrast in topography between the subject property and adjacent properties, appropriate mitigation methods, such as screening, shall be considered in order to mitigate potential noise and/or visual impacts. All rooftop mechanical structures shall be screened or fully enclosed within a structure so they are not visible from the ground level of adjacent properties.
8. All business, service, storage, and display of goods shall be conducted within a completely enclosed building, and all refuse shall be contained in completely enclosed facilities, with the exception of outdoor seating, service, storage and display that is clearly subordinate to the retail sales use and which may be allowed subject to the following conditions:
  - A. The area and extent of all outdoor seating areas and outdoor areas for the service, storage and display of goods shall be designated on the approved plat. The Board may condition the location, size and extent of any such areas or associated structures. No such storage, display or sales area shall be located in any required minimum yard.
  - B. All outdoor service, storage and display, with the exception of outdoor seating, and up to 250 square feet of display area, shall be fully screened using structures and materials and design elements that are compatible with those used in the principal structure. Screening methods shall include solid fences, walls, berms, evergreen hedges or a fence, wall, berm and/or landscaping combination.
9. All signs shall be in scale and harmony with the development and shall be located and sized as to ensure convenience to the visitor, user or occupant while not adding to street clutter or detracting from the character of the surrounding properties.
10. Notwithstanding Par. 8 above, in the PTC District outdoor activities shall be limited to outdoor seating.

FAIRFAX COUNTY ZONING ORDINANCE

SPECIAL EXCEPTIONS

**PART 6      9-600   CATEGORY 6      MISCELLANEOUS PROVISIONS REQUIRING  
BOARD OF SUPERVISORS' APPROVAL**

**9-601      Category 6 Special Exception Uses**

Category 6 special exceptions consist of those miscellaneous provisions set forth in various Articles of this Ordinance, which require special approval or authorization from the Board.

1.      (Deleted by Amendment #95-283, Adopted October 30, 1995, Effective October 31, 1995 at 12:01 AM)
2.      Uses in a floodplain.
3.      Increase in building heights.
4.      Enlargement of certain nonconforming uses.
5.      Parking in R districts.
6.      Waiver of minimum lot size requirements.
7.      Approval of drive-in financial institutions, fast food restaurants, quick-service food stores, service stations and service station/mini-marts in a Highway Corridor Overlay District.
8.      Approval of the enlargement, extension, relocation or increase in intensity of existing drive-in financial institutions, fast food restaurants, quick-service food stores and service stations in a Highway Corridor Overlay District.
9.      Waiver of open space requirements.
10.     Waiver of minimum yard and privacy yard requirements for single family attached dwelling units.
11.     Approval of nonconforming condominium and cooperative conversions.
12.     Cluster subdivisions.
13.     Driveways for uses in a C or I district.
14.     Density credit for major utility easements.
15.     Increase in FAR.
16.     Minor modifications to a nonconformity.
17.     Waiver of certain sign regulations.

FAIRFAX COUNTY ZONING ORDINANCE

18. Outdoor storage in association with warehousing establishments in the Sully Historic Overlay District.
19. Modifications/waivers/increases and uses in a Commercial Revitalization District.
20. Reduction of yard requirements for the reconstruction of certain single family detached dwellings that are destroyed by casualty.
21. Containment structures associated with outdoor recreation/sports facility playing fields/courts and golf courses.
22. Modification of minimum yard requirements for certain existing structures and uses.
23. Provisions for modifying shape factor limitations.
24. Modification of grade for single family detached dwelling.
25. Increase in parking in the PTC District
26. Increase in FAR in the PTC District
27. 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.

**9-602 Additional Submission Requirements**

In addition to the submission requirements set forth in Sect. 011 above, all applications for a Category 6 special exception shall be accompanied by such submission items as may be required by the provisions of this Ordinance or as may be required by the Board for a particular special exception.

**9-603 (Deleted by Amendment #95-283, Adopted October 30, 1995, Effective October 31, 1995 at 12:01 AM)**

**9-604 (Deleted by Amendment #82-64, adopted August 2, 1982)**

**9-605 (Deleted by Amendment #82-64, adopted August 2, 1982)**

**9-606 Provisions for Uses in a Floodplain**

The Board may approve a special exception for the establishment of a use in a floodplain in accordance with the provisions of Part 9 of Article 2.

**9-607 Provisions for Approving an Increase in Building Heights**

As set forth in the C-3, C-4, C-6, C-7, C-8, C-9, I-1, I-2, I-3, I-4, I-5, I-6 and Sully Historic Overlay Districts, and as applicable to all Group 3, Institutional Uses and Category 3,

## SPECIAL EXCEPTIONS

Quasi-Public Uses, the Board may approve a special exception for an increase in height above the maximum building height regulations specified for the zoning district or a given use, but only in accordance with the following provisions:

1. An increase in height may be approved only where such will be in harmony with the policies embodied in the adopted comprehensive plan.
2. An increase in height may be approved only in those locations where the resultant height will not be detrimental to the character and development of adjacent lands.
3. An increase in height may be approved in only those instances where the remaining regulations for the zoning district can be satisfied.
4. An increase in height up to 60 feet may be approved in the Sully Historic Overlay District when located within the historic district and within 500 feet of the Sully Historic Overlay District perimeter boundary and when it can be demonstrated by the applicant that the proposed structures, including all rooftop structures excluded from the maximum height regulations pursuant to Sect. 2-506 and those portions of the roof excluded from the building height calculations in accordance with the definition, are compatible with and do not have detrimental impacts on the Sully property in terms of mass, scale, color and visual impact and when such increase in height is in compliance with Federal Aviation Administration standards. Other factors to be considered when determining the impact of an increase in height may include, but not be limited to, changes to existing topography, presence of existing vegetation and the building lighting and signage. The actual building height as measured from the grade to the top of any roof or rooftop structure shall not exceed 65 feet.

### **9-608 Provisions for Enlargement of Certain Nonconforming Uses**

The Board may approve a special exception authorizing the enlargement of certain nonconforming uses, but only in accordance with the provisions of Sect. 15-102.

### **9-609 Provisions for Parking in R Districts**

The Board may approve a special exception authorizing a parcel of land in an R district to be used for off-street parking of motor vehicles, but only in accordance with the following conditions:

1. No charge shall be made for the use of such parcel for parking purposes.
2. All such off-street parking facilities shall be used solely for the parking of vehicles in operating condition. No motor vehicle repair work except emergency service shall be permitted in association with any such off-street parking.
3. All such off-street parking space shall be provided with safe and convenient access to a street. If any such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings through the curb of such dimension, location and construction as may be approved by the Director in accordance with the Public Facilities Manual.

## FAIRFAX COUNTY ZONING ORDINANCE

4. All such off-street parking areas shall be in accordance with the provisions of Par. 11 of Sect. 11-102.
5. All such off-street parking spaces and areas shall comply with the geometric design standards presented in the Public Facilities Manual.
6. There shall be no parking of vehicles closer to any lot line which abuts an R district than a distance equal to the dimension of the abutting corresponding yard as required by this Ordinance.
7. All lighting fixtures used to illuminate such off-street parking areas shall be in conformance with the performance standards for outdoor lighting set forth in Part 9 of Article 14.
8. All such off-street parking shall comply with the provisions for landscaping and screening set forth in Article 13.

### **9-610 Provisions for Waiving Minimum Lot Size Requirements**

The Board may approve, either in conjunction with the approval of a rezoning or as a special exception, the waiving of the minimum district size and/or lot width requirement for an R District, except for all cluster subdivisions, the minimum lot area and/or lot width requirements for a C district or the minimum district size requirement for the C-9 District, and the minimum district size, lot area and/or lot width requirements for an I district, but only in accordance with the following:

1. Such lot has not been reduced in width or area since the effective date of this Ordinance to a width or area less than required by this Ordinance.
2. The applicant shall demonstrate that the waiver results in a development that preserves existing vegetation, topography, historic resources and/or other environmental features; provides for reduced impervious surface; maintains or improves stormwater management systems; and/or similar demonstrable impact.
3. It shall be demonstrated that development of the subject lot will not have any deleterious effect on the existing or planned development of adjacent properties or on area roadways.
4. Such waiver shall be approved only if the remaining provisions of this Ordinance can be satisfied.

### **9-611 Provisions for Approving Drive-In Financial Institutions, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Station/Mini-Marts in a Highway Corridor Overlay District**

The Board may approve a special exception for the establishment or for the enlargement, extension, relocation or increase in intensity of a drive-in financial institution, fast food restaurant, quick-service food store, service station or service station/mini-mart in a Highway Corridor Overlay District, but only in accordance with the provisions of Part 6 of Article 7.



## SPECIAL EXCEPTIONS

### **9-612 Provisions for Waiving Open Space Requirements**

Except for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, the Board may approve, either in conjunction with the approval of appropriate proffered conditions or as a special exception, the waiving of the open space requirement presented for a given zoning district and/or the open space requirement for cluster subdivisions in the R-C, R-E and R-1 Districts and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres, set forth in Par. 4 of Sect. 2-309, but only in accordance with the following provisions:

1. Such waiver may be approved only if it will further the intent of the Ordinance, and the intent and implementation of the adopted comprehensive plan and other adopted policies.
2. Such waiver may be approved only if it is established that the resultant development will be harmonious with adjacent development.
3. Such a waiver may be approved only if the provisions of Article 13 are satisfied.

### **9-613 Provisions for Waiving Minimum Lot Width, Minimum Yard and Privacy Yard Requirements for Single Family Attached Dwelling Units**

The Board may approve, either in conjunction with the approval of a rezoning or a special exception, the waiving of the minimum yard and/or privacy yard requirements for single family attached dwelling units. Such waiver may be approved only if it will further the intent of the Ordinance, and the intent and implementation of the adopted comprehensive plan and other adopted policies.

### **9-614 Provisions for Approval of Nonconforming Condominium and Cooperative Conversions**

1. Pursuant to Va. Code Sections 55-79.43 and 55-429, the standards set forth in Sect. 006 above shall not apply and an application for a special exception shall be approved if the applicant can demonstrate to the reasonable satisfaction of the Board that existing nonconformities are not likely to be adversely affected by the proposed conversion.
2. Upon approving a special exception, the Board may impose such conditions as deemed necessary to assure that the development will be in harmony with the purpose and intent of the provisions of this Ordinance.
3. An approval of a special exception shall permit existing nonconformities to continue as nonconformities.

### **9-615 Provisions for a Cluster Subdivision**

The Board may approve, either in conjunction with the approval of a rezoning or as a special exception, 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 (2) acres or greater but less than three and one-half (3.5) acres, but only in accordance with the provisions of this section. Special

## FAIRFAX COUNTY ZONING ORDINANCE

exceptions for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 or R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, that were approved by the Board prior to July 1, 2004, shall remain valid and the cluster subdivisions shall continue pursuant to such special exception approval and any development conditions imposed by such approval. Amendments to such special exceptions for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 or R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, shall be pursued in accordance with the provisions of Sect. 9-014 and the following:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by twenty-three (23) copies of a plat drawn to designated scale of not less than one inch equals fifty feet (1" = 50'), certified by a professional engineer, land surveyor, architect or landscape architect licensed by the State of Virginia, presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. If the proposal cannot be accommodated on one 24" x 36" sheet at a scale of 1" = 50', a scale of not less than 1" = 100' may be used. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plat shall contain the following information:
  - A. Boundaries of the entire property, with bearings and distances of the perimeter property lines.
  - B. Total area of the property in square feet or acres.
  - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
  - D. Area of open space in square feet or acres and percent of total area that is open space.
  - E. Type of open space, whether common open space or dedicated open space, and the proposed uses.
  - F. Maximum number of dwelling units proposed, and the density and open space calculations based on Sections 2-308 and 2-309.
  - G. Existing topography with a maximum contour interval of two (2) feet and a statement indicating whether it is air survey or field run.
  - H. Proposed layout of lots, streets and open space.
  - I. Location, where applicable, of recreation areas, parks, schools, and other public or community uses.
  - J. Public right(s)-of-way, indicating names, route numbers and width, any required and/or 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.

## SPECIAL EXCEPTIONS

- K. A delineation of all existing structures, and an indication of their date of construction, if known, and whether they will be retained or demolished.
- L. Indication that the property is served by public water and/or sewer or private water and/or septic field.
- M. 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.
- N. Approximate location, estimated size of 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. In addition, a preliminary stormwater management plan that includes information about the adequacy of downstream drainage, including the sufficiency of capacity of any storm drainage pipes and other conveyances into which stormwater runoff will be conveyed. When there is 2500 square feet or more of land disturbing activity on the entire application property, in addition to the above, the preliminary stormwater management plan shall include:
  - (1) A graphic depicting:
    - (a) 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.
    - (b) The approximate on-site and off-site areas to be served by each stormwater management facility, along with the acreage draining to each facility.
    - (c) A preliminary layout of all on-site drainage channels, outfalls and pipes, including inlet and outlet pipes within the stormwater management facility.
    - (d) 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.
    - (e) Proposed landscaping and tree preservation areas in and near the stormwater management facility.
    - (f) 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 and/or stream bank stabilization measures.
  - (2) A preliminary stormwater management narrative setting forth the following:

FAIRFAX COUNTY ZONING ORDINANCE

- (a) Description of how the detention and best management practice requirements will be met.
  - (b) The estimated area and volume of storage of the stormwater management facility to meet stormwater detention and best management practice requirements.
  - (c) 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 shall 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 1 square mile, whichever comes first.
  - (d) Description of how the adequate outfall requirements of the Public Facilities Manual will be satisfied.
- O. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted 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.
- P. A plan showing limits of clearing, existing vegetation, and any proposed landscaping and screening, to include existing vegetation to be preserved, and when there is 2500 square feet or more of land disturbing activity, an existing vegetation map.
- Q. Location of all existing utility easements having a width of twenty-five (25) feet or more.
- R. Location of all trails required by the adopted comprehensive plan.
- S. Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.
- T. Seal and signature of professional person preparing the plat.
2. It shall be demonstrated by the applicant that the location, topography and other physical characteristics of the property are such that cluster development will:

## SPECIAL EXCEPTIONS

- A. Preserve the environmental integrity of the site by protecting and/or promoting the preservation of features such as steep slopes, stream valleys, desirable vegetation or farmland, and either
    - (1) Produce a more efficient and practicable development, or
    - (2) Provide land necessary for public or community facilities.
  - B. Be in accordance with the adopted comprehensive plan and the established character of the area. To accomplish this end, the cluster subdivision shall 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.
3. In no case shall the maximum density specified for the applicable district be increased nor shall other applicable regulations or use limitations for the district be modified or changed; provided, however, the Board may approve a modification to the minimum lot size and/or minimum yard requirements when it can be concluded that such a modification(s) is in keeping with the purpose of this Section and the applicable zoning district. No lot shall extend into a floodplain and adjacent slopes in excess of fifteen (15) percent grade or Resource Protection Area unless approved by the Board based on a determination that:
- A. The particular floodplain and adjacent slopes in excess of fifteen (15) percent grade or Resource Protection Area, by reason of its size or shape, has no practical open space value, and
  - B. The amount of floodplain and adjacent slopes in excess of fifteen (15) percent grade or Resource Protection Area on the lot is minimal, and
  - C. The lot otherwise meets the required minimum lot area specified for the district in which located.
4. Upon Board approval of a cluster subdivision, a cluster subdivision plat may be approved in accordance with the plat approved by the Board, the provisions of this Section and the cluster subdivision provisions presented in the zoning district regulations.
5. In the R-C District, in addition to Par. 2 above, the applicant shall demonstrate that the cluster subdivision and the use of its open space is designed to achieve runoff pollution generation rates no greater than would be expected from a conventional R-C District subdivision of the property.

### **9-616 Driveways for Uses in a C or I District**

The Board may approve, as a Category 6 special exception use, the location on residentially zoned land of a driveway for a commercial or industrial use, but only in accordance with the following:

## FAIRFAX COUNTY ZONING ORDINANCE

1. It shall be determined that:
  - A. No other means of access is reasonably available; or
  - B. The proposed access will result in a minimized traffic impact on the streets in the vicinity.
2. It shall be determined that the proposed driveway will not unduly impact the use or development of adjacent properties in accordance with the adopted comprehensive plan.

### **9-617 Density Credit for Major Utility Easements**

The Board may approve a special exception to allow density credit for a major utility easement in accordance with the provisions of Par. 3 of Sect. 2-308, and the following:

1. The granting of an easement was not made in exchange for monetary compensation from the grantee-instrumentality; provided however, that, in the discretion of the Board, the exchange of monetary compensation may be permitted based upon the following standards:
  - A. The easement is for a major utility facility providing regional benefit;
  - B. The location of the easement impacts the subject property;
  - C. Monetary compensation is appropriate under the circumstances; and
  - D. The proposed location for the easement is determined to be significantly in the public interest.
2. The area which is the subject of the easement is necessary for the installation or improvement of a public facility which is in accordance with the adopted comprehensive plan. Where such proposed public facility requires approval under Sect. 15.2-2232 of the Code of Virginia, such approval shall be obtained prior to or in conjunction with the granting of density credit under this Section.

### **9-618 Increase in FAR**

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.

### **9-619 Provisions for Minor Modifications to a Nonconformity**

Notwithstanding the standards of Sect. 006 above, the Board may approve a special exception to allow structural alterations to any nonconforming building or to a building in which a nonconforming use is conducted subject to the following:

1. It is determined that such alteration is necessary as a result of a condemnation or other acquisition by any government agency for a public improvement.

## SPECIAL EXCEPTIONS

2. It is determined that a reduction in monetary compensation associated with the public improvement, due to the allowance of such alteration, is of more public benefit than not allowing the alteration, even if the use may not be in harmony with the adopted comprehensive plan.
3. A plan shall be submitted which depicts the proposed alteration and the overall impact or effect of the alteration to the structure. No such alteration shall 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. Such special exception may be approved notwithstanding any existing nonconformity and any nonconformity that may be created by the public improvement, and approval of the special exception shall permit such nonconformities to continue as nonconformities.

Upon approving a special exception, the Board may impose such conditions as deemed necessary to address any impacts of the nonconformity or proposed modification.

### **9-620 Waiver of Certain Sign Regulations**

The purpose of this special exception is to provide some relief where appropriate for those signs in the C and I districts which, because of certain unusual circumstances as specified below, do not provide identification as intended by the sign regulations. In the C and I districts, the Board may approve, either in conjunction with the approval of a rezoning or as a Category 6 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 Sect. 12-304. Such waiver shall 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 the provisions of Sect. 12-104.
2. Such waiver may be approved only when it is demonstrated by the applicant 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. It is determined that such waiver will be in harmony with the policies of the adopted comprehensive plan.
4. A waiver of the sign provisions may be approved 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 is determined 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 12.

### **9-621 Provisions for Outdoor Storage in Association with Warehousing Establishments in the Sully Historic Overlay District**

## FAIRFAX COUNTY ZONING ORDINANCE

The Board may approve a special exception authorizing the establishment of outdoor storage in association with a warehousing establishment on land zoned I-5 or I-6 in the Sully Historic Overlay District in accordance with the provisions of Sect. A1-303.

### **9-622 Provisions for Modifications/Waivers/Increases and Uses in a Commercial Revitalization District**

1. In a Commercial Revitalization District, the Board may approve, either in conjunction with the approval of a rezoning or as a special exception, the following:
  - A. A modification or waiver of the minimum lot size, minimum yard and/or minimum open space requirements of the underlying zoning district regulations,
  - B. An increase in the amount of office use permitted, increase in the maximum permitted building height or increase in the maximum permitted FAR in accordance with the underlying zoning district regulations,
  - C. A use allowed by special exception in the underlying zoning district regulations, to include other applicable Category 6 special exception uses,
  - D. A modification or waiver of the provisions of a Commercial Revitalization District, as provided for in that district, and/or
  - E. The establishment of a vehicle transportation service establishment in the C-6, C-7, C-8 or C-9 Districts.
2. Notwithstanding the provisions of Par. 2 of Sect. 011 above, the plat requirements set forth below shall apply. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a plat requirement, if it is determined that the requirement is clearly not necessary for the review of the application.
  - A. Twenty-three (23) copies of a plat, including any resubmissions of the plat and supporting graphics, drawn to designated scale of not less than one inch equals fifty feet (1" = 50'), certified by a professional engineer, land surveyor, architect or landscape architect licensed by the State of Virginia, presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat and supporting graphics. If the proposal cannot be accommodated on one 24" x 36" sheet at a scale of 1" = 50', a scale of not less than 1" = 100' may be used. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plat shall contain the following information:
    - (1) Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
    - (2) Total area of the property and of each zoning district in square feet or acres.
    - (3) Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and all supporting graphics.



## SPECIAL EXCEPTIONS

- (4) Location, dimensions and maximum height in feet, including penthouses, of all existing and proposed structures.
- (5) A statement of the architectural concepts, building materials and color of any proposed structures, and schematic architectural sketches, if available.
- (6) The location, dimensions, style and lighting of all signs.
- (7) The distances of all existing structures that are proposed to remain and all proposed structures from the lot boundaries and abutting streets, and a graphic depiction of the angle of bulk plane, if applicable.
- (8) Public right(s)-of-way, indicating names, route numbers and width, any required and/or 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.
- (9) Proposed means of ingress and egress to the property from a public street(s).
- (10) Location of all existing and/or 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.
- (11) Location of well and/or septic field, or indication that the property is served by public water and/or sewer. Where applicable, a statement from the Health Department that available facilities are adequate for the proposed use.
- (12) Approximate location, estimated size of 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. In addition, a preliminary stormwater management plan that includes information about the adequacy of downstream drainage, including the sufficiency of capacity of any storm drainage pipes and other conveyances into which stormwater runoff will be conveyed. When there is 2500 square feet or more of land disturbing activity on the entire application property, in addition to the above, the preliminary stormwater management plan shall include:
  - (a) A graphic depicting:
    - (i) 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.

## FAIRFAX COUNTY ZONING ORDINANCE

- (ii) The approximate on-site and off-site areas to be served by each stormwater management facility, along with the acreage draining to each facility.
  - (iii) A preliminary layout of all on-site drainage channels, outfalls and pipes, including inlet and outlet pipes within the stormwater management facility.
  - (iv) 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.
  - (v) Proposed landscaping and tree preservation areas in and near the stormwater management facility.
  - (vi) 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 and/or stream bank stabilization measures.
- (b) A preliminary stormwater management narrative setting forth the following:
- (i) Description of how the detention and best management practice requirements will be met.
  - (ii) The estimated area and volume of storage of the stormwater management facility to meet stormwater detention and best management practice requirements.
  - (iii) 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 shall 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 1 square mile, whichever comes first.
  - (iv) Description of how the adequate outfall requirements of the Public Facilities Manual will be satisfied.
- (13) 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.

## SPECIAL EXCEPTIONS

- (14) Existing topography with a maximum contour interval of two (2) feet and a statement indicating whether it is air survey or field run.
- (15) A plan showing the open space areas and how the development meets any applicable streetscape/urban design guidelines set forth in the adopted comprehensive plan, with a statement of the percent of open space required and percent of open space provided. The plan shall also include the limits of clearing, existing vegetation, and when there is 2500 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.
- (16) Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted 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.
- (17) Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- (18) Location of all walkways on the site and to adjacent sites and trails required by the adopted comprehensive plan.
- (19) Approximate delineation of any grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact the burial site.
- (20) Where applicable, seating capacity, useable outdoor recreation area, emergency access, bicycle parking, fencing, outside lighting, and loudspeakers.
- (21) Seal and signature of professional person certifying the plat.

In addition, an application shall include a statement and any supporting materials detailing any requested modification/waiver/increase and the justification for same.

3. The approval of a requested modification/waiver/increase or use shall be in accordance with and shall further the implementation of the adopted comprehensive plan for the commercial revitalization area.

**9-623**

**Reduction of Yard Requirements for the Reconstruction of Certain Single Family Detached Dwellings that are Destroyed by Casualty**

## FAIRFAX COUNTY ZONING ORDINANCE

The Board may approve a special exception to allow a reduction of the yard requirements for the reconstruction of certain single family detached dwellings that are subject to Par. 1 of Sect. 15-101 and destroyed by casualty, but only in accordance with the following:

1. The application shall be filed within two (2) years of the date of the casualty if the casualty takes place after November 16, 2004. If the casualty occurred less than two (2) years prior to November 16, 2004, the application shall be filed within two (2) years of November 16, 2004. If the casualty occurred two (2) or more years prior to November 16, 2004, no such special exception shall be filed or approved; and
2. The single family detached dwelling must have been in a habitable condition immediately prior to the casualty; and
3. The casualty cannot have been intentionally caused by the owner or owner's agent; and
4. The resulting gross floor area of the reconstructed dwelling shall not be more than 125 percent of the gross floor area of the dwelling that existed immediately prior to the casualty; and
5. When a structure that existed prior to the casualty encroaches into a current minimum required yard, the resulting yard after reconstruction shall equate to no more than a twenty-five (25) percent reduction of the yard existing at the time of the casualty, but in no event shall any resulting yard be less than five (5) feet; and/or
6. The Board may allow the enlargement or relocation of the reconstructed dwelling such that it encroaches into a current minimum required yard. Any such enlargement or relocation shall not result in a reduction of any minimum required yard by more than twenty-five (25) percent, but in no event shall the resulting yard be less than five (5) feet.

The Board may allow extensions into the yards beyond that permitted by Paragraphs 5 and 6 above for stairs, stoops and ramps when such features are uncovered and are necessary for access and/or the safety of the occupants. Such features shall not be allowed any closer than three (3) feet from any property line; provided, however, that an accessibility improvement, as defined by Article 20, may be located in any yard.

**9-624**

### **Additional Standards for Containment Structures Associated with Outdoor Recreation/Sports Facility Playing Fields/Courts and Golf Courses**

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 and/or modification to the corresponding location regulations as set forth in Sect. 10-104 for containment structures associated with outdoor recreation/sports facility playing fields/courts or golf courses when such structure is designed to preclude the flight of any ball or other sports equipment onto adjacent property or right-of-way, but only in accordance with the following:

1. Detailed information relating to the anticipated trajectory of balls and other sports equipment and the need for a containment structure to keep such equipment on the property shall be submitted with the application. In the event the containment structure is associated with a new playing field/court or golf course, the playing field/court or golf

## SPECIAL EXCEPTIONS

course shall be oriented and designed in such a manner as to minimize the height needed for such containment structure.

2. The height, location, color and materials of the proposed containment structure, including the size of mesh for any netting, shall be identified in the application.
3. The material for the containment structure shall be limited to support structures, netting that is at least seventy-five (75) percent open in an evenly distributed pattern, and/or guy wires.
4. Wherever practical, the containment structure shall be designed in such a manner that, in the event of collapse, the structure will not fall onto adjacent property or right-of-way.
5. Signs shall not be permitted on any containment structures.
6. Wherever practical, the containment netting shall be removed when the outdoor sports facility is not in use due to seasonal changes or other factors.
7. A containment structure may be located on an adjacent lot to an outdoor recreation/sports facility playing field/court or golf course, whether or not such lot contains a principal structure or use.
8. Such containment structure shall not be allowed in association with a privately used playing field/court on a lot containing a single family dwelling.

### **9-625 Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses**

The Board may approve, only in conjunction with the approval of a rezoning or special exception for another use, a modification of any yard requirement for 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:

1. It shall be demonstrated that the existing structure or use complied with the minimum required yards in effect when the use was established and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.
2. The Board may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

### **9-626 Provisions for Modifying Shape Factor Limitations**

1. 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:
  - A. The increase in shape factor results in a development that preserves and/or minimizes the impact on existing vegetation, topography, historic resources and/or

## FAIRFAX COUNTY ZONING ORDINANCE

other environmental features; or

- B. A portion of the property is required for the establishment of a wastewater system private water supply system, stormwater management facility, and/or a stream valley trail as an outlot within the proposed subdivision, provided that there is no alternative location on the property being subdivided for the proposed facility or trail.
2. The Board may approve a lot with a shape factor greater than thirty-five (35) but less than fifty (50) in the R-E, R-1, R-2, R-3, R-4, R-5 and R-8 Districts if it determines that a portion of the property is required for the establishment of a wastewater and/or stormwater management facility or a stream valley trail as an outlot within the proposed subdivision, provided that there is no alternative location on the property being subdivided for the proposed facility or trail.
3. Any applicant seeking approval of an increase in shape factor pursuant to Paragraphs 1 or 2 above shall provide sufficient justification for any such increase in order to establish compliance with the above requirements.

### **9-627 Provisions for Modification of Grade for Single Family Detached Dwellings**

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 such structure must be elevated to meet all applicable floodplain regulations. In such 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 shall demonstrate that the requested increase in grade is the minimum amount required to meet the floodplain regulations.

### **9-628 Provisions for Increase in Parking in the PTC District**

The Board may approve a special exception to allow an increase in parking in the PTC District above the parking maximums set forth in Part 5 of Article 6 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 shall only be approved in accordance with the following:

1. Such increase in the number of parking spaces does not hinder or preclude the achievement of the Transportation Demand Management (TDM) goals for the subject property and/or the Tysons Corner Urban Center, as set forth in the adopted comprehensive plan; and
2. The design of a parking structure necessitates the construction of additional parking; or
3. The applicant is proposing a use with unique parking needs to justify an increase in the parking rate; or

## SPECIAL EXCEPTIONS

4. The need for an increase in parking is the result of a change in previously approved shared parking, valet or shuttle arrangements; or
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 Corner Urban Center; or
6. Other circumstances whereby the proposed use(s) cannot be adequately served by the number of parking spaces permitted by Part 5 of Article 6.

All off-street parking approved under this special exception may be administered by an entity established to manage such 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/or the Tysons Corner 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 shall be reevaluated within a specified period of time, based on changes in development patterns, uses or other factors in and around the application property.

### **9-629 Provisions for Increase in FAR in the PTC District**

To encourage redevelopment near Metrorail Station areas at a high intensity and ensure that the impacts of such redevelopment on the transportation network is adequately addressed, the Board may approve, in conjunction with a rezoning, a special exception to allow an increase in FAR in the PTC District, as specified in Par. 2A(1) of Sect. 6-507, for property located within the TOD District up to one quarter (¼) mile of a Metrorail Station entrance.

1. Such special exception shall only be approved provided the proposed development:
  - A. Facilitates transit oriented redevelopment in furtherance of the adopted comprehensive plan, and
  - B. Achieves, to the maximum extent feasible, the vehicle trip reduction goals set forth in the adopted comprehensive plan; and
  - C. Fully meets all applicable areawide, districtwide and site specific recommendations set forth in the adopted comprehensive plan; and
  - D. Exhibits excellence in urban design and building form as envisioned in the adopted comprehensive plan.
2. The applicant shall identify each phase of the proposed development, the anticipated order of construction and the anticipated completion date of each phase of the development. Additionally, to the satisfaction of the Board the applicant shall demonstrate the market feasibility of the proposed development.
3. The location and amount of special exception floor area shall be allocated on a per building basis, and to the extent possible, dispersed among the buildings shown on the special exception plat. It is intended, unless good cause is shown, that the total amount of

## FAIRFAX COUNTY ZONING ORDINANCE

the approved special exception floor area not be allocated to a single building in a multi-building and/or multi-phased development or be allocated solely within the initial phases of the development. Additionally, if any one building is constructed without utilizing any or all of its assigned special exception floor area, such unused floor area shall be forfeited and shall not be transferred to another building within the development absent a special exception amendment, and if applicable, a proffered condition/conceptual development plan amendment.

4. In addition to the submission of the special exception plat depicting the location and allocation of the special exception floor area per building, the applicant shall also submit the development plan associated with the PTC District rezoning specifying the floor area per building without the special exception floor area.
5. As part of the approval of the special exception, the Board may impose such conditions it deems necessary to address the impacts of the increased FAR as they relate to such factors as: site layout, building design, traffic generation, parking and demand for public facilities.
6. Notwithstanding the provisions of Sect. 9-015, the special exception allowing increased floor area shall automatically expire in whole or in part, without notice, ten (10) years from the date of approval, or such other 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 for any building approved for special exception floor area, but has not received core and shell final building inspection. The Board may approve a request for additional time, subject to the following:
  - A. A request is filed in writing with the Zoning Administrator prior to the expiration date. Such request shall specify the basis for the amount of additional time requested and shall include an explanation as to 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.
  - B. The applicant specifies the amount of floor area and mix of uses currently constructed in the development including the amount of special exception floor area constructed per building; the total amount of proposed floor area including the special exception floor area per building to be constructed; and identifies each phase and anticipated order of the remaining development and the anticipated completion date. Additionally, the applicant demonstrates to the satisfaction of the Board the continued market feasibility of the proposal.
  - C. A statement detailing how the recommendations set forth in the adopted 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, have been met.
  - D. If a request for additional time is timely filed, the special exception shall remain valid until the request for additional time is acted upon by the Board; however, during this period, the special exception floor area shall not be constructed.



## SPECIAL EXCEPTIONS

### **9-630 Provisions for Expansion of an Existing or Development of a New Farm Winery, Limited Brewery, or 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**

1. In the R-C District, the Board may approve a special exception to allow for the expansion or development of a farm winery, limited brewery, or limited distillery. For the purposes of this provision, a farm winery, limited brewery, or limited distillery located in the R-C District shall only include (1) any establishment that was issued a valid license for such use from the Virginia Alcoholic Beverage Control Board prior to July 1, 2016, and (2) any such establishment for which a license application was filed with the Virginia Alcoholic Beverage Control Board prior to July 1, 2016 and was subsequently approved prior to approval of a special exception. An expansion or development shall include new or expanded buildings, structures and uses that may be approved by special exception in accordance with the following:
  - A. Special exception approval shall not be required for the continuation, after July 1, 2016, of then existing uses of buildings and structures, provided that such use or activity does not cease for any reason for a continuous period of two (2) years or more.
  - B. Special exception approval shall be required for the expansion after July 1, 2016, of any existing buildings or structures or the uses thereof, as determined by the Zoning Administrator and as provided for in Par. 2 of Sect. 15-101 or the structural alteration of any existing building or structure that results in the expansion of such building or structure or the uses thereof. Special exception approval shall also be required for any new building or structure.
  - C. For public or private events and activities which exceed the number of attendees, frequency or duration as set forth under the definition of a farm winery, limited brewery, or limited distillery, if not otherwise permitted under Par. 1A, above, the Board may impose conditions on such events and activities, including, but not limited to: the type and number of allowable activities; the area of the site devoted to such activities; the adequacy of water and sanitation services to accommodate the anticipated number of attendees; the days and hours of such activities; the use of lighting or amplified sound systems; and the amount of parking available to accommodate the activity. Any such events and activities shall be subject to compliance with the noise standards set forth in Chapter 108.1 of The Code and the outdoor lighting standards set forth in Article 14 of this Ordinance. No such public or private event or activities shall include any of the following: helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement park rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant requiring approval by the Health Department and/or any other similar use determined by the Board to have a substantial impact on the health, safety and welfare of the public. Musical accompaniment or entertainment that is accessory to farm winery, limited brewery, and/or limited distillery sales and

## FAIRFAX COUNTY ZONING ORDINANCE

tastings as part of the regular course of business shall not be deemed to be a public or private event or activity.

- D. An expansion may be approved only when it is determined by the Board that the resulting use, buildings and/or structures will be in harmony with the policies set forth in the adopted comprehensive plan and where the resultant operation will not have a deleterious effect on the existing or planned development of adjacent properties or on area roadways, to include consideration of the impacts of additional trip generation on roads serving the proposed operation and driver/pedestrian safety. The applicant shall demonstrate to the Board's satisfaction that any potential impacts and cumulative effects of an expansion of buildings or uses, including, without limitation, the hosting of public or private events not specifically allowed under the definition of farm winery, limited brewery, or limited distillery shall be adequately mitigated.
  - E. Any expansion of an existing building or structure, the construction of a new building or structure or the establishment or expansion of any area for the loading/unloading of trucks shall be located at least fifty (50) feet to any lot line and one hundred (100) feet to any principal structure on adjacent properties, unless modified by the Board. All loading/unloading areas shall be screened from view of any adjacent dwelling.
  - F. Any application for a special exception shall include a copy of the farm winery, limited brewery, or limited distillery license issued or pending issuance by the Virginia Alcoholic Beverage Control Board.
  - G. For any new or expanded buildings or structures which would allow for access by the public, the owner or applicant shall submit plans certified by a structural engineer and such structural engineer shall also certify to the structural integrity of the building, once such construction is complete. Such certified plans shall be made available for review upon request.
  - H. The operation and construction of a farm winery, limited brewery or limited distillery shall be further subject to all other applicable federal, state or local statutes, ordinances, rules or regulations, which may include, without limitation, the Chesapeake Bay Preservation Act, the Stormwater Management Act, and the Americans With Disabilities Act.
2. In the R-A, R-P, R-E and R-1 Districts the Board may approve a special exception to allow for the hosting of certain events and activities beyond that which is specified in the definitions of a farm winery, limited brewery, or limited distillery in accordance with the following:
- A. For public or private events and activities which exceed the number of attendees, frequency or duration as set forth under the definition of a farm winery, limited brewery, or limited distillery, the Board may impose conditions on such events and activities, including, but not limited to: the type and number of allowable activities; the area of the site devoted to such activities; the

## SPECIAL EXCEPTIONS

adequacy of water and sanitation services to accommodate the anticipated number of attendees; the days and hours of such activities; the use of lighting or amplified sound systems; and the amount of parking available to accommodate the activity. Any such events and activities shall be subject to compliance with the noise standards set forth in Chapter 108.1 of The Code and the outdoor lighting standards set forth in Article 14 of this Ordinance. No such public or private event or activities shall include any of the following: helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement park rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant requiring approval by the Health Department and/or any other similar use determined by the Board to have a substantial impact on the health, safety and welfare of the public.

- B. A special exception may be approved only when it is determined by the Board that the proposed events and activities will be in harmony with the policies set forth in the adopted comprehensive plan and where the resultant operation will not have a deleterious effect on the existing or planned development of adjacent properties or on area roadways, to include consideration of the impacts of additional trip generation on roads serving the proposed operation and driver/pedestrian safety. The applicant shall demonstrate to the Board's satisfaction that any potential impacts and cumulative effects of the hosting of public or private events not specifically allowed under the definition of farm winery, limited brewery, or limited distillery shall be adequately mitigated. Any application for a special exception shall include a copy of the farm winery, limited brewery, or limited distillery license issued or pending issuance by the Virginia Alcoholic Beverage Control Board.
- C. Any application for a special exception shall include a copy of the farm winery, limited brewery, or limited distillery license issued or pending issuance by the Virginia Alcoholic Beverage Control Board.
- D. The operation and construction of a farm winery, limited brewery, or limited distillery shall be further subject to all other applicable federal, state or local statutes, ordinances, rules or regulations, which may include without limitation, the Chesapeake Bay Preservation Act, the Stormwater Management Act, and the Americans With Disabilities Act.

FAIRFAX COUNTY ZONING ORDINANCE

SPECIAL EXCEPTIONS

**PART 7 (Deleted by Amendment #87-147, Adopted July 27, 1987)**

FAIRFAX COUNTY ZONING ORDINANCE