

FAIRFAX COUNTY



ZONING ORDINANCE MODERNIZATION PROJECT

EXECUTIVE SUMMARY OF ZONING ORDINANCE PROPOSED FOR PUBLIC HEARING NOVEMBER 24, 2020

Introduction

This document summarizes the proposed changes to the Fairfax County Zoning Ordinance that are included in the attached draft proposed for Board public hearing authorization. Appendix 1 lists the notable changes as compared to the current Ordinance and identifies which changes have been made since the previously posted Consolidated Draft of June 30, 2020. Appendix 2 summarizes in a table the changes to how uses may be permitted in the various zoning districts. Appendix 3 provides a summary and discussion of the proposed revisions for accessory living units (previously known as accessory dwelling units), and Appendix 4 addresses the proposed regulations for home-based businesses. The footnotes in the annotated version of the draft Zoning Ordinance provide detailed tracking of the proposed substantive changes. Edits for readability generally are not footnoted. It should be noted that these footnotes will not be part of the adopted Ordinance but serve as a way to identify the source of the text from the current Ordinance and any proposed changes to the current text.

This summary is organized as follows:

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Background

Scope of the Project

The Zoning Ordinance Modernization project (zMOD) has been included on the Zoning Ordinance Amendment Work Program since 2016. The goals of this project are to modernize the County’s Zoning Ordinance, to make the regulations easier for all stakeholders to understand, and to remove inconsistencies, gaps, and ambiguities that have found their way into the Ordinance since initial adoption of the current Ordinance in 1978. In addition to creating a new, more intuitive format and organization, creating new graphics, and editing the text for readability, this Phase I of the modernization effort has focused on certain revisions to the uses, including adding new use names, consolidating uses, creating new uses where appropriate, developing updated definitions, and making revisions to some of the use regulations. Fewer non-editorial changes are proposed to the other parts of the Ordinance, although some changes are expected to be the focus of Phase II updates (such as an amendment to the parking regulations, which is a separate topic on the Work Program). After adoption, the Ordinance will be made available in a new online format that will be responsive to different types of devices from a cell phone to a tablet and desktop.

Timeline and Outreach

Since the project kickoff in January of 2018, Clarion Associates has been assisting Fairfax County with the zMOD project. The proposed draft has been developed and released in installments as shown below to facilitate public review and comment.

| Date | Installment |
|----------------|---|
| April 2018 | Zoning Ordinance Structure Options Report |
| September 2018 | Industrial Uses Draft |
| November 2018 | Public, Institutional, and Community Uses Draft |
| January 2019 | Agricultural and Commercial Uses Draft |
| April 2019 | Residential, Accessory, and Temporary Uses Draft |
| May 2019 | Consolidated Draft of Use Regulations (Article 4) |
| July 2019 | Revised Consolidated Draft of Use Regulations (Article 4) Endorsed by the Board on July 16, 2019 |
| August 2019 | Districts Draft |
| October 2019 | Development Standards, Parking, and Signs Draft |
| March 2020 | General Provisions, Administration, Procedures, and Enforcement Draft |
| June 2020 | Consolidated Zoning Ordinance Draft |

The attached draft represents an update to the previously released installments and the June 2020 Consolidated Draft, and includes changes from feedback received throughout the process and additional work by staff and Clarion, as described in Appendix 1. This draft represents the new proposed Zoning Ordinance and will be presented to the Board on December 1, 2020, to request authorization to advertise public hearings.



Extensive public outreach has been a hallmark of the zMOD project, which has employed a variety of ways to inform and engage the public.

- **Meetings** – Both in-person and remote meetings have been conducted by Clarion Associates and County staff throughout the process and will continue until the Board’s public hearing and decision on the revised Ordinance. There have been meetings for the general public, as well as presentations to specific community groups, including land use committees in all nine magisterial districts. Certain meetings have been streamed live on Facebook to provide an avenue for participation for those who could not attend in person, and those videos are archived on the zMOD website. Presentations have been given to elected and appointed officials, including the Board of Supervisors’ Land Use Policy Committee, the Planning Commission’s Land Use Process Review Committee, the Board of Zoning Appeals, the Architectural Review Board, and the History Commission. Videos of the Board of Supervisor’s Land Use Policy Committee are available at: <https://www.fairfaxcounty.gov/boardofsupervisors/2020-board-meetings>
- **Website** – zMOD has a dedicated [website](#) that includes contact information and posted drafts, presentations, and videos, and lists of previous and upcoming meetings.
- **Email** – zMOD has a dedicated email address. Many comments have been submitted to this email address, and staff responds to questions raised. zMOD also has an email Listserv for announcements.
- **Social Media and Channel 16** – Notices of the release of drafts, upcoming meetings, and surveys have been posted to the Fairfax County Zoning Facebook page and Nextdoor. The zMOD project has also been featured on Channel 16 through a public service announcement on the June 2020 Consolidated Draft, as well as twice on the Planning Commission Roundtable show.
- **Videos** – Clarion Associates created videos that provide an overview of the individual releases of the use regulations. Videos for the June 2020 Consolidated Draft are available in English and Spanish. Channel 16 created videos to summarize and accompany the surveys for accessory living units and home-based businesses.
- **Newsletters** – Information about drafts and meetings has been included in the members of the Board of Supervisors’ individual newsletters.
- **Surveys** – An initial survey about ways to improve the current Ordinance was conducted in early 2018 and the results were posted on February 26, 2018. In spring 2020, surveys were conducted on accessory dwelling units and home-based businesses; information about these survey results was included in a memorandum to the Board dated June 30, 2020, and posted on the zMOD website.
- **Work Groups** – Three informal work groups (one each for citizens, industry, and land use attorneys) have been created to provide a sounding board for continued discussions. These members also serve as liaisons with their other community groups and contacts to help disseminate project information.

Structure and Organization

The proposed updated Zoning Ordinance consolidates the current 20 articles and six appendices into nine articles and one appendix. An overview of the content included in each of the new nine articles is provided below:



Article 1 – General Provisions

Article 1 lays the groundwork for the Ordinance, including the enabling legislation, the Ordinance structure, and the purpose and intent statements.

Article 2 – Zoning Districts

Article 2 includes the specific zoning districts and associated regulations, including aerial imagery and tables describing key lot and building dimensional standards (e.g. building height and setbacks).

Article 3 – Overlay and Commercial Revitalization Districts

Article 3 incorporates information currently located in Article 7 and separate appendices into the body of the Ordinance. Regulations related to Historic Overlay Districts, Commercial Revitalization Districts, and other overlay districts are included in this article.

Article 4 – Use Regulations

Article 4 includes all land uses, how they are permitted in the various zoning districts, and associated use regulations. This article contains revisions from today's regulations, including new and consolidated uses, changes in some permissions, and revisions to use-specific standards that, depending on the use, may change the way that the use is established in the various zoning districts.

The proposed Ordinance arranges uses into two use tables. There is a use table for the conventional districts and one for the planned districts. In both use tables, the uses are listed along the left-hand column and ultimately will be hyperlinked to their definitions. Along the right-hand column, the use-specific standards are listed and will also be hyperlinked. Each district is listed across the top, and the planned district table further distinguishes principal and secondary uses, as well as the areas for the PRC District. The two tables are organized according to a three-tiered hierarchy that groups similar uses together as follows:

- Use Classifications: Each use is grouped under one of seven broad classifications: Agriculture; Residential; Public, Institutional, and Community; Commercial; Industrial; Accessory; and Temporary.
- Use Categories: Categories are subgroups within each classification that have common functional or physical characteristics. For example, the Recreation and Entertainment category falls under the Commercial Uses classification, and the Household Living category falls under the Residential Uses classification.
- Uses: Uses are the specific land uses that can be established within a category, such as a Banquet or Reception Hall within the Recreation and Entertainment category or a Stacked Townhouse within the Household Living category.

Article 5 – Development Standards

The new Article 5 includes the following topics:

- Lot, Bulk, and Open Space Regulations (including setbacks and permitted extensions)
- Affordable Dwelling Unit Program



- Earthborn Vibration Standards
- Water and Sewer Facility Requirements
- Grading, Erosion, Sediment Control, and Drainage
- Floodplain Regulations
- Common Open Space and Improvements
- Private Streets
- Landscaping and Screening
- Outdoor Lighting

Most of the current Zoning Ordinance provisions, including the Affordable Dwelling Unit program, have been carried forward without substantive change.

Article 6 – Parking and Loading

This article includes the parking and loading standards from the current Article 11. As part of this Phase I, parking rates have been updated where needed to correspond to the new uses. A separate review of parking rates will take place as a subsequent Phase II amendment.

Article 7 – Signs

This article carries forward the current sign regulations that were amended in March 2019 without any substantive changes.

Article 8 – Administration, Procedures, and Enforcement

Article 8 includes the following topics:

- Review Procedures
- Submission Requirements
- Fee Schedule
- Review and Decision-Making Bodies
- Nonconformities
- Condominiums, and Condominium and Cooperative Conversions
- Enforcement, Violations, and Penalties

The standards have been substantially reorganized from the current Ordinance to bring together related provisions and reduce repetition where possible.

Article 9 – Definitions and Ordinance Interpretation

Article 9 includes Ordinance interpretations of words and terms used in the Ordinance, a list of abbreviations, and the definitions. All land uses are defined, as opposed to the current Ordinance, where only some of the uses are defined. The use definitions have been simplified where appropriate and the detailed regulations, which at times were included in definitions, are instead contained in the use-specific standards. This approach, along with the classification and category structure, will assist with use determinations as the market develops new uses.

Appendix 1 –Provisions Relating to Previous Approvals

Appendix 1 includes the general and specific provisions relating to the status of previous approvals. Unlike the appendices to the current Ordinance, Appendix 1 will not be part of the Ordinance but will be posted on the Zoning Ordinance webpage for reference.

Next Steps

- Board Authorization of public hearings scheduled for December 1, 2020
- Planning Commission and Board of Supervisors public hearings targeted for early 2021 (Jan – Mar)
- Delayed effective date for the adopted Zoning Ordinance

Questions?

If you have questions or comments about any aspect of the zMOD project, please e-mail zMOD staff at DPDzMODComments@fairfaxcounty.gov or visit the project website at <https://www.fairfaxcounty.gov/planning-development/zmod>.

If you would like to receive e-mail updates about the project, please visit the website and click “Add Me to the zMOD E-Mail List.” You may also follow us at <https://www.facebook.com/fairfaxcounty zoning/>



NOTABLE CHANGES FROM THE CURRENT ORDINANCE

This appendix outlines the notable changes from the current Zoning Ordinance. Additional information can be found in the footnotes in the annotated version of the draft updated Ordinance. Changes incorporated since the release of the Consolidated Draft on June 30, 2020, are identified with this bullet: ➤

Article 1 – General Provisions

- ❖ **Purpose Statements.** The purpose statements have been reorganized and edited, with new references added related to facilitating an equitable community and to promoting an overall sense of community through placemaking.

Article 2 – Zoning Districts

- ❖ **Angle of Bulk Plane.** This older methodology based on the height of the building using an angle to determine minimum setbacks has been simplified. The formula, termed “angle of bulk plane,” and effective building height have been deleted and replaced with tables that capture the same or similar setbacks relative to height without reliance on the formula.
- ❖ **Certain R-C District Setback Modifications.** Currently, certain lots comprehensively rezoned to the R-C District in 1982 that are either (a) subject to a final plat approved prior to July 26, 1982, or (b) recorded with a final consent decree entered in specific Chancery Numbers, may seek special permit approval to modify setback requirements. These standards are straightforward and may easily be applied administratively as opposed to through a public hearing process. As such, the proposal allows dwellings meeting these standards to apply the setbacks that were in effect in 1982 with administrative review.
- ❖ **Deleted Zoning Districts.** The R-P (Residential-Preservation) and I-1 (Light Industrial Research) Districts are proposed to be removed, as there is no land currently zoned to these districts.
- ❖ **New Graphics.** Graphics have been added to better illustrate lot and building dimensional standards, building height measurement, location regulations for decks and other accessory structures, and other provisions of the Ordinance. Since the June 2020 Consolidated Draft, the following new change is included:
 - The diagrams that illustrate the lot and building dimensional standards for each conventional zoning district have been updated to more clearly reflect that the front and rear setbacks extend across the entire width of the lot from side lot line to side lot line.
- ❖ **Planned “P” Districts.**
 - **Comparison to Conventional District.** The requirement for P districts to generally conform with the bulk regulations and landscaping and screening provisions of the most similar conventional zoning district (Par. 1 of Sect. 16-102) has not been included in the proposed draft. P district developments can only be approved through a specific application and public hearings before the Planning Commission and the Board and must include a development plan that shows how the site will be developed. The general standards for planned developments require conformance with the Comprehensive Plan and consideration of surrounding development. Staff evaluates issues such as the location and height of buildings,

- and landscaping and screening on a case by case basis. Therefore, the additional standard is not always appropriate given individual circumstances and has been deleted.
- **PDH Density Bonus.** The density bonuses allowed in the PDH District for design features, historic preservation, or proposed development at a lower density than the current zoning district have not been carried forward. These density bonus provisions have not been used recently and are no longer thought to be appropriate.
 - **PDH Secondary Use Limitations.** The secondary use limitations have been updated based on the proposed use classification system. In addition, the current requirement that secondary uses of a commercial nature be designed to serve primarily the needs of the residents of the planned development has been revised to require secondary uses in the commercial classification to be designed as an integrated component of the development. This shifts the focus to design and layout, instead of whether a particular secondary use primarily serves the planned development. The maximum land area devoted to commercial uses would continue to be limited by the number of dwelling units times a square foot factor per unit.
 - **P District General Standard.** Based on comments received during outreach, since the June 2020 Consolidated Draft, the following new change is included:
 - The general standard that carries forward Par. 3 of Sect. 16-101 of the current Ordinance has been revised to better capture the intent of the requirement for planned developments to protect natural resources. The new language refers to natural ecosystem components instead of “scenic assets and natural features,” and includes a broader list of examples, including meadows, healthy soils, and heritage resources.
- ❖ **R-A District.** In the previous draft, the standard from Par. 2 of Sect. 3-A02 of the current Ordinance that requires agricultural uses in the R-A District to cover not less than 75 percent of the land area had been carried forward as a use standard for an agricultural operation. Since the June 2020 Consolidated Draft, the following new change is included:
- The standard has been relocated to the R-A District standards and has been broadened to allow open space as well as agricultural operations to comprise the minimum 75 percent. This change is in recognition that the R-A District has been developed largely with single-family dwellings. Currently, 13 properties in the County are zoned to the R-A District covering a total of approximately 95 acres. Eight of these properties have been developed with single-family dwellings, and there is no evidence of agricultural products being produced. Six of these eight are on five acres, which would not meet the minimum size requirement of five acres for a principal use of agriculture, in addition to the area devoted to the dwelling. The remaining five lots are vacant, with only one appearing to be used for the production of agricultural products. The proposed revision recognizes the current development pattern while preserving open space and the potential for future agricultural operations.
- ❖ **Stacked Townhouse Dwelling.** Stacked townhouses, often referred to as two-over-twos, are a common building type in the County, but are not specifically addressed in the Zoning Ordinance. They are currently interpreted to be multifamily dwellings but listing this type of housing separately allows separate standards to be assigned where appropriate, such as for parking, which is discussed below under Article 6. In Article 4, the permissions for stacked townhouses have been aligned with those of multifamily dwellings. In Article 5, stacked townhouses are grouped with single-family detached and

attached units for the purposed of affordable dwelling unit calculations. Article 2 contains the building and dimensional standards for this new dwelling type. The proposal aligns the setbacks of stacked townhouses with those of single-family attached dwellings, but a taller building height has been proposed to accommodate the stacked design. In the R-12, R-16, and R-20 Districts, the maximum height of stacked townhouses is 60 feet. In Affordable Dwelling Unit Developments, in the R-5 through R-20 Districts, the maximum building height varies by zoning district from 50 to 60 feet.

Article 3 – Overlay and Commercial Revitalization Districts

- ❖ **Airport Noise Overlay District.** The uses listed in the noise compatibility table have been updated to correspond with the use tables in Article 4. Accessory and temporary uses were not carried forward as the noise level standards are based on the principal use. New uses were assigned the levels for the most similar use, while some changes are proposed for consolidated uses. For instance, theaters are currently not allowed in any of the noise impact areas, but they have been consolidated with other indoor recreation uses which are allowed with acoustical treatment measures.
- ❖ **Commercial Revitalization Districts (CRDs).** This section has been extensively reorganized and consolidated. Provisions that are currently found in Article 7 and Appendix 7 have been brought together, and the repetition for the five CRDs has been eliminated.
 - **Building Height.** Increased flexibility is included in the current standards that apply to CRDs in order to encourage redevelopment. The proposed draft expands flexibility in maximum building height in a similar manner as it applies to setback requirements by allowing an increase in the building height permitted in the underlying zoning district if the height is specifically permitted in the Comprehensive Plan.
 - **Interior Parking Lot Landscaping.** Under today’s standards, interior parking lot landscaping in CRDs is only required when 20 or more parking spaces are being added to a development. In order to further revitalization efforts, the draft proposes to require interior parking lot landscaping when the resultant parking lot contains a total of 20 or more parking spots, which is the same standard that applies to non-CRD districts.
 - **Parking Reduction.** The ability for the Board to include appropriate conditions on parking reductions has been added. This language is currently included in all non-CRD parking reductions and has been expanded to those in CRDs.
 - **Setbacks.** Currently, in commercial districts, a front setback is required to be a minimum of 20 feet unless the Comprehensive Plan specifies a distance that is equal to or less than the front setback for the underlying zoning district. In the various commercial districts, the front setback requirement ranges from 25 feet to 40 feet, or more, depending on the height of the building. The draft proposes to allow 20 feet or a lesser setback if it is specified in the Comprehensive Plan. This change clarifies that the front setback would never be required to be greater than 20 feet in a commercial district in a CRD. In addition, like with Commercial Revitalization Areas, Community Business Centers, and Transit Station Areas, the ability for the Director to modify or waive setback requirements as a part of site plan approval has been added.

- ❖ **Historic Overlay Districts (HODs).** This section has been reorganized to bring the provisions currently found in an appendix into the body of the Ordinance and consolidated to remove repetition. Notable changes include:
 - **Archaeological Survey.** While consultation with the Park Authority archaeologists is required, the procedural details of archaeological survey requirements are proposed to be relocated out of the Zoning Ordinance and into a separate document maintained by the Park Authority. As a part of the submission requirements, it has been clarified that for applications within or contiguous to an HOD, a Phase I archaeological study is only needed if found to be required following submission of the Archaeological Survey Data Form.
 - **Criteria.** The criteria for establishing an HOD have been edited to follow the National Register criteria of significance.
 - **Height.** In the Lake Anne Village Center, the current standard that building height must be compatible with the intent of the district is not brought forward, as it is too subjective.
 - **Request to Establish an HOD.** Current Par. 2 of Sect. 7-203 regarding the procedures to establish or revise an HOD is not carried forward, as the procedures for all map amendments (rezoning) are included in new Article 8.

Article 4 – Use Regulations

The changes in Article 4 are summarized below according to the seven use classifications, beginning with the general use standards that affect all uses.

General Use Standards

- ❖ **Alternative Use of Historic Buildings.** This use replaces the existing special permit use “older structures.” The proposed use would allow the Board to approve a special exception for nonresidential uses within any structure listed on the Fairfax County Inventory of Historic Sites, with the intent being to incentivize the preservation of historically significant sites through the allowance of appropriate adaptive reuse. Although not all buildings on the Inventory are residential, many are, and the proposed uses must be compatible with the surrounding neighborhoods. Therefore, uses in the animal-related category (e.g., kennel), vehicle-related category (e.g., vehicle repair, vehicle fueling station), and the entire industrial classification, except for craft beverage production and small-scale production establishments, will be prohibited.
- ❖ **Associated Service Uses.** Accessory service uses are renamed associated service uses to more accurately reflect their relationship to their principal land uses. Associated service uses are intended to provide a convenient service to the residents in a multifamily development, or to employees in an office or industrial park. These are uses that are not otherwise allowed by right in the districts where they are permitted as associated service uses. The current framework for accessory service uses includes conflicting and outdated standards, some of which are difficult to interpret, permit, and enforce. The draft includes revisions intended to create a simplified and uniform approach to these provisions. The revisions include changes to the list of uses, the districts where they are allowed, and to the standards. The types of uses, such as a child care center in a multifamily building or a carryout restaurant in an office or industrial complex, are intended to focus on those which are most often

found in association with the principal uses and which should be allowed if they conform to the standards.

- ❖ **Modifications or Waivers.** A new section has been added that clearly states which standards can be waived or modified. The Board may modify or waive any use standards in Article 4 in conjunction with approval of proffered conditions or a special exception, but the standards, procedures, or provisions in the other Articles may only be modified or waived if specifically permitted by the Zoning Ordinance. Zoning or subdivision requirements for a planned district may also be waived by the Board in conjunction with rezoning applications. No definition may be modified and the BZA may not modify or waive standards unless specifically provided for in the Ordinance.
- ❖ **Outdoor Storage.** In the June 2020 Consolidated Draft, the standards for outdoor storage and display were reorganized, consolidated, and revised as general standards for residential, commercial, and industrial districts. In residential districts, outdoor storage is limited to 100 square feet, must be located on the rear half of the lot, and must be screened from view of first story windows of the neighboring dwelling unit. Since the June 2020 Consolidated Draft, the following new changes are included for outdoor storage in residential areas:
 - The 100-square foot limitation is carried forward for residential districts and the residential areas of P districts. However, the requirement for outdoor storage to be on the “rear half” of the lot has been clarified to require that it not be in the front yard. The current standard is ambiguous and, depending on the placement of the dwelling on the lot, could result in storage in the front yard. In addition, the allowance for storage if it is screened from the view of first story windows of neighboring dwellings has been deleted because it does not afford screening from neighboring second story decks and windows which have been the subject of enforcement complaints.
- ❖ **Performance Standards.** The references that are currently included in Article 14, Performance Standards, are now included as part of a general standard that requires compliance with other local, state, or federal requirements. The standard includes specific references to air pollution, fire and explosion hazards, radiation hazards, electromagnetic radiation and interference, and liquid and solid wastes.

Agricultural and Related Uses

No significant changes are included. The previous placeholders for the pending Agritourism Zoning Ordinance amendment have been removed, as the timeline for that separate amendment has been extended beyond the anticipated adoption date of the new Zoning Ordinance.

- ❖ **Farm Winery, Limited Brewery, and Limited Distillery.** The current Ordinance allows a farm winery, limited brewery, and limited distillery to have up to 200 guests, or if access is from a “major arterial,” up to 300 guests. Major arterial is not a defined term in the Ordinance. However, the Ordinance does define “major thoroughfare” to include principal and minor arterials as listed in Appendix 8 of the current Zoning Ordinance. In order to bring this reference into alignment with the terms utilized in the Zoning Ordinance and in consultation with staff involved with the related Zoning Ordinance amendment in 2016, the previous draft replaced the term major arterial with major thoroughfare. Subsequently, during outreach, questions were raised as to whether major thoroughfare was the intended term. Since the June 2020 Consolidated Draft, the following new change is included:

- The term major arterial was added during the motion for adoption of the amendment and was not vetted. It is understood from the discussion at the hearing that the Board intended to distinguish a principal arterial from a local road, but the disposition of minor arterials was not specified. Nevertheless, given a generic meaning of the word “major,” the Board may have intended to use the term principal arterial. To clarify this issue, with this draft, the term major thoroughfare has been replaced with principal arterial.

Residential Uses

- ❖ **Live-Work Development.** This new use is for a structure or part of a structure in which individual units are specifically designed to accommodate a residential dwelling unit and a flexible work space for office-type uses. Use standards prohibit any activity that is not a permitted, special permit, or special exception use in that district, and medical and dental services, research and experimentation, and similar activities that typically require installation of specialized equipment.
- ❖ **Religious Group Living and Residence Hall.** A new use standard requires that in the industrial and commercial districts, religious group living must be located in conjunction with a religious assembly use, and a residence hall must be located in conjunction with a private school, a college or university, or a religious assembly use.
- ❖ **Stacked Townhouse Dwelling.** This is a new use that is discussed above in Article 2 and below in Article 6.
- ❖ **Length of Rows of Single-family Attached and Stacked Townhouse Dwelling.** The maximum length of a contiguous building has been extended from 240 feet to 250 feet, excluding any utility closet. This change will help accommodate the width of brick and bay windows for a standard building group.

Public, Institutional, and Community Uses

- ❖ **Adult Day Support Center.** Since the June 2020 Consolidated Draft, this new use has been added with standards discussed below:
 - This is a new use to allow day support services for adults with intellectual or developmental disabilities. Adult day support centers focus on continuing education and skill-based training, such as job training skills and peer interaction, to help individuals become independent and integrated with the community. The permissions align with those of a child care center. This use is included in the Community, Cultural, and Educational Facilities category and would not require review by the Health Care Advisory Board (HCAB). With the addition of this new use, no changes are proposed to the permissions or standards for the adult day care center use which is included in the Health Care category and requires special exception approval by the Board and review by HCAB. The definition for an adult day care center has been modified to distinguish it from an adult day support center. A link to a memorandum with more information on this use can be found [here](#).
- ❖ **Child Care Center and Private School.** Among other limitations, outdoor recreation areas are required to be located outside the minimum front setback. Currently, this standard can be modified by special exception in the commercial and industrial districts only. Since the June 2020 Consolidated Draft, the following new change is included:

- The reference which limits the ability to modify the location of outdoor recreation areas only when the facility is located in commercial and industrial districts has been removed. This would allow a modification of the outdoor recreation location to be requested as a part of the special exception in residential and planned districts as well.
- ❖ **Club, Service Organization, or Community Center.** A new standard has been added that allows the Board to consider and condition accessory non-member events when this use is located in residential districts. The use is not permitted to host these types of events if they are not expressly approved by the Board.
- ❖ **College or University.** The use has been changed from a special exception use to a permitted use in the C-1, C-2, and C-3 Districts with the addition of use standards. These standards require the use to be located within enclosed buildings and prohibit residential, athletic, or large-scale assembly facilities.
- ❖ **Funeral Home.** Columbaria would now be allowed within an enclosed building in commercial and industrial districts.
- ❖ **Independent Living Facility.** Since the June 2020 Consolidated Draft, based on a request during outreach, the following new change is included:
 - An example calculation and table explaining how to calculate monthly rent based on bedrooms, adjustment factor, and AMI has been added.
- ❖ **Solar Power Facility.** This is a new use added for utility-scale operations in order to clarify the permissions and associated standards, including requirements for setbacks of solar panels and decommissioning plans. This use does not apply to the private collection of solar energy that is permitted as an accessory use. The new use is proposed with the same permissions as a light utility facility. Since the June 2020 Consolidated Draft, based on comments received during outreach, the following new change is included:
 - A standard has been added that in the R-A District, a solar power facility must be located on the same property with an agricultural operation. This revision supports the purpose of the R-A District. Solar power facilities in other jurisdictions and countries have been co-located with grazing and other agricultural uses.
- ❖ **Specialized Instruction Center.** This use has been changed from not allowed to a special exception use in the I-6 District if it involves vocational training, such as commercial driving schools, mechanical or trade schools, or similar types of instruction.

Commercial Uses

- ❖ **Animal Shelter or Kennel and Veterinary Hospital.** Special exception standards prohibiting outdoor facilities in commercial and planned districts have been removed. A new special exception standard has been added that requires animals to be kept indoors between 10:00 p.m. and 7:00 a.m. to align with the Noise Ordinance. This standard would not preclude the walking of boarded animals. Since the June 2020 Consolidated Draft, the following new change is included:
 - During outreach, it was noted that early morning hours in the summer can be an important exercise time for animals, and depending on the lot size and other factors, may not impact surrounding properties. Therefore, a standard has been added allowing the Board to modify the time limitation, considering factors such as lot size and proximity to existing and planned residential development.

- ❖ **Banquet or Reception Hall.** This is a new use that clarifies where event spaces as a principal use will be allowed by special exception in the C-1 through C-4 Districts, by right in the C-5 through C-8 Districts, and in planned districts. These facilities are leased on an event-specific basis for receptions, meetings, banquets, and other similar events.
- ❖ **Bed and Breakfast.** Like with a club, service organization, or community center, a new standard has been added that allows the Board to consider and condition accessory non-member events when the use is located in residential districts. The use is not permitted to host these types of events if they are not expressly approved by the Board.
- ❖ **Catering.** Under the current Ordinance, catering is considered most similar to either a business service and supply establishment or production/processing. This new use separately defines catering and brings forward permissions from both of those other uses and expands them from not allowed to by right in the C-3 and C-4 Districts.
- ❖ **Commercial Off-Street Parking.** Language has been added to clarify that this use is for the parking of passenger vehicles and not for the storage of commercial vehicles.
- ❖ **Garden Center.** Under today's Ordinance, establishments growing and selling nursery stock and related items are considered either: a) a plant nursery; b) retail sales; or c) agriculture if the sales are wholesale. The proposed draft creates a single use with different use standards applicable depending on if the use is permitted by right or requires special exception approval.
- ❖ **Indoor Commercial Recreation and Outdoor Commercial Recreation.** Each of these two uses consolidates multiple current uses with similar operational functions and land use impacts. In order to allow for new or emerging forms of recreation, the consolidated uses do not specifically list the individual types of activities that could take place in an indoor or outdoor recreation facility. Permission changes resulting from the consolidation of uses are included in Appendix 2, Tables 2 through 5. New standards for uses involving firearms have been added to each use.
 - For indoor commercial recreation, the use is permitted by right in the C-3 and C-4 Districts if repurposing an existing building; otherwise, either a special exception is required (if in conjunction with a rezoning or other special exception use) or a special permit. In the C-5 District, indoor commercial recreation is permitted by right if limited to 6,000 square feet in size. In the C-6 through C-8 Districts, the use is permitted by right with no use-specific standards. In the I-3 through I-6 Districts, indoor commercial recreation is permitted either by special exception (if in conjunction with a rezoning or other special exception use) or by special permit. Indoor commercial recreation is permitted in the planned districts if shown on an approved development plan/PRC development plan and PRC plan, or by special exception.
 - Outdoor commercial recreation in the R-C, R-E, and R-1 Districts is limited to ropes courses, paintball, firing ranges, skeet and trapshooting ranges, and other similar uses, which require special permit approval, and golf driving ranges which require special exception approval. A 10-acre minimum lot size has been added for a ropes course, and a 25-acre minimum lot size has been added for paintball. A 15-acre minimum lot size has been added for golf driving ranges located in the R-C, R-E, and R-1 Districts, consistent with the minimum size for golf courses. Except for ropes courses, paintball, firing ranges, skeet and trapshooting ranges, and other similar uses, which are only allowed in the R-C, R-E, and R-1 Districts, all other outdoor commercial recreation uses are allowed in the C-3 through C-8 and I-2 through I-6 Districts with special exception approval. In the PDH, PRC, PDC, PRM, and PTC Districts, the use is

permitted if shown on an approved development plan/PRC development plan and PRC plan, or by special exception.

- ❖ **Massage Therapy Establishment.** Since the June 2020 Consolidated Draft, this new use has been added with standards discussed below:
 - Currently, a massage establishment licensed in accordance with Chapter 28.1 of the County Code is deemed to be an office use, while certain types of massages, such as a massage to the scalp, face, neck, shoulders, arms, hands, or feet, or to the upper body while fully clothed and seated in a chair, that do not require licensing are considered a personal service use. This differentiation has caused confusion and in order to better identify the use for both zoning and licensing purposes, a separate new use, massage therapy establishment, is proposed which would consolidate massage as licensed under Chapter 28.1 and the specific types of massages that were previously considered personal service. The permissions will be aligned with those of the office use.
- ❖ **Office.** This use consolidates seven current uses, including general office and research and development uses. The consolidation allows scientific research and development as part of the office use in all commercial and industrial districts, and in the PDC and PTC Districts, subject to use standards that would not allow the manufacturing or mass production of goods. Standards have been added to the commercial and planned districts addressing explosive and potential hazardous materials. Under the current provisions, in the C-5 through C-8 Districts, the total gross floor area devoted to office use may not exceed certain percentages of the maximum floor area ratio allowed in the district. For example, in the C-5 District, an office use may only occupy 30 percent of the permitted 0.30 FAR. An increase in the percentage is allowed by special exception, but the increase is capped in the C-5, C-6, and C-8 Districts. To allow for consideration of office uses that may be compatible in a retail setting, the special exception standard has been revised to allow office up to 100 percent of the permitted FAR in the C-5 through C-8 Districts.
- ❖ **Pet Grooming Establishment.** Under the current Ordinance, this use is considered to be most similar to a personal service establishment. To avoid confusion, pet grooming has been made a separate use with similar permissions, except it is not permitted as an associated service use.
- ❖ **Public Entertainment.** This is a new use intended to include establishments where the focus is similar to a nightclub or bar with music, dancing, and entertainment activities predominantly catering to adults. Public Entertainment would be allowed by special exception in certain commercial and industrial districts and in certain P districts. In response to feedback received during outreach, since the June 2020 Consolidated Draft, the following new change is included:
 - The definition for public entertainment has been revised to clarify that it includes restaurants that exceed the accessory entertainment allowed as part of a restaurant, as well as smoking lounges that meet the characteristics of public entertainment, such as staying open past 10:00 p.m. and having live entertainment.
- ❖ **Restaurant.** A new standard limiting the size of accessory entertainment to 15 percent of the publicly accessible area or 250 square feet (whichever is larger) replaces the current 1/8 of the dining area limitation. The standard notes that accessory entertainment and smoking activities are allowed while food service is available and provides examples of accessory entertainment. Accessory hookah and other smoking activities are not subject to the size limitation for entertainment but must comply with indoor clean air requirements.

- ❖ **Smoking Lounge.** This is a new use which clarifies where hookah, cigar clubs, and other smoking lounges are allowed as a principal use by right or with special exception, special permit, or development plan approval in certain commercial, industrial and planned districts. Standards also clarify that hookah and other smoking activities are allowed as accessory uses to a restaurant or public entertainment use.
- ❖ **Truck Rental Establishment.** A standard has been added that requires all trucks to be parked on-site. Truck rental is allowed by right in the I-5 and I-6 Districts and by special exception in the C-5 through C-8 Districts. Since the June 2020 Consolidated Draft, the following new change is included:
 - The permissions have been expanded to allow truck rental by special exception in the I-4 District when in association with a self-storage facility.
- ❖ **Vehicle Sales, Rental, and Service.** Vehicle rental is allowed with special exception approval in the C-3, C-4, C-6, C-7, C-8, I-3, I-4, and I-5 Districts and with approval in the PDC, PRC, PRM, and PTC Districts. In response to industry feedback, since the June 2020 Consolidated Draft, the following new change is included:
 - Standards have been added to allow vehicle rental by right in the C-3, C-4, C-6, C-7, and C-8 Districts if the office is limited to 2,500 square feet and the number of rental vehicles is limited to 15. No by-right car wash, maintenance, or refueling would be allowed. This will permit smaller rental establishments in commercial areas and allow rental companies to stay competitive with gig economy opportunities.

Industrial Uses

- ❖ **Data Center.** Previously interpreted to be a type of “telecommunications facility,” a data center would have been allowed in virtually all zoning districts. The proposed new use will be allowed in C-3, C-4, I-2 through I-6, PRC, PDC, and PTC Districts. Use-specific standards are added requiring associated equipment, including emergency power generators and equipment, to be enclosed or screened in all districts other than the I-4 through I-6 Districts to limit noise and visual impacts. A maximum size of 40,000 square feet of gross floor area would be allowed in the C-3 and C-4 Districts and 80,000 square feet of gross floor area would be allowed in the I-2 and I-3 Districts. There would be no size limit in these districts if the use is located in an existing building or with special exception approval. Since the June 2020 Consolidated Draft, the following new change is included:
 - The ability to exceed the 80,000 square foot limitation if repurposing an existing building as described above, is expanded to include the I-2 and I-3 Districts.
 - A proposed change to the parking requirement is discussed in Article 6 below.
- ❖ **Goods Distribution Hub.** This new use is created to accommodate last-mile distribution and allows for small, local distribution centers to be located in more urban and densely populated areas close to their final destination. In previous drafts, size limits of 6,000 or 10,000 square feet, depending on the zoning district, were added, as well as a requirement that trucks distributing goods from the site are limited to 28 feet in length. Based on accelerated market trends and research on the changing nature of retail, since the June 2020 Consolidated Draft, the following new changes are included:
 - Additional flexibility on the size of the space has been included when repurposing an existing building. The standards would allow up to 80,000 square feet of gross floor area when at least ten percent of the area is either retail sales or another use that provides direct interaction

- with the public. Keeping a small retail or customer interaction area would retain the commercial nature desired in the retail districts.
- Any site wishing to exceed the 80,000 square foot size limit could seek special exception approval if additional aesthetic, parking, and on-site circulation standards are met.
- In addition to the size limitations, to ensure the site does not resemble a freight distribution hub or motor vehicle terminal, only five vehicles that exceed 21 feet in length could be stored in a surface parking lot. Any vehicles exceeding 28 feet in length would not be permitted to be stored on-site.
- ❖ **Self-Storage.** This use is changed from a special exception use to by-right in the I-3 District with additional standards, including requirements for screening, appearance, and parking of trucks. See also the discussions of new standards for vehicle storage (storage yard) and truck rental in association with a self-storage facility.
- ❖ **Storage Yard.** Based on feedback received during outreach, since the June 2020 Consolidated Draft, the following change is made:
 - A storage yard would be allowed with special exception approval when in association with self-storage in the I-3 and I-4 Districts. This storage yard would be limited to vehicle storage, and the Board may impose conditions on the type of vehicles, as well as the size, location, and screening of outdoor storage.
- ❖ **Vehicle Storage or Impoundment Yard.** Since the June 2020 Consolidated Draft, the following standard is included:
 - A new standard prohibiting more than five inoperable vehicles from being stored outside has been added to carry forward the current limitation in the definitions of automobile graveyard and junkyard.

Accessory Uses

- ❖ **Accessory Living Units and Home-Based Businesses.** See Appendices 3 and 4.
- ❖ **Caretakers Quarters.** With the previous draft, the permissions and standards were revised to align the use more closely with an accessory living unit. Permissions were changed from a permitted accessory use to a use requiring special permit approval, and a maximum size of 800 square feet was added (with a range of 700 to 1,200 square feet advertised for Board consideration). Since the Consolidated Draft, the following new change is included:
 - If the Board removes the age and disability requirement for accessory living units, the separate caretaker quarters use would not be needed. Therefore, an advertised option has been added to delete this use if the Board removes the age and disability requirement for accessory living units.
- ❖ **Electric Vehicle Charging.** This is a new use intended to encourage electric vehicle usage in the County. Standards have been added limiting the height of dispensers and associated equipment, permitting associated solar canopies, and requiring landscaping and screening requirements. Electric vehicle charging spaces will be counted towards the minimum required number of parking spaces. A standard limiting digital display area to one-square foot is included, and any additional display area would be regulated as a sign. Since the June 2020 Consolidated Draft, the following new change is included:

- A clarification has been added that solar canopies are not limited to the nine-foot height limitation applied to electric vehicle equipment, as they would be subject to the location requirements of freestanding accessory structures.
- ❖ **Fences and Walls.** Par. 3H of Sect. 10-104 of the current Ordinance allows the Board or BZA to approve an increase in fence or wall height in conjunction with the approval of proffered conditions or another special exception or special permit application. Since the June 2020 Consolidated Draft, the following new change is included:
 - This standard has been revised to limit this increase to non-residential uses and to require that the increased fence height is needed to support the use.
- ❖ **Freestanding Accessory Structures.** Regulations have been revised regarding permitted height, setback, and size requirements to allow additional flexibility in the location of freestanding accessory structures. Under the current provisions, an accessory storage structure (shed) is allowed to be up to eight and one-half feet in height and located in any side or rear yard, while all other freestanding accessory structures (such as play equipment, gazebos, and garages) are limited to seven feet in height if located in any side or rear yard. The revised provisions eliminate this inconsistency between sheds and other accessory structures and permits all freestanding accessory structures up to eight and one-half feet in height to be located in any side or rear yard. A new standard allows all accessory structures between eight and one-half feet and 12 feet in height to be located five feet from any side and rear lot lines. Any accessory structures that exceed 12 feet in height would need to comply with the required side yard setback, and a distance equal to the height of the structure from the rear lot line. Staff recommends that a range from 10 to 12 feet be advertised for Board consideration.

A standard has been added limiting the maximum height of any enclosed structure accessory to a single-family dwelling to 20 feet on lots that are 36,000 square feet or less. Staff recommends that a range of 15 feet to 25 feet be advertised for Board consideration. The current size limit of 200 square feet for a storage structure in the R-2 through R-20 Districts has not been carried forward because, in practice, the limit is circumvented by referring to a structure as a “workshop” or other use instead of a shed. Instead, a new cumulative standard is proposed for lots 36,000 square feet or less with single-family dwellings, restricting the total of all enclosed freestanding accessory structures to no more than 50 percent of the gross floor area of the principal structure. Both the maximum height and percentage limitations may be exceeded with special permit approval from the BZA.

Since the June 2020 Consolidated Draft, the following new changes have been added:

- Freestanding accessory structures that exceed 12 feet in height must meet the minimum side setback for the zoning district. Provisions have been added, based on current interpretation, to clarify the side setback in P districts without proffered yards. In the PDH, PDC, PRM, and PTC Districts, the side setback is considered to be the setback of the most similar conventional district under the cluster provisions, or the minimum distance from the dwelling to the side lot line, whichever is less. In the PRC District, the minimum side setback is considered to be eight feet, which is the minimum setback for a cluster subdivision.
- The Zoning Ordinance allows basketball standards to be located in a front yard if they are at least 15 feet from the front lot line and 12 feet from a side lot line. Rather than specifying a uniform distance from the side lot line, the side setback has been revised to require either 12

- feet, or a distance equal to the minimum side setback for the zoning district, whichever is less. This will allow a distance from the side lot line that is consistent with the principal structure. The language has also been revised to require the 15-foot setback from “any front yard lot line” to address corner lots which have two front yards, but officially still only have one front lot line. This same revision has been applied to the 15-foot front setback for gardens. New graphics are included to illustrate the front yard setback requirements for basketball standards and gardening.
- Currently, solid waste and recycling containers (including containers on residential lots) are not permitted to be located in a driveway. Since these types of containers are often kept in driveway areas, this prohibition has been removed. Standards continue to prohibit containers from being located in any required parking space and, if located in a minimum front setback, require a 15-foot setback from any front lot line and screening.
- ❖ **Gate Posts.** Instead of allowing an unlimited height, the maximum height of a gate post is now limited to ten feet.
 - ❖ **Home Day Care Facility.** This use has been renamed from home child care facility, and the definitions and standards now clarify that, in accordance with State law, up to three aged, infirmed, or handicapped adults may also be cared for under the provisions of this use.
 - ❖ **Keeping of Animals.** This use was modified based on updates to the Virginia State Code regarding boarding establishments. The regulations permit fewer than five pets that are not owned by the resident to be sheltered, fed, and watered in exchange for a fee to be excluded from the definition of a “boarding establishment.” The new language would allow short-term boarding, through services like Rover, DogVacay, and Fetch, to occur without the need of a special exception for a kennel. However, the total number of dogs on-site would not be permitted to exceed the maximum limitations based on minimum lot size, unless a special permit is approved by the BZA. In addition, the term “commonly accepted pets” has been deleted to allow the Department of Animal Sheltering to make the determination on which animals are considered companion animals and which animals are consider exotic under Chapter 41.1 of the County Code. Since the June 2020 Consolidated Draft, the additional following change is included:
 - A standard has been added to clarify that the BZA may not approve a special permit to allow a rooster, as roosters are only allowed in conjunction with an agricultural operation.
 - ❖ **Residence for Manager or Employee.** Since the June 2020 Consolidated Draft, the following new change is included:
 - Instead of being a permitted accessory use, this use would now require approval of an administrative permit.
 - ❖ **Solar Collection System.** This is a new use that codifies existing interpretations on accessory solar panels, which includes both rooftop and ground-mounted systems. To differentiate from the utility-scale solar power facility, the distinction has been added to this definition that accessory solar collection systems must primarily meet on-site demands. A new standard allows roof-mounted solar collection systems to exceed the maximum building height of the zoning district by up to five feet. Freestanding solar collection systems must meet the accessory structure setback and height requirements.
 - ❖ **Shipping Containers.** Since the June 2020 Consolidated Draft, the following new change is included:

- Based on current interpretation, standards have been added stating that shipping or sea cargo containers are not permitted as an accessory structure or use in conjunction with a residential dwelling except as temporary storage during construction with an active building permit. With non-residential uses, they are subject to the location standards, floor area ratio, and other requirements of the zoning district.
- ❖ **Vehicle Storage.** Since the June 2020 Consolidated Draft, the following new changes are included:
 - The standard regarding inoperable vehicles that carries forward Par. 13 of Sect. 10-102 of the current Ordinance has been relocated from Article 6 (Parking and Loading) to a new subsection on vehicle storage under the general standards for accessory uses.
 - A new standard has been added to designate any vehicles covered by a tarp as outdoor storage, and thus they will be subject to the size and other regulations applicable to outdoor storage in the zoning district.
 - A new standard has also been added to specify that a maximum of two vehicles may be stored under a fitted cover in residential areas. A range of zero to three vehicles will be advertised for Board consideration.

Temporary Uses

- ❖ **Food Truck.** These regulations have been revised to reflect their increasing popularity. Currently, food trucks are permitted to operate on certain commercial and industrial properties subject to specific hours of operation and location restrictions. They are now proposed to also be permitted in conjunction with approved nonresidential uses, such as swim clubs, private schools, and religious assembly uses, in residential zoning districts and the residential areas of planned districts. These food trucks will be subject to the same applicable standards as in the commercial and industrial districts, including the maximum of four hours per day, and an additional limit of 12 times per year. This limitation may be exceeded if approved by the Board or BZA in conjunction with a special exception or special permit, respectively. Food trucks are also permitted as part of a special event.
- ❖ **General Standards for Temporary Uses.** In the April 2019 Residential, Accessory, and Temporary Uses draft, the submission deadline for an administrative permit for a temporary use had been changed from 21 days prior to the event to six weeks prior to the event, given the need to coordinate with multiple agencies. However, based on feedback received and additional review of the typical application processing time, the submission deadline has been revised to be 30 days prior to the event instead of six weeks.
- ❖ **Special Event.** This temporary use has been generalized because of the wide variety of civic, community, business, and entertainment events that individuals and organizations may want to conduct for short periods of time. Instead of listing specific types of events (such as circuses, fairs, and carnivals), the special event use applies to all types of short-term events that do not fall within the definition of any other temporary use. The requirement that the 21-day time limit for the event be applied consecutively has been deleted. This will allow a one-day event to occur over an extended time period, such as a weekly entertainment function at a community pool or religious assembly. Also, the requirement that the principal administrative offices of the sponsor be located in the County has been deleted, as well as the requirement that the Zoning Administrator determine that the owner of

a circus, fair, or carnival be of good repute. In an effort to further expand placemaking opportunities, additional changes since the June 2020 Consolidated Draft are included:

- The business promotional activity use is consolidated into the special event use. As a part of this consolidation, the requirement that special events be sponsored by a non-profit organization only applies to open-air markets and seasonal sales for nonresidential uses in residential districts.
- The event timeframe limitation of 14 days within a three-month period has been removed, and all special events are now subject to the 21-day timeframe.
- The standards for the 21-day Non-RUP for seasonal sales in commercial districts (from Par. 15 of Sect. 17-104 of the current Ordinance) have been included under the special event use and cross-referenced to the site plan section in Article 8.

Other Changes

- ❖ **Office or Industrial Complex.** Throughout Article 4, the current requirement for certain uses, like religious assembly, child care center, and private school, to be permitted by right in industrial districts if located in an “office or industrial building complex containing a minimum gross floor area of 30,000 square feet” has been replaced with a requirement that they be located in an “office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.”

Article 5 – Development Standards

- ❖ **Affordable Dwelling Unit Example Calculations.** The current outdated example of how affordable dwelling units are calculated has been replaced with four new examples based on development types, including single-family attached or stacked townhouse dwellings, multifamily dwellings, mixed dwellings (some combination of single-family or stacked and multifamily), and mixed-use.
- ❖ **Carport Extension.** The current allowance for a carport to extend up to five feet into any minimum side setback if it is no closer than five feet from the lot line is proposed to be deleted. A carport is defined as not having any enclosure more than 18 inches in height, other than the required supports for its roof and the side of the building to which the carport is attached. Current provisions that allow the extension into the minimum setback have resulted in many violations, as homeowners subsequently add storage units to the rear of the carport or enclose the carport as a garage or living space, often without permits. The proposed change, which would require carports to comply with the same setbacks as the dwelling, would only apply to future construction.
- ❖ **Cluster Subdivision Open Space.** Currently, the Ordinance specifies that at least 75 percent of the required open space in cluster subdivisions be provided as a contiguous area with no dimension being less than 50 feet. The minimum 50-foot dimension has been replaced with a requirement that the area be usable open space. Usable open space (see discussion below under Article 9) is defined in the Ordinance to include areas designed for recreation such as athletic fields and courts, playgrounds, and natural areas with walking and bicycle trails.
- ❖ **Corner Lots.** Under today’s regulations, corner lots must provide the minimum front setback adjacent to both streets, but in the R-E through R-8 Districts, the rear setback on a corner lot can take the dimension of the side setback. For instance, in the R-2 District, a corner lot is required to provide a

35-foot front setback from the lot lines which abut each street, and a 15-foot setback from the lot lines which abut both adjoining lots, in lieu of providing a 25-foot setback from the rear lot line. The proposed standards require a 25-foot rear setback rather than the smaller side setback dimension. This 25-foot rear setback would not apply to existing structures or additions to existing structures. This change is in response to concerns raised by community groups about new homes being built to the minimum setbacks, sometimes as small as eight feet, leaving less space for a functional rear yard. Even with providing the 25-foot rear setback, the larger lot width currently required for corner lots more than compensates for the two front yard setbacks, resulting in a larger buildable area as compared to interior lots.

- ❖ **Decks and Patios.** Standards allowing decks to extend into setbacks are reorganized into a user-friendly table and revised to allow certain deck modifications. The proposed standards allow: a) a deck of any height to have a privacy screen that is not solid below the deck; b) an attached deck of any height to have a privacy screen above the deck on no more than two sides extending from the dwelling, with a maximum height of 8.5 feet from the deck floor; and c) an attached deck of any height to have elements such as pergolas, trellises, and overhanging planters that are 8.5 feet high and no more than 3 feet in width. Since the June 2020 Consolidated Draft, the following new change is included:
 - In response to a comment received during outreach, a clarification has been made that privacy screens and other features above the deck are only permitted with attached decks. Any screening or design features on detached decks or patios are subject to the applicable fence or freestanding accessory structure regulations.
- ❖ **Floodplain Setback.** A clarification is added to clearly state that the required 15-foot setback from a floodplain applies even if there is a property line between the floodplain and a structure, which is reflective of current practice. Additionally, it has been clarified that the requirement for an 18-inch vertical separation (freeboard) between the lowest part of a structure and the water-surface elevation of the 100-year floodplain applies not only to development within a floodplain, but also on any lot where a floodplain is located or on a lot abutting a floodplain. This clarification is also consistent with the Public Facilities Manual (PFM) and long-standing practice.
- ❖ **Floodplain Accessory Uses and Structures.** Since the June 2020 Consolidated Draft, the following new change is included:
 - The current Ordinance only permits accessory uses and structures when they are accessory to single-family detached and attached dwellings. This ability to have accessory uses and structures has been expanded to include stacked townhouse dwellings and manufactured homes.
- ❖ **Landscaping.** The requirement for a landscaping strip between a parking lot and abutting property lines to be four feet in width and have trees planted every 50 feet is replaced with a requirement for the landscaping strip to be planted in accordance with the PFM. The PFM notes that planting areas should be eight feet wide and trees should be no closer than four feet from a restrictive barrier. Also, the transitional screening and barrier matrix is updated so that the uses correspond to the principal uses in the new Article 4. New uses have been integrated based on current practice or the most similar use.
- ❖ **Lighting.** Since the June 2020 Consolidated Draft, the following new change is included:

- An exemption to the requirement for a maximum Correlated Color Temperature has been added for signs, as color temperature is not applicable to colored lights.
- ❖ **Limitations on Subdivisions.** A long-standing interpretation that allows for Zoning Ordinance requirements to be satisfied over a single site plan, regardless of internal subdivision lines, is codified in the proposed Ordinance.
- ❖ **P District Setbacks.** Currently, when there are no proffered setbacks, the setbacks applied for alterations to single-family dwellings in the PDH, PDC, PRM, and PTC Districts are those for the cluster provisions of the most similar conventional district. The setback can now be either the cluster setbacks for the most similar conventional district or the existing distance to the lot line established by the dwelling on the lot, whichever is less. Since the June 2020 Consolidated Draft, the following new change is included:
 - Setbacks for dwellings that are destroyed or damaged by natural disaster may also take on the existing distances to the lot lines established by the previous dwelling on the lot.
- ❖ **Setbacks from Interstates and Railroad Tracks.** The Ordinance requires principal buildings to be set back a certain distance (depending on building type) from the rights-of-way of interstate highways, the Dulles Toll Road, and railroad tracks. Because the heading for this provision refers to “abutting” lots, it has only been applied to lots that are touching the right-of-way. The term abutting is not carried forward in the heading, and this revision results in a requirement that the specified setback, such as a minimum of 200 feet from railroad tracks, is applied to all lots that are within the 200-foot setback, not just those directly abutting the right-of-way. The Ordinance allows modifications to be approved by the Board. The current provision that this setback does not apply to lots recorded prior to 1978 where the setback would negate the use of the lot is clarified. For these pre-existing lots, the Zoning Administrator will be able to modify the setback when meeting the requirement would prevent development of the lot in accordance with the Ordinance. In addition, the current interpretation that allows an exemption for a minor lot line adjustment is added.
- ❖ **Special Permit for Accessory Structures on Through Lots.** A new special permit option is added to allow through lots (which are lots that have frontage on two or more streets but are not a corner lot) to locate accessory structures in a front yard serving as the functional rear yard. Standards are added requiring the structure to meet the front setback requirements, to be in character with the existing development on the lot, and to be harmonious with the surrounding development.
- ❖ **Transitional Screening & Barriers.** The Transitional Screening and Barrier Matrix from current Article 13 has been carried forward with updates where uses were consolidated. All uses are now listed and new uses are integrated into the table based on current practice or the most similar use.
- ❖ **Waiver of Minimum Lot Size.** Several standards for this special exception are revised. Currently, a standard requires the preservation of all existing vegetation. In certain situations, the existing vegetation is of poor quality, and staff would prefer to see it replaced with new appropriate vegetation. This standard has been revised to require preservation of quality vegetation, while also allowing the replacement of vegetation with species that are suited to post-development conditions. Also, an existing requirement that the proposal reduces impervious surface is typically impractical, as these lots are often undeveloped substandard lots, and any proposed development would result in an increase in the existing impervious surface. This has been changed to require less impervious surface as compared to what could be built without approval of the waiver.

Article 6 – Parking and Loading

- ❖ **Parking Rates.** The parking rates have been organized into a table and updated to correspond to the principal uses in the new Article 4. New uses have been assigned rates based on the Land Development Services’ “Land Use – Parking Rate Table,” previous zoning applications, or the rate for the most similar use. As previously noted, parking rates will be the subject of a comprehensive review as part of a subsequent Zoning Ordinance amendment.
 - **Data Center.** Since the June 2020 Consolidated Draft, this parking rate (1 space per 1.5 employees plus 1 space per company vehicle) has been revised to base the number of required parking spaces on the number of employees on major shift instead of the occupancy load. For this use, basing the rate on the occupancy load may result in an artificially high requirement.
 - **Farm Winery, Limited Brewery, or Limited Distillery:** Since the June 2020 Consolidated Draft, the parking rate for a farm winery, limited brewery, or limited distillery has been corrected to clarify that there is no minimum parking requirement when the use is allowed by right, as an agritourism use that is exempt from site plan and building permit processes. When the use is subject to special exception approval, the parking rate is based on a review of each proposal to include factors such as the number of spaces required to accommodate employees and visitor parking.
 - **Stacked Townhouse.** This new use is assigned a rate of 2.3 spaces/unit, which is in between the rate of 1.6 spaces/unit for multifamily units and 2.7 spaces/unit for single-family attached dwellings. Stacked townhouses are also added to the parking rates for transit station areas based on the number of bedrooms, consistent with the current practice.

Article 7 – Signs

- ❖ **Construction Project Signage.** Active construction projects for residential development are allowed to have 60 square feet of signage. Consistent with current practice, residential development has been defined as having a minimum of three dwelling units under development as a single project.

Article 8 – Administration, Procedures, and Enforcement

- ❖ **Accessory Living Unit Submission Requirements.** Under current provisions, when applying for an accessory dwelling unit (now accessory living unit), documentation must be provided to certify that someone occupying the property meets the age or disability requirement. If the person has a disability and does not have a certification from the Social Security Administration, Veterans Administration, or Railroad Retirement Board, a written declaration must be submitted from two doctors (one of who must base their statement on a physical examination) certifying that the individual is “permanently and totally disabled.” This is then defined as “unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person’s life.” This language has been modified to require either certification from one of the previously mentioned groups or from one doctor certifying that a person meets the definition of a “person with a disability” in the Fair Housing Amendments Act of 1988. This is consistent with current Zoning Ordinance

provisions for requesting an accommodation for an accessibility improvement related to setback requirements. If the Board adopts revised standards for accessory living units that do not contain an age or disability requirement, this submission requirement will be deleted. A discussion of the standards applicable to accessory living units is included in Appendix 3.

- ❖ **BZA Term Expiration.** Currently, the Clerk to the BZA must notify the Circuit Court at least 30 days prior to the expiration of a BZA member’s term. The timeframe has been extended to 60 days and a requirement to also notify the Board within this timeframe has been added.
- ❖ **Development Plan Submission.** The Zoning Ordinance currently allows for submission of a proposed development plan within 60 days after the initial application for a rezoning or subsequent amendment. Based on current practice and in order to provide for efficient review and processing of applications and their associated development plans, this allowance has not been carried forward. Similarly, the current text which allows an application to retain its hearing date when the application is amended prior to 40 days before the public hearing has not been carried forward, as the decision whether to reschedule a public hearing depends on the substance of the amendment.
- ❖ **Easements.** Generalized development plan, final development plan, PRC plan, special exception, special permit, and variance applications are currently required to include the location of all existing public utility easements having a width of 25 feet or more and major underground utility (i.e., transmission pipeline) easements regardless of width. In the previous draft, these requirements were revised to require that all existing and proposed utility easements must be shown, regardless of width. This change may require completion of a title search earlier in the development process and increase the cost of a typical plat by \$200 to \$400; however, this information has been requested during public hearings and will facilitate a more careful review of the proposed development layout, as well as prevent issues later in the development process where utilities may conflict with elements proposed on the plan. Since the June 2020 Consolidated Draft, the following new change is included:
 - Additional outreach on this topic has taken place, and the language for the proposed submission requirement has been revised to include all existing utility easements and the preliminary location(s) of new or relocated utilities.
- ❖ **Electronic Copies.** Recognizing the ongoing development of ePlans and the new Planning Land Use System, known as PLUS, for online submission of applications and permits, a new standard allows the submission of only one paper copy of all submission requirements if an application is submitted electronically, unless otherwise determined by the Zoning Administrator or Director of LDS. Staff will be able to request additional paper copies during the review process.
- ❖ **Fee Schedule.** A table with the fees for each application type has been added. Most of the fees have been carried forward from the current Ordinance. With the previous draft, the following fees were proposed to be reduced:
 - **Accessory Living Units.** Since a new administrative permit option is being proposed, staff recommends a new \$200 application fee and a \$70 renewal fee (with an advertised range from \$0 to \$435 for the application and \$0 to \$70 for Board consideration). The \$70 renewal fee has also been applied to the accessory living unit special permit, which replaces the current fee of $\frac{1}{8}$ of the current application fee of \$435, which equals \$54.38. No change is proposed to the current fee of \$435 for a special permit for an accessory living unit.
 - **Deletion of Land Area Only.** Currently, an amendment to a previously approved PCA, DPA, FDP, CDP, PRC Plan, or concurrent CDP/FDP for a deletion of area falls under “All Other Uses

- Without New Construction” and requires ½ the prevailing application fee. Based on the limited staff review required when only land area is being deleted, a new fee of ¼ the prevailing fee (with an advertised range of ¼ to ½ for Board consideration) has been proposed.
- **Home-Based Business.** Similar to the accessory living unit, with the new administrative permit being proposed to replace the current home occupation permit (\$50 fee) and home professional office/barber shop or beauty salon special permits (\$16,375 fee), staff recommends a \$100 fee (with an advertised range of \$50 to \$200 for Board consideration). For a special permit, staff recommends \$435 (with an advertised range of \$435 to \$910).
 - **Waiver of Certain Sign Regulations.** This special exception fee is currently \$16,375 but has been reduced to \$8,260 to match the current Comprehensive Sign Plan fee (which is a similar application type applicable to planned districts). A range from \$8,260 to \$16,375 will be advertised for Board consideration.

Since the June 2020 Consolidated Draft, the following additional fee changes are proposed:

- **Alternative Use of Historic Building.** This is a proposed new special exception use. In the previous draft, no fee was specified, so the standard fee of \$16,375 for a special exception would apply. However, to facilitate adaptive reuse of historic buildings, it is recommended that a fee of \$8,180 be assigned. A range of \$8,180 to \$16,375 will be advertised for Board consideration.
 - **Congregate Living Facility.** In an effort to more closely align the fee for this use with the \$1,100 fee for other group living uses, such as group household and religious group living, while recognizing that these facilities may require additional staff review, the fee for this special exception is proposed to be reduced from \$16,375 to \$8,180. A range of \$4,085 to \$16,375 will be advertised for Board consideration.
 - **Floodplain.** With the previous draft, the special exception fee was reduced from \$16,375 to \$8,180 for one single-family detached dwelling in a floodplain. Based on concerns raised during outreach that lowering the fee may encourage more construction in the floodplain, the reduced fee has been limited to additions to or replacement of a single-family dwelling existing as of the effective date of this Ordinance in order to allow for needed flood safety improvements to occur to existing homes. Applications for more than one dwelling or where there is not an existing dwelling would continue to have the fee of \$16,375. A range of \$8,180 to \$16,375 will be advertised.
 - **Quasi-Public Park, Playground, Athletic Field.** In recognition of the community use and quasi-public nature of these facilities, the fee for this special exception is proposed to be reduced from \$16,375 to \$8,180. A range of \$8,180 to \$16,375 will be advertised for Board consideration.
- ❖ **Geotechnical Review Board and Tree Commission.** As the Zoning Ordinance does not contain provisions relating to the substance of their duties, the sections within current Article 19 relating to the Geotechnical Review Board (GRB) and the Tree Commission have not been carried forward. The GRB provisions will be relocated to Chapter 107 of the County Code and the Tree Commission duties will be relocated to Chapter 122. This change will be processed as a separate amendment that is currently scheduled for authorization in January. If authorized, the Planning Commission public hearing is anticipated to be held in February, and the Board public hearing in March of 2021.

- ❖ **Limitation on Rehearing.** The Zoning Ordinance prohibits the Board from rehearing an application that is substantially the same on the same property within 12 months of the application being withdrawn or denied. This limitation has been deleted for special exceptions and special permits, as the State Code only grants this authority for rezonings and proffered condition amendments.
- ❖ **Minor Modifications.** Based on current practice, the minor modification provisions have been revised to clarify that they also apply to a PRC plan.
- ❖ **Minor Site Plans.** Requirements have been added for minor site plans to show landscaping and for the plan to be certified by a professional, which is generally consistent with current practice. Since the June 2020 Consolidated Draft, the additional following change is included:
 - Outreach was conducted on an additional proposed submission requirement that would require existing and proposed topography to be shown for projects that involve changes to topography. No concerns were noted during outreach, and the submission requirement has been added.
- ❖ **Modification of Submission Requirements.** The Zoning Ordinance currently includes different provisions for the modification of submission requirements based on application type. These have been replaced with a single standard that allows (except for the application form, legal description, affidavit, and application fee, if applicable) any other submission requirement to be modified or waived by the Zoning Administrator or the Director of LDS for site plan submissions when it has been determined that the requirement is not necessary for review of the application.
- ❖ **PTC District – Distance from Metro.** Currently, an application for rezoning to the PTC District must identify any development that is located within certain distances (one-eighth, one-quarter, and one-half mile) from the Metro station entrance. A one-third mile distance has been added, consistent with Comprehensive Plan provisions that recommend specific density ranges within this area.
- ❖ **Reasonable Accommodation.** In various provisions, the Zoning Ordinance currently refers to modifications that can be made to allow an accessibility improvement. These references have been revised to add “or other reasonable accommodation.” This is intended to allow modifications to zoning requirements as necessary to be consistent with the requirements of the Fair Housing Act and other Federal nondiscrimination laws.
- ❖ **Repair of Nonconforming Structures.** The Zoning Ordinance does not currently allow for the repair of a nonconforming structure whose physical condition is unsafe or unlawful. This has been revised based on the definition of an unsafe structure in the Virginia Maintenance Code to prohibit the repair of a structure that is “so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely” or has occurred. This standard meets the intent of limiting the restoration of nonconforming structures while allowing more minor repairs such as window replacement that could be prohibited under the current Ordinance.
- ❖ **Solar Power Facility Decommissioning.** In response to a State Code amendment, language has been added to the Ordinance requiring any solar power facility subject to “2232 review” as a public utility to submit a bonded agreement for decommissioning of the facilities, equipment, or devices.
- ❖ **Timeframe for Decision.** The requirement for a rezoning to be heard and decided within 12 months and a special permit or variance within 90 days has been changed from “shall” in the current Ordinance to “should,” consistent with the State Code which is directory with regard to these timeframes, not mandatory.

- ❖ **Variance Plat Submission Requirements.** While many submission requirements for special exception and special permit applications are identical, certain requirements in the current Ordinance are slightly different or not required for variance applications. The variance requirements are aligned with those of special exceptions and special permits by adding the following submission requirements which are typically needed for an appropriate review of an application:
 - A statement confirming the ownership of the property;
 - Photographs to be labeled and a preference for digital photography;
 - Identification of construction dates, if known, and indication of whether a structure will be retained or demolished;
 - Existing right-of-way centerline delineation and dimensions to the edge of pavement; and
 - A statement from the Health Department that available water and sewer facilities are adequate, if applicable.
- ❖ **Withdrawing Applications.** The provisions relating to withdrawal and dismissal of applications have been revised and clarified. A new provision specifies that 90 percent of the filing fee will be refunded for applications that are administratively withdrawn because an applicant refuses or neglects to make needed corrections after submission but prior to acceptance of the application.

Article 9 – Definitions and Ordinance Interpretations

New definitions are included for consolidated or new uses, and current definitions have been revised to relocate certain details to the use standards. Notable revisions to certain definitions are discussed with their related uses and topics above. Additional changes to definitions include:

- ❖ **Alternative Lending Institution.** Since the June 2020 Consolidated Draft, the following change is included:
 - This definition has been updated to include establishments that offer short-term loans online if associated appraisals or other services are provided in person.
- ❖ **Development Plan.** The definition for “development plan” has been revised to apply generally to the various types of plans required to be submitted with a rezoning application. The specific types, including generalized, conceptual, final, and PRC development plans are also defined.
- ❖ **Gardening and Composting.** Since the June 2020 Consolidated Draft, the following change is included:
 - The reference to flowers and ornamental plantings has been removed to clarify that flowers and ornamental plants grown on a lot would be considered landscaping rather than a garden and would not be subject to the size and location regulations for gardens in a front yard.
- ❖ **Grade.** Since the June 2020 Consolidated Draft, the following change is included:
 - The definition of grade has been modified to address retaining walls, consistent with Technical Bulletin 19-01 and current interpretations for accessory structures. For the purpose of measuring height, the grade must extend ten feet from a principal structure in order to use the higher elevation, and five feet from an accessory structure. This is a reduction from the current interpretation of six feet for accessory structures. For the purpose of measuring the height of a fence or wall, a retaining wall establishes the finished grade.
- ❖ **Open Space Definitions.** Since the June 2020 Consolidated Draft, the following changes are included:

- In the definition of landscaped open space, the subjective language requiring it to be aesthetically pleasing has been deleted. This is consistent with the revision made in the previous draft to the term landscaping.
- The definition of usable open space has been revised to include the natural areas that are associated with walking, hiking, bicycle, or bridle trails.
- ❖ **Noncompliant.** Noncompliant has been defined to replace “not nonconforming” as used in Article 15 in the current Ordinance.
- ❖ **Patio.** A new definition has been added for a patio, which is currently defined as a deck.
- ❖ **Privacy Yard.** The requirement for a privacy yard to be enclosed on at least two sides with a fence or wall has been deleted.
- ❖ **Recreational Vehicle or Travel Trailer.** The current definition for travel trailer has been updated and the size limits have been deleted since some of the RVs currently sold do not meet these older dimensions.
- ❖ **Street, Major Thoroughfare.** Appendix 8 of the current Ordinance (Listing of Roadways by Functional Classification) and its reference in this definition have been replaced with a reference to the Roadway System Functional Classification in the Comprehensive Plan’s Policy Plan, as this is the source for Appendix 8.
- ❖ **Tiny House.** A definition has been added for a tiny house to assist with questions about this type of structure.
- ❖ **Wireless Facility.** The subsets of the definition have been updated in accordance with current state and federal regulations.

Appendix 1 –Provisions Relating to Previous Approvals

Appendix 1 of the Ordinance includes the provisions that relate to previous approvals. Appendix 1 will be a part of the Board adoption, but will not be part of the adopted Zoning Ordinance. Rather, it will be a reference that will be conveniently located on the website and will specify how previous approvals are to be treated under the new Ordinance. Going forward, this appendix will include a list of subsequent Zoning Ordinance amendments which provide specific allowances for prior approvals. Most of the provisions associated with previous amendments did not need to be carried forward, but some, such as those relating to parking for the Restaurants amendment adopted in 2018, have been incorporated directly into the text of the appropriate articles of the Zoning Ordinance.

- ❖ **Grandfathering.** Since the June 2020 Consolidated Draft, the additional following change is included:
 - The term “grandfathering provisions” has been replaced with a more easily understood and descriptive reference of “provisions relating to previous approvals.”
- ❖ **Home-Based Businesses.** Since the June 2020 Consolidated Draft, the additional following change is included:
 - A provision has been added to clarify that lawfully existing home occupations, home professional offices, and barbershops or beauty parlors as a home occupation may continue, subject to any conditions of approval and standards in effect at the time of approval. However, any modifications to the use will require approval of an administrative permit or special permit for a home-based business in conformance with this Ordinance.

Changes in Permissions from the Current Ordinance

The table below summarizes the proposed changes in permissions as compared to the current Ordinance. Additional details on changes to the associated use-specific standards and permissions are included in Appendix 1. Changes to associated service uses are not listed in the table below but are also described in Appendix 1 and further detailed in the footnotes in the annotated version of the draft Ordinance. All permission changes proposed since the June 2020 Consolidated Draft are discussed in Appendix 1.

| Table 1: Changes in Permissions | | |
|--|---|--|
| Use | Affected District | Change in Permission A = Accessory Use AP = Administrative Permit Use SE = Special Exception Use SP = Special Permit Use |
| Agricultural and Related Uses | | |
| Stable, Riding or Boarding | R-A | Ancillary veterinary hospital from not allowed to SP |
| | PRC (Residential) | From SP to SE if not shown on a PRC development plan and PRC plan |
| | R-A through R-1 | From SP to either SP or SE if in conjunction with a rezoning or another SE, at applicant's discretion |
| Residential Uses | | |
| Dwelling, Stacked Townhouse (New Use) | R-12 through R-16, PDH, PRC, PDC, PRM, PCC | See discussion in Appendix 1: Notable Changes |
| Live-Work Development (New Use) | PRC, PDC, PRM, PTC | See discussion in Appendix 1: Notable Changes |
| Religious Group Living | PRC | From SP to SE if not shown on a PRC development plan and PRC plan |
| Residence Hall | R-C | From SE to not allowed |
| | I-4 | From not allowed to SE |
| | PRM | From not allowed to allowed if shown on a development plan or by SE |
| Public, Institutional, and Community Uses | | |
| Adult Day Support Center (New Use) | R-1 through R-MHP, C-1 through C-8, I-I through I-6, PDH, PRC, PDC, PRM, PTC, and PCC | See discussion in Appendix 1: Notable Changes |
| Alternate Use of Public Facility | R-A | From SE to not allowed |
| | PRM, PRC Convention / Conference Center | From not allowed to allowed if shown on a development plan/PRC development plan and PRC plan or by SE |
| Child Care Center | R-A and R-C | Nursery school from SE to not allowed |
| | R-E | From SE to not allowed |

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|--|---|---|
| | C-5 through C-8 | From SE to allowed |
| | PCC | From not allowed to allowed if shown on a development plan or by SE |
| Club, Service Organization, or Community Center | R-C through R-MHP, I-2 through I-4 | Community clubs, centers, meeting halls and other recreational/social use by a non-profit (Group 4 uses #1 and #4): from SP to SE |
| | C-1 through C-4, I-5 and I-6 | Community clubs/meeting halls and other recreational/social use by a non-profit (Group 4 uses #1 and #4): from not allowed to SE |
| | C-5 and C-6 | Other recreational/social use by a non-profit (Group 4 use #4): from SP to by right |
| | | Swimming pools/archery ranges (when part of a community center – Group 4, use #1): from SP to by right |
| | C-7 and C-8 | Other recreational/social use by a non-profit (Group 4 use #4): from not allowed to by right |
| | | Swimming pools/archery ranges (when part of a community center – Group 4, use #1): from not allowed to by right |
| | PRC | From not allowed to allowed when shown on a PRC development plan and PRC plan or by SE in the Convention/Conference Center area |
| The use remains permitted when shown on a PRC development plan and PRC plan, but the option for an SP is changed to an SE in all other areas | | |
| PRM | From not allowed to allowed when shown on a development plan or by SE | |
| College or University | C-1 through C-3 | From SE to by right |
| | PDC | From a secondary use to a principal use when shown on a development plan or by SE |
| Community Swim, Tennis, and Recreation Club | PRM | From not allowed to allowed when shown on a development plan or by SE |
| Cultural Facility/Museum | PRC Convention/Conference | From not allowed to allowed when shown on a PRC development plan and PRC plan or by SE |
| Religious Assembly | PRC | From SP to SE if not shown on a PRC development plan and PRC plan |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | C-5 through C-8 | From SE to by right to reflect the change in permissions to child care center |
| School, Private | R-A | From SE to not allowed |
| Specialized Instruction Center | R-E | From SE to not allowed |
| | I-6 | From not allowed to SE |
| Cemetery | PRC | From SP to SE if not shown on a PRC development plan and PRC plan |

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|---|--|---|
| Crematory | PRC | From SP to SE if not shown on a PRC development plan and PRC plan |
| Funeral Home | R-E through R-MHP | Funeral chapel from SE to SP |
| | PDC | From not allowed to allowed when shown on a development plan or by SE |
| | PRC | From SP to SE if not shown on a PRC development plan and PRC plan |
| Airport | R-E | From SE to not allowed |
| Helipad | C-5 | From not allowed to SE |
| | PRC Convention/ Conference | From not allowed to allowed when shown on a development plan or by SE |
| Solar Power Facility (New Use) | R-A through R-MHP, C-1 through C-8, I-1, I-2, I-3 through I-6 PDH, PRC, PDC, PRM, PTC | See discussion in Appendix 1: Notable Changes |
| Utility Facility, Heavy | I-5 | Supply yard for public utility/incidental office and maintenance from SE to allowed |
| Commercial Uses | | |
| Animal Shelter | C-5 through C-8 | From not allowed to either allowed by right if indoor or by SE if outdoor |
| | PRC (Residential) | From not allowed with outdoor facilities to allowed if shown on a PRC development plan and PRC plan or by SE |
| Kennel | C-5 through C-8 | From not allowed with outdoor facilities to SE |
| | PDH, PRC, PDC, PRM, PTC | From not allowed with outdoor facilities to allowed if shown on the development plan/PRC development plan and PRC plan or by SE |
| Pet Grooming Establishment (New Use) | C-5 through C-8, PDH, PRC, PDC, PRM, PTC | See discussion in Appendix 1: Notable Changes |
| Veterinary Hospital | R-A through R-1 | From SP to SE |
| | C-3 and C-4 | From not allowed to allowed |
| | C-5 through C-8, I-3 through I-6 | From not allowed with outdoor facilities to SE |
| | PDH, PRC, PDC, PRM, PTC | From not allowed with outdoor facilities to allowed if shown on the development plan/PRC development plan and PRC plan or by SE |
| Catering (New Use) | C-3 through C-8, I-3 through I-6, PDH, PRC, PDC, PRM, PTC | See discussion in Appendix 1: Notable Changes |
| Hotel or Motel | C-3 and C-4 | From SE to allowed |
| Retreat Center | R-MHP | From SE to not allowed |
| | R-E and R-1 | From not allowed to SE |
| Drive-through Financial Institution | PTC | From allowed only if shown on a final development plan to allowed also by SE |

| | | |
|---|--|--|
| Financial Institution | PTC | From allowed only if shown on a final development plan to allowed also by SE |
| Office | R-E and R-1 | Scientific research and development from SE to not allowed |
| | C-1 through C-4, C-7, and C-8 | Scientific research and development from SE to allowed or SE |
| | C-5 and C-6 | Scientific research and development from not allowed to allowed or SE |
| Office in a Residential District | R-C and R-E | From SE to not allowed |
| Massage Therapy Establishment (New Use) | C-1 through C-8, I-1 through I-6, PDH, PRC, PDC, PRM, PTC, PCC | See discussion in Appendix 1: Notable Changes |
| Banquet or Reception Hall (New Use) | C-1 through C-8, PDH, PRC, PDC, PRM, PTC | See discussion in Appendix 1: Notable Changes |
| Commercial Recreation, Indoor | See separate permission changes in Tables 2 and 3 below | |
| Commercial Recreation, Outdoor | See separate permission changes Tables 4 and 5 below | |
| Entertainment, Public (New Use) | C-5 through C-8, I-2 through I-6, PRC, PDC, PRM, PTC, PCC | See discussion in Appendix 1: Notable Changes |
| Golf Course or Country Club | I-2 through I-6 | From SE to not allowed |
| | PRM | From not allowed to allowed if shown on a final development plan or by SE |
| Health and Exercise Facility, Large | C-3 and C-4 | From not allowed to either allowed or SP |
| Health and Exercise Facility, Small | R-E through R-MHP | From SE to not allowed |
| | PRC (Residential) | From allowed if shown on a development plan or by SE to not allowed |
| Marina, Commercial | PTC | From allowed to not allowed |
| Quasi-public Park, Playground, or Athletic Field | PRM | From not allowed to allowed if shown on a final development plan or by SE |
| Smoking Lounge (New Use) | C-5 through C-8, I-2 through I-6, PRC, PDC, PTC | See discussion in Appendix 1: Notable Changes |
| Stadium or Arena | PDC | From not allowed to SE |
| Zoo or Aquarium | C-7, C-8 | From not allowed to SP |
| | PDC, PTC | From not allowed to allowed if shown on a final development plan or by SE |
| Convenience Store | R-2 through R-8 | Convenience center: from SE to not allowed |
| Drive-through Pharmacy | PTC | From allowed only if shown on a final development plan to allowed also by SE |
| Garden Center | C-5 through C-8 | From not allowed to allowed |
| | PDH, PRC, PDC, PRM, PTC | From not allowed to allowed or if shown on a development plan, PRC development plan, and PRC plan or by SE |
| | R-3, R-4, I-4 through I-6 | From SE to not allowed |

| | | |
|---------------------------------------|---|---|
| Retail Sales, General | R-E through R-8 | Convenience center: from SE to not allowed |
| | C-5 through C-8 | Adult bookstores: from SP to by right in C-7, and from not allowed to by right in C-5, C-6, and C-8 Districts. |
| | C-8 | Auction establishments: From SP to allowed |
| | PDH, PRM, PDC, PTC, PRC (all but Residential) | Adult bookstores: from not allowed to allowed if shown on a development plan, PRC development plan, and PRC plan |
| Car Wash | PTC | From allowed only if shown on a final development plan to allowed also by SE |
| Commercial Off-Street Parking | PRM | From allowed only if shown on a final development plan to not allowed |
| Truck Rental Establishment | I-4 | From not allowed to SE |
| Vehicle Fueling Station | PTC | From allowed only if shown on a final development plan to allowed also by SE |
| Vehicle Repair and Maintenance, Light | PTC | From allowed only if shown on a final development plan to allowed also by SE |
| Vehicle Sales, Rental, and Service | C-3, C-4, C-6 through C-8 | From SE to allowed or SE |
| Industrial Uses | | |
| Data Center (New Use) | C-3, C-4, I-2 through I-6, PRC, PDC, PTC | See discussion in Appendix 1: Notable Changes |
| Goods Distribution Hub (New Use) | C-3 through C-8, PDC, PTC | See discussion in Appendix 1: Notable Changes |
| Self-Storage | I-3 | From SE to allowed |
| Warehouse | I-3 | From not allowed to SE |
| Wholesale Facility | PTC | From not allowed to allowed if shown on a final development plan |
| Contractor's Office and Shop | I-3 | From not allowed to allowed |
| Storage Yard | I-3 and I-4 | From not allowed to SE |
| Accessory Uses | | |
| Accessory Living Unit | R-A through R-8, PDH, PRC, PDC, PTC | From SP to AP if located within a single-family detached dwelling; no change if located in a freestanding structure on lots greater than two acres. |
| Caretakers Quarters | R-A, R-C, R-E | From A to SP |
| | R-1 | Servants quarters: From A to SP Quarters of a caretaker, watchman, or tenant farmer, and his family: From not allowed to SP |
| | R-2, R-3, R-4 | Servants quarters: From A to not allowed |
| Electric Vehicle Charging (New Use) | R-A through R-MHP, C-1 through C-8, I-2 through I-6, PDH, PRC, PDC, PRM, PTC, PCC | See discussion in Appendix 1: Notable Changes |
| Gardening and Composting | I-I | From not allowed to allowed |

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| Home Day Care Facility | PRC | From SP to SE if not shown on a PRC development plan and PRC plan |
| Home-Based Business | R-A through R-MHP | Home professional office: From SP to AP Barber shop or beauty parlor as a home occupation: From SP to AP |
| | PRM and PTC | Home professional office: From not allowed to AP or SP |
| Limited Riding or Boarding Stable | PDH, PRC, PDC, PRM, PTC | From allowed if shown on final development plan/development plan and PRC plan to not allowed |
| Residence for Manager or Employee | All districts | From A to AP Carried forward SE and SP permissions |
| Solar Collection System (New Use) | R-A through R-MHP, C-1 through C-8, I-I through I-6, PDH, PRC, PDC, PRM, PTC, PCC | See discussion in Appendix 1: Notable Changes |
| Temporary Uses | | |
| Food Truck | R-A through R-MHP | From not allowed in residential areas to allowed by AP or SE/SP when in conjunction with an approved nonresidential use |
| | PDH, PRC, PDC, PRM, PTC, PCC | From not allowed in residential areas of planned districts to allowed by AP or if shown on an approved development plan, PRC development plan, and PRC plan when in conjunction with an approved nonresidential use |

The Indoor Commercial Recreation and Outdoor Commercial Recreation uses each consolidate multiple current uses that are permitted in different ways throughout the zoning districts. Tables 2 through 5 below provide additional detail on the permission changes resulting from these use consolidations. Information on the use-specific standards applicable to each use is included in Appendix 1.

| Table 2: Indoor Commercial Recreation Permission Changes Conventional Districts | | | | | | | | | | | | | | | | |
|---|----------------------|-----|-----|-----|-----|-----|-----|-----|----------------------|-----|-----|-----|-----|-----|----|----|
| Existing Permissions for Indoor Commercial Recreation Uses: | | | | | | | | | | | | | | | | |
| Use | Commercial Districts | | | | | | | | Industrial Districts | | | | | | | |
| | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | | |
| Amusement arcades | | | | | | | P | | | | | | | | | |
| Billiard/pool hall | | | | | SP | SP | SP | SP | | | | | | | | |
| Bowling alley | | | SP | SP | | SP | P | P | | | | | SP | SP | | |
| Commercial recreation centers | | | | | | | | | | | | | | | | |
| Commercial recreation use, any other similar (indoor) | | | | | | | SP | SP | | | | | | | | |
| Commercial recreation parks, including mechanical or motorized amusement rides/devices (indoor) | | | | | | | SP | SP | | | | | SP | SP | | |
| Commercial swimming pools, tennis courts, and similar courts (indoor) | | | P | P | P | P | P | P | | | | | | | | |
| Indoor archery ranges, fencing and other similar indoor recreation uses | | | SP | SP | SP | | P | P | | | | | | | | |
| Indoor firing ranges | | | | | | | SP | SP | | | | | | | | |
| Indoor firing ranges, archery ranges, fencing and other similar indoor recreation uses | | | | | | SP | | | | | SP | SP | SP | SP | | |
| Miniature golf courses, indoor | | | SP | SP | SP | P | P | P | | | | | | | | |
| Skating facilities, indoor | | | SP | SP | SP | SP | P | P | | | | | | | | |
| Theaters | | | SE | SE | | P | P | P | | | | | SE | SE | SE | |
| Proposed Permissions: | | | | | | | | | | | | | | | | |
| Commercial Recreation, Indoor | | | P | P | | | | | | | | | SP | SP | SP | SP |
| | | | SE | SE | | | | | | | | | SE | SE | SE | SE |

| Table 3: Indoor Commercial Recreation Permission Changes Planned Districts | | | | | | | | | | | | | | |
|---|-----------|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|------|-----------|-----------|
| Existing Permissions for Indoor Commercial Recreation Uses: | | | | | | | | | | | | | | |
| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary |
| Amusement arcades | | | | | ✓/SE | ✓/SE | | | ✓/SE | | | ✓/SE | | |
| Billiard/pool hall | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | ✓/SE | ✓/SE | | | |
| Bowling alley | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | | | ✓/SE | | ✓/SE |
| Commercial recreation centers | | | | | ✓/SP | ✓/SP | | | | | | | | |
| Commercial recreation use, any other similar (indoor) | | | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | ✓/SE | ✓/SE | | | |
| Commercial recreation parks, including mechanical or motorized amusement rides/devices (indoor) | | | | | | | ✓/SP | | | | | | | |
| Commercial swimming pools, tennis courts, and similar courts (indoor) | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | ✓/SE | ✓/SE | | | ✓/SE |
| Indoor archery ranges, fencing and other similar indoor recreation uses | | ✓/SE | | | | | | | | ✓/SE | ✓/SE | | | |
| Indoor firing ranges | | | | | | | | | | | | | | |
| Indoor firing ranges, archery ranges, fencing and other similar indoor recreation uses | | | | | | ✓/SP | ✓/SP | ✓/SE | | | | | | ✓/SE |
| Miniature golf courses, indoor | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | | | ✓/SE | | |
| Skating facilities, indoor | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | ✓/SE | ✓/SE | | | |
| Theaters | | | | | ✓ | ✓ | ✓ | ✓/SE | | | ✓/SE | ✓/SE | | ✓/SE |
| Proposed Permissions: | | | | | | | | | | | | | | |
| Commercial Recreation, Indoor | | ✓/SE | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE |

| Table 4: Outdoor Commercial Recreation Uses Permission Changes – Conventional Districts | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|-------|----------------------|-----|-----|-----|----------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|----|
| Existing Permissions for Outdoor Commercial Recreation Uses: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | Industrial Districts | | | | | | | | | | |
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Baseball hitting and archery ranges, outdoor | | | SE | SE | | | | | | | | | | | | | | | SE | SE | SE | SE | | | SE | SE | SE | SE | |
| Commercial recreation parks, including mechanical or motorized amusement rides/devices | | | | | | | | | | | | | | | | | | | | | SP | SP | | | | | SP | SP | |
| Commercial recreation use, any other similar | | | | | | | | | | | | | | | | | | | | | SP | SP | | | | | | | |
| Commercial swimming pools, tennis courts and similar courts | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP |
| Drive-in motion picture theaters | | | | | | | | | | | | | | | | | | | | | SE | SE | | | | | SE | SE | |
| Golf driving range | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE |
| Miniature golf course | | | | | | | | | | | | | | | | | | | | SP | SP | SP | | | SP | SP | SP | SP | |
| Miniature golf course ancillary to golf driving ranges | | | SE | SE | | | | | | | | | | | | | | | | | | | | | | | | | |
| Skating facilities | | | | | | | | | | | | | | | | | | | | SP | SP | SP | | | | | SP | SP | |
| Skeet and trapshooting ranges | | SP | SP | SP | | | | | | | | | | | | | | | | | | | | | | | | | |
| Proposed Permissions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Recreation, Outdoor | | SP | SP | SP | | | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | |



| Table 5: Outdoor Commercial Recreation Uses Permission Changes Planned Districts | | | | | | | | | | | | | |
|--|-----------|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Existing Permissions for Outdoor Commercial Recreation Uses: | | | | | | | | | | | | | |
| Use | PDH | | PRC | | | | PDC | | PRM | | PTC | PCC | |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | Principal | Secondary |
| Baseball hitting and archery ranges, outdoor | | | ✓/SE | | | | | | | | | | |
| Commercial recreation parks, including mechanical or motorized amusement rides/devices | | | | | | | ✓/SP | | | | | | |
| Commercial recreation use, any other similar | | | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | ✓/SE | ✓/SE | | |
| Commercial swimming pools, tennis courts and similar courts | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE |
| Drive-in motion picture theaters | | | | | | | | | | | | | |
| Golf driving range | | ✓/SE | ✓/SE | | | | | ✓/SE | | | | | |
| Miniature golf course | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | | ✓/SE | | |
| Miniature golf course ancillary to golf driving ranges | | | | | | | | | | | | | |
| Skating facilities | | ✓/SE | | | ✓/SP | ✓/SP | ✓/SP | ✓/SE | | ✓/SE | ✓/SE | | |
| Skeet and trapshooting ranges | | | | | | | | | | | | | |
| Proposed Permissions: | | | | | | | | | | | | | |
| Commercial Recreation, Outdoor | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | ✓/SE | | |

Accessory Living Units

This is a new name proposed for the current “accessory dwelling unit,” which is a subordinate living space including areas for eating, sleeping, living, and sanitation. The proposed name change is in response to feedback that the name, accessory dwelling unit, has been confused with affordable dwelling units. In Fairfax, the abbreviation, “ADU,” has long been used to refer to affordable dwelling units which are created under specific Ordinance provisions. In addition to a new name, several changes to the approval process and standards are proposed, but many of the current standards are being brought forward. This appendix is divided in the following sections: Timeline and Outreach, Summary of Standards, Background Information, and Summary of Advertised Options.

Throughout the Country, the accessory living unit concept is widely used to integrate additional housing options into existing single-family areas and to allow for flexibility for homeowners. Accessory living units can provide mortgage relief, housing options for family members, friends, or caretakers, and opportunities for older adults to age-in-place in a home that may otherwise be too large for their own purposes. These units can also allow renters to live in single-family neighborhoods. With limitations on occupancy, size, and entrances, these units can be integrated and blended into existing single-family detached developments.

Timeline and Outreach

Proposed revisions to the standards for accessory dwelling units were first included in the April 2019 draft for the Residential, Accessory, and Temporary Uses. Based on feedback, revisions were included in the May 2019 draft of use regulations. Additional revisions were incorporated in the July 2019 revised draft of use regulations, as well as the June 2020 Consolidated Draft. As outlined below, further revisions are included in this November 2020 draft. In addition to these documents, several additional memorandums have been issued and an [FAQ page](#) is available on the website. Throughout the process, the ALU topic has been the subject of extensive discussion at a minimum of 43 public meetings. A survey was conducted in the spring of 2020, and the results can be found [here](#).

Although the outreach has been substantial and by the time public hearings are held, almost two years will have been devoted to the discussion and development of the proposed ALU standards, some have suggested that the proposed revisions should be considered as a separate amendment. Staff believes that given the robust community discussions that have resulted in proposed revisions, such as a parking rate, and a breadth of advertised options, the topic is ready for review as part of the public hearing process.

Summary of Standards

It is important to note that the Zoning Ordinance has included provisions for accessory dwelling units for 37 years and that the revisions under consideration as part of zMOD retain most of the standards in today’s Ordinance.

Current standards proposed to be carried forward:

- This use is only permitted in association with a single-family detached dwelling.
- There can only be two bedrooms.
- Occupancy is limited to two people.

- The owner must live on the property.
- A detached ALU requires a minimum of two acres and special permit approval.
- All applicable regulations for building, safety, health, and sanitation must be met.
- The County may inspect the property.
- The approval does not transfer to a new owner.
- The conditions must be recorded in the land records.
- Any external entrances must be from the side or rear (see discussion below).
- The approval is subject to renewal (see discussion of timeframe below).

The new and revised standards are discussed below. Primarily, concerns have been raised during outreach regarding the first two topics below, the administrative permit process and removing the age or disability requirement. It should be noted that we have also heard comments that the proposed changes are still too restrictive. In particular, some have expressed that the two-acre limit for detached ALUs is too large for Fairfax and forces these units into low-density areas far from transit and activity centers.

- **Administrative Permit.** Staff proposes to allow interior ALUs that meet all the standards to be approved with an administrative permit rather than requiring a special permit and public hearing before the Board of Zoning Appeals. Feedback during outreach has been mixed, with some in support of the administrative approval process, and others indicating that they want to be notified of proposed ALUs in their neighborhood and to have the opportunity to participate in a public hearing. Based on these concerns, staff recommends that the option to retain the special permit process for all ALUs be advertised for Board consideration. However, staff support of an administrative permit is founded on the objective nature of the standards. Most special permit applications for the current accessory dwelling unit use are approved, with standard conditions that typically mirror the Zoning Ordinance requirements. For those that were denied, occupancy violations were cited most often as a reason. Occupancy standards would remain, and the administrative permit allows for lawful inspections. The streamlined administrative permit process supports the recommendations of the Older Adults Committee and the Communitywide Housing Strategic Plan to expand affordable housing and resources for older adults and persons with disabilities.

A public hearing process would be retained for detached ALUs and for applicants that request an increase in size, or a modification of the entrance and access requirements or the parking requirement. It should be noted that the current Zoning Ordinance regulations allow occupancy of a dwelling by a family with one or two persons related by blood or marriage and their children plus two unrelated roomers or boarders of any age by right without any public hearing process. Because the occupancy standards for the principal dwelling that has an ALU do not permit those two additional roomers or boarders, the effect of an ALU is not to increase the number of people permitted in the dwelling, but merely to allow them to occupy a more independent space with kitchen facilities.

- **Age and Disability.** The draft includes an option for the Board to consider removing the current requirement that someone on the property, either in the principal dwelling or the ALU, be at least 55 years in age or a person with a disability. During outreach with the Board at its February 4, 2020 Land Use Policy Committee meeting, there was discussion about whether this requirement

should be removed in order to expand access to this type of housing opportunity, such as to a young adult starting a new job or a married couple saving to buy a home. According to our research and information from Clarion Associates, we have not identified any other jurisdictions that currently impose an age or disability requirement.

Feedback on this option has been mixed, with some in favor of the change, but others have expressed concerns that removing the restriction will result in a proliferation of ALUs which in turn could result in impacts to community character, traffic, infrastructure, and parking. With respect to the concern about the proliferation of ALUs, as indicated by the experiences of other jurisdictions, the modest proposed changes are unlikely to result in a large volume of ALUs over a short period of time. The proposed standards retain a number of more restrictive standards as compared to other jurisdictions. With the occupancy limit of two people, ALUs will not burden roadways or other infrastructure. Regarding community character, standards are included to ensure that a dwelling with an ALU does not look like a duplex (see Design of Entrances and Access below). The setbacks for the zoning district apply to any proposed addition.

- **Parking.** Currently, with the special permit, the BZA evaluates whether the off-street parking will be sufficient to meet the needs of the principal dwelling and the ALU. This evaluation is being carried forward for the special permit approvals. Based on feedback received during outreach, a new parking requirement is proposed for interior units approved with an administrative permit. Off-street parking would need to equal the requirement for the dwelling plus one additional space. On a public street, this would mean that a total of three off-street parking spaces would need to be provided and on a private street, four off-street parking spaces would need to be provided. The current Zoning Ordinance requirement that limits front yard driveway surfacing to 25 or 30 percent in the R-1 through R-4 District is being carried forward, so this will prohibit excessive paving to meet this parking requirement. A special permit could be applied for if the required off-street parking is not provided.
- **Size.** Currently, the size of an accessory dwelling unit is limited to 35 percent of the principal dwelling unit for interior units. For detached units, the size is limited to 35 percent of the total of the principal dwelling plus the freestanding accessory structure. In order to maintain the subordinate nature of ALUs and reduce the potential for overly large units that resemble second dwellings, staff recommends the addition of square footage limitations. For an interior unit, it is recommended that the size of the ALU be up to 800 square feet or 40 percent of the size of the principal dwelling, whichever is less. A range of 500 to 1,200 square feet would be advertised for Board consideration. The interior size limit could be increased with special permit approval. In addition, as suggested at the Board's Land Use Policy Committee on July 21, 2020, an option will be advertised to allow the size to be exceeded if the ALU is proposed to fully utilize the floor area in a basement or cellar. Some community groups have expressed concern about this larger size essentially creating a duplex. For a detached unit, an ALU could be up to 1,200 square feet, with a range from 700 to 1,500 square feet advertised for Board consideration. The detached ALU would still need to be clearly subordinate to the principal dwelling.

Staff reviewed a sample of approved accessory dwelling units: 30 interior accessory dwelling units had an average size of 1,087 square feet and 27 detached units had an average size of 1,321

square feet. These sizes are based on the current limit of 35 percent of the dwelling and are slightly larger than the recommended sizes. The proposed size limits recognize that an ALU is limited to two bedrooms and that the unit is intended to be subordinate. Shared spaces are not counted toward the square footage of the ALU, and a larger size for an interior unit could be approved with a special permit.

- **Renewal.** Currently, a special permit for an accessory dwelling unit is issued for a period of five years and may be renewed by the Zoning Administrator for five-year periods. In response to concerns about monitoring and enforcement, it is recommended that the renewal timeframe be reduced to an initial two-year period, with subsequent renewals being up to five years, based on the record of compliance.
- **Well and Septic.** A new standard is proposed based on comments received during outreach to require Health Department approval if there is an onsite well or septic system prior to issuance of an administrative permit. The Health Department is included in the review of special permit applications.
- **Fire Safety.** Another new standard based on comments received during outreach will require a fire extinguisher as well as smoke detectors and carbon monoxide detectors (if needed) that are interconnected with the principal dwelling. This is a standard that currently applies to short-term lodging.
- **Design of Entrances and Access.** The Ordinance currently requires any external entrances to be located on the side or rear of the dwelling unless the BZA approves an alternative location. This requirement is carried forward, with the caveat that it applies to new entrances. In addition, for an interior ALU, a new standard requires any proposed garage or carport to be located immediately adjacent to any existing garage or carport and must use the same driveway and curb cut. This standard is intended to prevent the approval of additions that cause the dwelling to appear as a duplex. A modification of the entrance and access standards could be approved by special permit.

Background Information

Number of Applications

Since adoption of the provisions for accessory dwelling units in 1983, 219 applications for accessory dwelling units have been approved (37 of which are now expired) and 17 have been denied (as of October 2020). This represents an average of about six applications per year. If the Board approves the administrative permit process for interior units and/or removes the age or disability requirement, there is likely to be an increase in the number of applications. However, based on a review of other jurisdictions that have amended their regulations to remove impediments, the increase in the number of applications is anticipated to be modest. This will allow for monitoring of the new regulations and amendment of the standards if appropriate. Arlington County amended their regulations for accessory dwelling units, effective January 2018 and May 2019. Since then, they have approved a total of 32 attached and 38 detached accessory dwellings (2018 – October 29, 2020). Montgomery County amended their regulations, effective December 2019. Based on conversations with their staff, due to COVID they have not seen an increase in the number of applications this year.

Affordable Housing and Demographic Information

While ALUs should not be confused with affordable dwelling units (known as ADUs), they can be part of the solution to the County’s housing needs. The Fairfax County Department of Housing and Community Development (HCD) has responded that there is an overarching need for housing that is affordable at all income levels in the [Washington region](#) in general, and specifically in Fairfax County. It is projected that Fairfax County needs to increase its housing supply at all affordability levels. According to research conducted by George Mason University, it is anticipated that over 62,184 households will be added to Fairfax County at all income levels over the next 13 years. Of that, approximately 30% need to be affordable at 80% AMI and lower. The demand for affordable housing, coupled with the high costs of land and construction, makes it difficult to provide sufficient housing at moderate prices and rents. To address the affordable housing issue, the Board of Supervisors and the Fairfax Redevelopment and Housing Authority have focused on efforts that include the use of existing parcels of public land on which to develop more affordable housing, the County’s Affordable Dwelling Unit Ordinance, and the Workforce Dwelling Unit policy. Unlike those efforts that lead to new committed-affordable housing units, additional ALUs that may result from changes proposed as part of zMOD are not intended to lead to more committed-affordable housing. Rather, the changes are part of a range of options in the affordable housing toolbox (to include development, policy improvements, and land use changes) that are expected to increase the overall supply of housing in Fairfax County. It is reasonable to expect that some ALUs, given their location within or on the property of an owner-occupied dwelling, may be more affordable than certain other rental opportunities, and as noted above, ALUs can supplement the income for homeowners.

Clarion Associates has provided information on the demographics of accessory dwelling unit occupancy in several jurisdictions that have conducted detailed surveys.¹ According to this information, most of the occupants are 20 to 50 years old and about 90 percent have no children. Over half of the units are occupied by tenants and, at least in the case of one jurisdiction, most of the rents are affordable to lower income one or two-person households. Additionally, one jurisdiction reported that over 70 percent of the occupants have at least a four-year degree, and another reported that almost half are employed in a professional occupation. Staff is prepared to monitor the ALU program and any changes approved by the Board, including topics, such as anticipated monthly rent, relationship of occupants, and total number of vehicles associated with the dwelling.

¹ Sausalito, California (2011); Portland, Eugene, and Ashland, Oregon (2013); Portland, Oregon (2018); and Boulder, Colorado (2017).

Summary of Jurisdictions

| Accessory Dwelling Units by Jurisdiction | | | | | | | |
|--|--|---|---|---|--------------------|---------------------------|--|
| | Age/ Disability Limit? | Size | Process | Location | Owner- Occupied | Max # of People | Parking |
| Fairfax (Existing) | 55+/ person with a disability | 35% of principal structure | Special permit with public hearing | Interior; Detached with 2+ acres | Yes | 2 | Determined by BZA |
| Arlington | None | Footprint of 560- 650 SF; Up to 750 SF interior space; Entire basement if wholly within | Administrative process with affidavit | Interior; Detached with 5-ft setback and 25-ft height | Yes | 3 | Maintain 1-2 spaces or create 1 space if none exist |
| D.C. | None | Only allowed if principal structure exceeds 1,200 SF - then allows 35% | Administrative process | Interior; Detached anywhere in rear and out of side setback and 20-ft height | Yes | 3 | None |
| Montgomery County | None | Interior: 1,200 SF Detached: 50% of the footprint of the principal dwelling; 10% of the lot area; or 1,200 square feet of gross floor area. | Administrative process with affidavit | Interior; Detached must meet lot coverage, setback and height requireme nts | Yes | 2 over 18 years old | 1 on-site parking space required in addition to any spaces required for the dwelling. No parking if within one mile of metro or MARC |
| Loudoun County | None | 70% or 2,500 SF, whichever is less | Administrative process | Interior and Detached allowed | No | None | 1 space |

Summary of Advertised Options for ALUs

| Topic | Posted Draft | Advertised Range or Option |
|--|---|--|
| Administrative Permit | Administrative permit for interior ALUs that meet the requirements | Keep the special permit process for all ALUs |
| Interior ALU size | 800 square feet or 40% of the principal dwelling, whichever is less | 500 to 1,200 square feet or 40% of the principal dwelling, whichever is less |
| Interior ALU size if located in the basement or cellar | 800 square feet or 40% of the principal dwelling, whichever is less | Option to exceed 800 square feet with administrative approval if the ALU is in the basement or cellar |
| Age or disability | A person 55 years in age or older or a person with a disability | Retain or remove the current requirement for someone on the property to be at least 55 years old or a person with a disability If the age or disability requirement is removed, the related standard for reasonable access and mobility would be removed, as well as the Caretaker Quarters use which would no longer be needed |
| Detached ALU Size | 1,200 square feet | 700 to 1,500 square feet |

Home-Based Businesses

The home-based business use is a consolidation of the current home occupation, home professional office, and barber shop or beauty parlor as a home occupation. While a home occupation requires an administrative permit, the home professional office and barber shop or beauty parlor as a home occupation require special permit approval and a public hearing with the BZA. The current fee for these types of special permit applications is \$16,375. Under current provisions, four customers at a time and eight customers in a day are only allowed for a school of special education home occupation (e.g., classes in music, art, exercise, or any other form of instructional activity), and for a home professional office or barber shop/beauty parlor that receives special permit approval. Other types of occupations or non-professional offices are not allowed to have customers. Home occupations are currently permitted to have one non-residential employee, while the BZA may approve a home professional office to have up to four employees on lots less than two acres and up to six employees on lots two acres or larger. A barbershop or beauty parlor as a home occupation is not permitted to have any non-resident employees. The intent of the revisions is to create a single, more equitable set of standards that protects residential neighborhoods while also recognizing the wide range of occupations and businesses that are often conducted in a home.

Timeline and Outreach

The home-based business use has been significantly revised throughout the zMOD process in response to feedback received. During outreach, comments have been provided supporting the additional flexibility and modernization of this use to allow for entrepreneurs to start out in their homes before moving to a larger commercial space, especially in response to current small-scale entrepreneurial trends. Concerns have been raised about the impact of employees and customers in residential areas, especially with potential parking and traffic implications.

Summary of Standards

The following standards are brought forward from the June 2020 Consolidated Draft:

- A home-based business is only permitted to be conducted in a person’s dwelling that is their primary residence or an associated accessory structure.
- **Exterior Evidence:**
 - There may be no exterior evidence that the dwelling is used in any way other than for a dwelling. Because of recent changes to the Sign Ordinance regulations, a yard sign that is permitted for all other residential dwellings is also permitted for this and any other accessory use. These yards signs are limited to a total square footage of 12 feet with no single sign exceeding four square feet in area or a height of four feet.
 - No outdoor storage of goods used in connection with the home-based business is allowed.
- **Vehicles:**
 - Only one commercial vehicle is permitted, which is subject to the commercial vehicle limitations.

- Vehicles delivering any related materials to or from the home-based business are limited to a maximum length of 28 feet. Semitrailers for delivery or distribution are not permitted.
- **Employees:** For single-family detached dwellings, one non-resident employee is permitted on-site between 7:00 AM and 6:00 PM.
- **Customers or Clients:**
 - A range will be advertised to allow the Board to consider from zero to four customers on-site at one time and zero to eight customers on-site in any one day.
 - No customers or clients are permitted if the site has a home day care facility, which is a separate use with different customer and employee limitations.
 - If the use involves on-site customers, one off-street parking space must be designated.
 - Hours are limited from 8 AM to 9 PM. Appointments must be made with 15 minutes between each appointment.
- A permit may only be issued to the applicant and is not transferable to another resident, address, or occupation.
- **Special Permit.** An applicant can request special permit approval to have additional employees, different work hours, or to allow more customers or clients.

The following standards have been added or revised since the June 2020 Consolidated Draft:

- **Permitted Uses.** The following uses are the only uses permitted as a home-based business. This is a change from the previous approach where a list of *prohibited* uses was included. The standards now expressly say which uses are permitted in a more user-friendly approach:
 - General retail sales, where the sale and delivery of items occurs exclusively online or off-site;
 - Health and exercise facility, small (such as yoga, Pilates, or other exercise studios);
 - Household repair and rental service, limited to repairing small household items such as musical instruments, sewing machines, radios, and watches;
 - Office;
 - Personal service, limited to a barbershop or hair salon, sewing, or tailoring. A hair salon may not include other services such as nail, facial, or massage services;
 - Music, photography, and art studios;
 - Small-scale production, limited to items created on-site and home-based food production, where the sale and delivery of items occurs exclusively online or off-site; and
 - Specialized instruction center (such as music lessons, language classes, or other instructional activities).
- **Size.** The area used by the home-based business is limited to 400 square feet. The size may be increased with special permit approval. An advertised range from 200 square feet to 750 square feet will be included for Board consideration.
- **Employees:** While single-family detached units would be permitted to have one non-resident employee, based on feedback received during outreach and concerns about parking, no non-resident employees are permitted in any other dwelling type. This is more restrictive than today's

regulations, which allow a non-resident employee for all dwelling unit types. An option for the Board to consider allowing one employee for all dwelling types will be advertised.

- **Customers or Clients:**
 - Following outreach meetings, customers and clients have been further limited to two customers or clients at the site at a time with a cumulative maximum of six customers or clients on-site in any one day. The cumulative maximum number includes all home-based businesses and short-term lodging guests on-site. This number is reduction from today’s permissions for instructional home occupations, which permits four pupils at a time and eight in one day and is in response to concerns raised about traffic and parking impacts.
 - If the home-based business has customers or clients, the designated parking space must be available for customer or client parking.
 - For general retail sales and small-scale production uses, customers are only permitted when viewing samples of handcrafted items.
- **Special Permit.** Special permit options are included to allow outdoor activities, such as swimming or soccer lessons, and to allow a larger area.

Summary of Advertised Options for Home-Based Businesses

| Topic | Posted Draft | Advertised Range or Option |
|-------------------------------|---|--|
| Size of home-based business | 400 square feet | 200 to 750 square feet |
| Number of employees | 1 for single-family detached dwellings and 0 for other types of dwellings by administrative permit; Additional employees by special permit | Allow the Board to consider permitting 1 employee for all types of dwellings by administrative permit; Additional employees would still be allowed by special permit |
| Number of customers at a time | 2 at a time in all types of dwellings | 0 to 4 at a time (This would allow the Board to consider differentiating based on dwelling unit type, up to 4 at a time.) |
| Number of customers in a day | 6 in all types of dwellings | 0 to 8 per day (This would allow the Board to consider differentiating based on dwelling unit type, up to 8 per day.) |



Z M O D

Zoning Ordinance – Proposed for Public Hearing

November 24, 2020

CLARION

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Article 1 - General Provisions

1100. Title

The regulations in this and the following Articles constitute Chapter 112 of the Code of the County of Fairfax, Virginia, which is designated 'The Zoning Ordinance of Fairfax County, Virginia' ("the Ordinance").

1101. Enabling Legislation

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

1102. Applicability

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

1103. Official Document

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

1104. Ordinance Structure

1. For purposes of organization, Chapter 112, The Zoning Ordinance, is divided into nine Articles.
2. Each Article within the Zoning Ordinance is subdivided into sections. The first digit of a section number represents the Article number. For example, Section 8106 is within Article 8.
3. For purposes of further organization, each section may be subdivided into subsections which are represented by such numbers as 1, 2, 3; which may be further subdivided as A, B, C...(1), (2), (3)... (a), (b), (c)...and (i), (ii), (iii), etc.
4. Each Article contains its own separate page numbering system. The page numbers are prefixed by the respective Article number. As an example, page 10 of Article 8 is designated page 8-10.
5. The Zoning Ordinance should be referenced as shown below:
 - ... as required in Article 8.
 - ... as required in Section 8101.
 - ... as required in subsection 8101.1.B(1)(a).

1105. Purpose and Intent

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

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

1106. Minimum Requirements and Conflicting Ordinances

- 1.** In interpreting and applying the provisions of this Ordinance, the provisions are deemed to be the minimum requirements for the promotion of the public safety, health, and general welfare.
- 2.** It is not the intent of this Ordinance to interfere with, limit, or invalidate any easements, covenants, or other agreements between parties. While other agreements may establish more restrictive provisions, where this Ordinance imposes a greater restriction on the use and dimensions of buildings or premises, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance govern.
- 3.** Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal statute or other County ordinance or regulation, the provision of this Ordinance governs. Whenever any provision of any State or Federal statute or other County ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other County ordinance or regulation governs. In the event a specific provision of this Ordinance precludes the provision of an accessibility improvement or other reasonable accommodation, the accessibility improvement or other reasonable accommodation is allowed regardless of the specific provision of this Ordinance that would otherwise preclude it.
- 4.** The text of this Ordinance applies to any parcel covered by a previous zoning approval with proffered conditions in accordance with Va. Code Sect. 15.2 2303, except that when the imposition

of the requirements of this Ordinance would conflict with a specific proffered condition, that proffered condition supersedes the requirements of this Ordinance to the extent of the difference. However, when a specific proffered condition precludes the provision of an accessibility improvement or other reasonable accommodation, such improvement will be allowed regardless of the specific proffered condition that would otherwise preclude it.

1107. Effective Date

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

1108. Duties of the Zoning Administrator

- 1.** In the administration of the provisions of this Ordinance, the Zoning Administrator serves at the will of the Board and has the following duties and responsibilities:
 - A.** The receipt, review for completeness and substantial compliance, official acceptance, and maintenance of current and permanent files and records for the following:
 - (1)** Proposed and adopted amendments to the Zoning Ordinance, to include the Zoning Map.
 - (2)** Applications for special exceptions.
 - (3)** Applications for special permits.
 - (4)** Applications for administrative permits.
 - (5)** Appeals of a decision or interpretation.
 - (6)** Applications for a variance.
 - (7)** Generalized development plans, conceptual development plans, final development plans, PRC development plans, PRC plans, and amendments of such plans.
 - (8)** Applications for building permits, Residential, and Non-Residential Use Permits.
 - (9)** All other applications required by this Ordinance unless otherwise qualified by specific provisions.
 - B.** Conduct inspections of buildings, structures, and uses of land to determine compliance with the provisions of this Ordinance.
 - C.** Make an annual report to the Planning Commission on the status of the Zoning Ordinance, to include a listing of suggested amendments.
 - D.** Prepare and have available:
 - (1)** The compiled text of the Zoning Ordinance and all amendments adopted through the preceding year; and
 - (2)** A Zoning Map or maps, showing the zoning districts, divisions, and classifications in effect during the preceding year.
 - E.** Make a determination in the case of an alleged conflict between the requirements of this Ordinance and the specifics of a proffered condition accepted by the Board pursuant to Va. Code Sect. 15.2-2303 prior to the effective date of this Ordinance. If the Zoning Administrator determines that a conflict exists, the specifics of the proffered condition governs; if there is no conflict, the requirements of this Ordinance governs. Any such determination is appealable as provided for in subsection 8100.2.D(3)(d).

- F.** In the administration of this Ordinance, the Zoning Administrator may delegate authority to a designated agent and may be assisted by the following officers, departments, committees, agencies, and boards:
- (1)** Department of Planning and Development;
 - (2)** Land Development Services and the Department of Code Compliance;
 - (3)** The boards, commissions, and committees as established in Section 8103 or others as may be created by the Board; and
 - (4)** Such additional officers, departments, agencies, committees, and boards of the County, State, and Federal governments as specified and referred to under the various Sections of this Ordinance.
- G.** The Zoning Administrator has authority to administer, interpret, and enforce this Ordinance. Such authority includes the ability to do the following:
- (1)** Make findings of fact and conclusions of law with the concurrence of the Office of the County Attorney in connection with determination of rights regarding nonconforming uses;
 - (2)** Issue determinations;
 - (3)** Order, in writing, the remedy of any condition found in violation of this Ordinance; and
 - (4)** Bring legal action to ensure compliance with the provisions, including injunction, abatement, or other appropriate action or proceeding.
- H.** Perform such other duties and functions as are required by the provisions of this Ordinance.
- I.** Questions of Interpretation:
- The Zoning Administrator administers and interprets the Zoning Ordinance. Every question involving the interpretation of any provision of this Ordinance must be presented to the Zoning Administrator for decision. An appeal of any decision of the Zoning Administrator may be taken to the BZA as provided for in subsection 8100.10, except an appeal of a decision which relates to a proffered condition must be taken to the Board as provided for in subsection 8100.2.D(3)(d).

1109. Severability

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

1110. Transition from Prior Regulations

This Ordinance applies, unless a specific use, feature, or structure is otherwise grandfathered or vested.

Article 2 - Zoning Districts

2100. Zoning Districts and Boundaries

1. Zoning Districts

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

TABLE 2100.1: Zoning Districts Established

ac = acres du = dwelling units

| District Name | Section | District Name | Section |
|------------------------------|--|--------------------------------------|--|
| Residential Districts | | Industrial Districts | |
| R-A | Rural Agricultural 2102.1 | I-1 | Industrial Institution 2104.1 |
| R-C | Residential Conservation 2102.2 | I-2 | Industrial Research 0 |
| R-E | Residential Estate 2102.3 | I-3 | Light Intensity Industrial 2104.3 |
| R-1 | Residential, One Du/Ac 2102.4 | I-4 | Medium Intensity Industrial 2104.4 |
| R-2 | Residential, Two Du/Ac 2102.5 | I-5 | General Industrial 2104.5 |
| R-3 | Residential, Three Du/Ac 0 | I-6 | Heavy Industrial 2104.6 |
| R-4 | Residential, Four Du/Ac 0 | Planned Development Districts | |
| R-5 | Residential, Five Du/Ac 2102.8 | PDH | Planned Development Housing 2105.2 |
| R-8 | Residential, Eight Du/Ac 2102.9 | PRC | Planned Residential Community 2105.3 |
| R-12 | Residential, Twelve Du/Ac 2102.10 | PDC | Planned Development Commercial 2105.4 |
| R-16 | Residential, Sixteen Du/Ac 2102.11 | PRM | Planned Residential Mixed-Use 2105.5 |
| R-20 | Residential, Twenty Du/Ac 2102.12 | PTC | Planned Tysons Corner Urban 2105.6 |
| R-30 | Residential, Thirty Du/Ac 2102.13 | PCC | Planned Continuing Care Facility 2105.7 |
| R-MHP | Residential, Manufactured Home Park 0 | | |
| Commercial Districts | | | |
| C-1 | Low-Rise Office Transitional 2103.1 | | |
| C-2 | Limited Office 0 | | |
| C-3 | Office 2103.3 | | |
| C-4 | High Intensity Office 2103.4 | | |
| C-5 | Neighborhood Retail Commercial 2103.5 | | |
| C-6 | Community Retail Commercial 2103.6 | | |
| C-7 | Regional Retail Commercial 2103.7 | | |
| C-8 | Highway Commercial 2103.8 | | |

2. Zoning Map

The map entitled “Official Zoning Map, Fairfax County, Virginia” indicates the location and boundaries of the zoning districts established by this Ordinance. These locations and boundaries derive from the authoritative data source as maintained by the Department of Information Technology. A copy of the official Zoning Map is on file in the Office of the Zoning Administrator,

and it may be kept in either hardcopy or digital form. This Ordinance incorporates the official Zoning Map.

3. Zoning of Entire Jurisdictional Area

- A. It is the intent of this Ordinance that the entire unincorporated area of the County of Fairfax, including all land, water areas, and waterways, be included in the districts established by this Ordinance. Any area on the Official Zoning Map that is not shown in a specific zoning district is zoned to the R-C District.
- B. Unless otherwise specifically designated, all water areas, waterways, alleys, roads, streets, highways, railroads, and other rights-of-way are deemed to be in the same zoning district as the immediately abutting property. Unless specifically designated, where the center line of any water areas, waterways, or rights-of-way serves as a zoning district boundary, the zoning of each area is deemed to be the same as that of the abutting property up to the center line.

4. Zoning District Boundaries

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

- A. Where a zoning district boundary is indicated as approximately following the center line of a street, alley, railroad, or waterway, the center line is the zoning district boundary, and where a zoning district boundary is indicated as approximately following the line of a lot or other parcel of record, the lot or parcel line is the zoning district boundary.
- B. Any zoning district boundary shown extended to or into any body of water bounding the County is deemed to extend straight to the County boundary.
- C. Where uncertainties continue to exist or where further interpretation is required beyond that presented above, the Zoning Administrator will make a determination in accordance with Section 1108. Any person aggrieved by the Zoning Administrator's decision may appeal that decision as described in subsection 8100.10.A(1).

2101. Interpretation of District Regulations

1. Purpose Statements

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

2. Lot Size, Bulk, and Open Space Regulations

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

3. Affordable Dwelling Unit Developments

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

otherwise, all other provisions of the respective zoning districts are applicable to affordable dwelling unit developments.

4. Workforce Housing

A. Accommodation of Units in Conventional Residential Districts

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

B. Accommodation of Units in Planned Development Districts

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

2102. Residential Zoning Districts

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

1. R-A Rural Agricultural District

A. Purpose

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

Figure 2102.1: R-A District Aerial Example



B. R-A Lot and Building Dimensional Standards

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

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

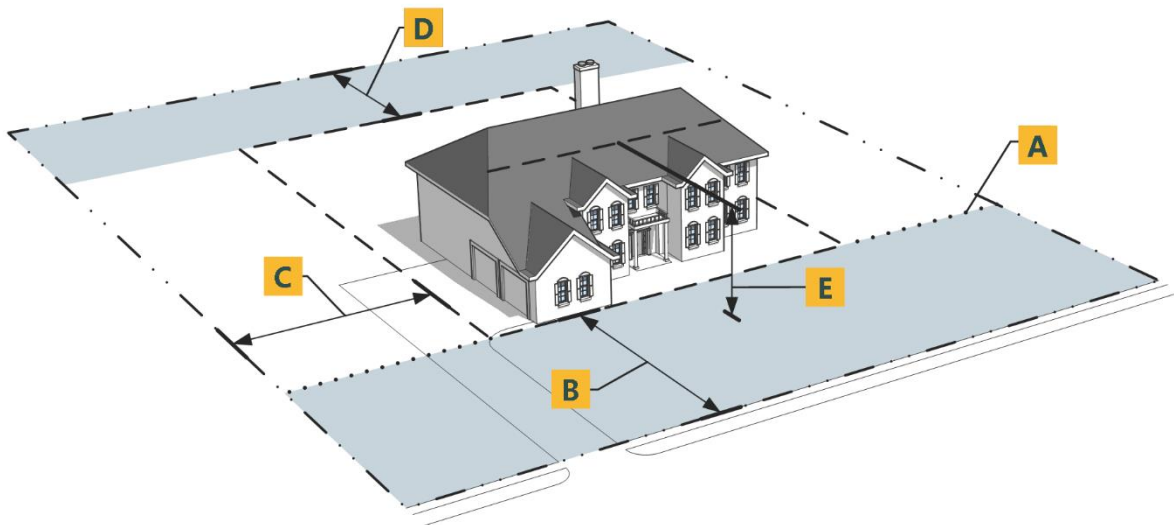
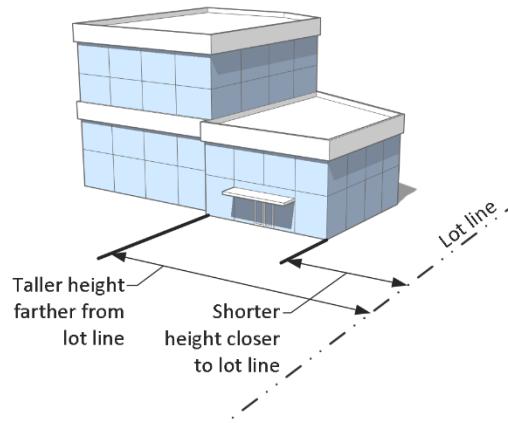


Table 2102.1a: R-A Setback Relative to Height

| Other uses | | |
|-------------------------------------|-------------------------------|---------------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side and Rear setback, minimum (feet) |
| 30 | 60 | 50 |
| 35 | 60 | 54 |
| 40 | 62 | 62 |
| 45 | 71 | 71 |
| 50 | 80 | 80 |
| 55 | 88 | 88 |
| 60 | 97 | 97 |

Notes:

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



C. Additional Standards

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

2. R-C Residential-Conservation District

A. Purpose

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

Figure 2102.3: R-C District Aerial Example



B. R-C Lot and Building Dimensional Standards

| TABLE 2102.2: R-C Lot and Building Standards | | | | | |
|---|--------------------------|---------------------------|--------------|---|---|
| | | Conventional | | Cluster | |
| District size, minimum | | No requirement | | 50 acres | |
| Density, maximum | | 1 du/5 ac | | Approved by special exception: 0.22 du/ac If the result of a proffered rezoning from a district that allows a density of less than 1 du/5 acres: 0.20 du/ac | |
| Open space, minimum [1] | | No requirement | | 50 percent of the gross area | |
| Lot area, minimum | | 5 acres | | 36,000 square feet | |
| | | Interior | Corner | Interior | Corner |
| A | Lot width, minimum | 200 feet [2] | 200 feet [2] | Adjacent to a major thoroughfare: 200 feet; adjacent to a local or collector street: no requirement | Adjacent to a major thoroughfare: 200 feet; adjacent to a local or collector street: 125 feet |
| | | Single-family dwellings | | Other uses | |
| | | Conventional | Cluster | | |
| B | Front setback, minimum | 40 feet or 50 feet [3, 4] | | See Table 2102.2a below | |
| C | Side setback, minimum | 20 feet or 50 feet [3, 4] | | Setback equal to building height, but at least 20 feet | |
| D | Rear setback, minimum | 25 feet or 50 feet [3, 4] | | Setback equal to building height, but at least 25 feet | |
| E | Building height, maximum | 35 feet or 40 feet [3] | | 60 feet | |
| Floor area ratio, maximum | | No requirement | | 0.15 for public uses; 0.10 for uses other than residential or public | |
| Notes: | | | | | |
| [1] Open space is calculated in accordance with subsection 5100.3.A(3). | | | | | |
| [2] Lot width may be modified in accordance with subsection 5100.2.K. | | | | | |
| [3] A dwelling may be taller than 35 feet, up to a maximum of 40 feet, with a minimum 50-foot setback. | | | | | |
| [4] If a proposed dwelling or addition to a dwelling on a lot rezoned to the R-C District on July 26, 1982 or August 2, 1982 and that lot was (a) the subject of a final plat approved before July 26, 1982, or (b) recorded with a final consent decree entered in Chancery No. 78451 by the Fairfax County Circuit Court on September 17, 1985, or (c) recorded with a final consent decree entered in Chancery Nos. 78425, 78452, 78454, 78461, 78462 and 78465 by the Fairfax County Circuit Court on September 17, 1985, as amended by a final consent decree entered on November 25, 1991 by the Fairfax County Circuit Court in Chancery No. 123887, then the setbacks are those applicable to the lot on July 25, 1982. | | | | | |

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

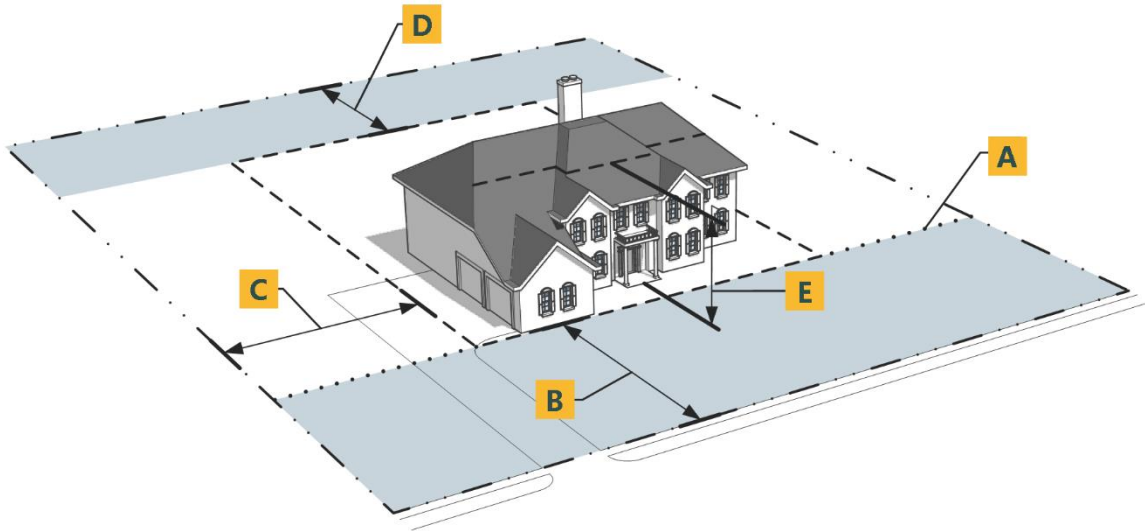
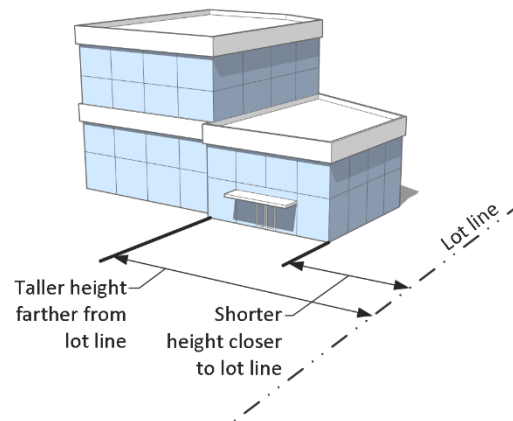


Table 2102.2a: R-C Setback Relative to Height

| Other uses | |
|-------------------------------------|-------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) |
| 35 | 40 |
| 40 | 43 |
| 45 | 49 |
| 50 | 55 |
| 55 | 61 |
| 60 | 67 |

Notes:

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

3. R-E Residential-Estate District

A. Purpose

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

Figure 2102.5: R-E District Aerial Example



B. R-E Lot and Building Dimensional Standards

| TABLE 2102.3: R-E Lot and Building Standards | | | | | |
|--|--------------------------|-------------------------|--|--|----------|
| | | Conventional | | Cluster | |
| District size, minimum | | No requirement | | 20 acres | |
| Density, maximum | | 0.5 du/ac | | Approved by special exception: 0.55 du/ac If result of a proffered rezoning from a district that allows a density of less than one du/two acres: 0.5 du/ac | |
| Open space, minimum [1] | | No requirement | | 30 percent of the gross area | |
| Lot area, minimum | | 75,000 SF | | 52,000 SF | |
| A | Lot width, minimum | Interior | Corner | Interior | Corner |
| | | 200 feet [2] | 225 feet [2] | No requirement | 175 feet |
| | | Single-family dwellings | | Other uses | |
| | | Conventional | Cluster | | |
| B | Front setback, minimum | 50 feet | 30 feet or 50 feet [3] | See Table 21022.3a below | |
| C | Side setback, minimum | 20 feet or 50 feet [3] | 15 feet (total minimum 40 feet) or 50 feet [3] | Setback equal to building height, but at least 20 feet | |
| D | Rear setback, minimum | 25 feet or 50 feet [3] | | Setback equal to building height, but at least 25 feet | |
| E | Building height, maximum | 35 feet or 40 feet [3] | | 60 feet | |
| Floor area ratio, maximum | | No requirement | | 0.20 for public uses; 0.15 for uses other than residential or public | |
| Notes: | | | | | |
| [1] Open space is calculated in accordance with subsection 5100.3.A(3). | | | | | |
| [2] Lot width may be modified in accordance with subsection 5100.2.K. | | | | | |
| [3] A dwelling may be taller than 35 feet, up to a maximum of 40 feet, with a minimum 50-foot setback. | | | | | |

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

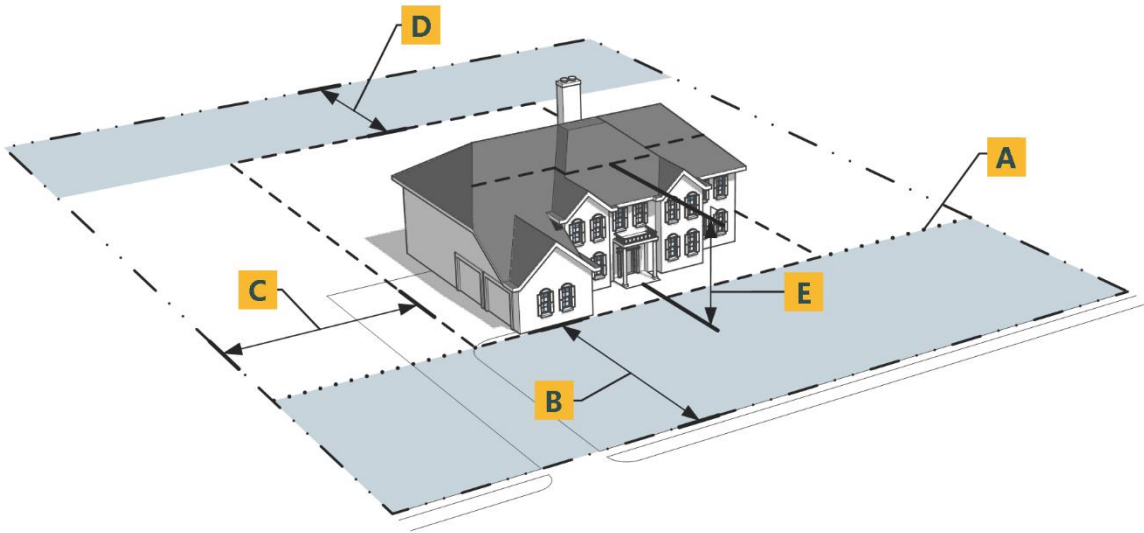
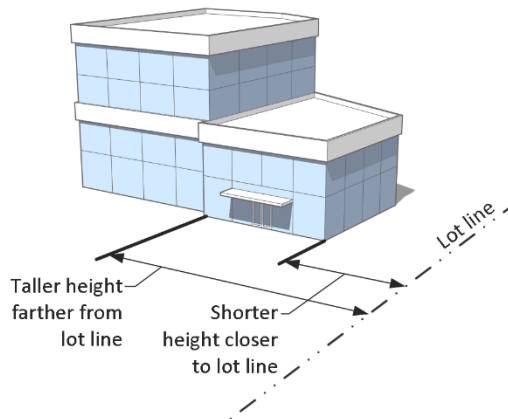


Table 2102.3a: R-E Setback Relative to Height

| Other uses | |
|-------------------------------------|-------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) |
| 35 | 50 |
| 40 | 51 |
| 45 | 59 |
| 50 | 66 |
| 55 | 73 |
| 60 | 80 |

Notes:

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

4. R-1 Residential District, One Dwelling Unit/Acre

A. Purpose

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

Figure 2102.7: R-1 District Aerial Example



B. R-1 Lot and Building Dimensional Standards

| TABLE 2102.4: R-1 Lot and Building Standards | | | | | |
|--|--------------------------|-------------------------|-------------------------|--|--------------|
| | | Conventional | | Cluster | |
| District size, minimum | | No requirement | | 10 acres [1] | |
| Density, maximum | | 1 du/ac | | Approved by special exception: 1.1 du/ac If the result of a proffered rezoning from a district that allows a density of less than 1 du/acre: 1 du/ac | |
| Open space, minimum [2] | | No requirement | | 30 percent of the gross area | |
| Lot area, minimum | | 36,000 square feet | | 25,000 square feet | |
| A | Lot width, minimum | Interior | Corner | Interior | Corner |
| | | 150 feet [1] | 175 feet [1] | No requirement | 125 feet [1] |
| | | Single-family dwellings | | Other uses | |
| B | Front setback, minimum | Conventional | Cluster | See Table 21022.4a below | |
| | | 40 feet | 30 feet | | |
| C | Side setback, minimum | 20 feet | 12 feet | Setback equal to building height, but at least 20 feet | |
| | | | (total minimum 40 feet) | | |
| D | Rear setback, minimum | 25 feet | | Setback equal to building height, but at least 25 feet | |
| E | Building height, maximum | 35 feet | | 60 feet | |
| Floor area ratio, maximum | | No requirement | | 0.20 for public uses; 0.15 for uses other than residential or public | |

Notes:
 [1] District size and lot width may be modified in accordance with subsection 5100.2.K.
 [2] Open space is calculated in accordance with subsection 5100.3.A(3).

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

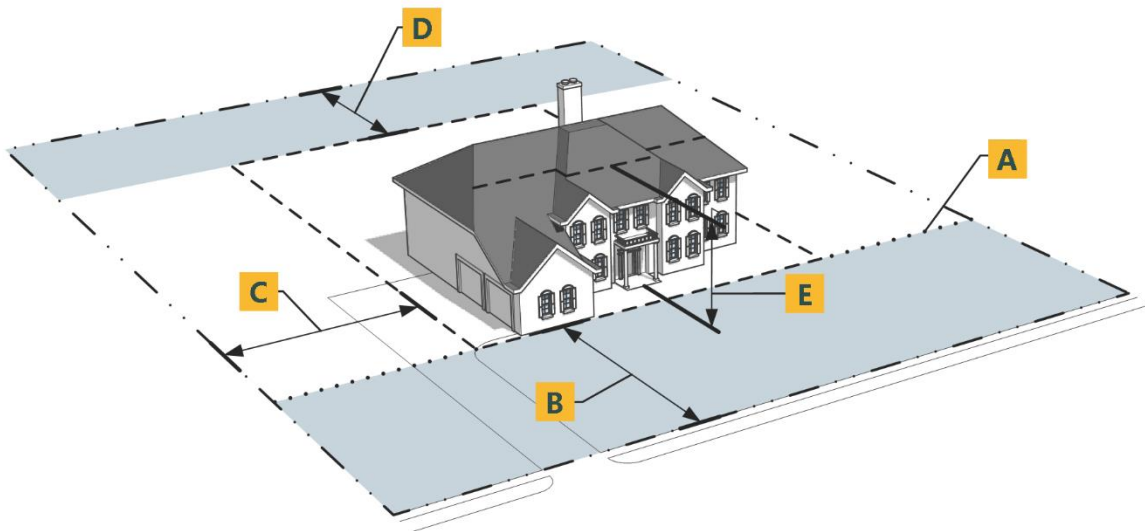
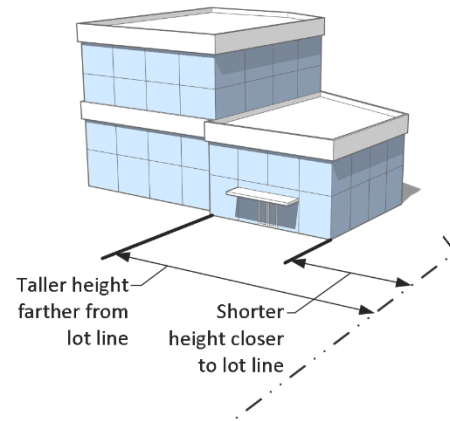


Table 2102.4a: R-1 Setback Relative to Height

| Other uses | |
|-------------------------------------|-------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) |
| 35 | 40 |
| 40 | 43 |
| 45 | 49 |
| 50 | 55 |
| 55 | 61 |
| 60 | 67 |

Notes:

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

5. R-2 Residential District, Two Dwelling Units/Acre

A. Purpose

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

Figure 2102.9: R-2 District Aerial Example



B. R-2 Lot and Building Dimensional Standards

| TABLE 2102.5: R-2 Lot and Building Standards | | | | | |
|--|--------------------------|--------------------|--------------------------------|--|---------------------|
| | | Conventional | | Cluster | |
| District size, minimum | | No requirement | | 2 acres [1] | |
| Density, maximum | | 2 du/ac | | 2 du/ac | |
| Open space, minimum [2] | | No requirement | | 25 percent of the gross area | |
| Lot area, average | | 18,000 square feet | | No requirement | |
| Lot area, minimum | | 15,000 square feet | | 13,000 or 15,000 square feet [1] | |
| | | Interior | Corner | Interior | Corner |
| A | Lot width, minimum | 100 feet [3] | 125 feet [3] | No requirement or 100 feet [1] | 100 or 125 feet [1] |
| Single-family dwellings | | | | | |
| | | Conventional | Cluster | Other uses | |
| B | Front setback, minimum | 35 feet | 25 feet | Setback equal to building height, but at least 35 feet | |
| C | Side setback, minimum | 15 feet | 8 feet (total minimum 24 feet) | See Table 2102.5a below | |
| D | Rear setback, minimum | 25 feet | | | |
| E | Building height, maximum | 35 feet | | 60 feet | |
| Floor area ratio, maximum | | No requirement | | 0.25 for public uses; 0.20 for uses other than residential or public | |

Notes:

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

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

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

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

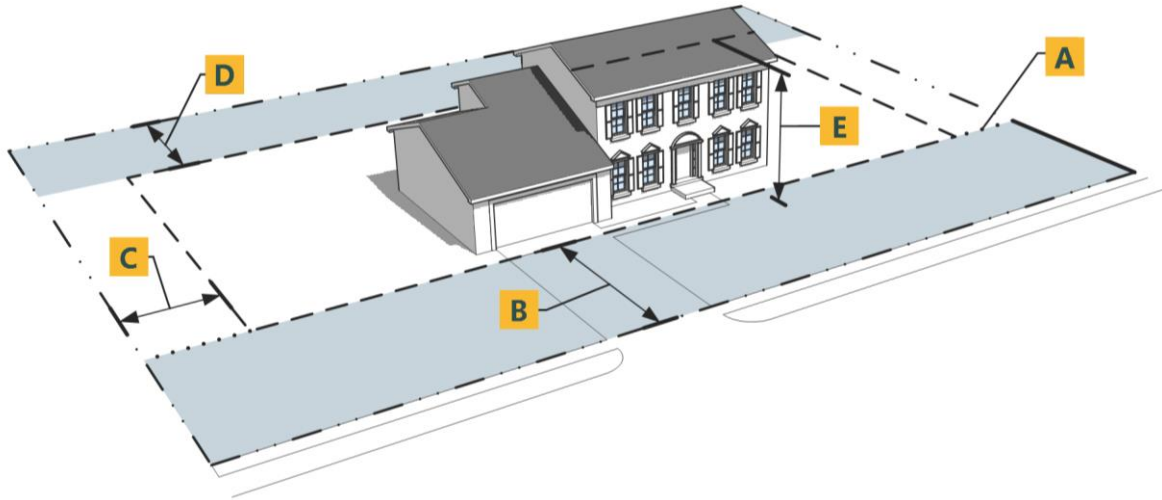
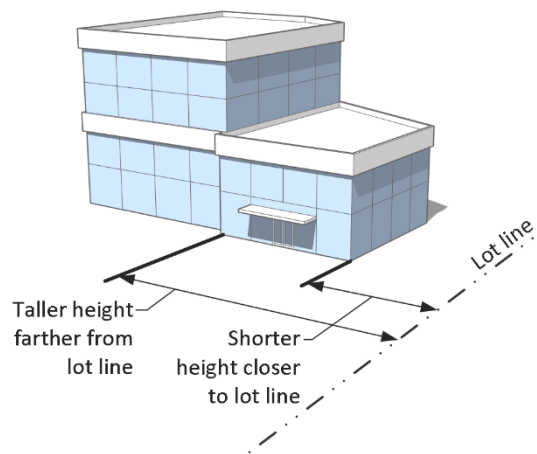


Table 2102.5a: R-2 Setback Relative to Height

| Other uses | | |
|-------------------------------------|------------------------------|------------------------------|
| Building height, maximum (feet) [1] | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 20 | 15 | 25 |
| 25 | 18 | 25 |
| 30 | 22 | 25 |
| 35 | 26 | 26 |
| 40 | 30 | 30 |
| 45 | 34 | 34 |
| 50 | 39 | 39 |
| 55 | 43 | 43 |
| 60 | 47 | 47 |



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

C. R-2 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

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

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

Notes:

- [1] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.
- [2] The number of single-family attached dwelling units may not exceed 35 percent of the total number of dwelling units allowed within the development. Refer to subsection 5100.2.D(1)(d) for provisions that qualify minimum setback requirements for individual units in single-family attached dwellings.
- [3] Open space is calculated in accordance with subsection 5100.3.A(3). The 200 sf per attached unit must be provided adjacent to the units.
- [4] If development also contains attached dwelling units, the 200 square feet per attached dwelling unit must be provided as part of the required 22 percent general requirement.
- [5] The minimum lot area of the cluster subdivision lot is 12,000 square feet and the minimum lot width of the cluster subdivision lot is 80 feet for interior lots and 105 feet for corner lots if (a) any portion of a cluster subdivision lot is located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision’s peripheral boundary is zoned to a district that permits a maximum density of two du/ac or greater, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-2 District, or to the R-2 District and is developed or approved for a cluster subdivision.
- [6] Lot width may be modified in accordance with subsection 5100.2.K.

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

6. R-3 Residential District, Three Dwelling Units/Acre

A. Purpose

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

Figure 2102.11: R-3 District Aerial Example



B. R-3 Lot and Building Dimensional Standards

| TABLE 2102.7: R-3 Lot and Building Standards | | | | | |
|---|---------------------------|-------------------------|--------------------------------|--|--|
| | | Conventional | | Cluster | |
| | District size, minimum | No requirement | | Greater than 2 acres but less than 3.5 acres: subject to special exception approval 3.5 acres or greater: subject to approval by the Director | |
| | Open space, minimum [1] | No requirement | | 25 percent of the gross area | |
| | Density, maximum | 3 du/ac | | Approved by Director: 3 du/ac [2] Approved by special exception: 3 du/ac plus 1 bonus dwelling unit | |
| | Lot area, average | 11,500 square feet | | No requirement | |
| | Lot area, minimum | 10,500 square feet | | 8,500 square feet approved by the Director or by special exception [3] | |
| | | Interior | Corner | Interior | Corner |
| A | Lot width, minimum | 80 feet [4] | 105 feet [4] | Approved by Director or by special exception: No requirement or 80 feet [3] | Approved by Director or by special exception: 80 or 105 feet [3] |
| | | Single-family dwellings | | Other uses | |
| | | Conventional | Cluster | | |
| B | Front setback, minimum | 30 feet | 20 feet | | |
| C | Side setback, minimum | 12 feet | 8 feet (total minimum 20 feet) | See Table 2102.7a below | |
| D | Rear setback, minimum | 25 feet | | | |
| E | Building height, maximum | 35 feet | | 60 feet | |
| | Floor area ratio, maximum | No requirement | | 0.30 for public uses; 0.25 for uses other than residential or public | |
| Notes: | | | | | |
| [1] Open space is calculated in accordance with subsection 5100.3.A(3). | | | | | |
| [2] If approved by the Director or as a result of proffered rezoning that allows a permitted maximum density of less than 3 du/ac. | | | | | |
| [3] The minimum lot area of the cluster subdivision lot is 10,500 square feet, and the minimum lot width of the cluster subdivision lot is 80 feet for interior lots and 105 for corner lots if any portion of a cluster subdivision lot is: (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of three du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-3 District, or to the R-3 District and is developed or approved for a cluster subdivision. | | | | | |
| [4] Lot width may be modified in accordance with subsection 5100.2.K. | | | | | |

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

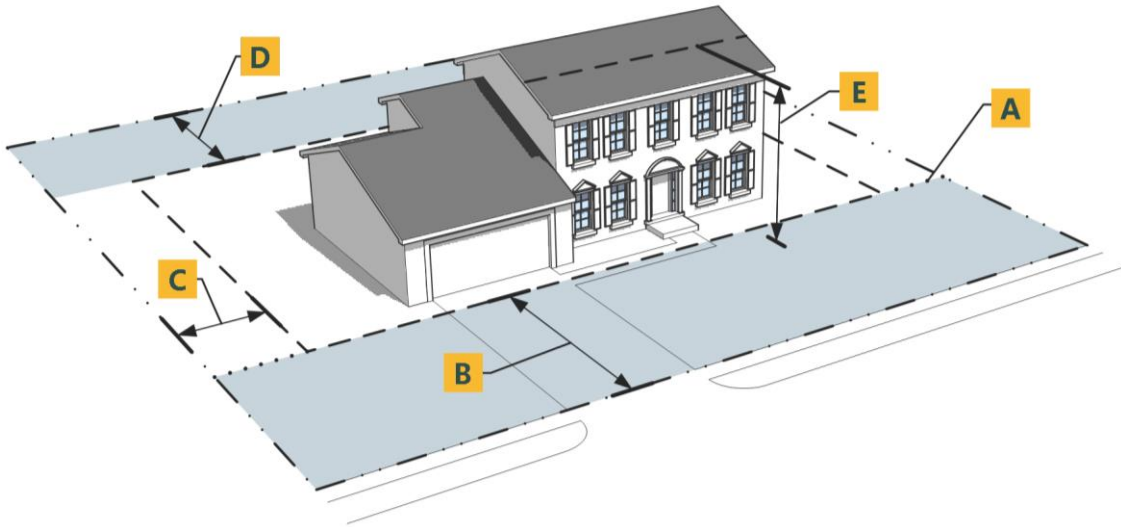
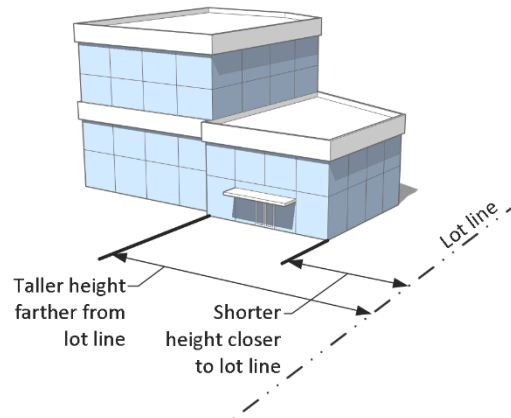


Table 2102.7a: R-3 Setback Relative to Height

| Other uses | | | |
|-------------------------------------|-------------------------------|------------------------------|------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 15 | 30 | 10 | 25 |
| 20 | 30 | 11 | 25 |
| 25 | 30 | 15 | 25 |
| 30 | 30 | 18 | 25 |
| 35 | 30 | 22 | 25 |
| 40 | 30 | 25 | 25 |
| 45 | 34 | 29 | 29 |
| 50 | 39 | 32 | 32 |
| 55 | 43 | 36 | 36 |
| 60 | 47 | 39 | 39 |



Notes:

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

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

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

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

Notes:

- [1] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.
- [2] The number of single-family attached dwelling units may not exceed 40 percent of the total number of dwelling units allowed within the development. Refer to subsection 5100.2.D(1)(d) for provisions that qualify minimum setback requirements for individual units in single-family attached dwellings.
- [3] The minimum lot area of the cluster subdivision lot is 8,000 square feet and the minimum lot width of the cluster subdivision lot is 70 feet for interior lots and 95 feet for corner lots if any portion of a cluster subdivision lot is: (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision’s peripheral boundary is zoned to a district that permits a maximum density of three du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-3 District, or to the R-3 District and is developed or approved for a cluster subdivision.
- [4] Open space is calculated in accordance with subsection 5100.3.A(3). The 200 sf per attached unit must be provided adjacent to the units.
- [5] If development also contains attached dwelling units, the 200 square feet per attached dwelling unit must be provided as part of the required 22 percent general requirement.
- [6] Lot width may be modified in accordance with subsection 5100.2.K.

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

7. R-4 Residential District, Four Dwelling Units/Acre

A. Purpose

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

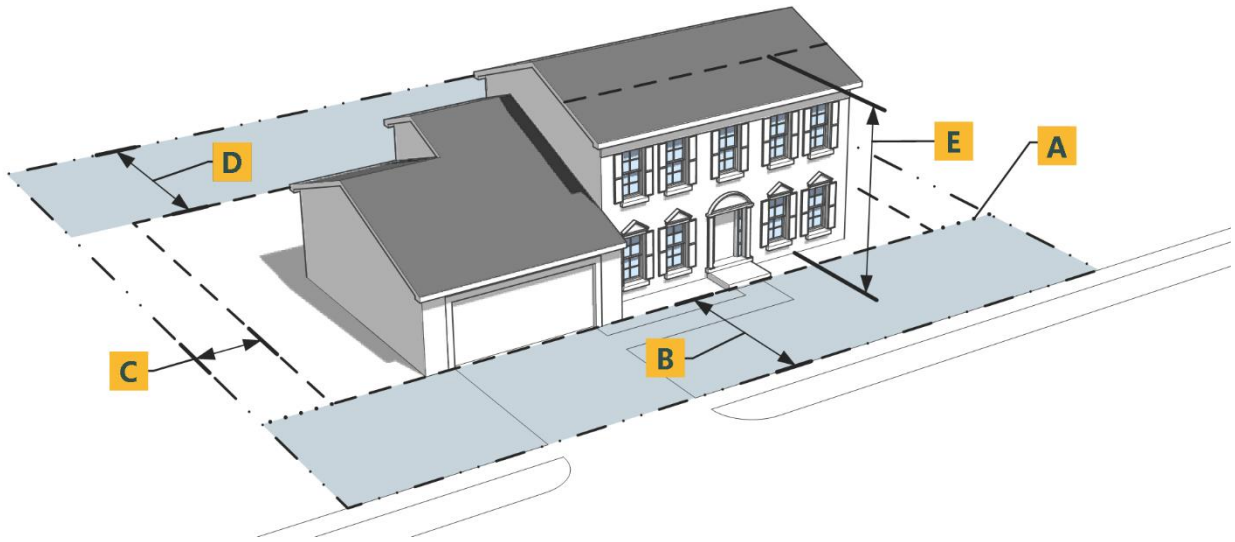
Figure 2102.13: R-4 District Aerial Example



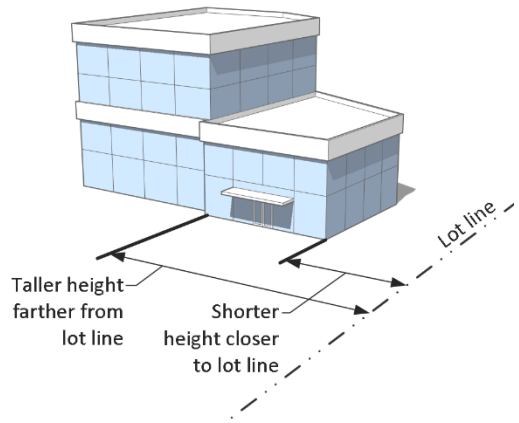
B. R-4 Lot and Building Dimensional Standards

| TABLE 2102.9: R-4 Lot and Building Standards | | | | |
|--|--|-------------------|-------------|---|
| | | Conventional | | Cluster |
| District size, minimum | | No requirement | | <p>Greater than 2 acres but less than 3.5 acres: subject to special exception approval</p> <p>3.5 acres or greater: subject to approval by the Director</p> |
| Density, maximum | | 4 du/ac | | <p>Approved by the Director: 4 du/ac [1]</p> <p>Approved by special exception: 4 du/ac plus one bonus dwelling unit</p> |
| Open space, minimum [2] | | No requirement | | 25 percent of the gross area |
| Lot area, average | | 8,800 square feet | | No requirement |
| Lot area, minimum | | 8,400 square feet | | 6,000 square feet approved by the Director or by special exception [3] |
| | | Interior | Corner | |
| A Lot width, minimum | | 70 feet [4] | 95 feet [4] | <p>Interior Approved by Director or by special exception: No requirement or 70 feet [3]</p> <p>Corner Approved by Director or by special exception: 70 or 95 feet [3]</p> |
| Single-family dwellings | | | | |
| | | Conventional | Cluster | Other uses |
| B Front setback, minimum | | 30 feet | 20 feet | See Table 2102.9a below |
| C Side setback, minimum | | 10 feet | 8 feet | |
| D Rear setback, minimum | | 25 feet | | |
| E Building height, maximum | | 35 feet | | 60 feet |
| Floor area ratio, maximum | | No requirement | | 0.35 for public uses; 0.30 for uses other than residential or public |
| Notes: | | | | |
| [1] If approved by the Director or as a result of proffered rezoning that allows a permitted maximum density of less than 4 du/ac. | | | | |
| [2] Open space is calculated in accordance with subsection 5100.3.A(3). | | | | |
| [3] The minimum lot area of the cluster subdivision lot is 8,000 square feet and the minimum lot width of the cluster subdivision lot is 70 feet for interior lots and 95 feet for corner lots if any portion of a cluster subdivision lot is (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision's peripheral boundary is zoned to a district that permits a maximum density of four du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling, then This does not apply if the contiguous development is zoned to the PDH-4 District, or to the R-4 District and is developed or approved for a cluster subdivision. | | | | |
| [4] Lot width may be modified in accordance with subsection 5100.2.K. | | | | |

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



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



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

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

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

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

Notes:

- [1] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.
- [2] The number of single-family attached dwelling units may not exceed 45 percent of the total number of dwelling units allowed within the development. Refer to subsection 5100.2.D(1)(d) for provisions that qualify minimum setback requirements for individual units in single-family attached dwellings.
- [3] Open space is calculated in accordance with subsection 5100.3.A(3). The 200 sf per attached unit must be provided adjacent to the units.
- [4] If development also contains attached dwelling units, the 200 square feet per attached dwelling unit must be provided as part of the required 22 percent general requirement.
- [5] The minimum lot area of the cluster subdivision lot is 6,720 square feet and the minimum lot width of the cluster subdivision lot is 56 feet for interior lots and 76 feet for corner lots if any portion of a cluster subdivision lot is (a) located within 25 feet of the peripheral boundary of the cluster subdivision, (b) any portion of a contiguous lot located outside the cluster subdivision’s peripheral boundary is zoned to a district that permits a maximum density of three du/ac or less, and (c) the contiguous lot is vacant or contains a single-family detached dwelling. This does not apply if the contiguous development is zoned to the PDH-4 District, or to the R-4 District and is developed or approved for a cluster subdivision.
- [6] Lot width may be modified in accordance with subsection 5100.2.K.

D. Reference to Other Standards

General regulations that may supplement the regulations above:

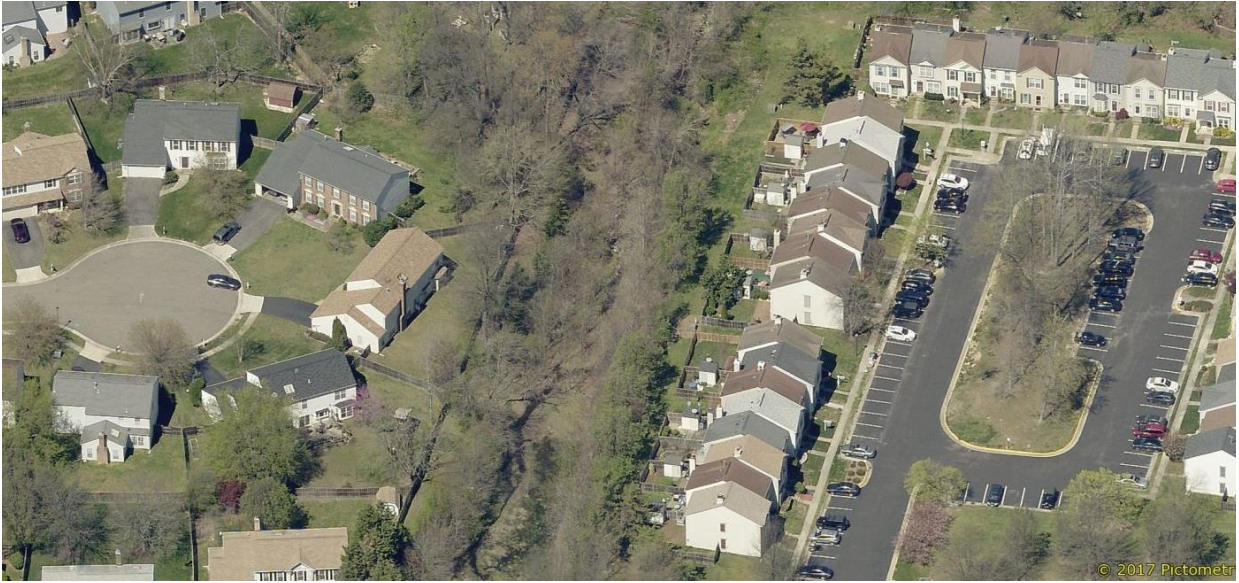
| | |
|---|--------------------------------|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article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

8. R-5 Residential District, Five Dwelling Units/Acre

A. Purpose

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

Figure 2102.15: R-5 District Aerial Example



B. R-5 Lot and Building Dimensional Standards

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

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

Notes:

- [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).
- [2] District size and lot width may be modified in accordance with subsections 5100.2.K.
- [3] Open space is calculated in accordance with subsection 5100.3.A(3).

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

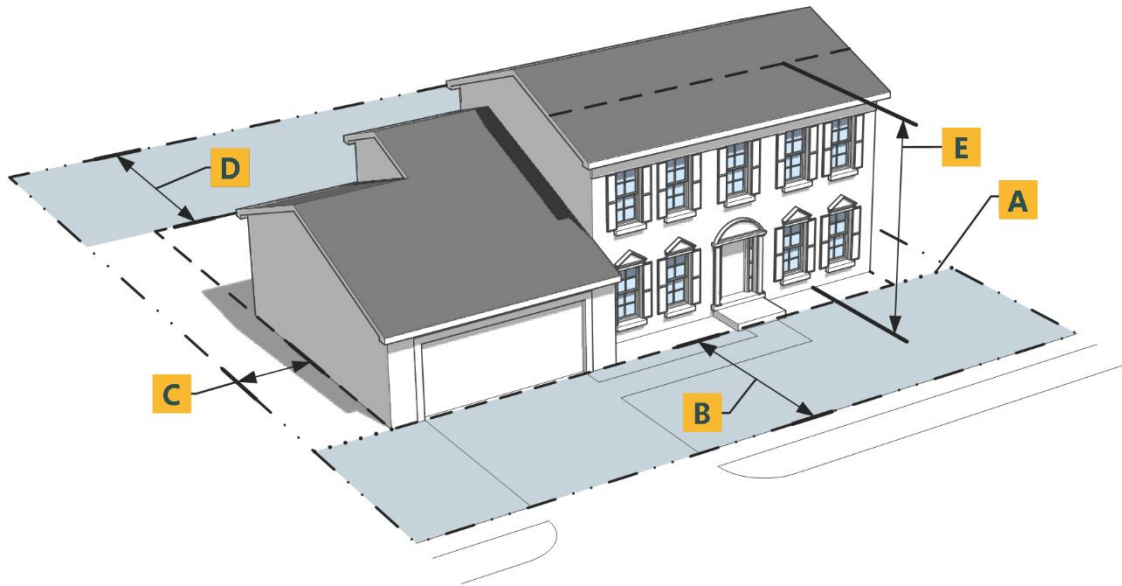


Figure 2102.17: R-5 District Lot and Building Dimensional Standards

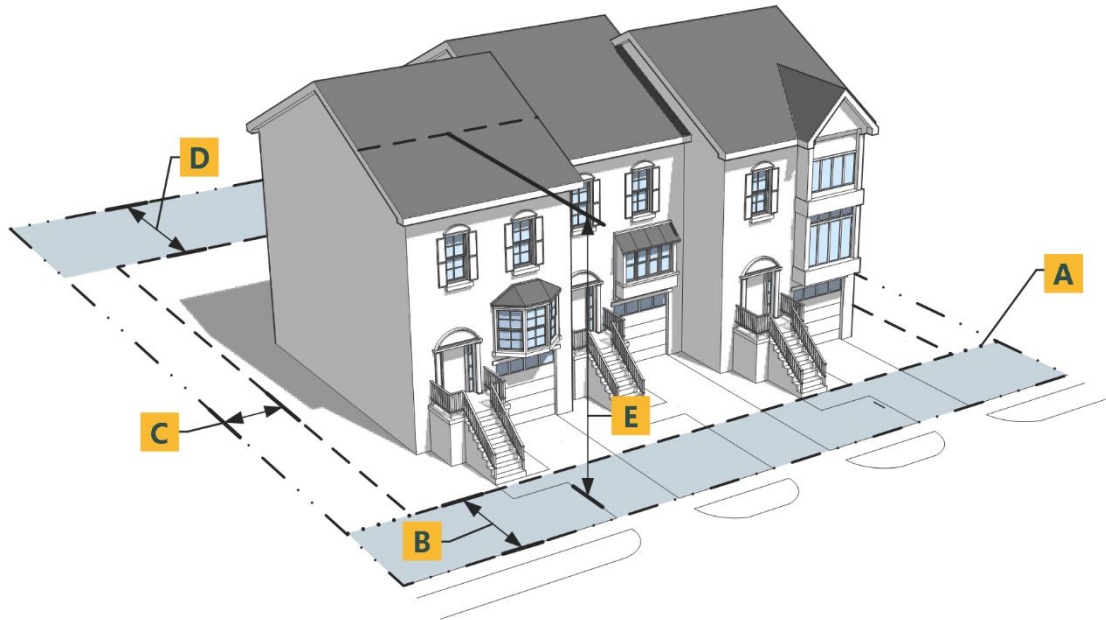
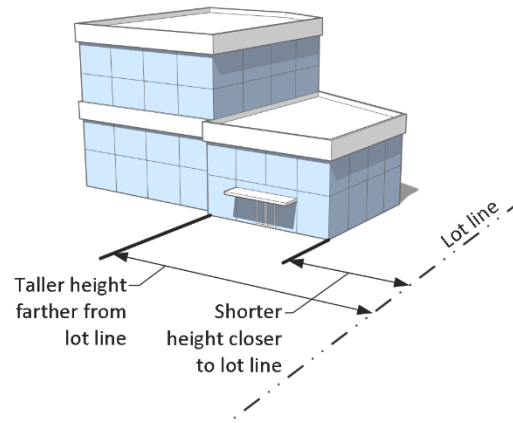


Table 2102.11a: R-5 Setback Relative to Height

| Other uses | | | |
|-------------------------------------|-------------------------------|------------------------------|------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 21 | 17 | 25 |
| 45 | 24 | 19 | 25 |
| 50 | 27 | 21 | 25 |
| 55 | 29 | 24 | 25 |
| 60 | 32 | 26 | 26 |
| 65 | 35 | 28 | 28 |



Notes:

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

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

TABLE 2102.12: R-5 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3]

| | Single-family detached | Single-family attached and stacked townhouses | Multifamily dwellings |
|--------------------------|------------------------------|---|--------------------------|
| Density, maximum | 6 du/ac | 6 du/ac | 6 du/ac |
| Open space, minimum [4] | 20 percent of the gross area | | |
| Lot area, minimum | 4,000 sf | No requirement | No requirement |
| Lot width, minimum [5] | Interior | 14 feet | No requirement |
| | Corner | | |
| | 40 feet | 56 feet | |
| Front setback, minimum | 16 feet | 5 feet | 20 feet |
| Side setback, minimum | 8 feet | 8 feet | See Table 2102.12a below |
| Rear setback, minimum | 20 feet | 16 feet | 25 feet |
| Building height, maximum | 35 feet | Attached | 50 feet |
| | | Stacked | |
| | | 40 feet | 50 feet |

Notes:

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

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

**TABLE 2102.12: R-5 Lot and Building Standards – Affordable Dwelling Unit Development [1]
[2] [3]**

| | Single-family detached | Single-family attached and stacked townhouses | Multifamily dwellings |
|-----|--|---|-----------------------|
| [3] | Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e). | | |
| [4] | Open space is calculated in accordance with subsection 5100.3.A(3). | | |
| [5] | Lot width may be modified in accordance with subsection 5100.2.K. | | |

Table 2102.12a: R-5 ADU Setback Relative to Height

| Multifamily | |
|-------------------------------------|------------------------------|
| Building height, maximum (feet) [1] | Side setback, minimum (feet) |
| 25 | 10 |
| 30 | 12 |
| 35 | 14 |
| 40 | 17 |
| 45 | 19 |
| 50 | 21 |

Notes:

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

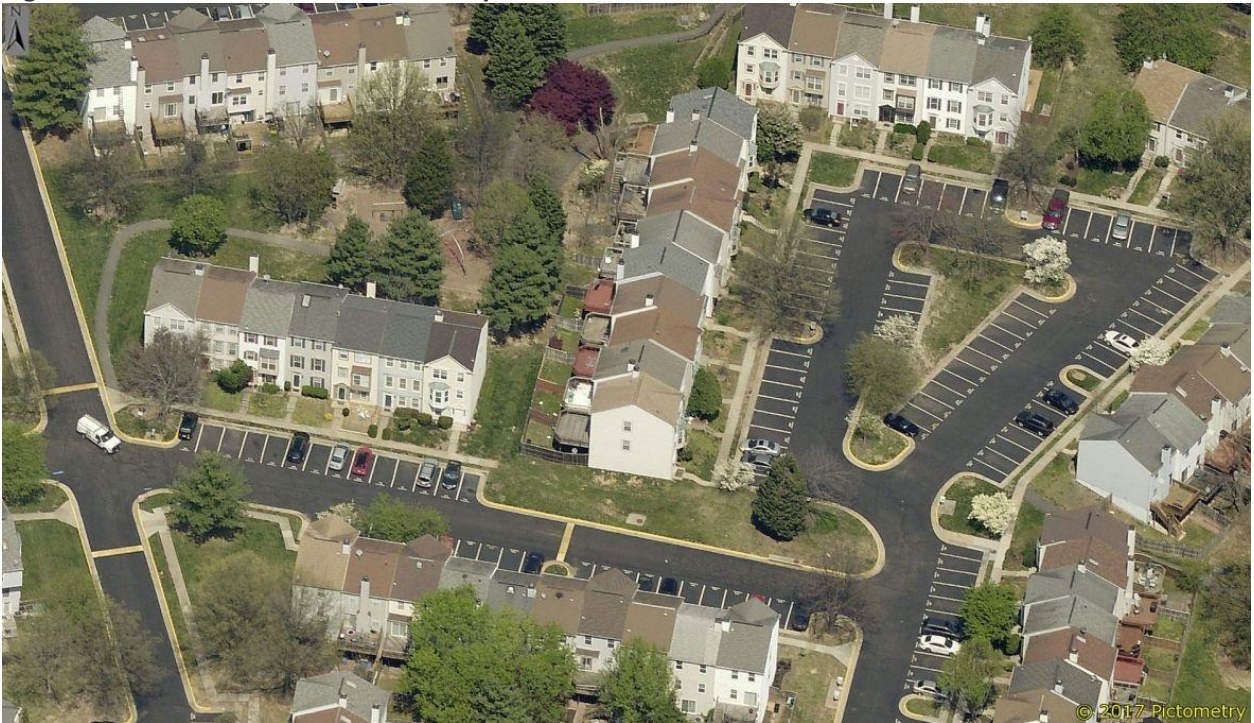
| | |
|---|--------------------------------|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Shape factor limitations | Article 5, subsection 5100.2.H |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article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

9. R-8 Residential District, Eight Dwelling Units/Acre

A. Purpose

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

Figure 2102.18: R-8 District Aerial Example



B. R-8 Lot and Building Dimensional Standards

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

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

Notes:

- [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with 5100.2.D(1)(e).
- [2] District size and lot width may be modified in accordance with subsection 5100.2.K.
- [3] Open space is calculated in accordance with subsection 5100.3.A(3).

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

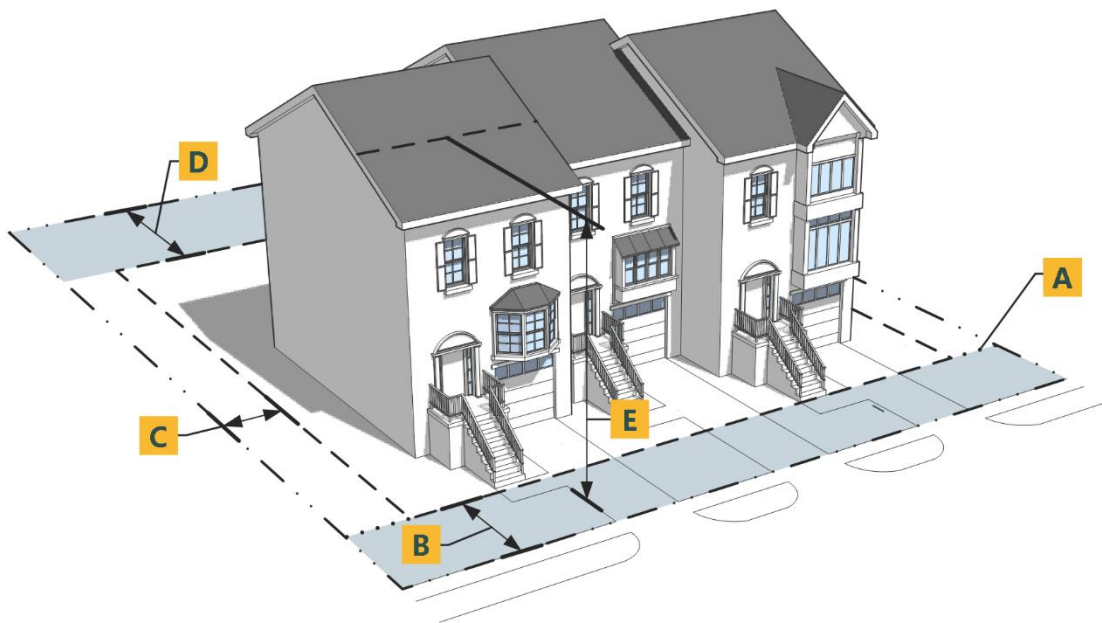
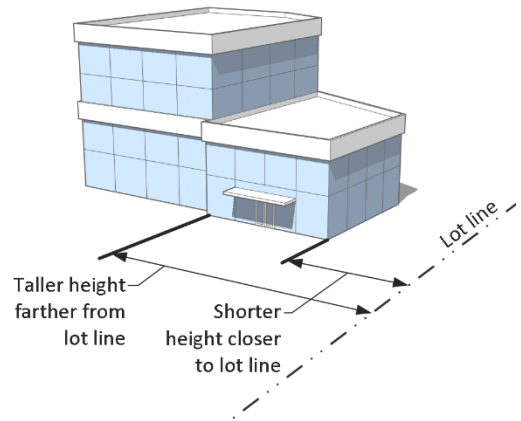


Table 2102.13a: R-8 Setback Relative to Height

| Other uses | | | |
|-------------------------------------|-------------------------------|------------------------------|------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 21 | 17 | 25 |
| 45 | 24 | 19 | 25 |
| 50 | 27 | 21 | 25 |
| 55 | 29 | 24 | 25 |
| 60 | 32 | 26 | 26 |
| 65 | 35 | 28 | 28 |

Notes:

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



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

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

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

Notes:

- [1] Affordable dwelling unit developments may consist of single-family detached and attached dwelling units. Multifamily dwelling units are also permitted, but the number of multifamily dwelling units may not exceed 50 percent of the total number of dwelling units allowed within the development.
- [2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.
- [3] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).
- [4] Open space is calculated in accordance with subsection 5100.3.A(3).
- [5] Lot width may be modified in accordance with subsection 5100.2.K.

Table 2102.14a: R-8 ADU Setback Relative to Height

| Multifamily | |
|-------------------------------------|------------------------------|
| Building height, maximum (feet) [1] | Side setback, minimum (feet) |
| 25 | 10 |
| 30 | 12 |
| 35 | 14 |
| 40 | 17 |
| 45 | 19 |
| 50 | 21 |

Notes:

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

10. R-12 Residential District, Twelve Dwelling Units/Acre

A. Purpose

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

Figure 2102.20: R-12 District Aerial Example



B. R-12 Lot and Building Dimensional Standards

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

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

Notes:

- [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).
- [2] District size and lot width may be modified in accordance with subsection 5100.2.K.
- [3] Open space is calculated in accordance with subsection 5100.3.A(3).

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

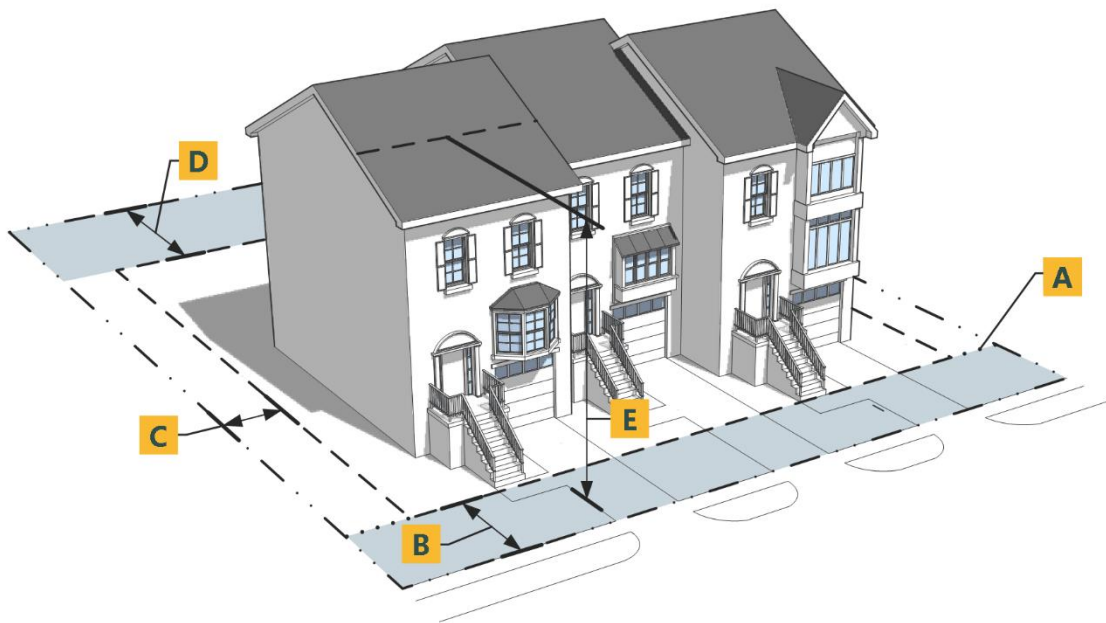
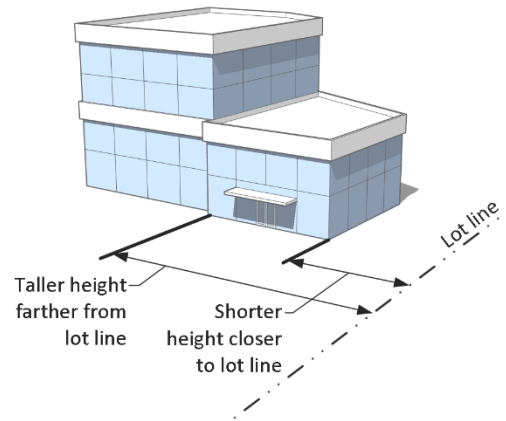


Table 2102.15a: R-12 Setback Relative to Height

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



Notes:

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

C. R-12 Lot and Building Dimensional Standards – Affordable Dwelling Unit Development

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

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

Notes:

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

| Table 2102.16a: R-12 ADU Setback Relative to Height | | | |
|---|-------------------------------|------------------------------|------------------------------|
| Multifamily | | | |
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 40 | 20 | 10 | 25 |
| 45 | 20 | 11 | 25 |
| 50 | 21 | 12 | 25 |
| 55 | 24 | 14 | 25 |
| 60 | 26 | 15 | 26 |
| 65 | 28 | 16 | 28 |

Notes:

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

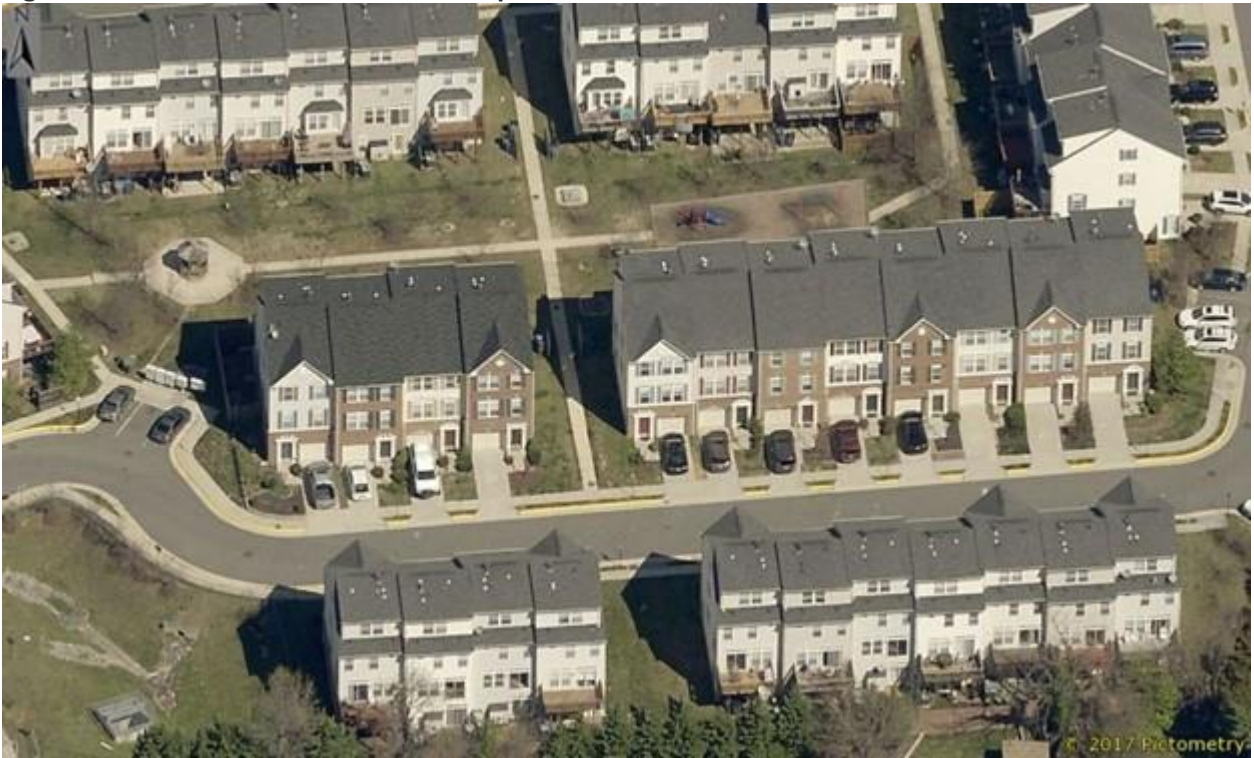
| | |
|---|------------------------------|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs |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

11. R-16 Residential District, Sixteen Dwelling Units/Acre

A. Purpose

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

Figure 2102.22: R-16 District Aerial Example



B. R-16 Lot and Building Dimensional Standards

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

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

Notes:

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

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

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

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

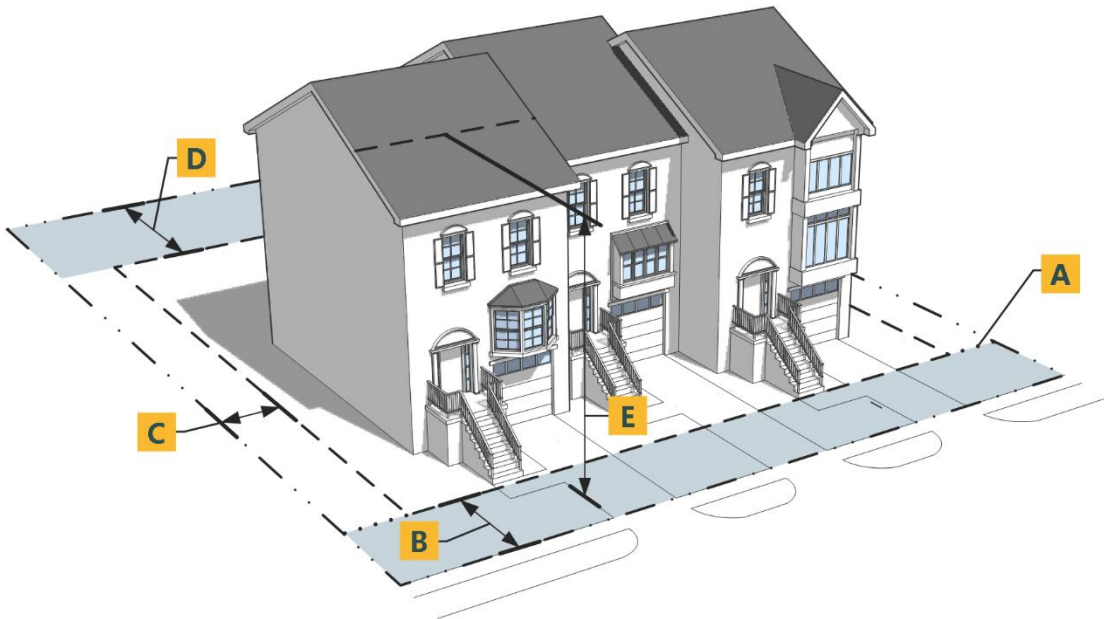
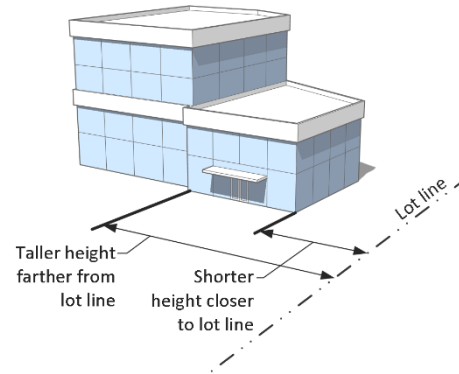


Table 2102.17a: R-16 Setback Relative to Height

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

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



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

TABLE 2102.18: R-16 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3]

| | Single-family attached and stacked townhouses | Multifamily dwellings |
|--------------------------|---|--------------------------|
| Density, maximum | 19.2 du/ac | 19.2 du/ac |
| Open space, minimum [4] | 24 percent of the gross area | |
| Lot area, minimum | No requirement | No requirement |
| Lot width, minimum [5] | 14 feet | No requirement |
| Front setback, minimum | 5 feet | |
| Side setback, minimum | 8 feet | See Table 2102.18a below |
| Rear setback, minimum | 16 feet | |
| Building height, maximum | Attached | 65 feet |
| | Stacked | |
| | 40 feet | 60 feet |

Notes:

- [1] Affordable dwelling unit developments may consist of single-family attached, stacked townhouses, and multifamily dwelling units.
- [2] Nonresidential structures provided within an affordable dwelling unit development are subject to the lot and building standards for non-affordable dwelling unit developments.
- [3] The setback requirements apply to single-family attached units and stacked townhouses as they relate to peripheral lot lines, streets, and other buildings, but do not apply to individual dwelling units within a building. Refer to subsection 5108.6 for additional provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in

single-family attached dwellings. Setback requirements may be waived by the Board in accordance with subsection 5100.2.D(1)(e).

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

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

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

Notes:

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

12. R-20 Residential District, Twenty Dwelling Units/Acre

A. Purpose

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

Figure 2102.24: R-20 District Aerial Example



B. R-20 Lot and Building Dimensional Standards

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

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

Notes:

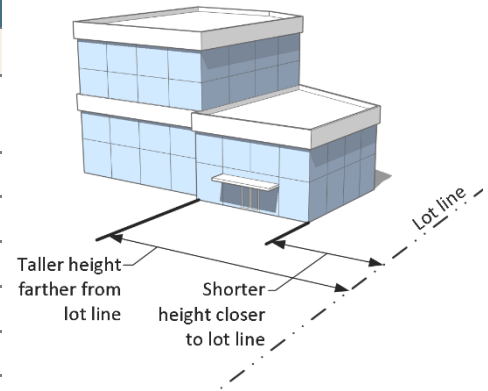
- [1] Refer to subsection 5108.6 for additional provisions that may qualify the setback requirements. Refer to subsection 5100.2.D(1)(d) for provisions that qualify the setback requirements for individual units in single-family attached dwellings and stacked townhouses. Setback requirements may be waived by the Board in accordance with 5100.2.D(1)(e).
- [2] District size and lot width may be modified in accordance with subsection 5100.2.K.
- [3] Open space is calculated in accordance with subsection 5100.3.A(3).

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



Table 2102.19a: R-20 Setback Relative to Height

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



Notes:

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

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

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

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

Notes:

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

Table 2102.20a: R-20 ADU Setback Relative to Height

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

Notes:

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

13. R-30 Residential District, Thirty Dwelling Units/Acre

A. Purpose

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

Figure 2102.26: R-30 District Aerial Example



B. R-30 Lot and Building Dimensional Standards

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

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

Notes:

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

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

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

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

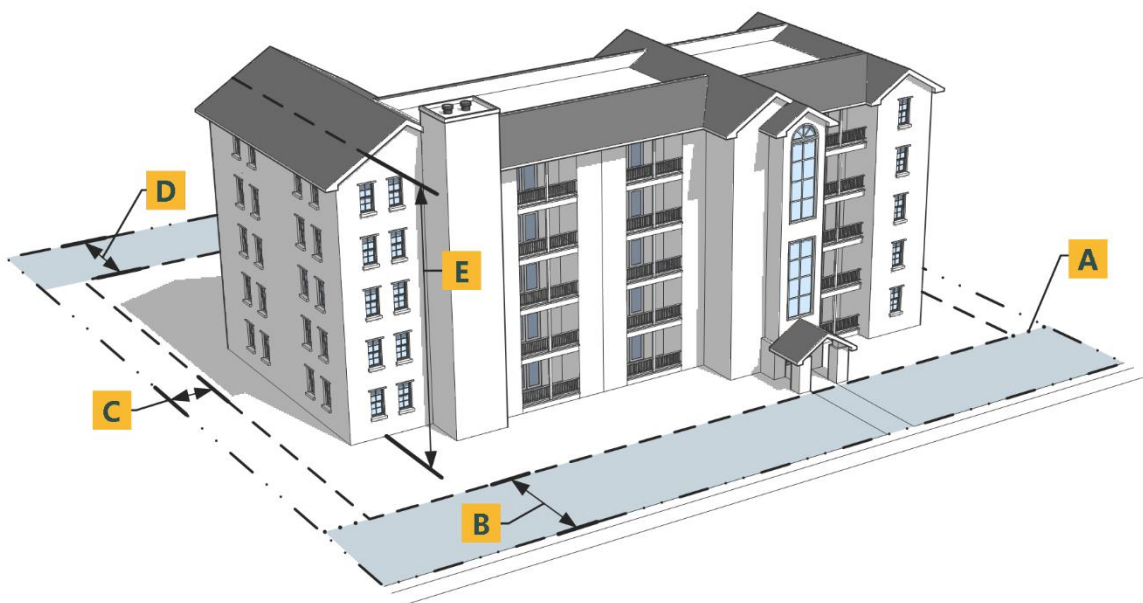
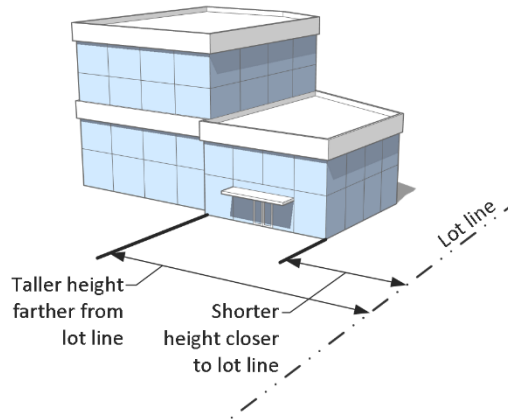


Table 2102.21a: R-30 Setback Relative to Height

| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
|-------------------------------------|-------------------------------|------------------------------|------------------------------|
| 25 | 20 | 10 | 25 |
| 30 | 20 | 12 | 25 |
| 35 | 20 | 14 | 25 |
| 40 | 20 | 17 | 25 |
| 45 | 20 | 19 | 25 |
| 50 | 21 | 21 | 25 |
| 55 | 24 | 24 | 25 |
| 60 | 26 | 26 | 26 |
| 65 | 28 | 28 | 28 |
| 70 | 31 | 31 | 31 |
| 75 | 33 | 33 | 33 |
| 80 | 35 | 35 | 35 |
| 85 | 38 | 38 | 38 |
| 90 | 40 | 40 | 40 |
| 95 | 42 | 42 | 42 |
| 100 | 45 | 45 | 45 |
| 105 | 47 | 47 | 47 |
| 110 | 49 | 49 | 49 |
| 115 | 52 | 52 | 52 |
| 120 | 54 | 54 | 54 |
| 125 | 56 | 56 | 56 |
| 130 | 59 | 59 | 59 |
| 135 | 61 | 61 | 61 |
| 140 | 63 | 63 | 63 |
| 145 | 66 | 66 | 66 |
| 150 | 68 | 68 | 68 |

Notes:

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



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

| TABLE 2102.22: R-30 Lot and Building Standards – Affordable Dwelling Unit Development [1] [2] [3] | |
|--|--|
| Stacked townhouses and multifamily dwellings | |
| Density, maximum | 36 du/ac |
| Open space, minimum [4] | 26 percent of the gross area |
| Lot area, minimum | No requirement |
| A Lot width, minimum [5] | No requirement |
| B Front setback, minimum | See Table 2102.22a below |
| C Side setback, minimum | |
| D Rear setback, minimum | |
| E Building height, maximum | 150 feet, subject to increase as permitted by the Board in accordance with the provisions of 5100.2.C(8) |

Notes:

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

Table 2102.22a: R-30 ADU Setback Relative to Height

| Stacked townhouses and multifamily | | | |
|--|--------------------------------------|-------------------------------------|-------------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 40 | 15 | 10 | 15 |
| 45 | 15 | 11 | 15 |
| 50 | 17 | 12 | 15 |
| 55 | 19 | 14 | 15 |
| 60 | 20 | 15 | 15 |
| 65 | 22 | 16 | 16 |
| 70 | 24 | 18 | 18 |
| 75 | 26 | 19 | 19 |
| 80 | 28 | 20 | 20 |
| 85 | 29 | 22 | 22 |
| 90 | 31 | 23 | 23 |

Table 2102.22a: R-30 ADU Setback Relative to Height

| Stacked townhouses and multifamily | | | |
|-------------------------------------|-------------------------------|------------------------------|------------------------------|
| Building height, maximum (feet) [1] | Front setback, minimum (feet) | Side setback, minimum (feet) | Rear setback, minimum (feet) |
| 95 | 33 | 24 | 24 |
| 100 | 35 | 26 | 26 |
| 105 | 37 | 27 | 27 |
| 110 | 39 | 28 | 28 |
| 115 | 40 | 30 | 30 |
| 120 | 42 | 31 | 31 |
| 125 | 44 | 32 | 32 |
| 130 | 46 | 34 | 34 |
| 135 | 48 | 35 | 35 |
| 140 | 49 | 36 | 36 |
| 145 | 51 | 38 | 38 |
| 150 | 53 | 39 | 39 |

Notes:

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

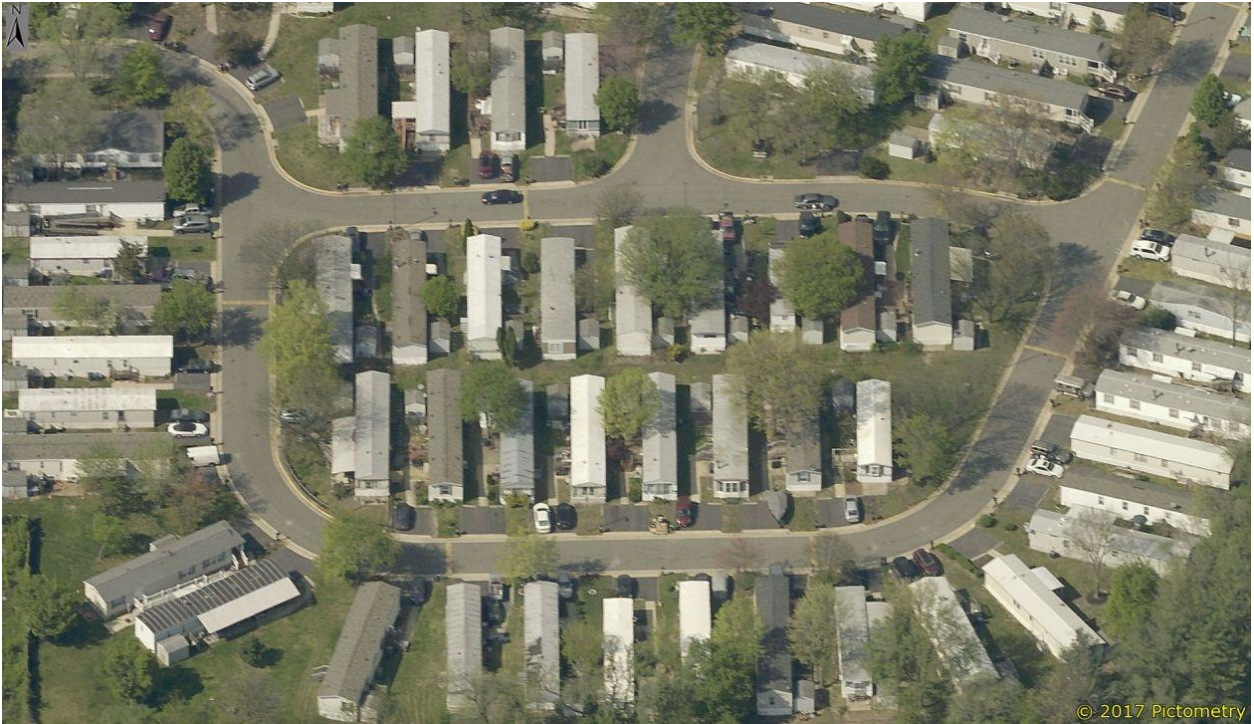
| | |
|---|------------------------------|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs |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

14. R-MHP Residential District, Manufactured Home Park

A. Purpose

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

Figure 2102.28: R-MHP District Aerial Example



B. R-MHP Lot and Building Dimensional Standards

| TABLE 2102.23: R-MHP Lot and Building Standards [1] | | | | | | | |
|--|---|--|--------------------------------|---|--------------------------|--|----------|
| | | Manufactured home | Single-family detached | | Other uses | | |
| District size, minimum [2] | | 15 acres | 15 acres | | 15 acres | | |
| Density, maximum [3] | | 6 manufactured homes per acre | 6 du/ac | | n/a | | |
| Open space, minimum [4] | | 20 percent of the gross area | | | | | |
| Lot area, average | | 4,000 sf | No requirement | | No requirement | | |
| Lot area, minimum | | No requirement | 5,000 sf | | 10,000 sf | | |
| A | Lot width, minimum [2] | Manufactured Home Park | Manufactured Home Lot | Interior | Corner | Interior | Corner |
| | | 70 feet | No dimension less than 50 feet | 50 feet | 70 feet | 75 feet | 100 feet |
| B | Front setback, minimum | 35 feet from front line of manufactured home park | | See Table 2102.23a below, but at least ¼ the width of the right-of-way of the abutting street | | | |
| C | Side setback, minimum | 25 feet from side line of the manufactured home park | | 8 feet | See Table 2102.23a below | | |
| D | Rear setback, minimum | 25 feet from rear line of the manufactured home park | | 25 feet | | | |
| | Distance between manufactured homes and other buildings, minimum | 15 feet | | n/a | n/a | | |
| | Distance between manufactured homes and public street, minimum | 35 feet | | n/a | n/a | | |
| | Distance between manufactured homes and private street or common open area within the park, minimum | 10 feet | | n/a | n/a | | |
| E | Building height, maximum | 35 feet | | 35 feet | 90 feet | | |
| | Floor area ratio, maximum | No requirement | | No requirement | | 0.50 for all uses other than residential | |
| Notes: | | | | | | | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. Setback requirements may be waived by the Board in accordance with the provisions of subsection 5100.2.D(1)(e). | | | | | | | |
| [2] District size and lot width may be modified in accordance with subsection 5100.2.K. | | | | | | | |
| [3] The Board may allow additional density by a factor of 50 percent under subsection 5101.5.D. | | | | | | | |
| [4] Open space is calculated in accordance with subsection 5100.3.A(3). | | | | | | | |

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

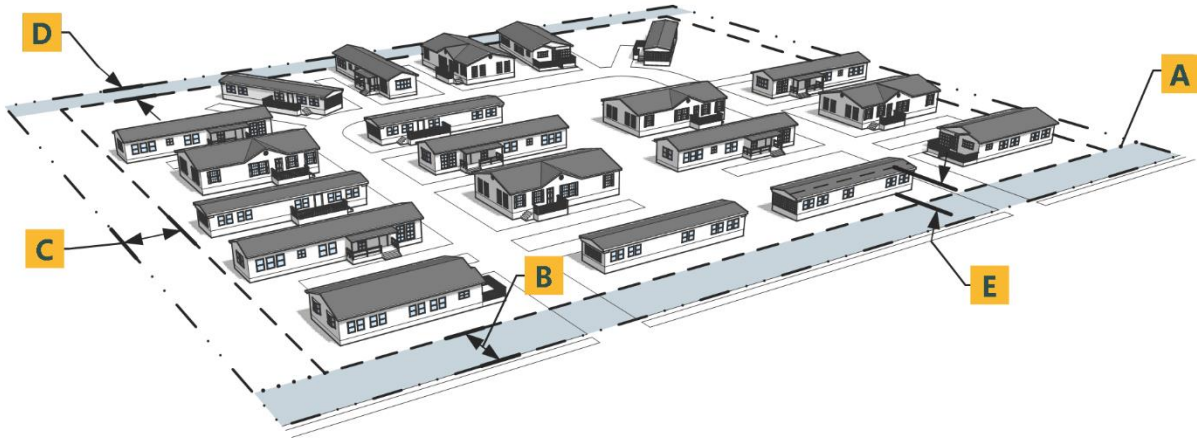
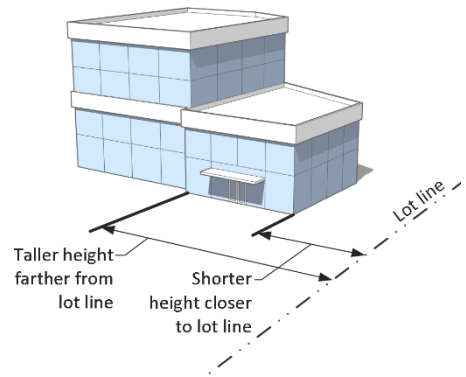


Table 2102.23a: R-MHP Setback Relative to Height

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



Notes:

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

C. Additional Standards

- (1) A manufactured home park must comply with the requirements for manufactured homes set forth in Chapter 61 of the County Code. Private streets and driveways within a manufactured home park must be constructed in accordance with Chapter 61 of the County Code and the Public Facilities Manual.
- (2) Each manufactured home lot within a manufactured home park must comply with the following standards:
 - (a) The lot must be located so that it provides for the practical placement of a manufactured home and its appurtenant structures in accordance with all requirements of this Ordinance;
 - (b) The lot must abut a driveway or a private street and have unobstructed access to a public street;
 - (c) The lot may not extend into a floodplain;
 - (d) The lot must be clearly defined on the ground by permanent monuments;
 - (e) The lot must be provided with a manufactured home stand designed to provide adequate support of the maximum anticipated loads during all seasons;
 - (f) The lot must be provided with a paved outdoor patio having a minimum area of 180 square feet that is conveniently accessible from the entrance of the manufactured home on the space; and
 - (g) A maximum of one manufactured home may be placed on the lot at any given time.
- (3) Each manufactured home located in a manufactured home park must be placed on a lot meeting the requirements in subsection (2) above, and must meet the requirements of the Mobile Home Manufacturers Association 'Mobile Home Standards for Plumbing, Heating and Electrical Systems'.
- (4) Storage facilities within a manufactured home park must comply with the following standards:
 - (a) A minimum of 90 cubic feet of storage space must be provided for the use of the occupants of each manufactured home, located on or conveniently near the lot where the manufactured home is placed; and
 - (b) Required storage facilities must be located no closer to park boundary lines, public streets, private streets, or driveways than is permitted for manufactured homes.
- (5) Except with short-term lodging in accordance with subsection 4102.7.O, the rental of any manufactured home lot for a period of less than 30 days is prohibited.

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

2103. Commercial Zoning Districts

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

1. C-1 Low-Rise Office Transitional District

A. Purpose

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

Figure 2103.1: C-1 District Aerial Example



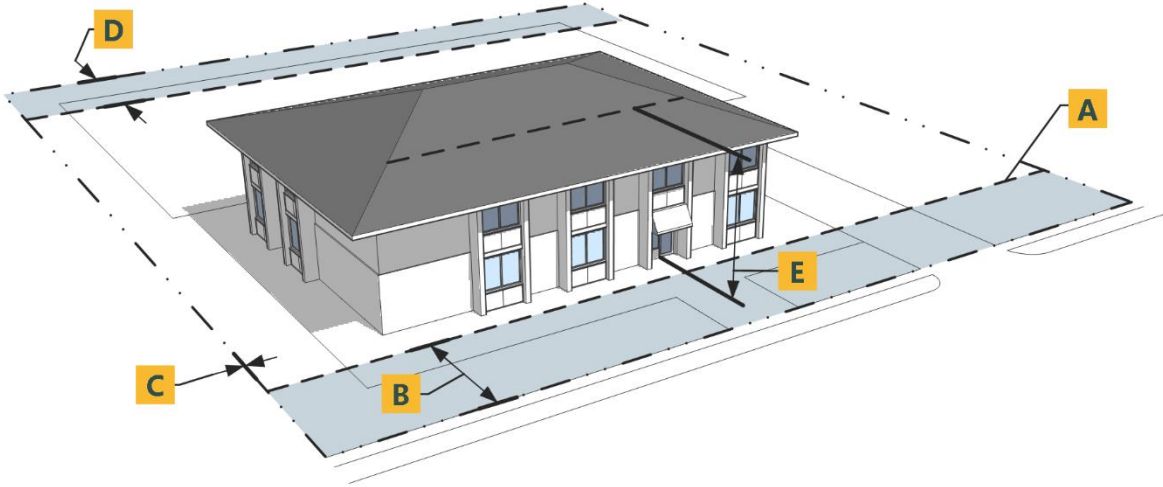
B. C-1 Lot and Building Dimensional Standards

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

Notes:

- [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.
- [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K.
- [3] Open space is calculated in accordance with subsection 5100.3.A(3).

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

2. C-2 Limited Office District

A. Purpose

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

Figure 2103.3: C-2 District Aerial Example



B. C-2 Lot and Building Dimensional Standards

| TABLE 2103.2: C-2 Lot and Building Standards [1] | | |
|--|------------------------------------|------------------------------|
| | Lot area, minimum [2] | 20,000 sq. ft. |
| A | Lot width, minimum [2] | 100 feet |
| | Landscaped open space, minimum [3] | 30 percent of the gross area |
| B | Front setback, minimum | 25 feet |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 25 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.50 |
| Notes: | | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | | |

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

3. C-3 Office District

A. Purpose

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

Figure 2103.5: C-3 District Aerial Example



B. C-3 Lot and Building Dimensional Standards

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

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

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

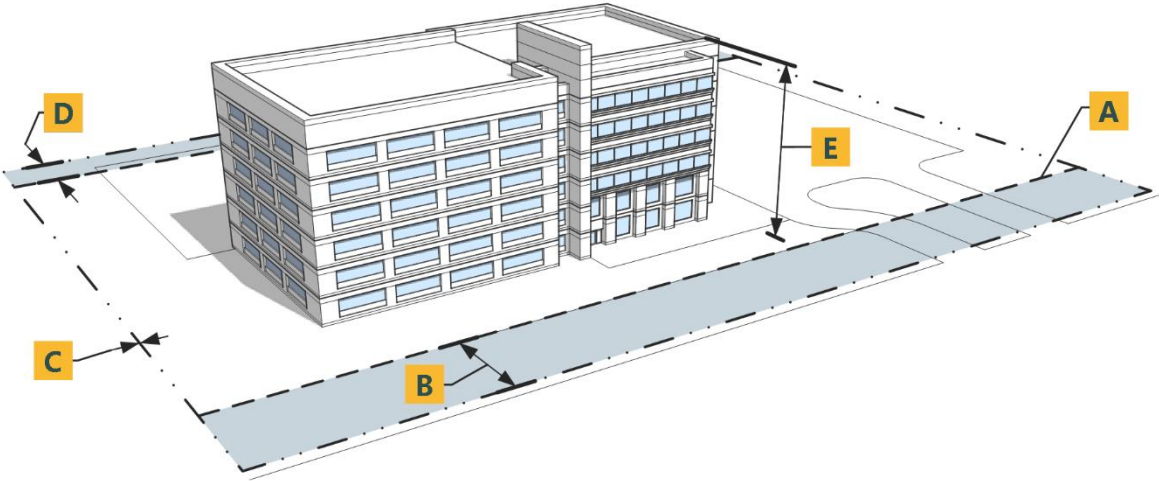
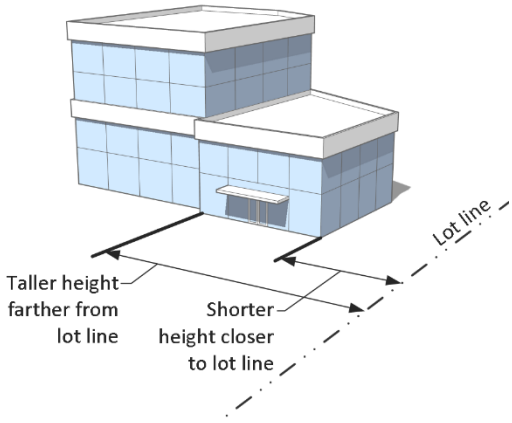


Table 2103.3a: C-3 Setback Relative to Height

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

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

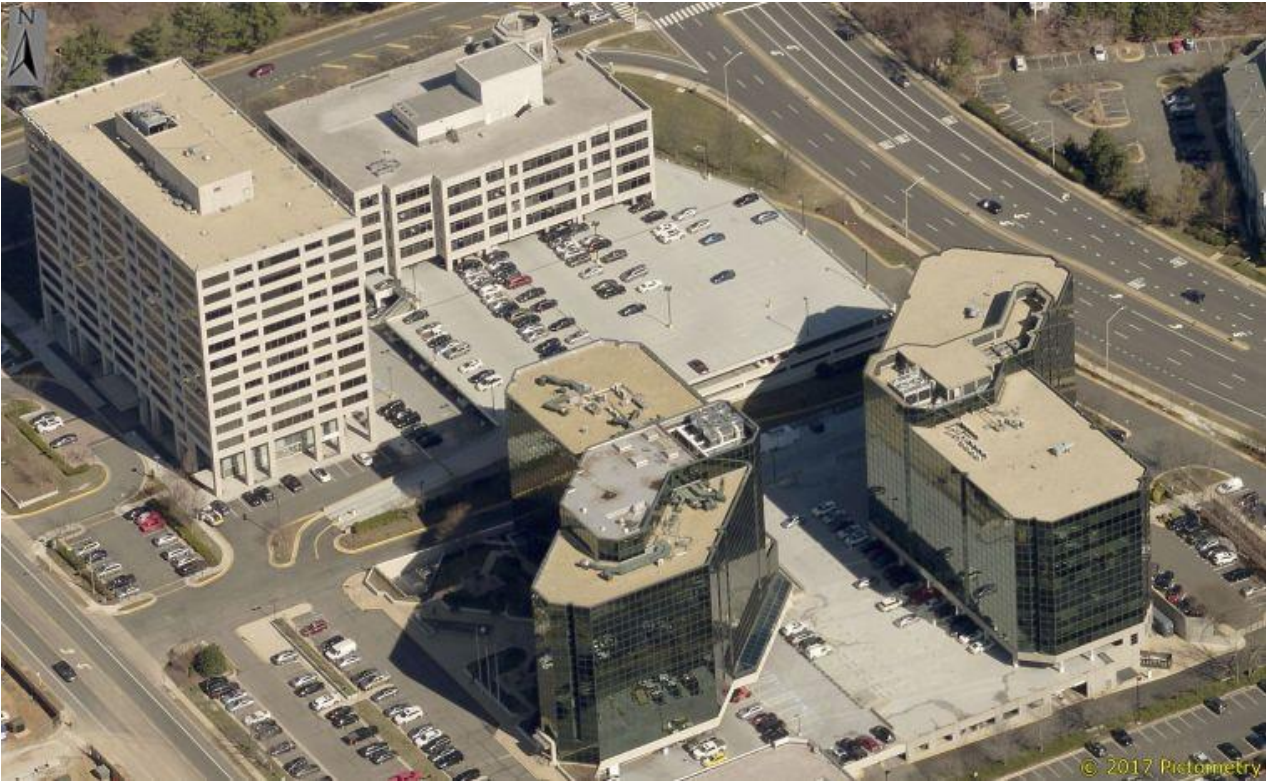
| | |
|---|------------------------------|
| Use regulations | Article 4 |
| Lot, bulk, and open space regulations | Article 5, Section 5100 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs |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

4. C-4 High Intensity Office District

A. Purpose

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

Figure 2103.7: C-4 District Aerial Example



B. C-4 Lot and Building Dimensional Standards

TABLE 2103.4: C-4 Lot and Building Standards [1]

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

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

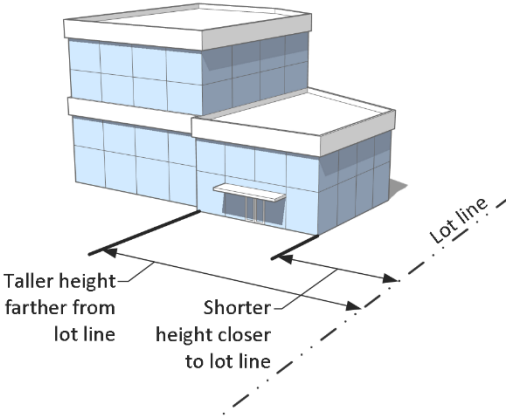
Figure 2103.8: C-4 District Lot and Building Dimensional Standards



Table 2103.4a: C-4 Setback Relative to Height

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

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

5. C-5 Neighborhood Commercial Retail

A. Purpose

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

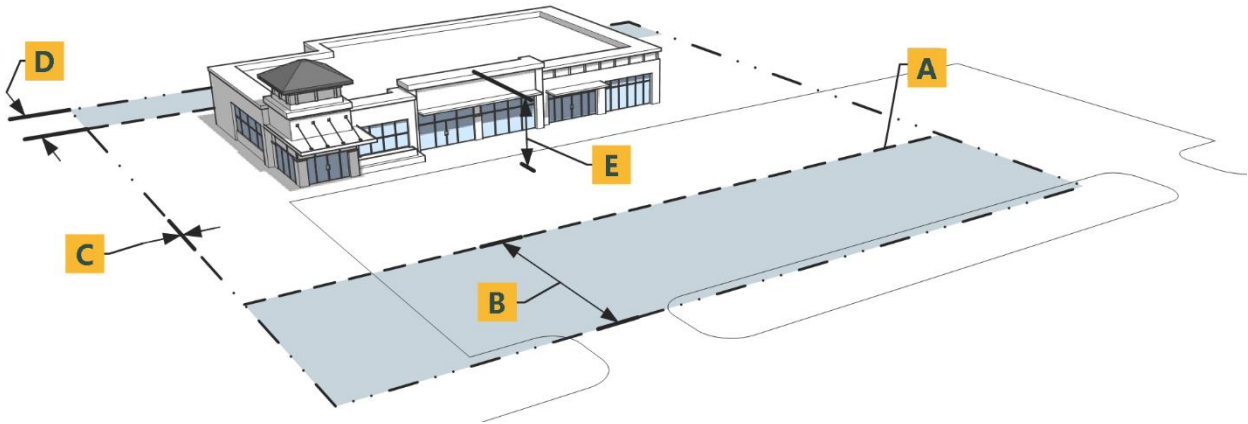
Figure 2103.9: C-5 District Aerial Example



B. C-5 Lot and Building Dimensional Standards

| TABLE 2103.5: C-5 Lot and Building Standards [1] | | |
|--|------------------------------------|------------------------------|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 20 percent of the gross area |
| B | Front setback, minimum | 40 feet |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.30 |
| Notes: | | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | | |

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

6. C-6 Community Retail Commercial District

A. Purpose

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

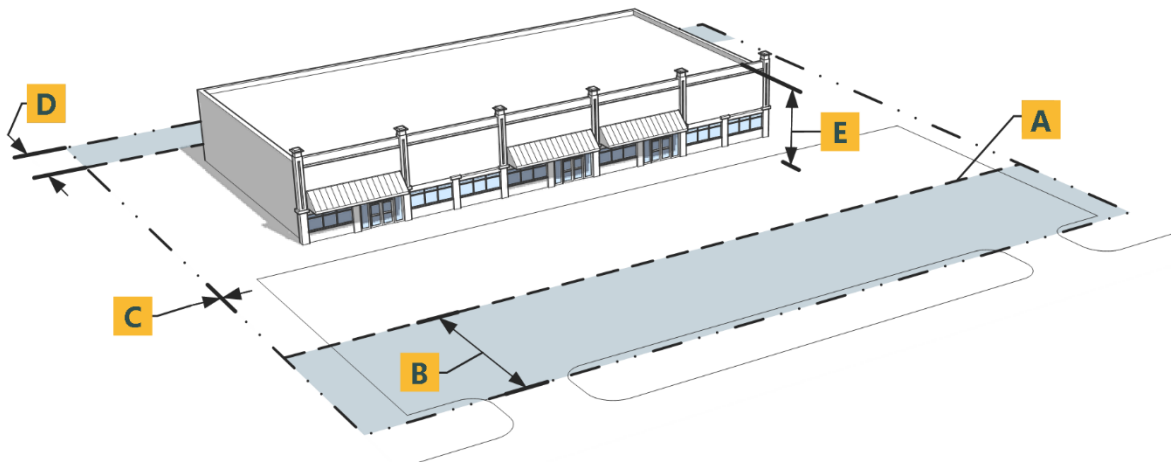
Figure 2103.11: C-6 District Aerial Example



B. C-6 Lot and Building Dimensional Standards

| TABLE 2103.6: C-6 Lot and Building Standards [1] | | |
|---|------------------------------------|------------------------------|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | 40 feet |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.40 [4] |
| Notes: | | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | | |
| [4] An increase to 0.50 FAR may be permitted by the Board in accordance with 5100.2.E(4). | | |

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



C. Reference to Other Standards

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

7. C-7 Regional Retail Commercial District

A. Purpose

The C-7 District provides locations for a full range of retail commercial and service uses oriented to serve a regional market area. Areas in the C-7 District should be located adjacent to major transportation facilities, and development within the district should be encouraged in centers that are planned as a unit. Development in the C-7 District should incorporate walkable and safe multimodal design.

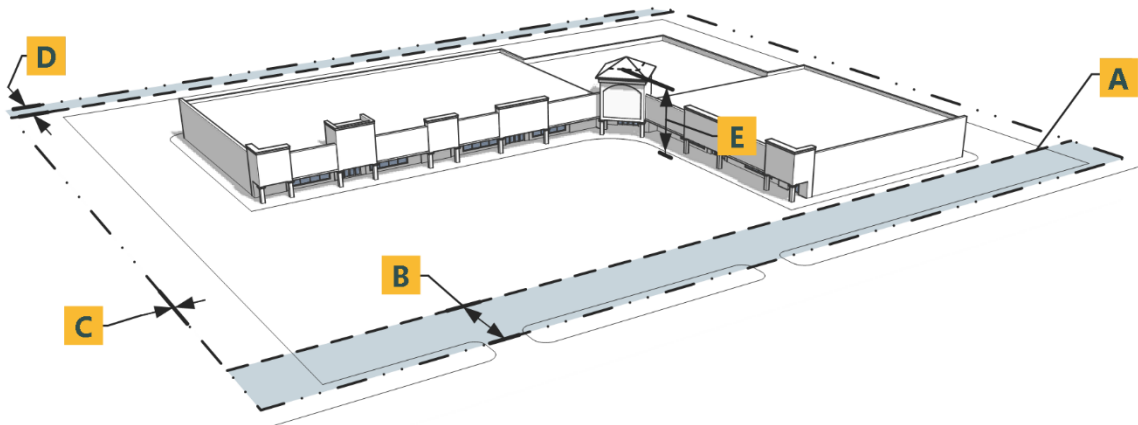
Figure 2103.13: C-7 District Aerial Example



B. C-7 Lot and Building Dimensional Standards

| TABLE 2103.7: C-7 Lot and Building Standards [1] | | |
|---|------------------------------------|--|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | Setback equal to building height; at least 40 feet |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 90 feet |
| | Floor area ratio, maximum | 0.80 [4] |
| Notes: | | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | | |
| [4] An increase to 1.0 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4). | | |

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

8. C-8 Highway Commercial District

A. Purpose

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

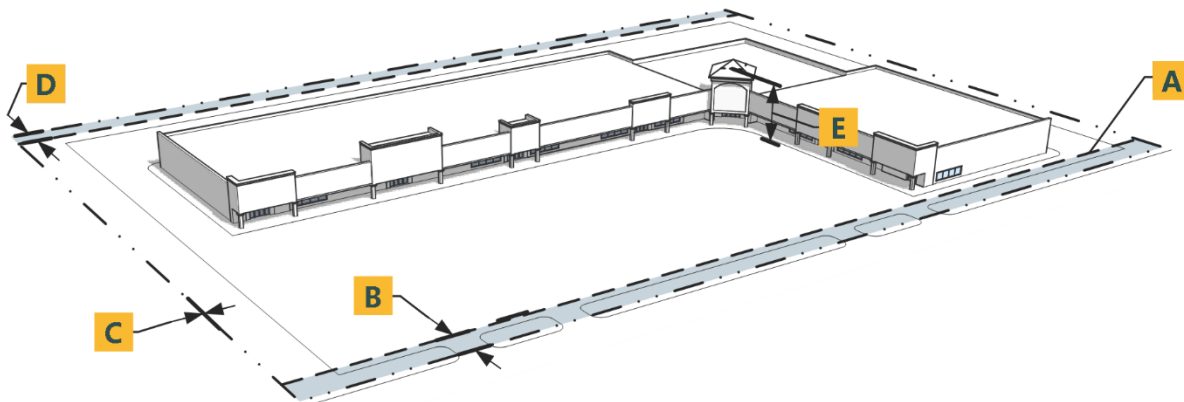
Figure 2103.15: C-8 District Aerial Example



B. C-8 Lot and Building Dimensional Standards

| TABLE 2103.8: C-8 Lot and Building Standards [1] | | |
|--|------------------------------------|------------------------------|
| | Lot area, minimum [2] | 40,000 sq. ft. |
| A | Lot width, minimum [2] | 200 feet |
| | Landscaped open space, minimum [3] | 15 percent of the gross area |
| B | Front setback, minimum | 40 feet |
| C | Side setback, minimum | No requirement |
| D | Rear setback, minimum | 20 feet |
| E | Building height, maximum | 40 feet |
| | Floor area ratio, maximum | 0.50 [4] |
| Notes: | | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | | |
| [4] An increase to 0.70 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4). | | |

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

2104. Industrial Zoning Districts

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

1. I-I Industrial Institutional District

A. Purpose

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

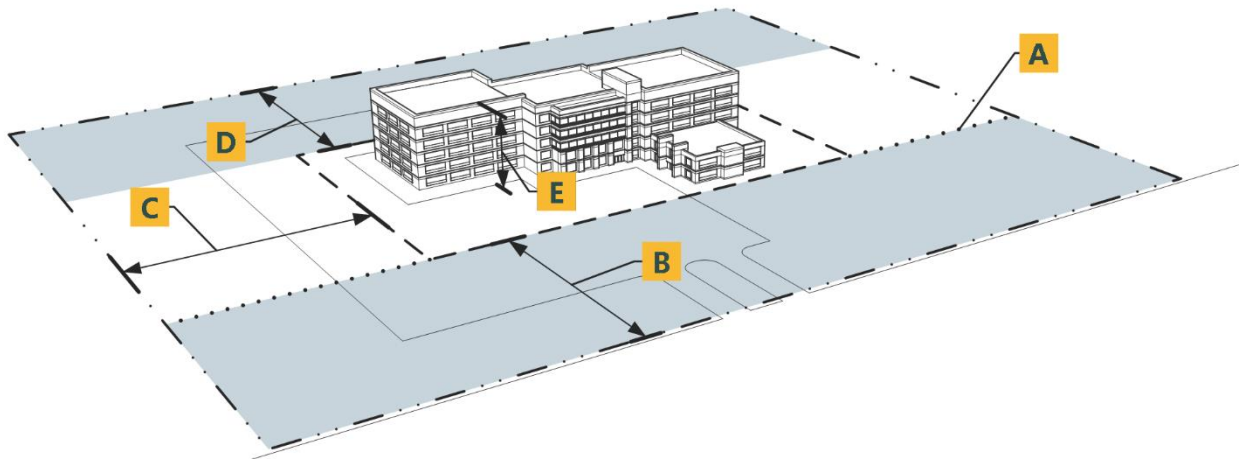
Figure 2104.1: I-I District Aerial Example



B. I-I Lot and Building Dimensional Standards

| TABLE 2104.1: I-I Lot and Building Standards | |
|--|--|
| | Lot area, minimum [1] 20 acres |
| A | Lot width, minimum [1] No requirement |
| | Landscaped open space, minimum No requirement |
| B | Front setback, minimum 320 feet from the center line of any street, or 200 feet from the lot line, whichever is greater [2] |
| C | Side setback, minimum [2] 200 feet; none required abutting a railroad right-of-way |
| D | Rear setback, minimum [2] 200 feet; none required abutting a railroad right-of-way |
| E | Building height, maximum 65 feet |
| | Lot coverage, maximum 30 percent |
| | Floor area ratio, maximum No requirement |
| Notes: | |
| | [1] Lot area and lot width may be modified in accordance with subsection 5100.2.K. |
| | [2] Unless a lesser distance is approved by the Board to facilitate the implementation of a proposed major street improvement. |

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

2. I-2 Low Intensity Industrial District

A. Purpose

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

Figure 2104.3: I-2 District Aerial Example



B. I-2 Lot and Building Dimensional Standards

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

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

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

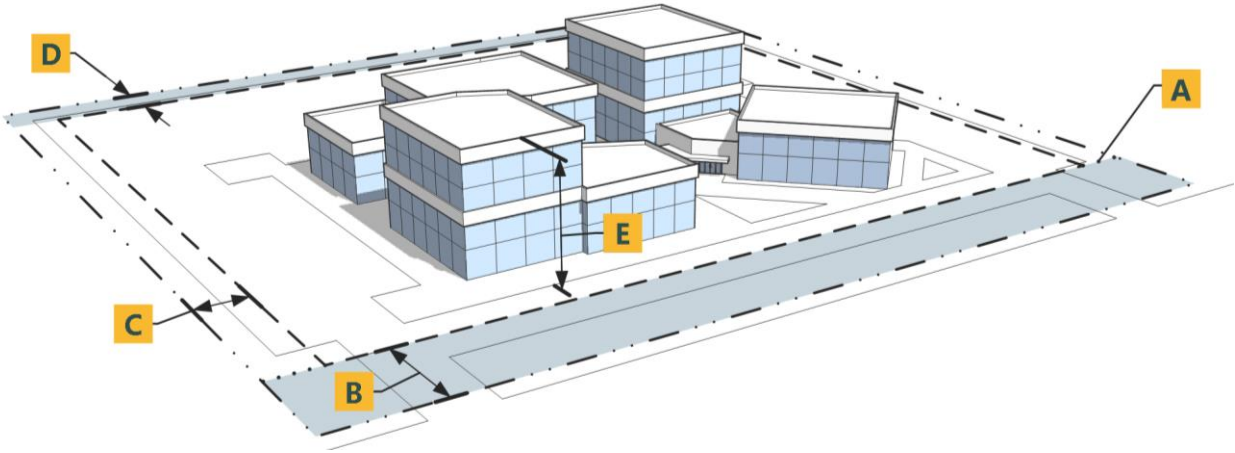
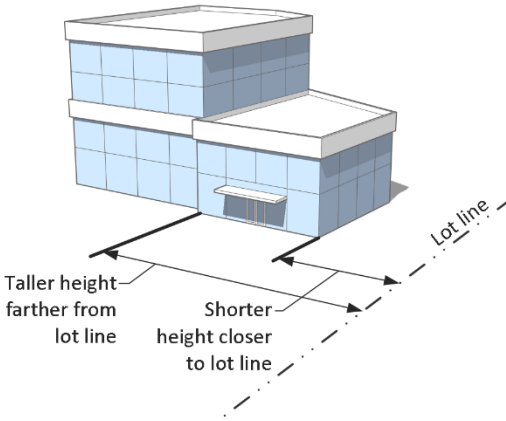


Table 2104.2a: I-2 Setback Relative to Height

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

Notes:

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



C. Reference to Other Standards

General regulations that may supplement the regulations above:

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

3. I-3 Light Intensity Industrial District

A. Purpose

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

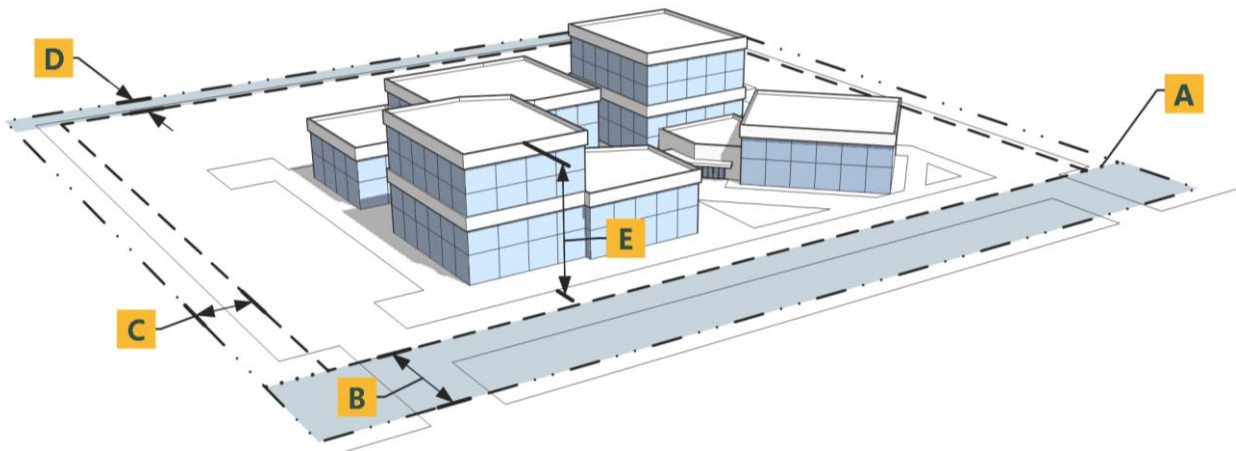
Figure 2104.5: I-3 District Aerial Example



B. I-3 Lot and Building Dimensional Standards

| TABLE 2104.3: I-3 Lot and Building Standards [1] | |
|--|---|
| | Lot area, minimum [2] 40,000 sq. ft. |
| A | Lot width, minimum [2] 100 feet |
| | Landscaped open space, minimum [3] 15 percent of gross area |
| B | Front setback, minimum Setback equal to building height; at least 40 feet |
| C | Side setback, minimum Setback equal to building height; none |
| D | Rear setback, minimum required abutting railroad right-of-way |
| E | Building height, maximum 75 feet |
| | Floor area ratio, maximum 0.40 [4] |
| Notes: | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | |
| [4] An increase to 0.50 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4). | |

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



C. Reference to Other Standards

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

4. I-4 Medium Intensity Industrial District

A. Purpose

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

Figure 2104.7: I-4 District Aerial Example



B. I-4 Lot and Building Dimensional Standards

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

Notes:

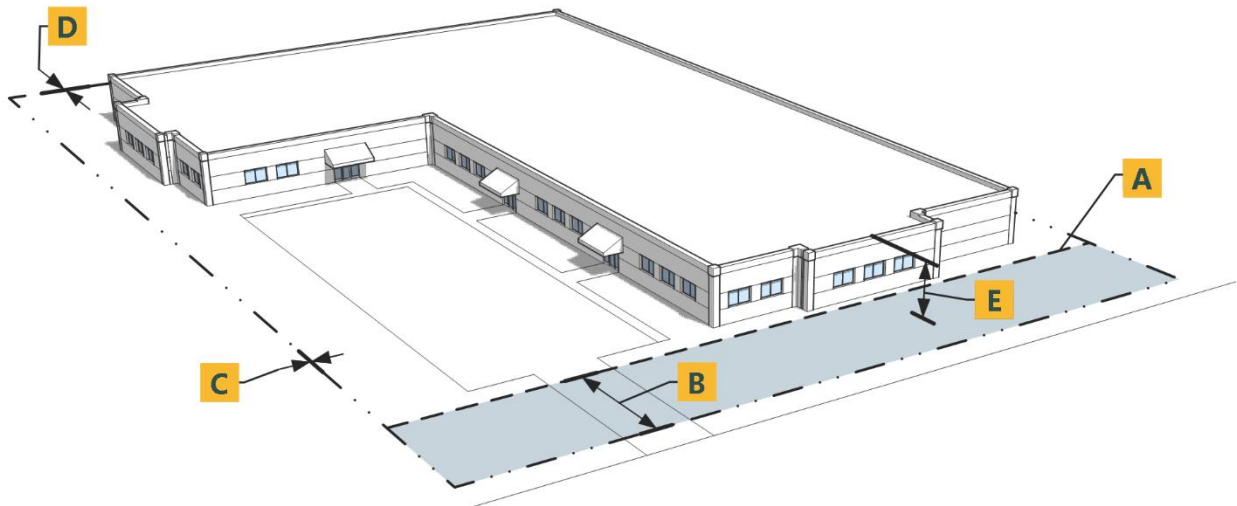
[1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements.

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

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

[4] An increase to 0.70 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4).

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



C. Reference to Other Standards

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

5. I-5 General Industrial District

A. Purpose

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

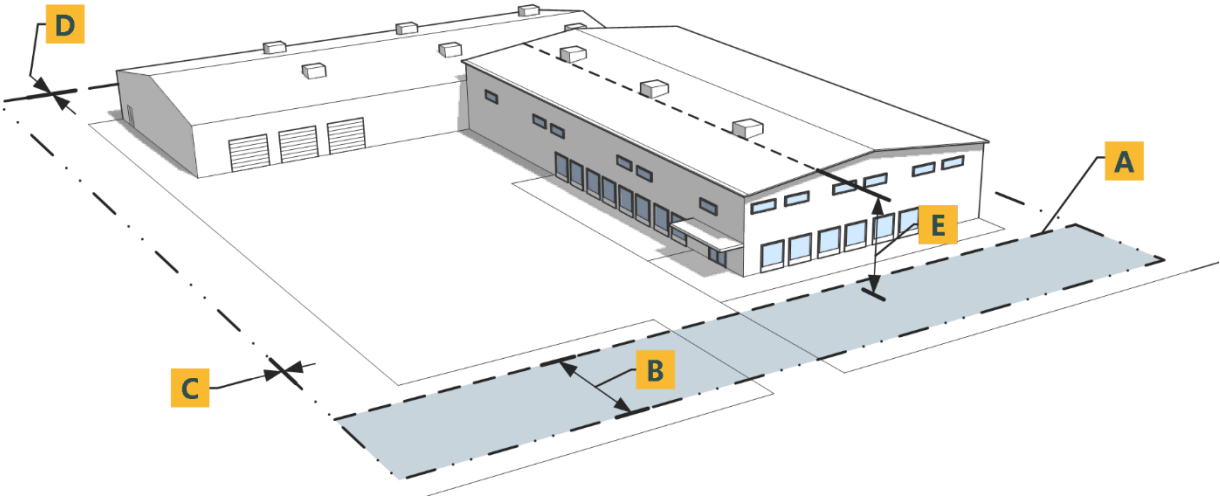
Figure 2104.9: I-5 District Aerial Example



B. I-5 Lot and Building Dimensional Standards

| TABLE 2104.5: I-5 Lot and Building Standards [1] | |
|---|---|
| | Lot area, minimum [2] 20,000 sq. ft. |
| A | Lot width, minimum [2] 100 feet |
| | Landscaped open space, minimum [3] 15 percent of gross area |
| B | Front setback, minimum Setback equal to building height; at least 40 feet |
| C | Side setback, minimum No requirement |
| D | Rear setback, minimum |
| E | Building height, maximum 75 feet |
| | Floor area ratio, maximum 0.50 [4] |
| Notes: | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | |
| [4] An increase to 1.0 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4). | |

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



C. Reference to Other Standards

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

6. I-6 Heavy Industrial District

A. Purpose

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

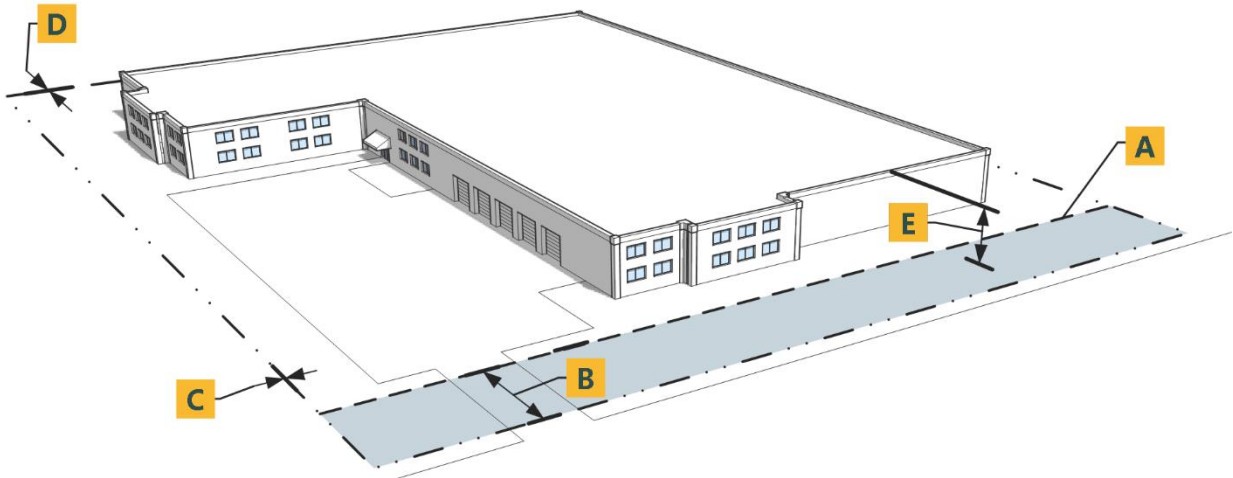
Figure 2104.11: I-6 District Aerial Example



B. I-6 Lot and Building Dimensional Standards

| TABLE 2104.6: I-6 Lot and Building Standards [1] | |
|---|---|
| | Lot area, minimum [2] 20,000 sq. ft. |
| A | Lot width, minimum [2] 100 feet |
| | Landscaped open space, minimum [3] 10 percent of gross area |
| B | Front setback, minimum Setback equal to building height; at least 40 feet |
| C | Side setback, minimum No requirement |
| D | Rear setback, minimum |
| E | Building height, maximum 75 feet |
| | Floor area ratio, maximum 0.50 [4] |
| Notes: | |
| [1] Refer to subsection 5108.6 for provisions that may qualify the setback requirements. | |
| [2] Lot area and lot width may be modified in accordance with subsection 5100.2.K. | |
| [3] Open space is calculated in accordance with subsection 5100.3.A(3). | |
| [4] An increase to 1.0 FAR may be permitted by the Board in accordance with subsection 5100.2.E(4). | |

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



C. Reference to Other Standards

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

2105. Planned Districts

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

1. Standards for All Planned Districts

A. Lot Area and Width

No minimum requirement for each use or building.

B. Building Height, Setbacks, and Floor Area Ratio

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

C. General Standards

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

- (1) The planned development must substantially conform to the Comprehensive Plan with respect to type, character, intensity of use, and public facilities. Planned developments may not exceed the density or intensity permitted by the Comprehensive Plan, including any permitted density or intensity bonus provisions.
- (2) The planned development must be designed to achieve the stated purpose of the planned development district more than would development under a conventional zoning district.
- (3) The planned development must, to the extent possible, protect, preserve, and restore natural ecosystem components, including trees, meadows, streams, topographic features, and healthy soils, and heritage resources.
- (4) The planned development must be designed to prevent adverse impact to the use and value of existing surrounding development and may not deter or impede development of surrounding undeveloped properties in accordance with the Comprehensive Plan.
- (5) The planned development must be located in an area in which existing or planned transportation, police and fire protection, other public facilities, and public utilities will be available and adequate for the uses proposed. The applicant may provide for those facilities or utilities which are not presently available.
- (6) The planned development must provide coordinated linkages among internal facilities and services as well as connections to major external facilities and services at a scale appropriate to the development.

D. Design Standards

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

- (1)** Other than those regulations specifically listed for a particular planned district, the open space, off-street parking, loading, sign, and all other similar regulations in this Ordinance will generally apply to all planned developments.
- (2)** Streets and driveways must generally conform to the provisions in this Ordinance and all other applicable County ordinances and regulations. Where applicable, street systems must afford convenient access to mass transportation facilities. In addition, a network of trails and sidewalks must be coordinated access to recreational amenities, open space, public facilities, vehicular access routes, and mass transportation facilities.

2. PDH Planned Development Housing District

A. Purpose

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

- (1) Insure ample provision and efficient use of open space;
- (2) Encourage tree preservation and the protection of environmental features on the site;
- (3) Promote high standards in the layout, design, and construction of residential development;
- (4) Promote balanced developments of mixed housing types;
- (5) Encourage the provision of dwellings within the means of families of low and moderate income; and
- (6) Implement the stated purpose and intent of this Ordinance.

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

Figure 2105.1: PDH District Aerial Example





B. PDH Lot and Building Dimensional Standards

(1) District Size

Minimum: two acres.

(2) Privacy Yard

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

(3) Density

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

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

Notes:

[1] The maximum density may be increased by providing affordable dwelling units and bonus market rate units in accordance with the requirements for affordable dwelling units set forth in Section 5101 and does not include the bonus market rate units associated with the provision of workforce dwelling units, as applicable.

(4) Open Space

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

| TABLE 2105.2: PDH Minimum Open Space | | |
|---|---|--|
| Subdistrict | Open Space (% of the gross area) | Affordable Dwelling Unit Development Open Space (% of the gross area) |
| PDH-1 | 25 | Not applicable |
| PDH-2 | 20 | 18 |
| PDH-3 | 20 | 18 |
| PDH-4 | 20 | 18 |
| PDH-5 | 35 | 31 |
| PDH-8 | 25 | 22 |
| PDH-12 | 30 | 27 |
| PDH-16 | 35 | 31 |
| PDH-20 | 35 | 31 |
| PDH-30 | 45 | 40 |
| PDH-40 | 35 | 31 |

- (b)** As part of the open space to be provided in accordance with Table 2150.2(a) above, recreational facilities are required to be provided in all PDH Districts in conjunction with approval of a final development plan. Such facilities are subject to the provisions of subsection 8100.2.E(4), and those requirements are based on a minimum expenditure of \$1,900 per dwelling unit for the recreational facilities and either:
 - 1.** The facilities are provided on-site by the developer in substantial conformance with the approved final development plan; and/or
 - 2.** The Board may approve facilities on land that is not part of the subject PDH District.
- (c)** The per unit contribution in (b) above does not apply to affordable dwelling units.

C. Additional Standards

(1) Secondary Uses

- (a)** Secondary uses in the commercial classification in Table 4101.2 are only permitted in a PDH District that has a minimum of 50 residential dwelling units.
- (b)** Secondary uses in the commercial classification must be designed as an integrated component of the planned development where they are located, and must be designed to maintain and protect the residential character of the planned development and adjacent residential neighborhoods. To accomplish these purposes:
 - 1.** Commercial uses must be conducted within a completely enclosed building with no outside display except for outdoor seating and those uses that by their nature must be conducted outside a building.
 - 2.** When located within the same building as residential uses, commercial uses are limited to the first and second floors.

- 3. Except for outdoor commercial recreation, zoos or aquariums, and golf courses or country clubs, the maximum total land area, including at-grade off-street parking and loading areas, devoted to uses in the commercial classification is as follows:
 - a. PDH-1, PDH-2, PDH-3, and PDH-4: 400 square feet of commercial/dwelling unit.
 - b. PDH-5, PDH-8, PDH-12, PDH-16, and PDH-20: 300 square feet of commercial/dwelling unit.
 - c. PDH-30 and PDH-40: 200 square feet of commercial/dwelling unit.

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

- 4. Office uses may not exceed ten percent of the total gross floor area of all commercial uses in subsection 3 above.
- (c) In conjunction with the approval of a conceptual development plan and in order to further implementation of the Comprehensive Plan, the Board may modify the limitations in this subsection for the following uses when located outdoors:
- 1. Outdoor commercial recreation;
 - 2. Zoo or aquarium; and
 - 3. Golf course or country club

D. Reference to Other Standards

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

3. PRC Planned Residential Community District

A. Purpose

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

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

- (1) A variety of housing types, employment opportunities, and commercial services to achieve a balanced community for households of all ages, sizes and levels of income.
- (2) An orderly and creative arrangement of all land uses with respect to each other and to the entire community.
- (3) A planned and integrated comprehensive transportation system providing for a separation of pedestrian and vehicular traffic, to include facilities such as mass transportation, roadways, bicycle or equestrian paths and pedestrian walkways.
- (4) The provision of cultural, educational, medical, and recreational facilities for all segments of the community.
- (5) The location of structures to take maximum advantage of the natural and manmade environment.
- (6) The provision of adequate and well-designed open space for the use of all residents.
- (7) The staging of development in a manner that can be accommodated by the timely provision of public utilities, facilities and services.

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

Figure 2105.2: PRC District Aerial Example



B. PRC Lot and Building Dimensional Standards

(1) District Size

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

(2) Privacy Yard

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

(3) Setbacks

- (a)** The location and arrangement of structures must not be detrimental to existing or prospective adjacent dwellings or to the existing or prospective development of the neighborhood.
- (b)** No single-family detached dwelling may be erected closer than 16 feet to any other single-family dwelling unless a an approved development plan or PRC plan specifically provides for a lesser distance.
- (c)** No single-family detached or attached dwelling or accessory structure may be erected closer than 15 feet to any public street right-of-way line unless shown on an approved development plan or PRC plan.
- (d)** Any single-family dwelling or an addition to a dwelling permitted in the PRC District, for which a building permit was approved before April 2, 1979 and that does not comply with the minimum setback requirements in this section is a noncompliant structure.

(4) Density

- (a)** The overall maximum density for a PRC District is 13 persons per acre of gross residential and associated commercial areas.
- (b)** In computing density, the following factors are used: A factor of 3.0 persons per single-family detached dwelling; 2.7 persons per single-family attached dwelling or stacked townhouse; and 2.1 persons per multiple family dwelling.
- (c)** Residential densities in a PRC District must be designated as low, medium, or high on the approved development plan.
 - 1.** Low: The maximum overall density within the entire area of a PRC District is 3.8 persons per acre of gross residential area. The maximum density in any one low density area is five dwelling units per acre.
 - 2.** Medium: The maximum overall density within the entire area of a PRC District is 14 persons per acre of gross residential area. The maximum density in any one medium density area is 20 dwelling units per acre.
 - 3.** High: The maximum overall density within the entire area of a PRC District is 60 persons per acre of gross residential area. The maximum density in any one high density area is 50 dwelling units per acre.

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

- (d)** In computing average density on any development plan, subsequent PRC plan, or final plat of a part of a PRC District, the density may include any excess in land area over that required to support an average density of 13 persons per acre in any previously recorded final plat. As each plan and subsequent final plat is submitted, the overall density of all areas shown on recorded final plats within the PRC District is recomputed so that the average density within the recorded plats of sections of the PRC District will never exceed a density of 13 persons.
- (e)** The provisions of subsections (a), (b), and (c) above do not apply to affordable and market rate dwelling units that comprise the increased density in accordance with

Section 5101 or to proffered bonus market rate units or bonus floor area associated with the provision of workforce dwelling units, as applicable.

(5) Open Space

Controlled by Section 5106.

C. Additional Standards

- (a) In areas approved for low-density residential uses, no multifamily dwellings are allowed unless provided by Section 5101 and are specifically shown on the approved development plan.
- (b) In commercial centers, all business, service, storage, and display of goods must be conducted within an entirely enclosed building, except for storage of rental trucks approved for a truck rental establishment and other uses that must be conducted outside a building.

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

4. PDC Planned Development Commercial District

A. Purpose

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

- (1) Insure high standards in the mix of uses, lay-out, design and construction of commercial developments;
- (2) Include unique design elements and amenities;
- (3) Encourage lot consolidation and the use of Transportation Demand Management techniques; and
- (4) Otherwise to implement the stated purpose and intent of this Ordinance.

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

Figure 2105.3: PDC District Aerial Example



B. PDC Lot and Building Dimensional Standards

(1) District Size

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

- (a) The proposed development will yield a minimum of 100,000 square feet of gross floor area.
- (b) The proposed development will be a logical extension of an existing Planned District and yield a minimum of 40,000 square feet of gross floor area.
- (c) The proposed development is located in a Commercial Revitalization District or in an area designated in the Comprehensive Plan as a Community Business Center, Commercial Revitalization Area, or Transit Station Area. In addition, a final development plan must be submitted and approved concurrently with the conceptual development plan for the proposed development. The conceptual and final development plan must specify the uses and gross floor area for the proposed development and provide site and building designs that will complement existing and planned development by incorporating high standards of urban design, to include any specific urban design plans in the Comprehensive Plan for the area and for safe and convenient pedestrian, bicycle, and vehicular movement and access.

(2) Privacy Yard

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

(3) Floor Area Ratio

- (a) The maximum floor area ratio is 2.5. The Board may approve an increase up to 3.0 in the McLean Commercial Revitalization District and Community Business Center and up to 5.0 for developments in other Commercial Revitalization Districts, Community Business Center Areas, or Transit Station Areas, if the proposed development implements the site-specific density or intensity and other recommendations in the Comprehensive Plan.
- (b) The maximum floor area ratio permitted by this subsection excludes:
 - 1. The floor area for affordable and bonus market rate dwelling units provided in accordance with Section 5101; and
 - 2. The floor area for proffered bonus market rate units or bonus nonresidential floor area associated with the provision of workforce dwelling units.
- (c) Cellar space must be counted as part of the gross floor area and included in the calculation of the floor area ratio for any rezoning to the PDC District approved by the Board after June 21, 2016, except when the cellar space:
 - 1. Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment;
 - 2. Is specifically identified for storage or other uses that are accessory to the principal uses in the building;

3. Is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock used for the temporary loading and unloading of goods; or
4. Is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.

(4) Open Space

- (a) Minimum open space: 15 percent of the gross area.
- (b) In a PDC District development where dwelling units are proposed, as part of the open space to be provided in accordance with subsection (a) above, recreational facilities for the enjoyment of the residents of the dwelling units must be provided and shown on the final development plan. The required recreational facilities are subject to the provisions of subsection 8100.2.E(4), and must be based on a minimum expenditure of \$1,900 per dwelling unit and either:
 1. The facilities are provided on-site by the developer in substantial conformance with the approved final development plan. In the administration of this provision, credit may be considered where there is a plan to provide common recreational facilities for the residents of the dwelling units and the occupants of the principal uses; or
 2. The Board may approve the provision of the facilities located on property that is not part of the subject PDC District.
- (c) The per unit contribution in above does not apply to affordable dwelling units.

C. Additional Standards

(1) Secondary Uses

- (a) Secondary uses are only permitted in a PDC District containing one or more principal uses. Unless the Board modifies the gross floor area in conjunction with a conceptual development plan approval to implement the comprehensive plan, the gross floor area is limited as follows:
 1. The gross floor area of dwellings may not exceed 50 percent of the gross floor area of all principal uses in the development, except for floor area for affordable and market rate dwelling units that comprise the increased density in accordance with Section 5101. The floor area for dwellings is determined in accordance with the gross floor area definition, except for the following features are not included:
 - a. Balconies, porches, decks, breezeways, stoops, and stairs that may be covered but have at least one open side; and
 - b. Breezeways that may be covered but have two open ends.
 - c. For the purpose of this subsection, an open side or open end has no more than 50 percent of the total area between the side(s), roof, and floor enclosed with railings, walls, or architectural features.
 2. The total gross floor area of all other secondary uses may not exceed 25 percent of the gross floor area of all principal uses in the development.

- (b) Secondary uses must be designed to maintain and protect the character of adjacent properties.
- (c) Secondary uses must be conducted entirely within an enclosed building, with no outside display except for outdoor seating and uses that must be conducted outside a building.

(2) Parking

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

5. PRM Planned Residential Mixed-Use District

A. Purpose

The PRM District provides for high density, multiple family residential development (generally with a minimum density of 40 dwelling units per acre) and for mixed use development consisting primarily of multiple family residential development (generally with a density of at least 20 dwelling units per acre), with secondary office or other commercial uses. PRM Districts should be located in those limited areas where high density residential or residential mixed use development is in accordance with the comprehensive plan, such as within areas delineated as Transit Station Areas, Community Business Centers, Commercial Revitalization Districts or Areas, and Urban and Suburban Centers. The PRM District regulations promote high standards in design and layout, encourage compatibility among uses within the development and integration with adjacent developments, encourage the use of Transportation Demand Management techniques, and otherwise implement the stated purpose and intent of this Ordinance and the recommendations of the comprehensive plan. Rezoning to and development under this district will be permitted only in accordance with development plans prepared and approved in accordance with the provisions of subsection 8100.2.E.

Figure 2105.4: PRM District Aerial Example





B. PRM Lot and Building Dimensional Standards

(1) District Size

Minimum: Two acres.

(2) Privacy Yard

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

(3) Floor Area Ratio

- (a) The maximum floor area ratio is 3.0. Other than in the McLean Commercial Revitalization District and Community Business Center, the Board may approve an increase up to 5.0 for developments in a Commercial Revitalization District, Community Business Center Area, or Transit Station Area if the proposed development implements the site-specific density or intensity and other recommendations in the Comprehensive Plan.
- (b) The maximum floor area ratio permitted by this subsection excludes:
 1. Floor area for affordable and bonus market rate units provided in accordance with Section 5101; and
 2. Floor area for proffered bonus market rate units or bonus floor area associated with the provision of workforce dwelling units
- (c) Cellar space is counted as part of the gross floor area and included in the calculation of the floor area ratio for any rezoning to the PRM District approved by the Board after June 21, 2016, except when the cellar space:
 1. Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment;
 2. Is specifically identified for storage or other uses that are accessory to the principal uses in the building;
 3. Is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock used for the temporary loading and unloading of goods; or

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

(4) Open Space

- (a) A minimum of 20 percent of the gross area must be landscaped open space, unless modified by the Board in accordance with subsection 5100.3.B. Unless otherwise modified by the board, no more than one-half of the minimum required landscaped open space is permitted above the street level.
- (b) Recreational facilities must be provided in conjunction with approval of a final development plan. Provision of recreational facilities is subject to the provisions of subsection 8100.2.E(4); however, recreational facilities located on rooftops, deck areas, or areas within a building, such as swimming pools, exercise rooms, or health clubs, may be used to fulfill this requirement. The requirement for providing recreational facilities is based on a minimum expenditure of \$1,900 per dwelling unit for recreational facilities and either:
 1. The facilities will be provided on-site by the developer in substantial conformance with the approved final development plan; or
 2. The Board may approve facilities on land that is not part of the subject PRM District.
- (c) The per unit contribution in above does not apply to affordable dwelling units.

C. Additional Standards

(1) Principal Uses

The principal residential use must be multifamily dwellings. Single-family attached dwellings may be allowed at the periphery of the development to provide a transition from the high-density development to adjacent lower density development.

(2) Secondary Uses

- (a) Secondary uses may be permitted only in a PRM District where at least 50 percent of the total gross floor area in the development is devoted to multifamily dwellings.
- (b) The floor area for dwellings will be determined in accordance with the gross floor area definition, except that the following features will not be deemed gross floor area:
 1. Balconies, porches, decks, breezeways, stoops, and stairs that may be roofed but that have at least one open side; or
 2. Breezeways that may be covered but that have two open ends.
 3. For the purposes of this subsection, an open side or open end has no more than 50 percent of the total area between the side(s), roof, and floor enclosed with railings, walls, or architectural features.

(3) Parking

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

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

6. PTC Planned Tysons Corner Urban District

A. Purpose

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

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

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

- (1) Contribute to a tiered intensity of development having the highest intensities located closest to the transit stations and providing the mix of residential, office and commercial uses necessary to achieve a vibrant, urban environment.
- (2) Contribute to the network of open space and urban parks, to include stream valley parks, pocket parks, common greens, civic plazas, and athletic fields for the workers and residents of Tysons.
- (3) Promote environmental stewardship by implementing green building design; use efficient, renewable, and sustainable energy practices; incorporate low impact development strategies, such as innovative stormwater management and green roofs; and achieve the tree canopy goals for Tysons.
- (4) Further the implementation of the urban grid of streets and the described street hierarchy for Tysons.
- (5) Reduce the amount of single occupant vehicle trips by limiting the amount of provided parking, encouraging shared parking arrangements among uses, permitting the inclusion of managed tandem parking spaces, and implementing various Transportation Demand Management strategies, such as transit subsidies, carpool and vanpool services, employee shuttles, car-sharing programs, and bicycle accommodations.
- (6) Contribute to the necessary public facilities to support the projected job and population growth, including schools, fire and police services, a library, public utilities, and an arts center.

- (7) Contribute to the specified streetscape and apply the urban design guidelines specified for build-to lines, building articulation, fenestration, ground floor transparency, and parking design to create an integrated urban, pedestrian-friendly environment.
- (8) Contribute to implementing the workforce and affordable housing policies for Tysons to provide housing to various income levels.

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

Figure 2105.5: PTC District Aerial Example





B. PTC Lot and Building Dimensional Standards

(1) District Size

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

(2) Floor Area Ratio

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

1. **For residential and all other uses except office:** No maximum FAR when the proposed development implements the site-specific development guidelines and recommendations of the Comprehensive Plan, including design, mix of uses, and scale of the proposed development, and only when the appropriate measures are proposed or in place to adequately mitigate the anticipated transportation impacts of the proposed development.
2. **For office uses:** 2.5 FAR, exclusive of any bonus intensity obtained for proffered public facilities or public infrastructure, as set forth in the Comprehensive Plan; the Board, however, may permit an increase in FAR in accordance with subsection c below.
3. To encourage redevelopment near Metrorail Station areas at a high intensity and ensure that the impacts on the transportation network are adequately addressed, the Board may approve, in conjunction with a rezoning, a special exception to allow an increase in FAR in the PTC District for property located within the TOD District up to ¼ mile of a Metrorail Station entrance, subject to the following:
 - a. The proposed development must facilitate transit-oriented redevelopment in furtherance of the Comprehensive Plan.
 - b. The proposed development must achieve, to the maximum extent feasible, the vehicle trip reduction goals of the Comprehensive Plan.
 - c. The proposed development must fully meet all applicable areawide, districtwide, and site specific recommendations of the Comprehensive Plan.

- d.** The proposed development must exhibit excellence in urban design and building form as envisioned in the Comprehensive Plan.
- e.** The applicant must identify each phase of the proposed development.
- f.** The location and amount of special exception floor area will be allocated on a per building basis. To the extent possible, the floor area may be dispersed among the building shown on the SE plat. Unless good cause is shown, the total amount of the approved special exception floor area may not be allocated to a single building in a multi-building or multi-phased development or be allocated solely within the initial phases of the development. Additionally, if any building is constructed without using any or all of its assigned special exception floor area, the unused floor area will be forfeited. The unused floor area may only be transferred to another building within the development with a special exception amendment, and, if applicable, a proffered condition/conceptual development plan amendment.
- g.** The applicant must submit the SE plat showing the location and allocation of the special exception floor area per building, and the development plan associated with the PTC District rezoning specifying the floor area per building without the special exception floor area.
- h.** A special exception for increased floor area will automatically expire in whole or in part, without notice, 10 years from the date of approval, or a timeframe as specified by the Board, unless the core and shell final inspection(s) has been approved for the building(s) containing the special exception floor area; or additional time is granted by the Board. If a request for additional time is filed in accordance with subsection i below, the special exception will remain valid until the request for additional time is acted upon by the Board. During this period, the special exception floor area may not be constructed.
- i.** The Board may approve a request for additional time if:
 - (1) The request is filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for the amount of additional time requested and explain why all or a portion of the approved special exception floor area has not been constructed in accordance with the timeframe specified in the approval of the special exception;
 - (2) The request must specify the amount of floor area and mix of uses currently constructed in the development; include the amount of special exception floor area constructed per building; indicate the total amount of proposed floor area including the special exception floor area per building to be constructed; identify each phase and the anticipated order of the remaining development and the anticipated completion date; establish, to the satisfaction of the Board, the continued market feasibility of the proposal; and state, in detail, how the proposal meets the recommendations set forth in the Comprehensive Plan including, but not limited to, the land use

mix, the grid of streets, the amount of open space, including active recreation, parking ratios, and Transportation Demand Management achievements proffered in conjunction with the rezoning and any amendments thereto.

- (b) Floor area ratio within the TOD District beyond $\frac{1}{4}$ mile from a Metrorail Station entrance and the Non-TOD District is as follows:
1. Maximum floor area ratio: 2.5 FAR, or as further qualified in the Comprehensive Plan. This requirement does not include the floor area for affordable and bonus market rate units provided in accordance with Section 5101; the floor area for proffered bonus market rate units or bonus floor area associated with the provision of workforce dwelling units as applicable; or any bonus density or intensity obtained for proffered public facilities or public infrastructure, all as set forth in the Comprehensive Plan.
 2. For those properties within the TOD District beyond the $\frac{1}{4}$ mile and proposed for residential mixed use development as defined in the Comprehensive Plan, the FARs set forth in subsection (a) above may be applied if the applicant demonstrates to the Board's satisfaction that:
 - a. There is acceptable pedestrian access to the Metrorail Station;
 - b. The proposed FAR cannot be achieved with the inclusion of bonuses for affordable housing or public facilities; and
 - c. The property is adjacent to or redeveloping in coordination with property that is located within one-fourth of a mile from a Metrorail Station entrance.
- (c) Cellar space counts as gross floor area and is included in the calculation of FAR, except when the cellar space:
1. Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment;
 2. Is specifically identified for storage or other uses that are accessory to the principal uses in the building;
 3. Is specifically identified as a loading space, including any associated travel way providing access to the space, as well as the loading dock used for the temporary loading and unloading of goods; or
 4. Is specifically identified to house an unmanned datacenter or other similar telecommunication or electronic equipment.
- (d) The floor area for dwellings will be calculated according to the gross floor area definition, as modified above, except that the following features will not be deemed gross floor area:
1. Balconies, porches, decks, breezeways, stoops, and stairs that may be roofed but that have at least one open side; or
 2. Breezeways that may be covered but that have two open ends.
 3. For the purposes of this subsection, an open side or open end has no more than 50 percent of the total area between the side(s), roof, and floor enclosed with railings, walls, or architectural features.

(3) Open Space

- (a)** The Board will determine the amount of on-site or off-site open space in accordance with the Comprehensive Plan recommendations for streetscape and urban park standards. Open space includes publicly accessible parks and other open space elements such as courtyards, plazas, trails, outdoor recreational facilities, landscaped rooftops, courtyards on structures, green roofs, or any rooftop recreational facilities. Not more than one-half of the publicly accessible open space may be accommodated above the street level, unless the Board modifies this requirement to accommodate active recreation facilities.
- (b)** Recreational facilities must be provided in conjunction with approval of a final development plan. These facilities are subject to the provisions of subsection 8100.2.E(4); however, recreational facilities, such as swimming pools, exercise rooms, or health clubs located on rooftops, deck areas, or areas within a building may be used to fulfill this requirement. The requirement for providing recreational facilities will be based on a minimum expenditure of \$1,900 per dwelling unit for recreational facilities and either:
 - 1.** The facilities will be provided on-site by the developer in substantial conformance with the approved final development plan; or
 - 2.** The Board may approve the provision of the facilities on land that is not part of the subject PTC District.
- (c)** The per unit contribution in subsection (b) above does not apply to affordable dwelling units.

C. Additional Standards**(1) Concurrent Applications**

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

(2) Off-Street Parking and Loading

- (a)** A substantial portion of the required parking should be provided in above or below grade parking structures.
- (b)** Additional off-street parking and loading requirements in the PTC District are included in Section 6102.

(3) Landscaping and Screening

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

- (a)** Subsections 5108.1 through 5108.4, are applicable.
- (b)** Subsection 5108.5 applies, except where streetscape standards are set forth in the Comprehensive Plan.
- (c)** Subsection 5108.6 only applies at the peripheral boundary of the Tysons Urban Center, as identified in the Comprehensive Plan.

(4) Layout

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

(5) Interim Uses

As a part of a long-term phased development proposal and to assist in maintaining the economic viability of the Tysons Urban Center, when proposed as an interim use, uses and structures that legally exist at the time of the rezoning to the PTC District may be continued, including any drive-through facility. New uses and structures may also be permitted as interim uses, even if these interim structures do not fully satisfy the urban design guidelines. All interim uses must be specifically identified on an approved conceptual development plan, subject to the following:

- (a)** The phasing plan must identify the interim use or structure, the intended duration of the interim use/structure, and how the interim use/structure fits into the phasing plan. The applicant must also demonstrate that the interim use or structure will not adversely impact the ability to achieve the objectives set forth above in the Purpose of the PTC District.
- (b)** For existing uses and structures, to the extent feasible, the applicant should provide the design elements set forth in the urban design guidelines of the Comprehensive Plan, such as enhanced streetscape and improvements to pedestrian and vehicular access. New uses or structures, to the extent feasible, must be designed in accordance with the urban design guidelines including streetscape, build-to lines, and building articulation.
- (c)** All off-street parking, loading, and stacking spaces for existing uses must be included as a part of the parking plan in Section 6102. Existing surface parking may be retained, provided this parking is redesigned, to the extent feasible, if it achieves the following:
 - 1.** Minimizes pedestrian conflicts by limiting the number of curb cuts;
 - 2.** Provides clearly identified pedestrian access through the parking lot; and
 - 3.** Provides appropriate interior and perimeter landscaping and screening to minimize the potential adverse impacts on adjacent property.
- (d)** New interim surface parking may be provided when the standards in subsection (5)(c) above are satisfied and when this surface parking is designed to orient parking, loading, and drive aisles to the rear and side of the structure.
- (e)** The Board may impose such conditions and restrictions as it deems necessary to assure that the interim use or structure will be compatible with and will not adversely impact the ability to achieve the goals and objectives set forth in the Comprehensive Plan.

D. Reference to Other Standards

General regulations that may supplement the regulations above:

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

7. PCC Planned Continuing Care Facility District

A. Purpose

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

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

Figure 2105.6: PCC District Aerial Example





B. PCC Lot and Building Dimensional Standards

(1) District Size

Minimum: Five acres, except where modified by the Board. In modifying the minimum district size, the Board should consider:

- (a) The pattern of development of adjacent parcels and the ability to integrate the proposed development into surrounding developments; and
- (b) The recommended height limits in the Comprehensive Plan and other factors which demonstrate that the proposed level of development on a lot of less than five acres furthers the purpose of this district and the recommendations in the Comprehensive Plan.

(2) Building Height

Maximum, unless modified by the Board to better advance neighborhood compatibility:

- (a) 75 feet – for all developments that abut property zoned R-A, R-C, R-E, R-1, R-2, R-3, R-4, R-5, and R-8, or properties that are planned for a residential density of eight dwelling units per acre or less.
- (b) 100 feet – for all other developments.

(3) Setbacks

Subsection 2105.1 controls all setbacks, except those at all peripheral boundaries, which are:

- (a) 50 feet - where the development abuts or is across a street from an area planned for residential density of eight dwelling units per acre or less.
- (b) 30 feet - where the development abuts or is across a street from an area planned for residential density greater than eight dwelling units per acre, or any commercial, office or industrial use.

(4) Floor Area Ratio

- (a) The maximum floor area ratio is based on the land use recommendation in the Comprehensive Plan for a continuing care facility or on the land use recommendation for other uses, as modified in the table below, whichever is greater. In all cases, the gross floor area of any affordable dwelling units or workforce dwelling units constructed on-site is excluded from the maximum FAR in the table below:

| TABLE 2105.3: PCC Maximum Floor Area Ratio | | |
|--|--|------------------------------|
| Comprehensive Plan Land Use Recommendation | Comprehensive Plan Density/Intensity Recommendation (du/ac or FAR) | Maximum FAR for PCC District |
| Residential use when specified in terms of Dwelling Units Per Acre (du/ac) | ≥ 1 du/ac to ≤ 2 du/ac | 0.40 |
| | > 2 du/ac to ≤ 5 du/ac | 0.65 |
| | > 5 du/ac to ≤ 12 du/ac | 0.80 |
| | >12 du/ac to ≤ 30 du/ac | 1.00 |
| | > 30 du/ac | 1.25 |
| Institutional, office, retail, mixed use, residential, or any other use, excluding industrial, when specified in terms of Floor Area Ratio (FAR) | All intensity recommendations specified in FAR | Plan maximum plus 25 percent |

- (b) Cellar space is counted as part of the gross floor area and must be included in the FAR calculation for any rezoning to the PCC District, except when the cellar space:
 1. Has a structural headroom of less than six feet, six inches and is specifically identified for mechanical equipment, an unmanned data center, or other similar telecommunication or electronic equipment;
 2. Is specifically identified for storage, a commercial kitchen, laundry facilities, or other uses that are accessory to the principal uses in the building; or
 3. Is specifically identified as a loading space or a loading dock used for the temporary loading and unloading of goods, including any associated travel way providing access to these spaces.

(5) Open Space

Minimum: 20 percent of the gross land area, except as may be modified by the Board when the modification would:

- (a) Further the intent of the Ordinance, Comprehensive Plan, or other design guidelines endorsed by the Board;
- (b) Result in a development that is harmonious with adjacent development; and
- (c) Satisfy the provisions of Section 5108.

C. Reference to Other Standards

| General regulations that may supplement the regulations above: | |
|--|--------------------------------|
| Use regulations | Article 4 |
| Landscaping and screening requirements | Article 5, subsection 5108 |
| Off-street parking, loading and private street requirements | Article 6 |
| Signs | Article 7 |
| Development plan requirements | Article 8, subsection 8100.2.E |
| Site plan provisions | Article 8, subsection 8100.7 |

Article 3 - Overlay and Commercial Revitalization Districts

3100. General Provisions

1. Purpose

The districts in this Article are established to provide special regulations in designated areas of the County. These districts overlap and overlay other applicable underlying zoning districts, so that any parcel of land in an overlay or commercial revitalization district will also be in one or more underlying zoning districts established by this Ordinance in subsection 2100.1.

2. Establishment of Overlay Districts

The districts in this Article and amendments to those districts are established by the procedures in subsection 8100.2, for other zoning districts, unless otherwise qualified by the provisions of a particular district in this Article.

3. District Boundaries

The boundaries for the overlay and commercial revitalization districts are as established on the Official Zoning Map, except as further defined by the provisions of a particular overlay or revitalization district.

4. Permitted Uses, Special Exception Uses, and Special Permit Uses

All uses according to the underlying zoning district(s), unless expressly modified by an overlay or commercial revitalization district.

5. Additional Regulations and Standards

Lot size, bulk regulations, open space, and additional regulations are as specified in the underlying zoning district(s), unless expressly modified by an overlay or commercial revitalization district.

3101. Historic Overlay Districts

1. Purpose

Historic Overlay Districts (HODs) are created to promote the general welfare, education, economic prosperity, and recreational pleasure of the public through the identification, preservation, and enhancement of buildings, structures, neighborhoods, landscapes, places, and areas that have special historical, cultural, architectural, or archaeological significance as provided by Va. Code Sect. 15.2-2306, as amended, and that have been officially designated by the Board. Regulations within HODs are intended to protect against destruction of or encroachment upon those areas, structures, or premises; to prevent creation of environmental influences adverse to those purposes; and to encourage uses that will lead to their continuance, conservation, and improvement in accordance with the following purposes:

- A. To preserve and improve the quality of life for residents of the County by protecting and preserving familiar visual elements in the district.
- B. To promote heritage tourism by protecting heritage resources for visitors to the County that may support local business and industry.
- C. To promote the rehabilitation and upkeep of significant structures and encourage appropriate land use planning and development that will enhance both the economic viability and historic character of the district.
- D. To educate residents of the County about heritage resources and to encourage a sense of appreciation in this heritage.
- E. To encourage local heritage resource identification and preservation efforts and the nomination of qualified properties for listing in the Fairfax County Inventory of Historic Sites, the Virginia Landmarks Register, and the National Register of Historic Places.
- F. To prevent the encroachment of new buildings or structures and additions or attachments to existing structures that are architecturally incongruous with the visual and historic character of the district.
- G. To ensure that new development and structures within the district are appropriate.

2. Districts

HODs are listed in the table below.

| TABLE 3101.1: Historic Overlay Districts |
|--|
| Bull Run Stone Bridge |
| Centreville |
| Colvin Run Mill |
| Dranesville Tavern |
| Huntley |
| Lake Anne Village Center |
| Langley Fork |
| Mount Air |
| Pohick Church |
| Robey's Mill |
| St. Mary's Church |
| Sully |
| Woodlawn |

3. Establishment of Districts

- A. To establish an HOD, the Board must determine that the proposed district possesses historic, architectural, archaeological, or cultural significance. The property or properties comprising an HOD must meet one or more of the following criteria:
 - (1) Be associated with events that have made a significant contribution to the broad patterns of our history;
 - (2) Be associated with the lives of persons significant in our past;

- (3) Embody the distinctive characteristics of a type, period, or method of construction, represent the work of a master, possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction;
 - (4) Yield, or may be likely to yield, information important in prehistory or history;
 - (5) Possess information on, or represents any aspect of heritage considered important by a discrete population, ethnic group, or community;
 - (6) Serve, or have the potential to serve, as a focus of community identity and pride;
 - (7) Retain characteristics that are potentially useful in educating the public about the past and how it is studied; or
 - (8) Enable the exhibit and display of objects, ruins, or stabilized restored structures for public education and enjoyment.
- B.** The Department of Planning and Development, in cooperation with the ARB and the History Commission, must prepare and submit a report to the Planning Commission and Board evaluating the proposal to establish an HOD. The report must identify the proposed boundaries as well as the historic, architectural, archaeological, or cultural significance of buildings, structures, or sites to be protected, and describe present trends, conditions, and objectives for preservation. In addition, the report must include the following specific information, as applicable:
- (1) An analysis of current conditions including: ownership; existing and planned land use; existing zoning; access; existing structures by period of construction, architectural style, and condition; and matters relating to site conditions, such as building location, location of yards and other open spaces, and existing or planned off-street parking.
 - (2) A description of individual structures and premises of interest, with maps, photographs, and other data indicating the public importance of their preservation and the specific features to be preserved. Properties identified as historic, contributing, or non-contributing properties must all be identified.
 - (3) A description of existing structures, premises, and uses likely to have an adverse effect on the desired character of the district, including those near and visually related to the district, with maps, photographs, and other data indicating the reasons for the adverse effect.
 - (4) An analysis of the extent and historic significance of identified archaeological sites including general location maps, photographs, and other data indicating the importance of each site.
 - (5) The boundaries of the proposed HOD and the location of all historic, contributing, and non-contributing properties shown on the current Fairfax County Zoning Map, covering the area generally within a 500-foot radius of the proposed district.
 - (6) The boundaries of an HOD are based on an analysis that determines and describes the characteristics of the area that is to be preserved and enhanced. The boundaries may be drawn to include:
 - (a) A property or properties in which historic events have occurred;
 - (b) A property or properties that are heritage resources or contain noted heritage resources;
 - (c) A property or properties that have special cultural significance; or

- (d) A property or properties that have been identified as having important archaeological significance.
- (7) Additional properties that may or may not possess historical significance individually may be included in the HOD as follows:
 - (a) A property or properties that are visually or historically related to the district;
 - (b) A property or properties that reflect the historic pattern of development of the district;
 - (c) A property or properties that relate to the social or economic character or architectural or archaeological interest of the district; or
 - (d) Lands closely related to and bearing upon the visual character of the district and that contribute to the historic context of the district.
- (8) Recommendations concerning detailed regulations for the district to prevent changes that are architecturally incompatible with the buildings, structures, or sites to be preserved. Recommendations may include:
 - (a) Permitted and prohibited principal and accessory uses and structures;
 - (b) Use standards;
 - (c) Bulk regulations;
 - (d) Lot size requirements;
 - (e) Performance standards;
 - (f) Off-street parking and loading requirements;
 - (g) Standards for signs, outdoor lighting, and landscaping and screening;
 - (h) Standards for the exterior character of buildings and sites that are visible from a public right-of-way; and
 - (i) Standards for control of, additions to, or removal of existing buildings when the regulations prevent changes that are architecturally incompatible with preserved buildings, structures, or sites.
- C. The report for a request to amend an existing HOD may contain all or part of the information and requirements contained in subsection B above that are necessary to evaluate the request.
- D. As part of establishing an HOD, the Board must include a declaration that the buildings, structures, or sites to be preserved are of historical, architectural, archaeological, or cultural significance worthy of protection against destruction and encroachment, and must identify, where applicable, whether each property included in the district is contributing or non-contributing. The Board's action will amend the Zoning Map and include regulations and development policies that the Board deems necessary.

4. Permitted, Special Exception, and Special Permit Uses

- A. Uses permitted within an HOD are contained in the regulations for the individual HOD.
- B. The ARB will review and make recommendations on any application for a special exception or special permit use located in an HOD.

- C. No use permitted by right, special exception, or special permit will be permitted where the operational characteristics of the use would destroy, degrade, or encroach upon the character of the HOD as established.

5. Additional Standards

- A. Signs are permitted in accordance with the provisions of Article 7, and in accordance with any additional provisions that may be adopted for a particular HOD. However, any proposed sign that the ARB finds architecturally incompatible with the historical, architectural, or cultural character of the HOD will not be permitted, despite otherwise conforming to the applicable provisions of Article 7. In addition, unless further restricted in the specific HOD use standards, freestanding signs may not exceed ten feet in height.
- B. Off-street parking and loading requirements must be in accordance with the provisions of Article 6, and any additional regulations that may be adopted for a particular HOD. However, for applications requiring final action by the ARB, BZA, Planning Commission, or Board, these bodies must provide specific approval for any off-street parking space located in any minimum front setback. The approval must be based on a finding that the proposed location is compatible with the purpose and intent of the District, and additional landscaping for such parking spaces may be required to promote compatibility.
- C. Off-street parking and loading areas will be permitted and encouraged to locate on adjacent properties where it is determined that the parking or loading facilities would otherwise have an adverse effect on the appearance of the property or the district in general. Off-street parking and loading areas will be encouraged to locate facilities in interior parking lots, courts, or at other appropriate locations that will be convenient for users, reduce interference with pedestrian and vehicular traffic, and generally promote public safety.
- D. Development within an HOD will be in general conformance with the policies and recommendations set forth in the Comprehensive Plan.

6. Administration of Historic Overlay District Regulations

A. Applicability

Once established, HODs are subject to the administrative procedures in this Section.

B. Zoning Applications, and Site, Subdivision, Grading and Sports Illumination Plans

ARB review and recommendation is required on applications for a rezoning, special exception, special permit, and variance, and for site plans, subdivision plats, grading plans, and sports illumination plans. This review must include consideration of the potential impact of the proposal on the historical, architectural, or archaeological significance of the district. In addition, the following should also be considered:

- (1) The impact of the proposed use, including the intensity, density, and scale of development, on existing conditions in the district;
- (2) Any change to the visual character of the district including views to and from historic, contributing, and non-contributing properties;

- (3) The location of buildings, structures, streets, parking areas, and planting and landscape features;
- (4) Any change to existing grades, drainage patterns, landscaping, or similar features as a result of permanent or temporary site construction activities; and
- (5) Any change to non-structural site elements, such as vehicular access, yard requirements, or utility easements that may affect the historic character of the district.

C. Building Permits, Sign Permits, and Utility Facility Applications

- (1) ARB review and approval is required before the issuance of a building permit by the Director and approval of a sign permit by the Zoning Administrator, as listed below. The ARB may also review and provide recommendation on new utility distribution or transmission structures 50 feet or lower in height and their associated facilities, (together known as a “utility facility application”). ARB review and approval is not required for building permits that are only for the interior alteration of a structure. The following are subject to ARB review and approval:
 - (a) Building permits for the construction, reconstruction, or exterior rehabilitation, remodeling, alteration, or restoration of any building or structure in an HOD, except as qualified in subsection (3) below;
 - (b) Building permits for the demolition or relocation of any building or structure in an HOD;
 - (c) Sign permits for the erection, alteration, refacing or relocation of any sign in an HOD; and
 - (d) Zoning Permits or Zoning Approvals for utility facility applications located on, adjacent to, or visible from a major thoroughfare, scenic byway, road listed or determined to be eligible for listing in the National Register, or a contributing, non-contributing, or historic property in an HOD. The ARB will recommend approval or denial of any application no later than 45 days after a complete application is filed and accepted by the Department of Planning and Development. If the recommendation is not rendered within that time, the Zoning Administrator may consider the recommendation of the ARB in making the final decision on the permit, provided that the recommendation is made within any applicable deadline under local, state, or federal law.
- (2) Regulations related to the length of approval are included below:
 - (a) ARB approval for issuing a building permit or a sign permit is valid for two years or for a longer period if deemed appropriate. However, approval of a new utility facility application remains valid unless subject to removal under Section 4102.4.Y or state or federal law.
 - (b) If a building permit or sign permit has not been issued within the approval period, the ARB may grant a one-year extension of the approval. The applicant must request the extension before the original expiration date, and the ARB must find that the proposed project and conditions within the HOD are essentially the same as when the approval was first granted.
- (3) Department of Planning and Development Heritage Resources staff will review and approve building permits on the ARB’s behalf in the following circumstances:

- (a)** For the construction, reconstruction, or exterior rehabilitation, remodeling, alteration, or restoration of:
 - 1.** Non-contributing buildings and structures or for accessory structures; and
 - 2.** When the proposed development is neither adjacent to nor visible from:
 - a.** A contributing or historic property; or
 - b.** A major thoroughfare, scenic byway, or road listed or determined to be eligible for listing in the National Register;
 - (b)** For re-roofing or re-siding of non-contributing buildings or structures, when the replacement roofing or siding is similar in color, material, and texture to that which is being replaced; or
 - (c)** For signs previously approved by the ARB as part of a larger property-wide sign plan.
- (4)** The ARB reviews and makes decisions on building permits, sign permits, and utility facility applications as required by subsection (1) above, in accordance with the following:
- (a)** The applicant must forward copies of the complete permit application to the ARB;
 - (b)** The ARB may only consider the following in its review of applications to ensure architectural compatibility within the HOD:
 - 1.** The exterior architectural features, including all signs, that are visible from a public right-of-way or from contributing, non-contributing, or historic property;
 - 2.** The general design, size, arrangement, texture, material, color, and fenestration of the proposed building, structure, utility facility, or sign, and how those factors relate to similar features of historic or contributing buildings or structures within the HOD;
 - 3.** The architectural compatibility of the building, structure, utility facility, or sign with historic, contributing, or non-contributing buildings or structures within the district; and
 - 4.** Whether the building or structure will promote the general welfare of the County and all citizens by the preservation and protection of historic places and areas of historic significance in the County.
 - (c)** The ARB will review an application for a permit to demolish a building or structure, in whole or part, based on the circumstances and the condition of the structure in question and make its determination based on consideration of any of the following criteria:
 - 1.** Whether the building or structure is of architectural or historical interest that contributes to the significance of the district, and its removal or alteration would be against public interest;
 - 2.** Whether the building or structure is of an old and unusual or uncommon design, texture, and material that cannot be reproduced or can only be reproduced with great difficulty; or

- 3.** Whether retention of the building or structure and its specific architectural features helps preserve and protect the character of a historic place or area of historic interest in the County.
- (d)** When reviewing an application for a building permit to relocate a building or structure, the ARB will make its determination based on whether:
- 1.** The proposed relocation has a detrimental effect on the structural soundness of the building or structure;
 - 2.** The proposed relocation has a detrimental effect on the historical aspects of other historic, contributing, or non-contributing properties in the HOD;
 - 3.** The proposed relocation's new surroundings are consistent with the historical and architectural aspects of the structure or building; and
 - 4.** The building or structure contributes to the significance of the district, and its proposed relocation would therefore help preserve and protect a historic place or area of historic interest in the County.
- (e)** The ARB will approve, approve with modifications, or disapprove an application based on the ARB's general knowledge, information received from the applicant, and upon application of the appropriate criteria set forth in this subsection 3101.6.C and subsection 3101.6.G below. After approval, the ARB will transmit notice of its approval; this notice is a prerequisite to the issuance of a building permit by the Director or the approval of by the Zoning Administrator of a sign permit. If the ARB disapproves the application, it will notify the applicant and the Director or the Zoning Administrator, as applicable.

D. Submission Requirements

For applications and plans subject to its review or approval, the ARB may require the submission of any or all of the following information and any other materials as deemed necessary for its review:

- (1)** A statement of proposed use and name of proposed user;
- (2)** A statement of estimated time of construction;
- (3)** Maps relating proposed use to surrounding property, zoning, and the historic district;
- (4)** A plan showing building configuration, topography, grading and paving;
- (5)** Architectural schematic drawings showing floor plans and all exterior elevations (principal one in color);
- (6)** Color photographs of the property, adjacent properties, and similar properties within or near the district that clearly show the visual character of the surrounding area;
- (7)** Plan and section drawings of the site showing the relationship between new construction and existing structures indicating building heights, ground elevations, and the general location of existing and proposed plant materials;
- (8)** A landscaping plan showing the location and identification of existing and proposed plantings, landscape features such as fences, gates, retaining walls, and paving, and a list indicating the name and size of proposed plantings, and the limits of clearing;
- (9)** A plan showing exterior signs, graphics, and lighting to establish location, size, color, and type of materials; and

- (10)** Samples, descriptive literature, or photographs showing the type and color of fixtures to be installed and primary building materials including foundation, cladding, trim, and roofing.
- (11)** With respect to permit applications for new utility facility applications, the ARB may request submission of photographic simulations of the proposed facility as it would appear on the existing structure; schematic drawings showing the color, proposed material, and scale of the proposed facility relative to the existing structure; or other similar materials that will assist the ARB in timely reviewing such permit applications.

E. Appeals

- (1)** Any person aggrieved by any decision of the ARB may appeal that decision to the Board of Supervisors. The appeal must include the grounds for appeal and be filed in writing with the Clerk to the Board within 30 days of the ARB's decision.
- (2)** The Board will review the action of the ARB and decide the appeal. The Board may affirm, reverse, or modify the decision of the ARB, and its determination will be forwarded to the Director or the Zoning Administrator, as applicable.
- (3)** Any person or persons jointly or severally aggrieved by any decision of the Board, or any officer, department, board or agency of the County, may appeal that decision to the Circuit Court of Fairfax County. A petition at law setting forth the alleged illegality of the action of the Board must be filed within 30 days after the final decision is rendered by the Board. The filing will stay the decision of the Board pending the outcome of the appeal to the Court, except that the filing of the petition will not stay the decision of the Board if the decision denies the right to raze or demolish any building, or structure. The Court may reverse or modify the decision of the Board, in whole or in part, if it finds upon review that the decision is arbitrary and constitutes an abuse of discretion, or the Court may affirm the decision of the Board.
- (4)** In addition to the right of appeal set forth in subsections (1), (2), and (3) above, the owner of a building or structure, the demolition of which is subject to the provisions of subsection C(1)(b) above, will be entitled to raze or demolish the building or structure, provided that:
 - (a)** The owner has applied to the ARB and Board for that right;
 - (b)** The owner has for the period of time set forth in the time schedule referenced below and at a price reasonably related to its fair market value, made a bona fide offer to sell the building or structure, and the land pertaining to the building or structure, to the County or to any department, officer, agency, board or government entity of the County, or political subdivision or agency of the County, that gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining to the building or structure; and
 - (c)** That no bona fide contract, binding upon all parties to that contract, has been executed for the sale of that building or structure, and the land pertaining to that building or structure, before the expiration of the applicable time period set forth in the time schedule below. An owner retains the right to make a bona fide offer to sell regardless of any appeal to the Court from the Board's decision, whether brought by an owner or other proper party, and the provisions in this section relating to a stay of the appealed decision. No offer to sell will be made more than

one year after a final decision by the Board, but thereafter the owner may renew the request to the Board to approve the razing or demolition of the building or structure. The time schedule for offers to sell are as defined in Va. Code Sect. 15.2-2306.

F. Archaeological Survey Requirements

To further the purpose of the HODs and to aid in the identification and protection of historic or archaeological resources located within or in the vicinity of an HOD, the Fairfax County Park Authority archaeologists must be consulted concerning a rezoning, development plan, special exception, special permit, or variance application on a property that is located wholly, partially within, or contiguous to an HOD and when the application involves 2,500 square feet or more of land disturbing activity.

G. Standards for Adoption of Development of Guidelines

The ARB will adopt guidelines for new construction, existing structures, the exterior alteration of existing buildings, structures, and sites, and for the installation of new utility facility applications located within an HOD based on the standards below:

- (1)** A property should be used for its historic purpose or be adapted for a new use that requires minimal change to the defining characteristics of the building, its site, and the surrounding area.
- (2)** The historic character of a property should be retained and preserved; the removal of historic materials or alteration of features and spaces that characterize a property should be avoided.
- (3)** The changes must not create a false sense of historical development.
- (4)** Changes that have acquired historic significance over time should be retained and preserved.
- (5)** Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property should be preserved.
- (6)** Deteriorated historic features should be repaired rather than replaced unless the severity of deterioration requires replacement of a distinctive feature; the new feature should match the old in design, color, texture, and other visual qualities, and, where possible, materials; replacement of missing features should be substantiated by documentary, physical, or pictorial evidence.
- (7)** Harsh chemical or abrasive treatments that cause damage to historic materials should not be used; the surface cleaning of structures, if appropriate, should be undertaken using the gentlest means possible.
- (8)** Significant archaeological resources affected by a project should be protected and preserved; if those resources must be disturbed, mitigation measures should be undertaken.
- (9)** New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property; new work should be differentiated from the old and should be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environs.

- (10) New additions or related new construction should be undertaken so that if they are removed in the future, the essential form and integrity of the historic property and its environs would be unimpaired.
- (11) Site design, including the placement of structures, shaping of landforms, and use of plant materials should be undertaken so that the visual characteristics and physical integrity of a historic property and its environs is preserved and enhanced.
- (12) New construction associated with new development should be undertaken in a manner that is compatible and complimentary to the existing character of the historic district.

7. Bull Run Stone Bridge Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Bull Run Stone Bridge Historic Overlay District is created to protect against destruction of the Bull Run Stone Bridge historic landmark.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) Residential dwellings are limited to single-family detached units.
- (2) Commercial uses are limited to those uses permitted by right, special permit, or special exception in the C-5 District.
- (3) No industrial uses are permitted.

C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Bull Run Stone Bridge in terms of mass, scale, color and visual impact.

D. Building Height

Maximum: 35 feet.

8. Centreville Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Centreville Historic Overlay District is created to protect against destruction of the historic, archaeological, and architectural quality of the Centreville structures and landmarks.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) The following uses are not allowed: kennel, new vehicle storage, warehouse, and wholesale facility.
- (2) The following uses are allowed only on properties that are contiguous to Route 29: car wash, drive-through financial institution, drive-through pharmacy, restaurant with drive-through, vehicle fueling station, light vehicle repair and maintenance, vehicle transportation service, and other drive-through.

C. Additional Standards

Any new improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities must be designed and installed to be compatible with the historic landmarks. The location and arrangement of structures must not be detrimental to existing uses or prospective adjacent uses.

- (1) Any new improvements must be designed to be sensitive to archaeological resources, as well as the historical character of the area.
- (2) Any type of outdoor lighting is subject to the approval of the ARB.

D. Building Height

Maximum building height: 35 feet.

9. Colvin Run Mill Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Colvin Run Mill Historic Overlay District is created to protect against destruction of the Colvin Run Mill historic landmark.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) Residential dwellings are limited to single-family detached units.
- (2) Commercial uses within this district are permitted only on the Colvin Run Mill site and are limited to those uses deemed appropriate by the ARB.
- (3) No industrial uses are permitted.

C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Colvin Run Mill Complex in terms of mass, scale, color and visual impact.

D. Building Height

Maximum: 35 feet.

10. Dranesville Tavern Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Dranesville Tavern Historic Overlay District is created to protect against destruction of the Dranesville Tavern historic landmark.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) Residential dwellings are limited to single-family detached units.
- (2) Commercial uses within this district are limited to those uses deemed appropriate by the ARB on the Dranesville Tavern site.
- (3) No industrial uses are permitted.

C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Dranesville Tavern in terms of mass, scale, color and visual impact.

D. Building Height

Maximum: 35 feet.

11. Huntley Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Huntley Historic Overlay District is created to protect against destruction of the Huntley historic landmark.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special permit, and special exception in the underlying zoning districts, except that no commercial or industrial uses are permitted. However, certain commercial and industrial uses may be permitted in any location if approved as an Alternative Use of Historic Buildings special exception.

C. Additional Limitations

- (1) All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with Huntley in terms of mass, scale, height, color, type of material and visual impact.

- (2) Freestanding signs may not exceed five feet in height.

D. Building Height

Maximum: 35 feet.

12. Lake Anne Village Center Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Lake Anne Village Center Historic Overlay District is created to protect against destruction of the historic and architectural quality of the significant landmarks.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit for a Village Center in the PRC District.

C. Additional Standards

Any new improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities must be designed and installed as integral parts of the present village complex, and to be compatible with the original design. The location and arrangement of structures must not be detrimental to existing uses or prospective adjacent uses.

13. Langley Fork Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Langley Fork Historic Overlay District is created to protect against destruction of the Langley Fork historic landmarks.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) Residential dwellings are limited to single-family detached units.
- (2) No additional commercial uses are permitted.
- (3) No industrial uses are permitted.

C. Additional Standards

- (1) All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the landmark structures.
- (2) Freestanding signs may not exceed five feet in height.

D. Building Height

Maximum: 35 feet.

14. Mount Air Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Mount Air Historic Overlay District is created to protect against destruction of the historic and archaeological integrity of the existing and potential heritage resources.

B. Additional Limitations

Any new improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the historic landmark. The location and arrangement of structures must not be detrimental to existing uses or prospective adjacent uses.

C. Bulk Regulations

Maximum building height: 35 feet.

15. Pohick Church Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Pohick Church Historic Overlay District is created to protect against destruction of the Pohick Church.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) No multifamily dwelling units are permitted.
- (2) No vehicle fueling stations, vehicle service establishments, or restaurants with drive-through may be permitted.
- (3) No industrial uses are permitted.

C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Pohick Church complex in terms of mass, scale, color, and visual impact.

D. Building Height

Maximum: 39.5 feet.

16. Robey's Mill Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Robey's Mill Historic Overlay District is created to protect against destruction of the Robey's Mill historic landmarks.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) Residential dwellings are limited to single-family detached units.
- (2) No commercial uses are permitted, except for the use of the mill itself.
- (3) No industrial uses are permitted.

C. Additional Standards

- (1) All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the landmark structures.
- (2) Freestanding signs may not exceed five feet in height.

D. Building Height

Maximum: 35 feet.

17. St. Mary's Church Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the St. Mary's Church Historic Overlay District is created to protect against destruction of the St. Mary's Church historic landmark.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) Commercial uses must be developed only as part of a shopping center.
- (2) Industrial uses must be developed only as part of a designed industrial park and are limited to those uses permitted by right, special exception, or special permit in the I-4 District.

C. Additional Standards

- (1) All improvements including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with St. Mary's Church in terms of mass, scale, color and visual impact.
- (2) To the extent possible, existing tree cover must be preserved in that area south of the Southern Railroad.

D. Building Height

Maximum: 35 feet

18. Sully Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Sully Historic Overlay District is created to protect against destruction of the Sully historic landmark, associated structures, and the cultural landscape. This district is uniquely located adjacent to Dulles International Airport. In recognition of the potential for industrial uses surrounding the historic property, Sully is currently the only HOD that requires a 200-foot wide planted buffer around the historic property. In addition, the Sully Historic Overlay District was created to encompass land areas located within one-fourth mile of the Sully Property, making it one of the largest HODs established by this Ordinance.

B. Permitted, Special Exception, and Special Permit Uses

- (1) All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:
 - (a) Industrial uses are limited to those uses permitted by right, special exception, or special permit in the I-4 District.
 - (b) Except as allowed by subsection 1 above, no commercial uses are permitted.
- (2) The Board may approve a special exception in accordance with subsection 8100.3 to allow outdoor storage in association with a warehouse in the I-5 and I-6 Districts subject to the following:
 - (a) Storage may not be visible from the Sully complex or the approaches to the Sully complex;
 - (b) Storage must be compatible with the purpose of this district; and
 - (c) The Board may impose additional conditions regarding the size, location, and screening of the outdoor storage area.

C. Additional Standards

- (1) All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with the Sully complex in terms of mass, scale, color, and visual impact.

- (2) A planted buffer having a 200-foot minimum width must be provided along all lot lines that are contiguous to the Sully property, as defined by Tax Map Parcels 34-2 ((1)) 13 and 14. If the Park Authority acquires additional land area for the Sully property, the 200-foot wide planted buffer requirement is only applicable along those lot lines contiguous to the Tax Map Parcels identified above and may not be altered by the acquisition of additional land. The minimum planting must be in accordance with standards established by the ARB.

D. Bulk Regulations

- (1) Maximum building height: 35 feet, subject to increase up to 60 feet as may be permitted by the Board in accordance with the provisions of subsection 5100.2.C(8) and within 500 feet of the interior of the Sully Historic Overlay District perimeter boundary. The approval of a height increase may not permit the actual height of any building to exceed 65 feet as measured from grade to the top of any roof or rooftop structure.
- (2) Setback requirements: As specified in the underlying zoning districts, except structures developed on land contiguous to the Sully property, as defined by Tax Map Parcels 34-2 ((1)) 13 and 14, which must be located no closer than 200 feet to the Sully property line. Where that limitation would preclude permitted uses, the minimum setback and building location requirements will be as determined by the ARB. If the Park Authority acquires additional land area for the Sully property, the 200-foot minimum setback requirement are only applicable along those lot lines contiguous to the Tax Map Parcels identified above and must not be altered by the acquisition of additional land.

19. Woodlawn Historic Overlay District

A. District-Specific Purpose

In addition to the purpose for HODs as stated in subsection 3101.1, the Woodlawn Historic Overlay District is created to protect against destruction of Woodlawn and the George Washington Grist Mill.

B. Permitted, Special Exception, and Special Permit Uses

All uses permitted by right, special exception (including certain uses which may be approved as an Alternative Use of Historic Buildings), and special permit in the underlying zoning districts, except as follows:

- (1) Residential dwellings south of Richmond Highway are limited to single-family detached units.
- (2) Commercial uses are limited to offices and tourist-oriented uses, including but not limited to antique shops, craft shops, restaurants, hotels and motels. No service stations or restaurants with drive-through may be permitted.
- (3) No industrial uses are permitted.

C. Additional Standards

All improvements, including structures, signs, fences, street furniture, outdoor graphics, and public and private utilities, must be designed and installed to be compatible with Woodlawn and George Washington Grist Mill in terms of mass, scale, color and visual impact.

D. Building Height

Maximum: 35 feet.

3102. Commercial Revitalization Districts

1. Purpose

The Commercial Revitalization Districts (CRDs) are established to encourage economic development activities in the older commercial areas of the County in order to provide desirable employment and enlarge the tax base consistent with the provisions of Va. Code Sections 15.2-2200, 2283 and 2284, as amended. The districts are intended to enhance the older commercial areas of the County by providing for specific regulations that are designed to facilitate the continued viability and redevelopment of these areas. To that end, the districts are intended to provide for additional flexibilities for development and redevelopment in these areas while also providing for urban design measures such as streetscape and landscaping.

2. Districts

The Commercial Revitalization Districts (CRDs) are listed in the Table below.

TABLE 3102.1: Commercial Revitalization Districts

| |
|--|
| Annandale Commercial Revitalization District |
| Bailey's Crossroads/Seven Corners Commercial Revitalization District |
| McLean Commercial Revitalization District |
| Richmond Highway Commercial Revitalization District |
| Springfield Commercial Revitalization District |

3. Standards Applicable to All Commercial Revitalization Districts

A. Permitted Uses

All uses are allowed according to the underlying zoning district(s), except vehicle transportation service is not allowed by right in the CRDs.

B. Special Exception Uses

In addition to all uses permitted by special exception in the underlying zoning district regulations, the following uses, modifications, and waivers may be approved either as a special exception or in conjunction with a rezoning:

- (1) Vehicle transportation service in the C-6, C-7, and C-8 Districts;
- (2) Modification or waiver of the minimum lot size requirements, setback requirements, or minimum open space requirements;

- (3) Increase in the maximum building height in the C-3, C-4, C-5, C-6, C-7, C-8, I-2, I-3, I-4, I-5, I-6, Districts in accordance with 8100.3;
- (4) Increase in maximum permitted floor ratio in the C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts;
- (5) Increase in the amount of permitted office in accordance with subsection 4102.5.M(3); and
- (6) Modification or waiver of the standards for commercial revitalization districts set forth in this section.

C. Bulk Regulations

(1) Maximum Building Height

As specified in the underlying zoning district regulations, except that for land zoned to the C-6 or C-8 District, a maximum height of 50 feet is allowed by right. However, in all districts, a greater height is permitted if the Comprehensive Plan specifies a height greater than the height of the underlying zoning district.

(2) Setback Requirements

(a) As specified in the underlying zoning district regulations, except the front setback in a commercial district is either:

1. 20 feet; or
2. A lesser distance if the Comprehensive Plan specifies a lesser distance, but only if any recommended plantings, streetscape treatments, or other amenities are provided in general accordance with the Comprehensive Plan.

(b) In addition to the modification or waiver of the setback requirements permitted in B. above, for developments located in areas where specific design guidelines have been established in the Comprehensive Plan, the Director in approving a site plan may approve a reduction of setbacks if this reduction is in accordance with the Comprehensive Plan.

D. Open Space

The open space requirement of the underlying zoning district regulations does not apply to an expansion or enlargement of an existing development, as defined in subsection E(1) below, if the expansion or enlargement does not decrease the amount of existing open space.

E. Additional Standards

- (1) For the purpose of this section, an expansion or enlargement of an existing development is an increase in the gross floor which is less than 100 percent of the total gross floor area of all existing buildings. A redevelopment is the total removal of all buildings on a lot and the construction of new buildings, or the addition of gross floor area that is equal to or more than 100 percent of the total gross floor area of all existing buildings on a lot. A new development is the construction of buildings on a vacant lot.

(2) Parking

The off-street parking, loading, and private street requirements of Article 6 apply, except as follows:

- (a)** In the Richmond Highway CRD, the minimum off-street parking requirements for all non-residential uses may be reduced by 20 percent.
- (b)** In all other CRDS, the minimum off-street parking requirements for non-residential uses may be reduced by up to 20 percent by the Board, subject to conditions it deems appropriate. The applicant must demonstrate to the Board that the reduction furthers the goals of the CRD as set forth in the Comprehensive Plan, including economic vitality, appearance and function. A request for this reduction in minimum off-street parking requirements may also be considered in conjunction with a rezoning or special exception application. The parking reduction established in Section 8102 is not applicable.
- (c)** For a mixed-use development in a PDC or PRM District, the minimum off-street parking requirements for residential and non-residential uses may be reduced by the Board in accordance with Article 6. The applicant must demonstrate to the Board that the reduction furthers the recommendations of the Comprehensive Plan for the area and that the reduction will not adversely affect the site or the adjacent area.
- (d)** The provisions of subsection 6100.1 are applicable, except that where there are practical difficulties or if the public safety or public convenience would be better served by parking spaces that are not located on the same lot or a lot contiguous to the use to which it is accessory. The Director, acting on a specific request for a non-residential use, may authorize an alternative location subject to appropriate and the following:
 - 1.** The required spaces are permanently available because of agreements or arrangements approved by the Director; and
 - 2.** The Director is satisfied that the required spaces are generally located within 500 feet walking distance of a building entrance to the use served by the spaces, or that there are off-site with valet or shuttle service access subject to agreements or arrangements that will ensure the operation of those services without any adverse impacts on the site of the parking spaces or the adjacent area.
- (e)** With special exception approval in accordance with subsection 8100.3, the Board may approve an alternative location that conforms with the provisions in subsection (d) above.
- (f)** The standard in subsection 6100.2.A(3) which requires off-street parking spaces that are located on the ground and open to the sky to be located no closer than ten feet to any front lot line does not apply in CRD Districts.

(3) Signs

The sign provisions of Article 7 apply. However, the provisions do not apply to nonconforming signs that lawfully existed on the effective date of this Ordinance or prior ordinances, or to signs that are accessory to a nonconforming use. In accordance with subsections 7100.6.A(1) and 7100.6.C(2), nonconforming signs may not be

enlarged or extended but may be removed and replaced with a sign that is reduced in height or sign area.

(4) Landscaping and Screening

The landscaping and screening requirements of Section 5108 apply, except as set forth below. When the following provisions require a determination of feasibility of meeting the requirements on a lot, the Director may make the determination through the approval of a site plan, or the Board may make the determination by special exception in accordance with subsection 8100.3.

- (a)** The interior parking lot landscaping requirements of subsection 5108.5.A apply as follows:
- 1.** When a proposed expansion or enlargement of an existing development results in a parking lot containing 20 or more parking spaces, the interior parking lot landscaping requirements apply to the parking lot unless the Director determines that it is not feasible to meet the requirement or that compliance with the requirement will adversely impact the required off-street parking.
 - 2.** The interior parking lot landscaping requirements apply for redevelopments and new developments.
- (b)** The peripheral parking lot landscaping requirements of subsection 5108.5.B apply as follows:
- 1.** The peripheral parking lot landscaping requirements of subsection 5108.5.B(1) concerning when a property line abuts land that is not the right-of-way of a street do not apply to expansions or enlargements of existing developments.
 - 2.** The requirements of subsection 5108.5.B(1) apply to redevelopments or new developments. However, where there are landscaping or design provisions in the Comprehensive Plan that recommend a planting strip or other streetscape treatment with a different width or different plant materials than those required by subsection 5108.5.B, then the standards in the Comprehensive Plan apply.
 - 3.** The peripheral parking lot landscaping requirements of subsection 5108.5.B(2) concerning when the property line abuts the right-of-way of a street do not apply for expansions or enlargements of existing developments, redevelopments, and new developments. However, the following are required:
 - a.** A ten foot wide landscaping strip, which may not include any sidewalk, trail, or parallel utility easement, must be located on the lot where it abuts a street right-of-way line.
 - b.** If there are no existing or proposed overhead utility lines, there must be at least one large deciduous tree planted in the landscaping strip for each 30 feet of length, but the trees are not required to be installed at a spacing of one tree every 30 feet on center. If there are overhead utility lines, at least one small to medium deciduous tree must be planted in the landscaping strip for every 25 feet of length, but the trees are not required to be installed at a spacing of one tree every 25 feet on center. Trees planted in

a landscaping strip beneath overhead utility lines must be of a shape and character to avoid interfering with the utility lines.

- c.** All trees must be two and one-half to three inches in caliper at the time of planting.
 - d.** If there are landscaping or design provisions in the Comprehensive Plan that recommend a planting strip or other streetscape treatment with a different width or different plant materials than set forth above, then the provisions of the Comprehensive Plan apply.
 - e.** The above requirements may be modified or waived for expansions or enlargements of existing developments when it is determined that it is not feasible to meet these requirements on the lot.
- (c)** The transitional screening and barrier requirements of subsection 5108.6.B apply as follows:
- 1.** For new development and redevelopment, or for expansions or enlargements of existing developments, the transitional screening and barrier requirements apply. If there are landscaping or design provisions in the Comprehensive Plan that recommend a planting strip or other streetscape treatment with a different width, a different number of plantings, or different plant materials than required by subsection 5108.6, then the provisions of the Comprehensive Plan apply.
 - 2.** When the peripheral planting requirements of subsection (b)3 above, are required and provided in accordance with that subsection, they are deemed to meet the transitional screening requirement for that portion of the lot.
 - 3.** In addition to the above and to the provisions of subsection 5108.6.C, transitional screening may be modified or waived when a barrier is provided. The barrier must consist of a decorative brick or block wall, a decorative tubular steel or aluminum fence, or an alternative treatment that is compatible with treatments prevalent in the district or provisions of the Comprehensive Plan. Any alternative treatments must be approved by the Director.
 - 4.** For all of the above, the requirements may be modified or waived by the Board by special exception in accordance with subsection 8100.3.

F. Site Plans and Required Improvements

- (1)** Improvements in accordance with subsections 8100.7.E(3)(a) and 8100.7.E(4), which require the construction of service drives adjacent to a primary highway, and dedication and construction of widening for existing roads, existing roads on new alignments, and proposed roads, as indicated on the Comprehensive Plan, are not required in conjunction with a minor site plan for the following:
- (a)** Additions to existing buildings on a lot when those additions do not exceed a total of 5,000 square feet of gross floor area and not more 100 percent of the gross floor area of the existing buildings.
 - (b)** Any permitted use on a temporary basis for a period not to exceed two years from the date of approval. The Director may extend the approval for one additional two-year period.

- (c) Additions and alterations to provide an accessibility improvement not otherwise exempt under subsection 8100.7.D.
 - (d) Uses that do not involve construction of gross floor area, such as tennis courts or storage yards, or modifications to existing uses that do not involve construction of gross floor area, such as changes to walkways, parking lots, or landscape plans.
 - (e) For uses subject to a minor site plan for other than as specified above or a site plan and upon request of the applicant, the Board, in accordance with the provisions of subsection 3.B above may modify or waive the required improvements of subsections 8100.7.E(1), 8100.7.E(3)(a), 8100.7.E(4), 8100.7.E(5), and 8100.7.E(14).
 - (f) In addition, for a minor site plan or site plan, the required improvement for the construction of trails and walkways as set forth in subsection 8100.7.E(2) are applicable unless there is a conflict with the Comprehensive Plan, in which case, the Director, in conjunction with the approval of a minor site plan or site plan, or the Board, by special exception in accordance with subsection 8100.3, may require the provision of trails or walkways in accordance with the Comprehensive Plan.
- (2) A site plan or minor site plan may be filed concurrently with the filing of a rezoning, special exception, or special permit application, but may not be approved by the Director until the rezoning, special exception, or special permit application has been approved by the Board or BZA, respectively. This concurrent processing does not relieve the applicant from complying with the provisions of any applicable ordinances, regulations, or adopted standards, and does not prejudice the consideration of the application.

3103. Other Overlay Districts

1. Natural Resource Overlay District

A. Purpose

The Natural Resource Overlay District is created in recognition of the natural resources that exist in Fairfax County and in recognition that the sand and gravel industries and the related processing of these materials into concrete, asphalt, and other products have been a basic construction support industry for many years, providing a broad range of employment opportunities and contributing to the County's tax base. However, the Natural Resource Overlay District also recognizes that natural resource extraction operations constitute a significant potential impact on the pattern of development in areas nearby.

B. Special Permit Uses

Extraction activity requires a special permit in accordance with subsection 8100.4.

2. Airport Noise Impact Overlay District

A. Purpose

The Airport Noise Impact Overlay District is established for the general purpose of controlling conflicts between land uses and noise generated by aircraft and to protect the public health, safety, and welfare from the adverse impacts associated with excessive noise.

It is the intent of this overlay district to regulate land uses within designated existing or projected airport noise impact areas by requiring acoustical performance standards. Nothing within this section will be construed as altering building materials or construction methods from those that are specified in the USBC.

B. District Boundaries

The Airport Noise Impact Overlay District boundaries are based on noise impact contours adopted by the Board, which are subject to periodic updating and amendment in accordance with the provisions of subsection 8100.2.

C. Establishment of Districts

- (1) For purposes of administering these regulations, there will be three Airport Noise Impact Areas:
 - (a) Greater than Day-Night Average Sound Level (“DNL”) 75 dBA
 - (b) DNL 70-75 dBA
 - (c) DNL 65-70 dBA
- (2) The boundaries of each noise impact area will be established in accordance with the provisions of subsection B. The purpose of the establishment of three Airport Noise Impact Areas is to distinguish between the severity of the levels of noise impact so that appropriate uses and acoustical performance standards can be established to mitigate the adverse impacts of aircraft noise to protect the public health, safety, and welfare.

D. Administration

The Director is responsible for reviewing site plans, subdivision plats, and building permits to determine if the property to be developed is located in the Airport Noise Impact Overlay District; if so, it must be noted on the plan, plat, or permit. Before any building permit may be approved in the district, it must satisfy subsections E and F below.

E. Uses and Use Standards

Uses are permitted according to the underlying zoning district(s), except as qualified below. In addition to the use standards presented in Article 4, the following apply:

- (1) Uses within this district are permitted only in accordance with the Noise Compatibility Table in subsection G below.
- (2) In those instances where a proposed use is not listed in the table, the Director, using the table as a guide, will determine which use is most similar and which provisions of the table are applicable.

- (3) Where a structure contains different occupants or tenants, the more stringent requirements of the table apply, unless it is architecturally possible to achieve the interior noise levels specified in subsection F below for the area occupied by each occupant or tenant.
- (4) The table identifies the uses, the Airport Noise Impact Areas, and, where applicable, the respective interior noise level standards and acoustical treatment measures for each use in a given Impact Area. The following subsections explain how uses are designated and permitted:
 - (a) If a use is permitted in a given Impact Area without any interior noise level standard, it is represented on the table with a "P." If a given use is not permitted, it is represented with a "NP."
 - (b) Many uses are permitted in a given Impact Area, but only if acoustical treatment measures are provided to achieve a specified interior noise level standard for the entire structure. Such uses are represented on the table with a designation of "P1," "P2," or "P3," which corresponds with the three interior noise level standards presented in subsection F below.
 - (c) Many uses are represented on the table with a designation of "P1," "P2," or "P3," and are qualified with an asterisk (*). Such uses are permitted only if acoustical treatment measures are provided for those portions of the building that contain offices or other noise sensitive uses in accordance with one of three interior noise level standards presented in subsection F below.
- (5) In the greater than DNL 75 dBA Impact Area, dwellings are not permitted, but new dwelling units and additions to existing dwelling units may be permitted if:
 - (a) The lot is located in an R district or a residential area of a P district;
 - (b) The lot had final plat approval before July 26, 1982; and
 - (c) The new dwelling unit or addition complies with the Interior Noise Level Standard P1 set forth in subsection F below.

F. Interior Noise Level Standards

- (1) The acoustical treatment requirements of this Section are to achieve the interior noise levels set forth below and will apply to the construction of new structures and the alteration or repair of existing structures with enclosed interior space as established under the USBC.
- (2) Nothing within this section will be construed as altering building materials, construction methods, plan submission requirements, or inspection practices from those that are specified in VUSBC, and the acoustical treatments required must comply with the provisions of VUSBC.
- (3) Any structure existing in the Airport Noise Impact Overlay District for which a building permit was issued before April 8, 1997 and that does not comply with the applicable interior noise level standards in subsection 3103.2.G is a noncompliant structure.
- (4) There will be three different interior noise level standards as identified on the table. These standards are described as follows:
 - (a) **Interior Noise Level P1:** In the greater than DNL 75 dBA Impact Area, all structures or portions of structures as applicable will provide acoustical treatment measures

that achieve an interior noise level not to exceed DNL 45 dBA. This standard must be met by one of the following:

1. The use of roof and exterior wall assemblies that have a laboratory sound transmission class (STC) of at least 50, and doors and windows that have a laboratory STC of at least 42. The STC of construction assemblies will be determined by a certified sound testing laboratory; or
2. A certification by an acoustical engineer that the construction practices or materials of the structure will achieve the specified interior noise level. The acoustical professional will submit relevant information to permit the Director to verify that the proposed measures will achieve the interior noise level standard.

(b) Interior Noise Level Standard P2: In the greater than DNL 75 dBA Impact Area, all structures or portions of structures as applicable will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 50 dBA. In the DNL 70-75 dBA Impact Area, all structures will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 45 dBA. This standard must be met by one of the following:

1. The use of roof and exterior wall assemblies that have a laboratory sound transmission class (STC) of at least 45, and doors and windows that have a laboratory STC of at least 37. The STC of construction assemblies will be determined by a certified sound testing laboratory;
2. A certification by an acoustical engineer that the construction practices or materials of the structure will achieve the specified interior noise level. The acoustical professional will submit relevant information to permit the Director to verify that the proposed measures will achieve the interior noise level standard; or
3. A determination by the Director that the interior noise level standard is met based on the exterior or interior wall and roof assemblies and the location of the use in the structure.

(c) Interior Noise Level Standard P3: In the DNL 70-75 dBA Impact Area, all structures or portions of structures as applicable will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 50 dBA. In the DNL 65-70 dBA Impact Area, all structures will provide acoustical treatment measures that achieve an interior noise level not to exceed DNL 45 dBA. This standard must be met by one of the following:

1. The use of roof and exterior wall assemblies that have a laboratory sound transmission class (STC) of at least 39 and doors and windows that have a laboratory STC of at least 28. The STC of construction assemblies must be determined by a certified sound testing laboratory;
2. A certification by an acoustical engineer that the construction practices or materials of the structure will achieve the specified interior noise level. The acoustical professional will submit relevant information to permit the Director to verify that the proposed measures will achieve the interior noise level standard; or

3. A determination by the Director that the interior noise level standard is met based on the exterior or interior wall and roof assemblies and the location of the use in the structure.

G. Noise Compatibility Table

| TABLE 3103.1: Noise Compatibility Table | | | |
|---|---------------------------------|-------|-------|
| For KEY to table, refer to subsection 3103.2.E, <i>Use Limitations</i> | | | |
| Use | Noise Impact Areas (DNL dBA) | | |
| | 75+ | 70-75 | 65-70 |
| AGRICULTURAL AND RELATED USES | | | |
| Agricultural Operation | | | |
| <i>Growing of crops</i> | P | P | P |
| <i>Livestock</i> | NP | P3* | P |
| <i>Residential use</i> | NP | P2 | P3 |
| Farm Winery, Limited Brewery, or Limited Distillery | P2* | P3* | P |
| Stable, Riding or Boarding | NP | P3* | P |
| RESIDENTIAL USES | | | |
| Household Living | | | |
| <i>Additions to existing dwellings & new dwellings on certain existing lots</i> | P1 | P2 | P3 |
| <i>All other new construction</i> | NP | P2 | P3 |
| Dwelling, Multifamily | See Above | | |
| Dwelling, Single-Family Attached | | | |
| Dwelling, Single-Family Detached | | | |
| Dwelling, Stacked Townhouse | | | |
| Group Residential Facility | | | |
| Live-Work Development | | | |
| Manufactured Home | NP | NP | P3 |
| Group Living | | | |
| Congregate Living Facility | NP | P2 | P3 |
| Group Household | | | |
| Religious Group Living | | | |
| Residence Hall | | | |
| PUBLIC, INSTITUTIONAL, AND COMMUNITY USES | | | |
| Community, Cultural, and Educational Facilities | | | |
| Adult Day Support Center | NP | P2 | P3 |
| Alternate Use of Public Facility | See most similar use | | |
| Child Care Center | NP | P2 | P3 |
| Club, Service Organization, or Community Center | NP | P2 | P3 |
| College or University | P1 | P2 | P3 |
| <i>with residential facilities</i> | NP | P2 | P3 |

| TABLE 3103.1: Noise Compatibility Table | | | |
|--|---------------------------------|-------|-------|
| For KEY to table, refer to subsection 3103.2.E, <i>Use Limitations</i> | | | |
| Use | Noise Impact Areas (DNL dBA) | | |
| | 75+ | 70-75 | 65-70 |
| Community Swim, Tennis, and Recreation Club | P | P | P |
| Convention or Conference Center | P2 | P3 | P |
| Cultural Facility or Museum | NP | P2 | P3 |
| Public Use | <i>See most similar use</i> | | |
| Religious Assembly | NP | P2 | P3 |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | NP | P2 | P3 |
| School, Private | NP | P2 | P3 |
| Specialized Instruction Center | NP | P2 | P3 |
| Funeral and Mortuary Services | | | |
| Cemetery | P2* | P3* | P |
| Crematory | | | |
| Funeral Home | P2 | P3 | P |
| Health Care | | | |
| Adult Day Care Center | NP | P2 | P3 |
| Continuing Care Facility | NP | P2 | P3 |
| Independent Living Facility | NP | P2 | P3 |
| Medical Care Facility | | | |
| <i>Educational and residential</i> | NP | P2 | P3 |
| <i>Offices and research</i> | P2 | P3 | P |
| Transportation | | | |
| Transit Facility | P2* | P3* | P |
| Utilities | | | |
| Utility Facility, Heavy | P2* | P3* | P |
| Utility Facility, Light | | | |
| COMMERCIAL USES | | | |
| Animal-Related Services | | | |
| Animal Shelter | NP | P3* | P |
| Kennel | | | |
| Pet Grooming Establishment | | | |
| Veterinary Hospital | | | |
| Food and Lodging | | | |
| Bed and Breakfast | P1 | P2 | P3 |
| Catering | P2 | P3 | P |
| Hotel or Motel | P1 | P2 | P3 |
| Restaurant | P2 | P3 | P |
| Restaurant, Carryout | | | |

| TABLE 3103.1: Noise Compatibility Table | | | |
|---|------------------------------------|-------|-------|
| For KEY to table, refer to subsection 3103.2.E, Use Limitations | | | |
| Use | Noise Impact Areas (DNL dBA) | | |
| | 75+ | 70-75 | 65-70 |
| Restaurant with Drive-Through | | | |
| Retreat Center | NP | P2 | P3 |
| Office and Financial Institutions | | | |
| Alternative Lending Institution | P2 | P3 | P |
| Drive-Through Financial Institution | | | |
| Financial Institution | | | |
| Office | | | |
| Office in a Residential District | <i>See standards for dwellings</i> | | |
| Personal and Business Services | | | |
| Business Service | P2 | P3 | P |
| Household Repair and Rental Service | | | |
| Massage Therapy Establishment | | | |
| Personal Service | | | |
| Recreation and Entertainment | | | |
| Banquet or Reception Hall | P2 | P3 | P |
| Campground | NP | NP | P |
| Commercial Recreation, Indoor | P2 | P3 | P |
| Commercial Recreation, Outdoor | P2* | P3* | P |
| Entertainment, Adult | P2 | P3 | P |
| Entertainment, Public | P2 | P3 | P |
| Golf Course or Country Club | P2* | P3* | P |
| Health and Exercise Facility, Large | P2 | P3 | P |
| Health and Exercise Facility, Small | P2 | P3 | P |
| Marina, Commercial or Private Noncommercial | P | P | P |
| Quasi-public Park, Playground, or Athletic Field | P2* | P3* | P |
| Smoking Lounge | P2 | P3 | P |
| Stadium or Arena | NP | NP | P |
| Zoo or Aquarium | NP | P3* | P |
| Retail Sales | | | |
| Convenience Store | P2 | P3 | P |
| Drive-Through, Other | P | P | P |
| Drive-Through Pharmacy | P2 | P3 | P |
| Drug Paraphernalia Establishment | P2 | P3 | P |
| Garden Center | P2* | P3* | P |
| Pawnshop | P2 | P3 | P |
| Retail Sales, General | P2 | P3 | P |
| Retail Sales, Large | P2 | P3 | P |

| TABLE 3103.1: Noise Compatibility Table | | | |
|--|---------------------------------|-------|-------|
| For KEY to table, refer to subsection 3103.2.E, <i>Use Limitations</i> | | | |
| Use | Noise Impact Areas (DNL dBA) | | |
| | 75+ | 70-75 | 65-70 |
| Vehicle-Related Uses | | | |
| Car Wash | P | P | P |
| Commercial Off-Street Parking | P | P | P |
| New Vehicle Storage | P2 | P3 | P |
| Truck Rental Establishment | P2* | P3* | P |
| Vehicle Fueling Station | P2* | P3* | P |
| Vehicle Repair and Maintenance, Heavy | P2* | P3* | P |
| Vehicle Repair and Maintenance, Light | P2* | P3* | P |
| Vehicle Sales, Rental, and Service | P2* | P3* | P |
| Vehicle Transportation Service | P2* | P3* | P |
| INDUSTRIAL USES | | | |
| Freight Movement, Warehousing, and Wholesale Distribution | | | |
| Data Center | P2* | P3* | P |
| Freight Distribution Hub | | | |
| Goods Distribution Hub | | | |
| Self-Storage | | | |
| Warehouse | | | |
| Wholesale Facility | | | |
| Industrial Services and Extraction of Materials | | | |
| Building Materials Storage and Sales | P2* | P3* | P |
| Contractor's Office and Shop | | | |
| Extraction Activity | | | |
| Petroleum Products Storage Facility | | | |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | | | |
| Storage Yard | | | |
| Vehicle Storage or Impoundment Yard | P | P | P |
| Production of Goods | | | |
| Craft Beverage Production Establishment | P2* | P3* | P |
| Production or Processing | | | |
| Production or Processing, Heavy | | | |
| Small-Scale Production Establishment | | | |
| Waste and Recycling Facilities | | | |
| Junkyard | P | P | P |
| Mixed Waste Reclamation Facility | | | |
| Recycling Center | | | |
| Solid Waste Disposal Facility | | | |
| OTHER USES | | | |

| TABLE 3103.1: Noise Compatibility Table | | | |
|---|------------------------------|-------|-------|
| For KEY to table, refer to subsection 3103.2.E, Use Limitations | | | |
| Use | Noise Impact Areas (DNL dBA) | | |
| | 75+ | 70-75 | 65-70 |
| Alternative Use of Historic Building | See most similar use | | |

3. Sign Control Overlay District

A. Purpose

Sign Control Overlay Districts are established in furtherance of subsection 7100.1 by restricting freestanding signs in the intensely developed commercial and industrial areas of the County where there is an increased need to reduce visual clutter, sight distance obstructions, interference with traffic control signals and mechanisms, and where the speed of traffic does not warrant the freestanding signs otherwise permitted by the provisions of Article 7.

B. Administration and Standards

The administration and standards of this Sign Control Overlay District are as provided for in Article 7.

4. Highway Corridor Overlay District

A. Purpose

To further the purposes set forth in Va. Code Sections 15.2-2200, 15.2-2283, 15.2-2284 and 15.2-1200, and to protect and promote the health, safety, and general welfare of the public by the prevention or reduction of traffic congestion or danger in the public and private streets, limitations are placed on certain automobile-oriented, fast service, or quick turn-over uses by the imposition of the Highway Corridor Overlay District.

B. District Boundaries

In lieu of a metes and bounds description, the District boundaries may be described by fixing the points of beginning and end in the centerline of a street and the distance on one or both sides from the centerline to which this district extends.

C. Establishment of Districts

The Board may apply the Highway Corridor Overlay District to the land along any street or highway upon concluding that:

- (1) A major purpose of the street or highway is to carry through traffic; and
- (2) The construction or use of land would have an adverse impact on level of service; increase danger or congestion in the streets; impair the public health, safety,

convenience, and welfare; or impede the maintenance or creation of a convenient, attractive, and harmonious community.

D. Use Standards

The following uses are subject to additional standards as contained in Article 4 when located in a Highway Corridor Overlay District:

- (1) Drive-through financial institution (see subsection 4102.5.L);
- (2) Restaurant with drive-through (see subsection 4102.5.I);
- (3) Convenience store (see subsection 4102.5.CC); and
- (4) Vehicle fueling station (see subsection 4102.5.NN).

5. Water Supply Protection Overlay District

A. Purpose

Water Supply Protection Overlay Districts are created for the purpose of promoting the public health, safety, and welfare through the protection of public water supplies from the danger of water pollution. Regulations within each overlay district are established to prevent water quality degradation due to pollutant loadings within the watersheds of public water supply reservoirs; to provide for specific review and approval of residential, commercial, industrial and other development proposals that may have adverse water quality impacts; to encourage land uses and activities that will be compatible with water quality protection; and to assure that structures and uses within each overlay district will be developed to serve the health, safety, and welfare objectives of preserving the environmental integrity of public water supply reservoirs.

B. District Boundaries

Water Supply Protection Overlay District boundaries must be drawn to include lands draining into a water supply reservoir.

C. Administration

The Director will be responsible for reviewing all proposed uses to determine if the property to be developed or used is located in the overlay district. If any proposed use is so located, then such use will be subject, as applicable, to the provisions of subsection D below.

D. Use Standards

In addition to the use standards applicable in the underlying zoning district(s), the following use standards will apply:

- (1) Any subdivision that is subject to the provisions of Chapter 101 of the County Code or any use requiring the approval of a site plan in accordance with the provisions of subsection 8100.7 will provide water quality control measures designed to reduce the projected phosphorus runoff pollution by one-half for the proposed use. Such water quality control measures or Best Management Practices (BMPs) will be reviewed, modified, waived or approved by the Director in accordance with the Public Facilities Manual. The requirement for BMPs may be modified or waived only where existing site

characteristics make the provision impractical or unreasonable on-site, an alternative provision is not or cannot be accommodated off-site, and where it can be established that the modification or waiver will not affect the achievement of the water quality goals for the public water supply watershed as set forth in the Comprehensive Plan.

- (2)** Any warehouse, production or processing, or heavy production or processing establishment that generates, uses, stores, treats, or disposes of a hazardous or toxic material or waste, as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., must submit the following information with any application for a proposed development or use unless deemed unnecessary by the Director:

 - (a)** A listing of all toxic and hazardous materials and wastes that will be generated, used, stored, treated, or disposed of onsite;
 - (b)** A soils report describing the nature and characteristics of the soils covering the site;
 - (c)** A description of surface and groundwater characteristics of the site and the surrounding area within 300 feet of site boundaries; and
 - (d)** A description of all spill prevention, containment, and leakage control measures proposed by the applicant for all toxic and hazardous materials and wastes generated, used, stored, treated, or disposed of on the site.
- (3)** All required information will be referred to Land Development Services for review in accordance with the provisions of Chapter 67.1 of the County Code and other applicable laws and ordinances. When deemed appropriate, the Director may furnish a copy of the application and information to the Virginia Department of Environmental Quality and other appropriate agencies.

Article 4 - Use Regulations

4100. General Provisions

1. All land uses are listed in the two tables in Section 4101. Table 4101.3 addresses the land uses allowed in the conventional zoning districts (the Residential, Commercial, and Industrial Districts) and Table 4101.4 addresses the land uses allowed in the Planned Districts (PDH, PDC, PRC, PRM, PCC, and PTC Districts). The land uses allowed in each zoning district are identified in those tables as permitted (i.e. by right), special exception, special permit, accessory, associated service, or administrative permit uses. Each use is subject to the applicable general and use-specific standards that are referenced in the right-most column of the tables, and to all other applicable requirements of this Ordinance.
2. When a proposed land use is not listed in Tables 4101.3 and 4101.4 below and is not otherwise prohibited by law, the Zoning Administrator will determine its appropriate use category and the most similar listed use.
3. No structure or use of land may be built, moved, remodeled, established, altered, or enlarged unless it complies with all regulations of this Ordinance.

4101. Use Tables

1. Use Table Instructions and Abbreviations

- A. A “P” in a cell of Table 4101.3 indicates that the use can be established by right in that zoning district, subject to compliance with related use standards.
- B. A “✓” in a cell of Table 4101.4 indicates that the use can be established only when identified on an approved final development plan in the PDH, PDC, PRM, PCC, or PTC Districts, or when identified on an approved PRC development plan and, if applicable, a PRC plan in the PRC District, in accordance with subsection 8100.2. All uses must comply with related use standards. If the cell containing the “✓” is in a column under the subheading “Secondary,” the use can only be established with one or more principal uses.
- C. A “✓/SE” in a cell of Table 4101.4 indicates that the use can be established only when it complies with Section 2105 and related use standards as follows:
 - (1) The use must be identified on an approved PRC development plan and, if applicable, a PRC plan in the PRC District, or on an approved final development plan in any other P district; or
 - (2) The use may be established with approval of a special exception by the Board when the use is not specifically identified on a final development plan, development plan, or PRC plan, as applicable. When a use is being considered for approval as a special exception, the related special exception or special permit use standards apply.
 - (3) However, when a use is being considered for approval on a development plan in the PRC District or a final development plan in any other P district, the special exception or special permit use standards are used as a guide.

- (4) When a standard is identified as required in all instances of a particular use, it is mandatory.
- D. An “SE” in a cell of Table 4101.3 or 4101.4 indicates that the use can be established only with Board approval of a special exception in accordance with subsection 8101.3 and related use standards.
 - E. An “SP” in a cell of Table 4101.3 or 4101.4 indicates that the use can be established only with BZA approval of a special permit in accordance with subsection 8101.3 and the related use standards.
 - F. An “A” in a cell of Table 4101.3 or 4101.4 indicates that the use is allowed only as accessory to, in connection with, incidental to, and on the same lot with a principal use or structure that has been legally established in a district. In addition, the Zoning Administrator may allow any use as an accessory use, provided that it meets the definition of an accessory use.
 - G. An “AP” in a cell of Table 4101.3 or 4101.4 indicates that the use is allowed only with approval of an administrative permit by the Zoning Administrator.
 - H. An “A+” in a cell of Table 4-101.3 or 4-101.4 indicates that the use can be established as an associated service use if it conforms to the related use standards.
 - I. If a cell in Table 4101.3 or 4101.4 contains more than one approval type, there is more than one possible way to establish the use, as referenced in the related use standards for the specific use. For example, when a cell contains a “P” as well as an “SE” or “SP,” if the use does not meet the standards when permitted by right, it may be established with BZA or Board approval in accordance with the applicable special exception or special permit standards and procedures.
 - J. A blank cell in Table 4101.3 or 4101.4 indicates that the use cannot be established in that zoning district.
 - K. The right-most column in Table 4101.3 and Table 4101.4 references related standards that are specific to individual uses. It does not include references to other zoning standards governing uses that may apply to a particular use, including standards in subsection 4102.1, Article 2, and Article 3.

2. Structure of the Use Classification System

Allowable uses are organized according to a three-tiered hierarchy consisting of use classifications, use categories, and uses. This classification system is intended to provide a structure that groups similar uses together for ease in locating or identifying a use and to simplify the classification of new uses.

A. Use Classifications

Each use is grouped under one of these seven broad use classifications: Agricultural and Related Uses; Residential Uses; Public, Institutional, and Community Uses; Commercial Uses; Industrial Uses; Accessory Uses; and Temporary Uses.

B. Use Categories

Use categories are subgroups of uses in each classification that have common functional or physical characteristics, such as the type and amount of activity, types of goods, services, occupants or users/customers, or operational characteristics. For example, the Commercial

classification is divided into multiple use categories, including Food and Lodging, Office and Financial Institutions, and Retail Sales.

C. Uses

Uses are the specific land uses that can be established in a zoning district, such as restaurant, hotel or motel, or catering uses.

3. Use Table for Residential, Commercial, and Industrial Districts

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; *blank cell* = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply | |
|---|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|----------------------|-----|-----|-----|-----|-----|-----|-----|----------------------|-----|-----|-----|-----|-----|--|----------|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | | I-6 |
| AGRICULTURAL AND RELATED USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural and Related Uses: activities related to the growing or raising of plants or animals for food or other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agricultural Operation | P | P | P | P | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.A |
| Farm Winery, Limited Brewery, or Limited Distillery | P | P | P | P | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.B |
| Stable, Riding or Boarding | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.2.C |
| RESIDENTIAL USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Household Living: uses characterized by residential occupancy of a dwelling unit that functions as a single household | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dwelling, Multifamily | | | | | | | | | | P | P | P | P | | | | | | | | | | | | | | | | |
| Dwelling, Multifamily – ADU Development | | | | | | | | | | P | P | P | P | | | | | | | | | | | | | | | | |
| Dwelling, Single-Family Attached | | | | | | | | P | P | P | P | P | | | | | | | | | | | | | | | | | 4102.3.B |
| Dwelling, Single-Family Attached - ADU Development | | | | | | | | P | P | P | P | P | | | | | | | | | | | | | | | | | |
| Dwelling, Single-Family Detached | P | P | P | P | P | P | P | P | P | | | | | P | | | | | | | | | | | | | | | 4102.3.C |
| Dwelling, Stacked Townhouse | | | | | | | | | | P | P | P | P | | | | | | | | | | | | | | | | 4102.3.B |
| Dwelling, Stacked Townhouse – ADU Development | | | | | | | | P | P | P | P | P | P | | | | | | | | | | | | | | | | |
| Group Residential Facility | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | | | | | | | | | | | |
| Live-Work Development | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.3.D |
| Manufactured Home | P | | | | | | | | | | | | | P | | | | | | | | | | | | | | | 4102.3.E |
| Group Living: uses characterized by residential occupancy by a group of persons who do not constitute a household | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Congregate Living Facility | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | | | | | | | | 4102.3.F |

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; blank cell = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|--|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|-------|----------------------|-----|-----|-----|-----|-----|-----|-----|----------------------|-----|-----|-----|-----|-----|--|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | |
| Group Household | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | 4102.3.G |
| Religious Group Living | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | SP | SP | SP | SP | SP | | | | | 4102.3.H |
| Residence Hall | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | | | 4102.3.I |
| PUBLIC, INSTITUTIONAL, AND COMMUNITY USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Community, Cultural, and Educational Facilities: uses generally of a public, quasi-public, nonprofit, or charitable nature providing a local service (e.g., cultural, educational, recreational, counseling, training, religious) directly to people of the community | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult Day Support Center | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 4102.4.A |
| Alternate Use of Public Facility | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | SE | SE | SE | SE | SE | 4102.4.B |
| Child Care Center | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | P | P | P | P | P | 4102.4.C 4102.1.G |
| Club, Service Organization, or Community Center | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | | SE | SE | SE | SE | SE | 4102.4.D |
| College or University | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | | SE | SE | SE | | | 4102.4.E |
| Community Swim, Tennis, and Recreation Club | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | SP | SP | SP | SP | SP | 4102.4.F |
| Convention or Conference Center | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.4.G |
| Cultural Facility or Museum | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | | SE | SE | SE | | | |
| Public Use | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Religious Assembly | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | SP | SP | SP | SP | SP | 4102.4.H |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | P | P | P | P | P | P | 4102.4.I |
| School, Private | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 4102.4.J |
| Specialized Instruction Center | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | | P | P | P | P | SE | 4102.4.K |
| Funeral and Mortuary Services: establishments that provide services related to the death of a human being or an animal | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cemetery | | | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | | | | 4102.4.L |
| Crematory | | | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | P | P | P | 4102.4.M |
| Funeral Home | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | P | P | P | P | P | P | | P | P | P | P | P | 4102.4.N |
| Health Care: uses providing health care services, including surgical or other intensive care and treatment, various types of medical treatment, and nursing care | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult Day Care Center | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.4.O |
| Continuing Care Facility | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.4.P |

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; *blank cell* = not allowed
 A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|----------------------|---------|---------|---------|---------|---------|---------|---------|----------------------|---------|---------|---------|---------|---------|------------------------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|----------|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | NOTE: General Standards also apply | | | | | | | | | | | | | | | | | | | | | | | |
| Independent Living Facility | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | | | | | | 4102.4.Q | | | | | | | | | | | | | | | | | | | | | | | |
| Medical Care Facility | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.4.R | | | | | | | | | | | | | | | | | | | | | | | |
| Transportation: uses associated with the operation of airplanes, trains, and buses | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Airport | | | | SE | | | | | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | SE | SE | 4102.4.S 4102.4.T | | | | | | | | | | | | | | | | | | | | | | | |
| Helipad | | | SE | SE | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.4.S | | | | | | | | | | | | | | | | | | | | | | | |
| Transit Facility | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P SE | 4102.4.S 4102.4.U | | | | | | | | | | | | | | | | | | | | | | | |
| Utilities: uses including heavy utilities (infrastructure services that provide regional or community-wide service), light utilities (infrastructure services that need to be located in or near where the service is provided), solar power facilities, and wireless facilities | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Solar Power Facility | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | 4102.4.V | | | | | | | | | | | | | | | | | | | | | | | |
| Utility Facility, Heavy | | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | P SE | P | 4102.4.W | | | | | | | | | | | | | | | | | | | | | | | |
| Utility Facility, Light | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | P SE | 4102.4.X | | | | | | | | | | | | | | | | | | | | | | | |
| Wireless Facility | See standards in 4102.4.Y for different permissions. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.4.Y |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal-Related Services: uses related to the provision of medical services, general care, and boarding services for household pets and domestic animals | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal Shelter | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.A | | | | | | | | | | | | | | | | | | | | | | | |
| Kennel | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.A | | | | | | | | | | | | | | | | | | | | | | | |
| Pet Grooming Establishment | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.B | | | | | | | | | | | | | | | | | | | | | | | |
| Veterinary Hospital | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.C | | | | | | | | | | | | | | | | | | | | | | | |
| Food and Lodging: establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, or providing lodging units or rooms for transient stays of 30 days or less | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bed and Breakfast | | SE | SE | SE | SE | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.D | | | | | | | | | | | | | | | | | | | | | | | |
| Catering | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.E | | | | | | | | | | | | | | | | | | | | | | | |
| Hotel or Motel | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.F | | | | | | | | | | | | | | | | | | | | | | | |
| Restaurant | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.G 4102.1.G | | | | | | | | | | | | | | | | | | | | | | | |
| Restaurant, Carryout | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.H 4102.1.G | | | | | | | | | | | | | | | | | | | | | | | |
| Restaurant with Drive-Through | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.I | | | | | | | | | | | | | | | | | | | | | | | |
| Retreat Center | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.5.J | | | | | | | | | | | | | | | | | | | | | | | |

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; *blank cell* = not allowed
 A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply | | | | | | | |
|--|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|-------|-----|----------------------|-----|-----|-----|-----|-----|-----|-----|----------------------|-----|-----|-----|-----|--|--|--|--|--|----------|----------|----------|----------------------|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | | | | | | | | | |
| Office and Financial Institutions: buildings housing activities conducted in an office setting, generally focusing on the provision of professional services (e.g., lawyers, accountants, engineers, architects), financial services (e.g., banks, lenders, brokerage houses, tax preparers), research and development, and medical and dental services | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alternative Lending Institution | | | | | | | | | | | | | | | | | | | | | | P | P | | | | | | | | | | | 4102.5.K | | | |
| Drive-Through Financial Institution | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.L | | |
| Financial Institution | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Office | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.M | |
| Office in a Residential District | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.N | |
| Personal and Business Services: businesses that primarily provide routine business support functions for the day-to-day operations of other businesses or frequent or recurrent needed services of a personal nature to individuals | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Business Service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.1.G | |
| Household Repair and Rental Service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Massage Therapy Establishment | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.O |
| Personal Service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.O 4102.1.G |
| Recreation and Entertainment: uses providing indoor or outdoor facilities for recreation or entertainment-oriented activities by patrons or members | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Banquet or Reception Hall | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Campground | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | 4102.5.Q |
| Commercial Recreation, Indoor | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Recreation, Outdoor | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Entertainment, Adult | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Entertainment, Public | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Golf Course or Country Club | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Health and Exercise Facility, Large | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Health and Exercise Facility, Small | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Marina, Commercial | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Marina, Private Noncommercial | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; *blank cell* = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|--|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|-------|-----|----------------------|-----|-----|-----|-----|-----|-----|-----|----------------------|-----|-----|-----|-----|-----------------------|--|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | | |
| Quasi-Public Park, Playground, or Athletic Field | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | P | P | P | P | P | P | P | P | | | | | | | 4102.5.Z | |
| Smoking Lounge | | | | | | | | | | | | | | | | | | | P | P | P | P | | | | | | | 4102.5.AA | |
| Stadium or Arena | | | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | SE | SE | | |
| Zoo or Aquarium | | | SP | SP | | | | | | | | | | | | | | | | | SP | SP | | | | | | | 4102.5.BB | |
| Retail Sales: uses involved in the sale, rental, and incidental servicing of goods and commodities that are generally delivered or provided on the premises to a consumer | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Convenience Store | | | | | | | | | | | | | A+ | A+ | A+ | A+ | A+ | A+ | P | P | P | P | | | | | | | 4102.5.CC 4102.1.G | |
| Drive-Through, Other | | | | | | | | | | | | | | | | | | | SE | SE | SE | P | | | | | | | 4102.5.DD | |
| Drive-Through Pharmacy | | | | | | | | | | | | | | | | | | | P | P | P | P | | | | | | | 4102.5.EE | |
| Drug Paraphernalia Establishment | | | | | | | | | | | | | | | | | | | | | SE | | | | | | | | 4102.5.FF | |
| Garden Center | | | SE | SE | SE | | | | | | | | | | | | | | P | P | P | P | | | | | | | 4102.5.GG | |
| Pawnshop | | | | | | | | | | | | | | | | | | | SE | SE | SE | | | | | | | | | |
| Retail Sales, General | | | | | | | | | | | | | | | | | | | P | P | P | P | A | | | SE | SE | SE | 4102.5.HH | |
| Retail Sales, Large | | | | | | | | | | | | | | | | | | | P | P | P | | | | | | | | 4102.5.II | |
| Vehicle-Related Uses: uses for the maintenance, sale, or rental of motor vehicles and related equipment | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Car Wash | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | | | SE | SE | SE | SE | 4102.5.JJ | |
| Commercial Off-Street Parking | | | | | | | | | | | | | | | | SE | P | P | P | P | P | | SE | SE | SE | SE | SE | SE | 4102.5.KK | |
| New Vehicle Storage | | | | | | | | | | | | | | | | P | P | | P | P | P | | | P | P | P | P | | 4102.5.LL | |
| Truck Rental Establishment | | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | | | | SE | P | P | 4102.5.MM | |
| Vehicle Fueling Station | | | | | | | | | | | | | | | | SE | SE | SE | SE | SE | SE | | | SE | SE | SE | SE | | 4102.5.NN | |
| Vehicle Repair and Maintenance, Heavy | | | | | | | | | | | | | | | | | | | | | SE | | | | | | P | P | | |
| Vehicle Repair and Maintenance, Light | | | | | | | | | | | | | | | | | | SE | P | P | P | | | | | | P | P | 4102.5.OO | |
| Vehicle Sales, Rental, and Service | | | | | | | | | | | | | | | | P | P | | P | P | P | | | SE | SE | SE | | | 4102.5.PP | |
| Vehicle Transportation Service | | | | | | | | | | | | | | | | | | | P | P | P | | | | P | P | P | | 4102.5.QQ | |

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; *blank cell* = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|---|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|-------|-----|----------------------|-----|-----|-----|-----|-----|-----|-----|----------------------|-----|-----|-----|-----|----|--|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | | |
| Waste and Recycling Facilities: uses involving receiving solid or liquid wastes from others for on-site disposal, storage, processing, or transfer to another location for processing or disposal. This use category also includes uses that manufacture or produce goods or energy from the composting of organic material, and the reuse, recycling, or processing of scrap or waste material. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Junkyard | | | | | | | | | | | | | | | | | | | | | | | | | | | | | P | |
| Mixed Waste Reclamation Facility | | | | | | | | | | | | | | | | | | | | | | | | | | | | | SE | |
| Recycling Center | | | | | | | | | | | | | | | | | | | | | | | | | | | | P | | |
| Solid Waste Disposal Facility | | | | SE | SE | SE | | | | | | | | | | | | | | | | | | SE | SE | SE | SE | P | | |
| ACCESSORY USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accessory Living Unit | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | | | | | | | | | | | | | | | | | | | |
| | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.7.B | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.1.I | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Caretaker Quarters | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Child Care Center for Occasional Care | | | | | | | | | | | | | | | | | | | | A | A | A | | | | | | | | |
| Donation Drop-off Box | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | |
| Electric Vehicle Charging | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | |
| Family Health Care Structure | | AP | AP | AP | AP | AP | AP | AP | AP | | | | | AP | | | | | | | | | | | | | | | | |
| 4102.7.G | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.1.I | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Garage Sale or Yard Sale | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | | | | | | | | | | | | | | | |
| 4102.7.H | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gardening and Composting | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | |
| Home-Based Business | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | | | | | | | | | | | | | | | |
| | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | |
| 4102.7.I | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.1.I | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Home Day Care Facility | SP | A | A | A | A | A | A | A | A | A | A | A | A | A | | | | | | | | | | | | | | | | |
| | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | |
| 4102.7.J | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Keeping of Animals | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | |
| | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | |
| 4102.7.K | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Limited Riding or Boarding Stable | A | A | A | A | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | AP | AP | AP | AP | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.7.L | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.1.I | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Residence for Manager or Employee | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | |
| | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | | |
| | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | |
| 4102.7.M | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sawmilling | SP | | SP | SP | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.7.N | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Short-Term Lodging | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.7.O | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.1.I | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Solar Collection System | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | | |
| 4102.7.P | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wayside Stand | A | A | A | A | A | A | | | | | | | | | | | | | | | | | | | | | | | | |
| 4102.7.Q | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts

P = permitted; SE = special exception; SP = special permit; *blank cell* = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | Residential Districts | | | | | | | | | | | | | | Commercial Districts | | | | | | | | Industrial Districts | | | | | | Use-Specific Standards NOTE: General Standards also apply |
|--|-----------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------------|---------------|---------------|---------------|----------------------|----------------------|--|
| | R-A | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1 | C-2 | C-3 | C-4 | C-5 | C-6 | C-7 | C-8 | I-1 | I-2 | I-3 | I-4 | I-5 | I-6 | |
| TEMPORARY USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Community Garden | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | A AP SP | 4102.8.B 4102.1.I | |
| Construction Site Office and Storage | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | 4102.8.C 4102.1.I | |
| Farmers Market | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | 4102.8.D 4102.1.I | |
| Food Truck | | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP SE SP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | 4102.8.E 4102.1.I | | |
| Interim Off-Street Parking in Metro Station Area | | | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.8.F | |
| Model Home Sales or Leasing Office | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | | | | | | | | | | | | | 4102.8.G 4102.1.I | | |
| Portable Storage Container | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | A AP | 4102.8.H 4102.1.I | | |
| Special Event | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | 4102.8.I 4102.1.I | | |
| Temporary Dwelling or Manufactured Home | | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | AP | 4102.8.J 4102.1.I | | |
| OTHER USES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alternative Use of Historic Building | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | SE | 4102.1.H | | |

4. Use Table for Planned Development Districts

| TABLE 4101.2: Use Table for Planned Development Districts | | | | | | | | | | | | | | | |
|--|-----------|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|--|----------|
| ✓ = permitted if shown on final development plan/PRC development plan and PRC plan; ✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s) SE = special exception; SP = special permit; <i>blank cell</i> = not allowed A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit | | | | | | | | | | | | | | | |
| Use | PDH | | PRC | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply | |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | Principal | Secondary | | |
| AGRICULTURAL AND RELATED USES | | | | | | | | | | | | | | | |
| Agricultural and Related Uses: activities related to the growing or raising of plants or animals for food or other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables. | | | | | | | | | | | | | | | |
| Agricultural Operation | | | | | | | | | | | | | | 4102.2.A | |
| Farm Winery, Limited Brewery, or Limited Distillery | | | | | | | | | | | | | | 4102.2.B | |
| Stable, Riding or Boarding | | ✓/SE | ✓/SE | | | | | | | | | | | 4102.2.C | |
| RESIDENTIAL USES | | | | | | | | | | | | | | | |
| Household Living: uses characterized by residential occupancy of a dwelling unit that functions as a single household | | | | | | | | | | | | | | | |
| Dwelling, Multifamily | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | | | |
| Dwelling, Single-Family Attached | ✓ | | ✓ | ✓ | ✓ | ✓ | | | ✓ | | ✓ | ✓ | | 4102.3.B | |
| Dwelling, Single-Family Detached | ✓ | | ✓ | ✓ | ✓ | ✓ | | | ✓ | | | ✓ | | 4102.3.C | |
| Dwelling, Stacked Townhouse | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | | 4102.3.B | |
| Group Residential Facility | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | | ✓ | | | |
| Live-Work Development | | | | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | | 4102.3.D | |
| Manufactured Home | | | | | | | | | | | | | | 4102.3.E | |
| Group Living: uses characterized by residential occupancy by a group of persons who do not constitute a household | | | | | | | | | | | | | | | |
| Congregate Living Facility | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.3.F |
| Group Household | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | ✓/SE | | | 4102.3.G |
| Religious Group Living | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | | | | 4102.3.H |
| Residence Hall | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.3.I |
| PUBLIC, INSTITUTIONAL, AND COMMUNITY USES | | | | | | | | | | | | | | | |
| Community, Cultural, and Educational Facilities: uses generally of a public, quasi-public, nonprofit, or charitable nature providing a local service (e.g., cultural, educational, recreational, counseling, training, religious) directly to people of the community | | | | | | | | | | | | | | | |
| Adult Day Support Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.A |
| Alternate Use of Public Facility | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.B |
| Child Care Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.C |

| TABLE 4101.2: Use Table for Planned Development Districts | | | | | | | | | | | | | | | |
|--|-----------|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|------|-----------|-----------|--|
| ✓ = permitted if shown on final development plan/PRC development plan and PRC plan; ✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s) SE = special exception; SP = special permit; <i>blank cell</i> = not allowed A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit | | | | | | | | | | | | | | | |
| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Club, Service Organization, or Community Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.D |
| College or University | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | ✓/SE | | | 4102.4.E |
| Community Swim, Tennis, and Recreation Club | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.F |
| Convention or Conference Center | | | | | | | ✓ | ✓ | | | | ✓ | | | 4102.4.G |
| Cultural Facility or Museum | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | |
| Public Use | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | |
| Religious Assembly | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.H |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.I |
| School, Private | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.J |
| Specialized Instruction Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | |
| Funeral and Mortuary Services: establishments that provide services related to the death of a human being or an animal | | | | | | | | | | | | | | | |
| Cemetery | | ✓/SE | ✓/SE | | | | | | | | | | | ✓ | 4102.4.L |
| Crematory | | ✓/SE | ✓/SE | | | | | | | | | | | | 4102.4.M |
| Funeral Home | | | | | ✓ | ✓ | | | ✓/SE | | | ✓/SE | | ✓/SE | 4102.4.N |
| Health Care: uses providing a variety of health care services, including surgical or other intensive care and treatment, various types of medical treatment, and nursing care | | | | | | | | | | | | | | | |
| Adult Day Care Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.O |
| Continuing Care Facility | | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | | ✓ | ✓ | | 4102.4.P |
| Independent Living Facility | ✓ | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | ✓ | | ✓/SE | | | 4102.4.Q |
| Medical Care Facility | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.R |
| Transportation: uses associated with the operation of airplanes, trains, and buses | | | | | | | | | | | | | | | |
| Airport | | ✓/SE | ✓/SE | | | ✓/SE | | | ✓/SE | | SE | SE | | | 4102.4.S 4102.4.T |
| Helipad | | ✓/SE | ✓/SE | | | ✓/SE | ✓/SE | | ✓/SE | | SE | SE | | | 4102.4.S |
| Transit Facility | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | ✓/SE | 4102.4.S 4102.4.U |

TABLE 4101.2: Use Table for Planned Development Districts
 ✓ = permitted if shown on final development plan/PRC development plan and PRC plan;
 ✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)
 SE = special exception; SP = special permit; *blank cell* = not allowed
 A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|--|--|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|------|-----------|-----------|--|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Utilities: uses including heavy utilities (infrastructure services that provide regional or community-wide service), light utilities (infrastructure services that need to be located in or near where the service is provided), solar power facilities, and wireless facilities | | | | | | | | | | | | | | | |
| Solar Power Facility | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.V |
| Utility Facility, Heavy | | | SE | | | | | | | | | | | | 4102.4.W |
| Utility Facility, Light | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.4.X |
| Wireless Facility | See standards in 4102.4.Y for different permissions. | | | | | | | | | | | | | | 4102.4.Y |
| COMMERCIAL USES | | | | | | | | | | | | | | | |
| Animal-Related Services: uses related to the provision of medical services, general care, and boarding services for household pets and domestic animals | | | | | | | | | | | | | | | |
| Animal Shelter | | | ✓/SE | | | | | | | | | | | | 4102.5.A |
| Kennel | | ✓ | ✓/SE | | ✓ | ✓ | | | ✓ | | ✓ | ✓ | | ✓/SE | 4102.5.A |
| Pet Grooming Establishment | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | 4102.5.B |
| Veterinary Hospital | | ✓ | ✓/SE | | ✓ | ✓ | | | ✓ | | ✓ | ✓ | | ✓/SE | 4102.5.C |
| Food and Lodging: establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, or providing lodging units or rooms for transient stays of 30 days or less | | | | | | | | | | | | | | | |
| Bed and Breakfast | | SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | | | | | | 4102.5.D |
| Catering | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | 4102.5.E |
| Hotel or Motel | | | | | ✓/SE | ✓/SE | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.F |
| Restaurant | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.G |
| Restaurant, Carryout | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓ | | ✓/SE | ✓/SE | | ✓/SE | 4102.5.H |
| Restaurant with Drive-Through | | SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓ | | | ✓ | | ✓/SE | 4102.5.I |
| Retreat Center | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | ✓/SE | | | 4102.5.J |
| Office and Financial Institutions: buildings housing activities conducted in an office setting, generally focusing on the provision of professional services (e.g., lawyers, accountants, engineers, architects), financial services (e.g., banks, lenders, brokerage houses, tax preparers), research and development, and medical and dental services | | | | | | | | | | | | | | | |
| Alternative Lending Institution | | | | | | | | | | | | | | | 4102.5.K |
| Drive-Through Financial Institution | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | ✓/SE | 4102.5.L |
| Financial Institution | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓ | |
| Office | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.M |

| TABLE 4101.2: Use Table for Planned Development Districts | | | | | | | | | | | | | | | |
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| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Office in a Residential District | | | | | | | | | | | | | | 4102.5.N | |
| Personal and Business Services: businesses that primarily provide routine business support functions for the day-to-day operations of other businesses or frequent or recurrent needed services of a personal nature to individuals | | | | | | | | | | | | | | | |
| Business Service | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | |
| Household Repair and Rental Service | | ✓ | | | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | | |
| Massage Therapy Establishment | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | 4102.5.O | |
| Personal Service | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | 4102.5.O | |
| Recreation and Entertainment: uses providing indoor or outdoor facilities for recreation or entertainment-oriented activities by patrons or members | | | | | | | | | | | | | | | |
| Banquet or Reception Hall | | ✓/SE | | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | ✓/SE | | | |
| Campground | | | ✓/SE | | | | | | | | | | | 4102.5.Q | |
| Commercial Recreation, Indoor | | ✓/SE | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | 4102.5.R | |
| Commercial Recreation, Outdoor | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | 4102.5.S | |
| Entertainment, Adult | | | | | | | | | | | | | | 4102.5.T | |
| Entertainment, Public | | | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | 4102.5.U | |
| Golf Course or Country Club | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | | | 4102.5.V | |
| Health and Exercise Facility, Large | | ✓/SE | | | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | 4102.5.W | |
| Health and Exercise Facility, Small | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | |
| Marina, Commercial | | ✓/SE | ✓/SE | | ✓/SE | ✓/SE | | | ✓/SE | | | | | 4102.5.X | |
| Marina, Private Noncommercial | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | | | | 4102.5.Y | |
| Quasi-Public Park, Playground, or Athletic Field | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | | ✓/SE | | ✓/SE | ✓/SE | | 4102.5.Z | |
| Smoking Lounge | | | | | | ✓/SE | | | ✓/SE | | | ✓/SE | | 4102.5.AA | |
| Stadium or Arena | | | | | | | | | SE | | SE | SE | | | |
| Zoo or Aquarium | | ✓/SE | | | | | | | ✓/SE | | | ✓/SE | | 4102.5.BB | |
| Retail Sales: uses involved in the sale, rental, and incidental servicing of goods and commodities that are generally delivered or provided on the premises to a consumer | | | | | | | | | | | | | | | |
| Convenience Store | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | 4102.5.CC 4102.1.G | |

| TABLE 4101.2: Use Table for Planned Development Districts | | | | | | | | | | | | | | | |
|--|-----------|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|------|-----------|-----------|--|
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| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Drive-Through Other | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | | | | 4102.5.DD |
| Drive-Through Pharmacy | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | ✓/SE | 4102.5.EE |
| Drug Paraphernalia Establishment | | | | | | | | | | | | | | | 4102.5.FF |
| Garden Center | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | ✓/SE | | | 4102.5.GG |
| Pawnshop | | | | | | | | | | | | ✓/SE | | | |
| Retail Sales, General | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | | ✓/SE | 4102.5.HH |
| Retail Sales, Large | | | | | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | | 4102.5.II |
| Vehicle-Related Uses: uses for the maintenance, sale, or rental of motor vehicles and related equipment | | | | | | | | | | | | | | | |
| Car Wash | | | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | | 4102.5.JJ |
| Commercial Off-Street Parking | | | | | | ✓ | | | ✓ | | | ✓ | | | 4102.5.KK |
| New Vehicle Storage | | | | | | | | | ✓ | | | ✓ | | | 4102.5.LL |
| Truck Rental Establishment | | | | | SE | | | | | | | | | | 4102.5.MM |
| Vehicle Fueling Station | | ✓/SE | | ✓/SE | ✓/SE | ✓/SE | ✓/SE | | ✓/SE | | | ✓/SE | | | 4102.5.NN |
| Vehicle Repair and Maintenance, Heavy | | | | | | | | | | | | | | | |
| Vehicle Repair and Maintenance, Light | | ✓/SE | | | ✓ | ✓ | | | ✓/SE | | | ✓/SE | | | 4102.5.OO |
| Vehicle Sales, Rental, and Service | | | | | | ✓ | ✓/SE | | ✓/SE | | ✓/SE | ✓/SE | | | 4102.5.PP |
| Vehicle Transportation Service | | | | | | ✓ | ✓ | | ✓ | | ✓ | ✓ | | | 4102.5.QQ |
| INDUSTRIAL USES | | | | | | | | | | | | | | | |
| Freight Movement, Warehousing, and Wholesale Distribution: uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. | | | | | | | | | | | | | | | |
| Data Center | | | | | | ✓ | ✓ | ✓ | | | | ✓ | | | 4102.6.A |
| Freight Distribution Hub | | | | | | | | | | | | | | | |
| Goods Distribution Hub | | | | | | | | | ✓/SE | | | ✓/SE | | | 4102.6.B |
| Self-Storage | | | | | | | | | ✓/SE | | | ✓/SE | | | 4102.6.C |
| Warehouse | | | | | | | | | | | | | | | 4102.6.D |
| Wholesale Facility | | | | | | | | | | | | ✓ | | | 4102.6.E |

| TABLE 4101.2: Use Table for Planned Development Districts | | | | | | | | | | | | | | | |
|--|--|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|----------|-----------|----------------------|--|
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| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Industrial Services and Extraction of Materials: uses involving the repair or servicing of industrial, business, or consumer machinery equipment, products or by-products, or uses involving the extraction of natural resources from the ground. Few customers from the general public come to the site. | | | | | | | | | | | | | | | |
| Building Materials Storage and Sales | | | | | | | | | | | | | | | |
| Contractor’s Office and Shop | | | | | | | | | | | ✓ | | | 4102.6.F | |
| Extraction Activity | Allowed as an SP use only in a Natural Resource Overlay. | | | | | | | | | | | | | 4102.6.G | |
| Petroleum Products Storage Facility | | | | | | | | | | | | | | 4102.6.H | |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | | | | | | | | | | | | | | | |
| Storage Yard | | | | | | | | | | | | | | | |
| Vehicle Storage or Impoundment Yard | | | | | | | | | | | | | | 4102.6.J | |
| Production of Goods: uses involving the manufacturing, processing, production, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, transfer to other industrial operations, or for order by businesses or consumers. | | | | | | | | | | | | | | | |
| Craft Beverage Production Establishment | | | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | 4102.6.K | |
| Production or Processing | | | | | | | | | | | | ✓ | | 4102.6.L | |
| Production or Processing, Heavy | | | | | | | | | | | | | | 4102.6.M | |
| Small-Scale Production Establishment | | ✓ | | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | | | 4102.6.N | |
| Waste and Recycling Facilities: uses involving receiving solid or liquid wastes from others for on-site disposal, storage, processing, or transfer to another location for processing or disposal. This use category also includes uses that manufacture or produce goods or energy from the composting of organic material, and the reuse, recycling, or processing of scrap or waste material. | | | | | | | | | | | | | | | |
| Junkyard | | | | | | | | | | | | | | | |
| Mixed Waste Reclamation Facility | | | | | | | | | | | | | | 4102.6.O | |
| Recycling Center | | | | | | | | | | | | | | 4102.6.P | |
| Solid Waste Disposal Facility | | | | | | | | | | | | | | 4102.6.Q | |
| ACCESSORY USES | | | | | | | | | | | | | | | |
| Accessory Living Unit | | AP SP | AP SP | AP SP | AP SP | AP SP | | | AP SP | | | AP SP | | 4102.7.B 4102.1.I | |
| Caretaker Quarters | | | | | | | | | | | | | | 4102.7.C | |

TABLE 4101.2: Use Table for Planned Development Districts
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 SE = special exception; SP = special permit; *blank cell* = not allowed
 A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
|--|-----------|------------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|------------|-----------|------------|------------|-----------|------------|--|
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Child Care Center for Occasional Care | | | | | A | A | A | | A | | | A | | | 4102.7.D |
| Donation Drop-off Box | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | ✓ | 4102.7.E |
| Electric Vehicle Charging | | A | A | A | A | A | A | | A | | A | A | | A | 4102.7.F |
| Family Health Care Structure | | AP | AP | AP | AP | AP | | | AP | | | AP | | AP | 4102.7.G 4102.1.I |
| Garage Sale or Yard Sale | | A | A | A | A | A | | | A | | A | A | | A | 4102.7.H |
| Gardening and Composting | | A | A | A | A | A | | | A | | A | A | | A | |
| Home-Based Business | | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | | AP SP | | AP SP | AP SP | | AP SP | 4102.7.I 4102.1.I |
| Home Day Care Facility | | A ✓/SE | A ✓/SE | A ✓/SE | A ✓/SE | A ✓/SE | A ✓/SE | | A ✓/SE | | A ✓/SE | A ✓/SE | | A ✓/SE | 4102.7.J |
| Keeping of Animals | | A SP | A SP | A SP | A SP | A SP | A SP | | A SP | | A SP | A SP | | A SP | 4102.7.K |
| Limited Riding or Boarding Stable | | | | | | | | | | | | | | | 4102.7.L |
| Residence for Manager or Employee | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ | | ✓ | |
| Sawmilling | | | | | | | | | | | | | | | 4102.7.N |
| Short-Term Lodging | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.7.O 4102.1.I |
| Solar Collection System | | A | A | A | A | A | A | | A | | A | A | | A | 4102.7.P |
| Wayside Stand | | | | | | | | | | | | | | | 4102.7.Q |
| TEMPORARY USES | | | | | | | | | | | | | | | |
| Community Garden | | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | | AP SP | | AP SP | AP SP | | AP SP | 4102.8.B 4102.1.I |
| Construction Site Office and Storage | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.8.C 4102.1.I |
| Farmers Market | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.8.D 4102.1.I |
| Food Truck | | AP ✓/SE | AP ✓/SE | AP ✓/SE | AP ✓/SE | AP ✓/SE | AP ✓/SE | | AP ✓/SE | | AP ✓/SE | AP ✓/SE | | AP ✓/SE | 4102.8.E 4102.1.I |
| Interim Off-Street Parking in Metro Station Area | | SE | SE | SE | SE | SE | SE | | SE | | | | | | 4102.8.F |
| Model Home Sales or Leasing Office | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.8.G 4102.1.I |

| TABLE 4101.2: Use Table for Planned Development Districts ✓ = permitted if shown on final development plan/PRC development plan and PRC plan; ✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s) SE = special exception; SP = special permit; <i>blank cell</i> = not allowed A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit | | | | | | | | | | | | | | | |
|--|-----------|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|----------|-----------|-----------|--|
| Use | PDH | | PRC | | | | | PDC | | PRM | | PTC | PCC | | Use-Specific Standards NOTE: General Standards also apply |
| | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary | | Principal | Secondary | |
| Portable Storage Container | | A AP | A AP | A AP | A AP | A AP | A AP | | A AP | | A AP | A AP | | A AP | 4102.8.H 4102.1.I |
| Special Event | | AP SP | AP SP | AP SP | AP SP | AP SP | AP SP | | AP SP | | AP SP | AP SP | | AP SP | 4102.8.I 4102.1.I |
| Temporary Dwelling or Manufactured Home | | AP | AP | AP | AP | AP | AP | | AP | | AP | AP | | AP | 4102.8.J 4102.1.I |
| OTHER USES | | | | | | | | | | | | | | | |
| Alternative Use of Historic Buildings | | SE | SE | SE | SE | SE | SE | | SE | | SE | SE | | SE | 4102.1.H |

4102. Use Standards

Each use must comply with its related standards, including standards for all uses, standards for the zoning district where the use is located, and standards for the specific use. Uses established as of the effective date of this Ordinance may not be altered, modified, or enlarged in any way that conflicts with, or compounds an existing conflict with, the use standards.

1. General Standards

A. Standards for All Uses

- (1) Every use must comply with the off-street parking, loading, and private street regulations in Article 6; the sign regulations in Article 7; the landscaping and screening regulations in Section 5108; and the lot size and bulk regulations of the zoning district where it is located, except as qualified elsewhere in this Ordinance.
- (2) All uses except extraction activity must comply with the performance standards in Section 5102 and Section 5109.
- (3) Before establishment, uses, including any modifications or alterations to an existing use, are subject to the provisions of subsection 8100.7.
- (4) If a use requires any governmental approval—whatever the form (e.g., license, permit, etc.) or the governmental entity (local, state, or federal)—the use must maintain compliance with that approval, including any pertinent standards and requirements. This includes, but is not limited to, compliance with performance standards relating to air pollution, fire and explosion hazards, radiation hazards, electromagnetic radiation and interference, and liquid and solid wastes. Some, but not all, of these standards and requirements are referenced in this Ordinance; when they are not, it does not relieve any person of the responsibility to comply with them.
- (5) **Uses Conducted from Vehicles:**
The sale or offering for sale of goods or services from any vehicle is a commercial use. Any nonresidential use conducted from a vehicle must comply with all standards for the use in the district where located, except for food trucks, which are subject to subsection 4102.8.E. This standard does not prohibit vending from vehicles on public streets in accordance with all applicable laws.
- (6) **Modifications and Waivers**
 - (a) In conjunction with the approval of proffered conditions or a special exception, the Board may modify or waive any use standard in Article 4 if the resultant development will not adversely affect the use or development of adjacent properties. Except as specifically provided, however, the standards, procedures, and other provisions in any other article of this Ordinance may not be modified or waived.
 - (b) In accordance with the limitations in subsections 8100.2.E(1)(g), 8100.2.E(2)(h), and 8100.2.F(2)(c), the Board may modify or waive any zoning and subdivision requirements for a planned district.
 - (c) As specified in subsection 8100.4.B(2)(a), unless specifically provided, the BZA may not modify or waive any standards in the approval of a special permit.

- (d) The definitions in Article 9 may not be modified.

B. Standards for Uses in Residential Zoning Districts

- (1) The sale of goods or products is not permitted, except as accessory to a permitted, special permit, special exception, or administrative permit use.
- (2) Parking of one commercial vehicle per dwelling unit is allowed, subject to the following limitations:
 - (a) The commercial vehicle must be owned or operated only by the occupant of the dwelling unit where it is parked.
 - (b) The following commercial vehicles are prohibited from parking in a residential district:
 - 1. Food trucks, solid waste collection vehicles, tractors and trailers of tractor-trailers, dump trucks, construction equipment, cement-mixer trucks, and towing and recovery vehicles;
 - 2. Vehicles, including any appurtenances attached to the vehicle, that are greater than 21 feet in length, eight feet in height, or eight and one-half feet in width;
 - 3. Vehicles carrying commercial freight in plain view;
 - 4. Trailers used for transporting equipment whether attached or unattached to another vehicle;
 - 5. Vehicles with three or more axles; or
 - 6. Vehicles or equipment that are similar to those identified in subsections 1 through 5 above.
- (3) Outdoor storage is allowed, subject to the following limitations:
 - (a) It must not be located in the front yard; and
 - (b) The total area is limited to 100 square feet.

C. Standards for Uses in Commercial Zoning Districts

- (1) The following are not allowed in the minimum setbacks:
 - (a) Any outdoor storage, including the display of goods; and
 - (b) Services or activities associated with the use of the property, except that off-street parking spaces, vehicle fueling station pump islands, and canopies are allowed.
- (2) All refuse must be kept in enclosed containers that are screened from view.
- (3) In the C-1, C-2, C-3, and C-4 Districts, all business activity, including the storage and display of goods, must be conducted within a completely enclosed building, except:
 - (a) Uses which by their nature must be conducted outside a building;
 - (b) Outdoor seating provided in association with a restaurant or craft beverage production establishment.
- (4) In the C-5, C-6, C-7, and C-8 Districts, unless otherwise stated in this Ordinance, any business activity, storage, or display of goods located outdoors may be permitted as follows:
 - (a) When located on the same lot as and accessory to an established permitted, special exception, or special permit use;

- (b) When limited to 500 square feet in accordance with subsection 8100.7.D; however, additional area may be permitted if designated on an approved development plan or site plan;
- (c) Outdoor storage and loading areas must be screened from view from the first story of any buildings on abutting lots and from rights-of-way; and
- (d) There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or materials; or other similar vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor-trailer trucks.

D. Standards for Uses in Industrial Districts

- (1) The following are not allowed in the minimum setbacks:
 - (a) Any outdoor storage, including the display of goods;
 - (b) Processing or other industrial operations of any kind; and
 - (c) Services or activities associated with the use of the property, except that off-street parking spaces and vehicle fueling station pump islands, and associated canopies are allowed.
- (2) In the I-2 District, all business activity, including the storage and display of goods, must be conducted within a completely enclosed building, except:
 - (a) Uses which, by their nature, must be conducted outside a building; and
 - (b) Outdoor seating provided in association with a restaurant or craft beverage production establishment.
- (3) In the I-3 and I-4 Districts, unless otherwise stated in this Ordinance, any business activity, storage or display of goods located outdoors may be permitted as follows:
 - (a) When located on the same lot as and accessory to an established permitted, special exception, or special permit use;
 - (b) When limited to 500 square feet in accordance with subsection 8100.7.D; however, additional area may be permitted if designated on an approved development plan or site plan;
 - (c) Outdoor storage and loading areas must be screened from the view from the first story of any buildings on abutting lots and from rights-of-way; and
 - (d) There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or materials; or other similar vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor-trailer trucks.

E. Standards for Uses in Planned Districts

- (1) In the PRC District, all uses permitted under an approved development plan must be in substantial conformance with that approved development plan and the approved PRC plan as required by subsection 8100.2.F(2).
- (2) In any other P district, all uses permitted under a final development plan must be in substantial conformance with the approved final development plan as required by subsection 8100.2.E(3).

- (3) Additional standards that apply to uses in the establishment of a planned district are in Section 2105.
- (4) In residential areas of Planned Districts, parking of one commercial vehicle per dwelling unit is allowed, subject to the following limitations:
 - (a) The commercial vehicle must be owned or operated only by the occupant of the dwelling unit where it is parked.
 - (b) The following commercial vehicles are prohibited from parking in a residential district:
 - 1. Food trucks, solid waste collection vehicles, tractors and trailers of tractor-trailers, dump trucks, construction equipment, cement-mixer trucks, and towing and recovery vehicles;
 - 2. Vehicles, including any appurtenances attached to the vehicle, that are greater than 21 feet in length, eight feet in height, or eight and one-half feet in width;
 - 3. Vehicles carrying commercial freight in plain view;
 - 4. Trailers used for transporting equipment whether attached or unattached to another vehicle;
 - 5. Vehicles with three or more axles; or
 - 6. Vehicles or equipment that are similar to those identified in subsections 1 through 5 above.
- (5) In residential areas of P districts, outdoor storage is allowed, subject to the following limitations:
 - (a) It must not be located in the front yard; and
 - (b) The total area is limited to 100 square feet.

F. Standards for Special Exception and Special Permit Uses

- (1) There are certain uses, like those regulated by special exception or special permit, which by their nature or design can have an undue impact upon or be incompatible with other uses of land. The Board or BZA, as applicable, may approve a special exception or special permit that complies with all applicable standards, that will be compatible with existing and planned development in the general area, and that, as conditioned, will be compatible with the neighborhood where it is proposed to be located. If it determines that the use is not in accordance with all applicable standards of this Ordinance, the Board or BZA, as applicable, must deny the special exception or special permit.
- (2) In addition to all other applicable standards, all special exception or special permit uses must comply with the following general standards:
 - (a) The proposed use at the specified location must be in harmony with the Comprehensive Plan.
 - (b) The proposed use must be in harmony with the general purpose and intent of the zoning district where it is to be located.
 - (c) The proposed use, including its design and operational characteristics, must not adversely affect the use or future development of neighboring properties and must be in accordance with the applicable zoning district regulations. The location, size and height of buildings, structures, walls, and fences, as well as the nature and

extent of screening, buffering and landscaping cannot hinder or discourage the appropriate development and use, or impair the value of, adjacent or nearby land or buildings.

- (d) Pedestrian and vehicular traffic associated with the use must not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
 - (e) Adequate utility, drainage, and other necessary facilities to serve the proposed use must be provided.
 - (f) Signs are regulated by Article 7; however, the Board or BZA may impose stricter requirements for a given use than those set forth in this Ordinance.
- (3) No use of a structure or land that is designated as a special exception or special permit use in any zoning district may be established, and no existing use may be changed to another use that is designated as a special exception or special permit use in the district, unless the applicable special exception or special permit has been approved by the Board or BZA and the use has been established in accordance with subsection 8100.3 or subsection 8100.4.
- (4) A conforming use lawfully existing before the effective date of this Ordinance that requires a special exception or special permit under this Ordinance may not be replaced or enlarged except in accordance with subsection 8104.3.
- (5) If a current and valid special exception or special permit exists for a use that is on a lot that is zoned to more than one zoning district and if an amendment to this Ordinance allows the use as a permitted use only in one of those zoning districts, the special exception or special permit will remain in full force and effect for the entire property, unless the Board or BZA approves an amendment to the special exception or special permit to remove the land area from the area that is subject to the special exception or special permit.

G. Standards for Associated Service Uses

- (1) In addition to the standards for specific uses, all associated service uses must comply with the following:
- (a) The associated service use must be located in the same building as the principal use.
 - (b) The combined gross floor area of all associated service uses may not exceed 10 percent of the gross floor area of the building. In addition, except for a child care center, each individual establishment may not exceed 2,500 square feet of gross floor area.
 - (c) The hours of operation must generally conform to the business hours of the principal use, but may not exceed 6:00 a.m. to 10:00 p.m.
- (2) In the C-1, C-2, C-3, C-4, I-2, I-3, I-4, I-5, and I-6 Districts, an associated service use must comply with the following additional standards:
- (a) An associated service use may use the parking rate for the principal use.
 - (b) Any associated service use other than a personal service establishment must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.

- (c) An associated service use that is a personal service establishment must be part of an office building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis and may not be part of an industrial building complex.
- (3) In the R-20 and R-30 Districts, an associated service use must comply with the following additional standards:
 - (a) The associated service use must primarily serve a multifamily building or complex.
 - (b) The use may not be located within an individual dwelling unit.
 - (c) Enrollment for a child care center is limited to persons who live or work in the building or complex where the child care center is located.

H. Standards for Alternative Use of Historic Buildings

Standards when permitted by special exception:

- (1) The Board may approve a special exception to allow a nonresidential use in a historic structure. For the purpose of this section, a historic structure is a structure identified on the Fairfax County Inventory of Historic Sites. The Board will consider whether the nature and scale of the proposed use is compatible with the structure, site, and surrounding properties.
- (2) Except in buildings historically used for commercial or industrial activities, the use may not include uses within the following use categories or classification:
 - (a) Animal-related uses;
 - (b) Vehicle-related uses; and
 - (c) Industrial uses, except for craft beverage production and small-scale production establishments.
- (3) All applications that include exterior modifications to the structure or site will be reviewed by the Architectural Review Board (ARB). The ARB will base its recommendation on whether the proposal is consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties. The ARB recommendation will be provided to the Planning Commission and Board of Supervisors.
- (4) The structure may not be altered or used in a manner that results in removal from the Fairfax County Inventory of Historic Sites.
- (5) Goods or items offered for sale may not be displayed outdoors.
- (6) All off-street parking and loading spaces must be located outside of required minimum side and rear yards that abut a residential district, unless modified by the Board.
- (7) The existing structure is not required to comply with the minimum lot size requirements or bulk regulations for the zoning district. Any new structure or addition must conform to the applicable bulk regulations.
- (8) The Board may use the applicable use-specific standards as a guide when reviewing the proposal.
- (9) The Board may impose conditions and restrictions that it deems necessary to ensure the use will be compatible with and not adversely impact any adjacent residential areas.

I. Standards for Administrative Permit Approvals

- (1) The County may inspect the property during reasonable hours and in accordance with subsection 8106.2.D.
- (2) The Zoning Administrator may revoke an administrative permit at any time if the owner or operator of the use fails to comply with all requirements of the law with respect to maintenance and conduct of the use and all conditions imposed by the Zoning Administrator in connection with the permit.
- (3) The Zoning Administrator will issue a notice of revocation to the owner or operator, hand-delivered or mailed, return receipt requested, setting forth the grounds upon which the permit was revoked, the date and time the revocation took effect, and describing the appeals procedure. Upon receipt of the notice, operation of the activity must cease.
- (4) These provisions do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of this Ordinance.

2. Agricultural and Related Uses

Agricultural and Related Uses

A. Agricultural Operation

Standards when permitted by right:

- (1) The minimum lot area is five acres, unless otherwise stated in this Ordinance for a use related to an agricultural operation.
- (2) The retail sale of agricultural products produced on-site is permitted.
- (3) Barns and other structures for the housing of animals are allowed, subject to the setbacks in subsection 4102.7.K(6).

B. Farm Winery, Limited Brewery, or Limited Distillery

Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-C District:

- (1) A farm winery, limited brewery, or limited distillery must be located on one of the following:
 - (a) A minimum of 20 acres of contiguous land under common ownership used for an agricultural operation; or
 - (b) A lot with a minimum of five acres used for an agricultural operation and for which a Virginia Alcoholic Beverage Control Board license was pending for the operation of a farm winery, limited brewery, or limited distillery before December 7, 2016, where such license is ultimately approved.
- (2) A farm winery, limited brewery, or limited distillery is only allowed subject to the following:
 - (a) A valid license for the use was issued from the Virginia Alcoholic Beverage Control Board before July 1, 2016. All structures, buildings, and uses were existing on July 1, 2016, and the use does not cease for a continuous period of two years or more.

- Any new or expanded structures, buildings, or uses require special exception approval in accordance with subsection (3) below; or
- (b)** A license application for the use was filed with the Virginia Alcoholic Beverage Control Board before July 1, 2016, and such license is subsequently approved. The use may not commence until a special exception is approved.
- (3)** Any expansion of existing structures, buildings, or uses or construction of new buildings or structures associated with the use requires special exception approval in accordance with subsection 8100.3, and must comply with the following additional standards:
- (a)** All loading/unloading areas must be located at least 50 feet from all lot lines and 100 feet from all principal structures on adjacent properties, unless modified by the Board.
 - (b)** All loading/unloading areas must be screened from view of any adjacent dwelling.
 - (c)** For any new or expanded publicly accessible buildings or structures, the owner or applicant must submit plans certified by a structural engineer. The engineer must also certify to the structural integrity of the building, once the construction is complete. Such certified plans must be kept by the applicant and made available to the County for review upon request.
- (4)** A farm winery, limited brewery, or limited distillery may be used for alcohol production, sales, and tastings. In addition, the hosting of public or private events or activities is allowed in accordance with the following standards:
- (a)** At any one time, up to 200 guests are allowed, or, if the primary access is from a principal arterial, up to 300 guests are allowed, with no limit on the number or duration of events.
 - (b)** The number of guests may exceed the limit established in subsection (a) above during a maximum of 12 events or activities per calendar year. Each event must not exceed two days in duration.
 - (c)** Events or activities must not include any of the following:

 - 1.** Helicopter rides;
 - 2.** Fireworks displays;
 - 3.** Antique/flea markets;
 - 4.** Go-cart/all-terrain vehicle tracks;
 - 5.** Mechanized amusement park rides;
 - 6.** Hot air balloons;
 - 7.** Lodging;
 - 8.** Spa services;
 - 9.** The operation of a commercial restaurant requiring approval by the Health Department; or
 - 10.** Any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety, and welfare of the public.
 - (d)** The Board may approve a special exception for the hosting of public or private events or activities that exceed the maximum number of guests, or the number or duration of events or activities stated in subsections (a) and (b) above. The Board

may impose conditions on the hosting of such events and activities, including conditions addressing the following:

1. The number of attendees;
 2. The type, number, location, and duration of allowable activities;
 3. The adequacy of water and sanitation services to accommodate the anticipated number of attendees;
 4. The days and hours of such activities;
 5. The use of lighting or amplified sound systems; and
 6. The amount of parking available to accommodate the activity.
- (e) Sales and tastings as part of the regular course of business, which may include accessory musical accompaniment or entertainment, are not considered to be a public or private event or activity.

Standards applicable to farm wineries, limited breweries, and limited distilleries in the R-A, R-E, and R-1 Districts:

- (5) A farm winery, limited brewery, or limited distillery must be located on one of the following:
- (a) A minimum of 20 acres of contiguous land used for an agricultural operation that is under common ownership; or
 - (b) A lot with a minimum of five acres used for an agricultural operation and for which a Virginia Alcoholic Beverage Control Board license was pending for the operation of a farm winery, limited brewery or limited distillery before December 7, 2016, where such license is ultimately approved.
- (6) A farm winery, limited brewery, or limited distillery may be used for alcohol production, sales, and tastings. The hosting of public or private events or activities is allowed, as follows:
- (a) At any one time, up to 200 guests are allowed, or, if the primary access is from a principal arterial, up to 300 guests are allowed, with no limit on the number or duration of events.
 - (b) The number of guests may exceed the limit established in subsection (a) above during a maximum of 12 events or activities per calendar year. Each event must not exceed two days in duration.
 - (c) Events or activities must not include any of the following:
 1. Helicopter rides;
 2. Fireworks displays;
 3. Antique/flea markets;
 4. Go-cart/all-terrain vehicle tracks;
 5. Mechanized amusement park rides;
 6. Hot air balloons;
 7. Lodging;
 8. Spa services;

9. The operation of a commercial restaurant requiring approval by the Health Department; or
 10. Any other similar use determined by the Board to have a substantial impact on the health, safety, and welfare of the public.
- (d) The Board may approve a special exception for the hosting of public or private events or activities that exceed the maximum number of guests, or the number or duration of events or activities stated in subsections (6)(a) and (6)(b). The Board may impose conditions on the hosting of such events and activities, including conditions addressing the following:
1. The number of attendees;
 2. The type, number, location, and duration of allowable activities;
 3. The adequacy of water and sanitation services to accommodate the anticipated number of attendees;
 4. The days and hours of such activities;
 5. The use of lighting or amplified sound systems; and
 6. The amount of parking available to accommodate the activity.
- (e) Sales and tastings as part of the regular course of business, or accessory musical accompaniment or entertainment, are not considered to be a public or private event or activity.

C. Stable, Riding or Boarding

Standards when permitted by special exception or special permit:

- (1) When an application for a riding or boarding stable is not submitted in conjunction with an application for a rezoning or special exception, a special permit is required. When an application for a riding or boarding stable is submitted in conjunction with a rezoning or other action before the Board, the use may be approved as either a special exception in accordance with subsection 8100.3 or a special permit in accordance with subsection 8100.4, at the discretion of the applicant.
- (2) The minimum lot size is two acres for a riding or boarding stable where six, seven, or eight horses or ponies are kept, and five acres for a riding or boarding stable where nine or more horses or ponies are kept. These totals do not include any horses or ponies owned by a resident of the property.
- (3) Except for light poles and fences, all structures and riding rings associated with a riding or boarding stable must be located a minimum of 100 feet from all lot lines.
- (4) All off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining property in an R district or a residential area of a P district.
- (5) The Board or BZA may modify or waive the setback requirements of subsection (3) or (4) above as follows:
 - (a) For stable structures, riding rings, and associated parking and loading spaces established on the lot after September 29, 2010, the BZA may reduce the 100-foot setback required in subsection (3) above to not less than 40 feet, and may reduce the 50-foot setback required in subsection (4) above to not less than 20 feet.

- (b) For stable structures, riding rings, and associated parking and loading spaces existing on the lot before September 29, 2010, the BZA may modify or waive the 100-foot setback required in subsection (3) above and the 50-foot setback required in subsection (4) above.
- (c) The applicant must demonstrate that the setback(s) are not necessary to minimize any adverse impacts on adjacent properties due to any of the following:
 - 1. Specific operational characteristics of the riding or boarding stable, such as limits on the number of horses, students, and employees; use of outdoor lighting and public address systems; hours of operation; number and frequency of special events; odor mitigation; and amount and type of outdoor activity.
 - 2. Conditions that adequately buffer adjacent properties from the riding or boarding stable, including topography, vegetation, location or orientation of on-site structures, proximity of adjacent dwelling units, development of adjacent properties with non-residential uses, or existence of roads or major utilities.
- (6) A riding or boarding stable may include a veterinary hospital if the hospital complies with the following requirements:
 - (a) All facilities must be within a completely enclosed building.
 - (b) The construction and operation of all facilities must be approved by the Health Department before the issuance of any building permit or Non-Residential Use Permit.
- (7) A Conservation Plan must be submitted for the property and approved by the Northern Virginia Soil and Water Conservation District. All activity on the property must conform to the approved Conservation Plan.

Standards when permitted as an accessory use:

- (8) A riding or boarding stable is allowed as an accessory use in accordance with subsection 4102.7.L.

3. Residential Uses

Household Living

A. All Household Living Uses

A dwelling unit may be occupied by no more than one of the following:

- (1) Two or more persons related by blood or marriage and any number of natural children, foster children, stepchildren, adopted children, or children in kinship care, and with no more than two roomers or boarders;
- (2) One or two persons with their dependent children, including natural children, foster children, stepchildren, adopted children, or children in kinship care, functioning as a single household;
- (3) A group of not more than four persons not related by blood or marriage, functioning as a single household;
- (4) A group residential facility;

- (5) A group household; or
- (6) A dwelling unit that includes an accessory living unit occupied in accordance with subsection 4102.7.B.

B. Dwelling, Single-Family Attached and Dwelling, Stacked Townhouse

Standards applicable to all single-family attached dwellings and stacked townhouse dwellings:

The maximum length of a contiguous building group is 250 feet, excluding any utility closet.

C. Dwelling, Single-Family Detached

Standards when permitted by right:

In the R-A District, a single-family detached dwelling is allowed only in conjunction with an agricultural operation.

D. Live-Work Development

Standards applicable to all live-work developments:

The following activities are prohibited:

- (1) The conduct of any activity that is not a permitted use in the district or an approved special exception or special permit;
- (2) Any office that involves medical or dental services, research and experimentation in a laboratory, or similar activities; and
- (3) The installation of specialized equipment, fittings, or fixtures that are generally only required for the provision of a service or the conduct of an activity prohibited by subsections (1) and (2) above.

E. Manufactured Home

Standards applicable to all manufactured homes:

A manufactured home that is to be used as a dwelling is allowed only:

- (1) In a mobile home park in the R-MHP District in accordance with subsection 2102.14, provided that the manufactured home must be licensed in accordance with Chapter 32 of the County Code and bear a certification label or have other verification consistent with the requirements of the U.S. Department of Housing and Urban Development that the manufactured home is constructed in conformance with the Federal Manufactured Home Construction and Safety Standards in effect on the date of manufacture;
- (2) In the R-A District in conjunction with an agricultural operation, provided that the manufactured home must be placed on a permanent foundation;
- (3) On railroad rights-of-way for the purpose of supplying temporary housing for personnel engaged in emergency repair work for a maximum period of 30 days, subject to the approval of the Zoning Administrator and the Health Department; or
- (4) As a temporary dwelling in accordance with section 4102.8.J.

Group Living

F. Congregate Living Facility

Standards when permitted by special exception:

A congregate living facility that has the external form and character typical of a single-family detached dwelling must comply with the setback requirements for a single-family detached dwelling in the zoning district in which it is located. Any other congregate living facility must be located a minimum 100 feet from all lot lines that abut the R-1, R-2, R-3, or R-4 Districts and 45 feet from all other lot lines, or as determined by the Board.

G. Group Household

Standards when permitted by special permit:

A group household must provide a sufficient number of spaces to accommodate the parking needs of its residents and staff.

H. Religious Group Living

Standards when permitted by special permit:

In the commercial and industrial districts, religious group living must be located in conjunction with and within the same structure as a religious assembly use.

I. Residence Hall

Standards when permitted by special exception:

- (1) In the R-E, R-1, R-2, R-3, and R-4 Districts, a residence hall must have the external form and character of a single-family detached dwelling.
- (2) In the commercial and industrial districts, a residence hall must be located in conjunction with a private school, a college or university, or a religious assembly use.
- (3) The Board may approve a special exception for a residence hall when it finds the proposed use, together with all other similar uses within the area, will not modify or disrupt the predominant character of the neighborhood.

4. Public, Institutional, and Community Uses

Community, Cultural, and Educational Facilities

A. Adult Day Support Center

Standards applicable to all adult day support centers:

- (1) The adult day support center must provide a drop-off and pick up location that includes step-free access.
- (2) If an outdoor recreation area is provided, it must be located outside the minimum front setback, unless specifically approved by the Board by special exception in accordance with subsection 8100.3.

- (3) The adult day support center may not operate until a license has been granted by the appropriate State agency.

Standards when permitted by right:

- (4) In industrial districts, an adult day support center is permitted by right if it complies with the following standards. Otherwise, an adult day support center requires special exception approval in accordance with subsection 8100.3.
 - (a) The adult day support center must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
 - (b) Vehicular access to the adult day support center must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.

Standards when permitted by special exception:

- (5) The adult day support center must have direct access to a street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center.

B. Alternate Use of Public Facility

Standards when permitted by special exception:

The Board may approve a special exception to allow alternate use of a County public facility in accordance with the following standards:

- (1) In approving the special exception, the Board will use any standards set out for the proposed use in this article as a guide for conditions of approval;
- (2) If located within an existing structure, the use is not required to comply with the minimum lot size requirements or bulk regulations for the zoning district where the public facility is located; and
- (3) If located within a residential district, the use must not adversely impact the adjoining residential community in terms of traffic, vehicular access, parking, lighting, signs, outdoor storage, length and intensity of outside activity, and general visual or noise impact.

C. Child Care Center

Standards applicable to all child care centers:

- (1) The outdoor recreation area required under Chapter 30 of the County Code must:
 - (a) Provide at least 100 square feet of usable outdoor recreation area for each child that may use the space at any one time;
 - (b) Be designed or usable for active outdoor recreation purposes;
 - (c) Occupy less than 80 percent of the combined total areas of the required rear and side yards;
 - (d) Be located outside the minimum front setback, unless specifically approved by the Board by special exception in accordance with subsection 8100.3; and
 - (e) Not include areas covered by buildings or off-street parking.

- (2) The child care center must be designed and located to allow the safe and convenient pick-up and drop-off of persons on the site.

Standards when permitted by right:

- (3) In industrial districts, a child care center is permitted by right if it complies with the following standards. Otherwise, a child care center requires special exception approval in accordance with subsection 8100.3.
- (a) The center must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
 - (b) Vehicular access to the child care center must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.

Standards when permitted by special exception:

- (4) The child care center must have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center.

D. Club, Service Organization, or Community Center

Standards when permitted by special exception:

- (1) In reviewing an application, the Board will take into consideration factors such as safety, noise, and hours of operation and may impose conditions to ensure that the use will be compatible with and not adversely impact adjacent properties.
- (2) In R districts and the residential areas of P districts, accessory rental of the facility to individuals or groups outside of the membership of the corporation, fraternal organization, association, or group for events, such as concerts, shows, wedding receptions, parties, or other similar activities, is not allowed unless specifically approved by the Board. In approving such accessory rental, the Board may impose conditions in accordance with subsection (1) above, including limitations on the number, size, days, and hours of such events.

E. College or University

Standards when permitted by right:

In the C-1, C-2, and C-3 Districts, a college or university:

- (1) Must be located within an enclosed building or buildings; and
- (2) May not include residential, athletic, or large-scale assembly-type facilities, unless permitted by special exception in accordance with subsection 8100.3.

F. Community Swim, Tennis, and Recreation Club

Standards when permitted by special permit:

- (1) This use must have a membership limited to residents of a designated area and their guests and must be under the control and direction of a board of managers composed, at least in part, of residents of the area. Additionally, the owner of the facility must be a nonprofit organization.

- (2) A sports illumination plan must be submitted for outdoor facilities when required by Section 5109.

G. Convention or Conference Center

Standards when permitted by development plan:

In the PDC District, the minimum gross floor area of a convention or conference center is 100,000 square feet.

H. Religious Assembly

Standards applicable to all religious assembly:

- (1) The regulations that relate to religious assembly uses address land use matters only and do not affect an individual's right to determine and exercise their religious beliefs.
- (2) The use of land, buildings, and facilities associated with a religious assembly use may be used for other accessory purposes in furtherance of the mission of the religious assembly use. These additional uses, such as child care centers or private schools, may require a special exception or special permit if specified in that district.

Standards when permitted by right:

- (3) In commercial and industrial districts, any parsonage or rectory must be located in conjunction with, on the same lot, and within the same structure as a religious assembly use.

I. Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center

Standards when permitted by right:

- (1) In industrial districts, a religious assembly with private school, specialized instruction center, or child care center is permitted by right if it complies with the following standards:
 - (a) The facility must comply with all standards that apply to a private school, specialized instruction center, or child care center as principal use in the zoning district where it is located;
 - (b) The facility must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
 - (c) Vehicular access to the facility must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.
- (2) In the I-2, I-3, I-4, and I-5 Districts, a specialized instruction center in conjunction with a religious assembly use is permitted by right.
- (3) In the commercial and industrial districts, any parsonage or rectory must be located in conjunction with, on the same lot, and within the same structure as a religious assembly use.

Standards when permitted by special exception or special permit:

- (4) Except when all uses are permitted by right, a private school, specialized instruction center, or child care center may be approved in conjunction with a religious assembly use either by special exception in accordance with subsection 8100.3 or by special permit in accordance with subsection 8100.4, at the discretion of the applicant, provided that the private school or child care center complies with the applicable standards located in subsections 4102.4.B and 4102.4.I and with any other standards that apply to a private school, specialized instruction center, or child care center as principal use in the zoning district where it is located.

J. School, Private**Standards when permitted by right:**

- (1) In industrial districts, a private school is permitted by right only if it complies with the following standards. Otherwise, a private school requires special exception approval in accordance with subsection 8100.3.
- (a) The facility must be located in an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
 - (b) Vehicular access to the facility must be provided via the internal circulation system of the office or industrial complex where it is located and not from a collector or arterial street that borders the complex.

Standards when permitted by special exception:

- (2) If a private school provides an outdoor recreation area, it must:
- (a) Be developable, designed, and usable for active outdoor recreation purposes;
 - (b) Occupy less than 80 percent of the combined total areas of the required rear and side yards;
 - (c) Be located outside the minimum front setback, unless specifically approved by the Board; and
 - (d) Not include any area covered by a building or required for off-street parking in accordance with Article 6.

K. Specialized Instruction Center**Standards when permitted by special exception:**

In the I-6 District, a specialized instruction center is only permitted by special exception when the use generally involves vocational training, such as a commercial driving school, mechanical and other trade schools, welding, automotive mechanic training, and similar industries.

Funeral and Mortuary Services

L. Cemetery

Standards when permitted by development plan:

- (1) In the PCC District, the use is limited to a columbarium or mausoleum for human or animal interment.

Standards when permitted by special permit:

- (2) Any columbarium or mausoleum must be located a minimum of 50 feet from any lot line.
- (3) A funeral home is allowed as an accessory use only if the cemetery has a minimum area of 75 acres.

M. Crematory

Standards when permitted by special permit:

A crematory must be located a minimum of 250 feet from any lot line.

N. Funeral Home

Standards applicable to all funeral homes:

- (1) A funeral home may not include facilities for cremation.
- (2) In residential districts, in the C-5 and PTC Districts, and in Village Centers in the PRC District, a funeral home may not contain facilities for the following:
 - (a) Embalming;
 - (b) Performance of autopsies or other surgical procedures;
 - (c) Storage of funeral caskets and funeral urns, except those on display on the premises; or
 - (d) Storage or parking of funeral vehicles in the front yard, unless it is within an enclosed accessory building.
- (3) In commercial and industrial districts, a columbarium is permitted within an enclosed building.
- (4) In residential districts, a funeral home must comply with the following additional standards:
 - (a) A funeral home must front on and have direct access to an existing or planned collector or arterial street as defined in the Comprehensive Plan. For the purposes of funeral processions, adequate on-site stacking spaces must be provided;
 - (b) Buildings must be located at least 45 feet from all street lines and at least 40 feet from any lot line which abuts the R-A, R-C, R-E, R-1, R-2, R-3, or R-4 Districts;
 - (c) The minimum lot size is the minimum required for a single-family detached dwelling in the district, or 20,000 square feet, whichever is greater; and
 - (d) The external appearance of the funeral home and any accessory building must be residential in character.

Health Care

O. Adult Day Care Center

Standards when permitted by special exception:

- (1) The adult day care center must have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the center.
- (2) The use must be located to readily and safely facilitate the drop-off and pick-up of all persons attending the adult day care center, to include step-free access.
- (3) A safe, appropriately sized, and conveniently located outdoor area for use by persons receiving adult day care services must be provided.
- (4) All applications for an adult day care center will be referred to the Health Care Advisory Board for its review in accordance with subsection 4102.4.R. The Health Care Advisory Board may submit a recommendation to the Planning Commission and Board of Supervisors at the public hearings.
- (5) All services and facilities provided must be designed, located, and of a scale to support those persons receiving adult day care services.
- (6) No adult day care center may operate until a license has been granted by the appropriate agency of the State of Virginia.
- (7) In the I-4, I-5, and I-6 Districts, an adult day care center must be located in an office building complex, and all vehicular access must be provided by way of the internal circulation system of the complex. The use must be located within an office structure on the property and not as a freestanding building.

P. Continuing Care Facility

Standards when permitted by development plan:

- (1) The development of a continuing care facility and any secondary uses at the specified location must be in substantial conformance with the guidelines of the Comprehensive Plan for the application property and those properties surrounding the application site. The design of the facility, including the location, size, and height of buildings, and the nature and extent of screening, buffering, and landscaping should be compatible with the surrounding neighborhood.
- (2) Development of a continuing care facility must satisfy the Comprehensive Plan guidelines for affordable accommodations associated with the continuing care facility use.
- (3) All applications for a continuing care facility will be referred to the Health Care Advisory Board for its review in accordance with the standards in 4102.4.R. The Health Care Advisory Board may submit a recommendation to the Planning Commission and Board of Supervisors at the public hearings.
- (4) In the PCC District, a continuing care facility must conform to the following additional standards:
 - (a) The facility must be located on a major thoroughfare or collector street and where adequate water and sewer service can be provided;

- (b) Any kennel or veterinary hospital within a continuing care facility must be located within a completely enclosed building. The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards; and
- (c) A drive-through pharmacy is permitted in association with a continuing care facility if it complies with the standards for a drive-through pharmacy when permitted by special exception in subsection 4102.5.EE.

Q. Independent Living Facility

Standards applicable to all independent living facilities:

- (1) In the PDC District, the total gross floor area of all independent living, assisted living, and nursing facilities may not exceed 50 percent of the gross floor area of all uses in the rezoned development area.

Standards when permitted by special exception:

- (2) Housing and general care may be provided only for persons who qualify for the age-related exemptions of the Federal Fair Housing Amendments Act of 1988 (FFHA) or for persons with disabilities (“the residents”).
- (3) The following standards apply to live-in aides:
 - (a) For the purposes of this Section, a live-in aide is any person who meets the definition set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Title 24, of the Code of Federal Regulations, Section 5.403 and 982.316, and is further subject to any applicable notices issued by HUD;
 - (b) A live-in aide may occupy any dwelling unit within the facility; and
 - (c) Live-in aides are not subject to the income limitations or the age and disability occupancy requirements set forth in this section. For the purposes of this section, the “annual household income” does not include the income of any live-in aide when determining the eligibility of the qualified resident.
- (4) The owner or manager of the facility is responsible for both ensuring compliance with this occupancy criterion and reporting such information as required by the FFHA.
- (5) The following standards apply to resident care providers:
 - (a) A resident care provider is any person who lives in a separate dwelling unit within the independent living facility, and who provides services that are determined to be essential to the care and well-being of one or more residents living within the same facility; and
 - (b) Resident care providers may be provided in independent living facilities located in single-family attached units or multifamily dwelling unit buildings, limited to not more than 25 percent of the total number of dwelling units within the facility. Such resident care providers are not required to meet the income limitations or age and disability occupancy requirements set forth in this Section; however, rental occupancy is limited to a maximum six-month term, subject to renewal for additional six-month maximum terms upon confirmation that the care provider continues to provide services to the primary resident(s) of the development. When

a care provider is no longer providing care services to a resident, the provider must vacate the rental unit at the end of the lease term.

- (6) Upon specific request by the Zoning Administrator, the owner or manager of the facility must provide a copy of any documents used to verify the occupancy qualifications of residents, live-in aides, or resident care providers.
- (7) Independent living facilities must provide on-site staff and services that adequately and satisfactorily provide for the needs of the residents. This could include transportation, shopping, health, recreational, and other supportive services. The development must also provide specific facility maintenance and operating programs to ensure that the facility meets the needs of the residents and is compatible with the neighborhood. The Board may impose reasonable conditions upon any exception granted as may be necessary or expedient to insure the adequacy and ongoing provision and maintenance of such facilities and services.
- (8) The intensity of the proposed use must be consistent with the scale of the surrounding neighborhood based on the total gross floor area, floor area ratio, and number of dwelling units.
- (9) The use must front on, and have direct access to, a collector or arterial street.
- (10) The density of the use must comply with the following standards:
 - (a) The density of the use is based upon the density of the land use recommendation set forth in the Comprehensive Plan and as further modified by the corresponding multiplier and open space requirements in the table below. Where the Comprehensive Plan does not specify a density range in terms of dwelling units per acre, the density range is determined in accordance with subsection 5101.4.

| Comprehensive Plan Residential Density | Maximum Number of Units Per Acre [1] | Required Open Space |
|--|---|---------------------|
| 0.2 unit per acre | 5 times units per acre | 75% |
| 0.5 unit per acre | 4 times units per acre | 70% |
| 1 unit per acre | 4 times units per acre | 65% |
| 2 units per acre | 4 times units per acre | 60% |
| 3 units per acre | 4 times units per acre | 55% |
| 4 units per acre | 4 times units per acre | 50% |
| 5 units per acre | 4 times units per acre | 35% |
| 8 units per acre | 4 times units per acre | 25% |
| 12+ units per acre | 4 times units per acre | 35% |
| PRC District | In accordance with an approved Development Plan | |

Notes:

[1] Excluding nursing facilities and assisted living facilities.

- (b) For developments providing 100 percent of the dwelling units as ADUs, the density determined by the table above may be increased by an additional 20 percent.
- (c) If all of the dwelling units are provided as follows: (i) not less than 70 percent of the units for residents whose annual household income does not exceed 50 percent of the Area Median Income for the Washington Standard Metropolitan Statistical Area as specified annually by the U.S. Department of Housing and Urban Development as adjusted for family size (the AMI); and (ii) not more than 30 percent of the units for residents whose annual household income does not exceed 30 percent of the AMI, then the density will be determined by the table

above and may be increased by an additional 25 percent, as calculated using the high end of the residential density range set forth in the Comprehensive Plan. Any such development may be administered under the provisions of section 5101 or under the provisions of any other affordable housing program deemed equivalent by the Zoning Administrator in accordance with subsection 5101.2.D.

Example:

A proposed independent living facility located where the Comprehensive Plan density recommendation is 5 dwelling units per acre would have a maximum number of dwelling units per acre of 20 (5 X 4) and required open space of 35% under the table above. If the site of the proposed facility is one acre, the maximum number of dwelling units would be 20. However, 25 dwelling units would be allowed if at least 18 of the units are provided for residents whose annual household income does not exceed 50 percent of the AMI and the remaining units are provided for the residents whose annual household income does not exceed 30 percent of the AMI.

- (11)** Regardless of building construction type, all independent living facilities, whether approved through a rezoning or as a special exception, must provide affordable dwelling units when the multiplier set forth above is used or when the parking rate specified in Article 6, for independent living facilities is used. A minimum of 15 percent of the total number of dwelling units must be Affordable Dwelling Units (ADUs), administered in accordance with the provisions of Section 5101.
- (12)** As an accessory component, independent living facilities may include assisted living facilities and skilled nursing facilities designed primarily for the residents of the independent living facility. As an accessory use, the number of units or beds attributable to an assisted living or nursing facility component may not exceed 15 percent of the number of units in the independent living facility. These accessory components are not subject to review by the Health Care Advisory Board. The 15 percent limitation on accessory components does not apply to proffered rezonings and approved special exception applications or amendments thereto that were originally approved before December 5, 2018 for a percentage of accessory components of greater than 15 percent.
- (13)** All facilities of the development are to be solely for the use of the residents, employees, and invited guests, but not for the general public.
- (14)** In residential districts, the maximum building height is 50 feet, except that the maximum building height is 35 feet when the structure is designed to look like a single-family detached dwelling and utilizes the applicable residential district minimum yard requirements set forth below, subject to further limitations by the Board to ensure neighborhood compatibility. For independent living facilities in commercial districts, the maximum building height is as set forth in the district in which they are located.

- (15) For independent living units that are located in a structure designed to look like a single-family detached dwelling unit and located in the R-E, R-1, R-2, R-3, R-4, R-5, or R-8 Districts, the Board may permit compliance with the applicable single-family detached minimum yard requirements of the zoning district in which located. For independent living facilities located in any other structure or district, the minimum front, side, and rear yard requirements must be as follows:
 - (a) 50 feet where the yard abuts or is across a street from an area adopted in the Comprehensive Plan for 0.2 to eight dwelling units per acre.
 - (b) 30 feet where the yard abuts or is across a street from an area adopted in the Comprehensive Plan for a residential use having a density greater than eight dwelling units per acre or any commercial or industrial use classifications.
- (16) In any event, the Board may modify yard requirements in subsection (15) above to ensure compatibility with the surrounding neighborhood.
- (17) The following additional standards also apply to any independent living facility that rents dwelling units to low income residents (“tenants”) where at least 70 percent of the dwelling units are to be provided for residents whose annual household income does not exceed 50 percent of the AMI and not more than 30 percent of the dwelling units are provided for tenants whose annual income does not exceed 70 percent of the AMI:
 - (a) All occupancy is to be on a rental basis only. Maximum rental prices will be established in accordance with the following formula, based on the appropriate AMI. The base figure is adjusted by the following factors for different dwelling unit sizes based on bedroom count:

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

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

Example:

$$\$126,000 \text{ (2020 AMI)} \times 70\% \text{ (adjustment factor)} \times 50\% \text{ (% AMI)} = \$44,100$$

$$\$44,100 / 12 = \$3,675$$

$$\$3,675 \times 25\% = \$919$$

Monthly Rent (Excluding Utilities)

| Number of Bedrooms | Adjustment Factor | 50% AMI | 70% AMI |
|--------------------------------|-------------------|---------|---------|
| 0 bedrooms (efficiency/studio) | 70% | \$919 | \$1,286 |
| 1 bedroom | 85% | \$1,116 | \$1,562 |
| 2 or more bedrooms | 100% | \$1,313 | \$1,838 |

- (c) The owner or manager is responsible for monitoring the income level of tenants at the time of initiation and renewal of any lease term and is responsible for any reporting of such information in accordance with the requirements of the FFHA, and must establish that any live-in aide or resident care provider continues to meet the applicable requirements of this Section. The owner or manager is also responsible for completing all verification of occupancy requirements set forth in 42 U.S.C. § 3607(b) and 24 C.F.R. § 100.307 annually. The results of all such monitoring and occupancy verification must be provided to the Zoning Administrator, or designee, on an annual basis to assure on-going compliance with the tenancy and income limits. Such report must include the dwelling unit number and address, date of lease renewal, term of lease renewal, and tenant's income. Should a tenant become over-qualified with regard to income at any time during a lease term, the tenant must vacate the unit at the end of the lease term in effect at the time of such over-qualification or within nine months of such over-qualification, whichever time period is longer.
- (d) Before the issuance of the first Residential Use Permit for any unit in the independent living facility, the owner must record a covenant, on a form provided and approved by the Fairfax County Department of Housing and Community Development, to address at a minimum the income limitations; rental price restrictions; the perpetuity of such controls; and any other relevant limits that are imposed by the Board.
- (e) Such independent living facilities for low-income tenants are not subject to Section 5101, the ADU Program or the Board's policy for Workforce Dwelling Units.

R. Medical Care Facility

Standards applicable to all medical care facilities:

- (1) In the PDC District, the total gross floor area of all independent living facilities, assisted living, and nursing facilities may not exceed 50 percent of the gross floor area of all uses in the development.
- (2) In the PDH, PDC, PRC, PRM, and PTC District, a medical care facility is subject to the review procedures with the Health Care Advisory Board as outlined below.

Standards when permitted by special exception:

- (3) The application for the special exception will be referred to the Health Care Advisory Board for a recommendation and report, which will be furnished to the Planning Commission and Board of Supervisors. In its development of a recommendation and report, the Health Care Advisory Board will, in addition to information from the applicant, solicit information and comment from such providers and consumers of health services, or organizations representing such providers or consumers and health planning organizations, as may seem appropriate; however, neither the Health Care Advisory Board nor the Board of Supervisors is bound by any such information or comment.
- (4) The Health Care Advisory Board and the Board of Supervisors must specifically consider whether:

- (a) There is a demonstrated need for the proposed facility in the location, at the time, and in the configuration proposed. Such consideration will take into account other existing or approved facilities or services, and the present and projected availability of specialized treatment equipment;
 - (b) Any proposed specialized treatment or care facility can provide for a working relationship with a general hospital sufficiently close to ensure availability of a full range of diagnostic and treatment services; and
 - (c) The proposed facility will contribute to, and not divert or subvert, implementation of a plan for comprehensive health care for the area proposed to be served; such consideration will take into account the experience of the applicant, the financial resources available and projected for project support and operation, and the nature and qualifications of the proposed staffing of the facility.
- (5) A freestanding nursing facility must front on and have direct access to an existing or planned collector or arterial street as defined in the Comprehensive Plan.
 - (6) No building may be located closer than 45 feet to any street line or closer than 100 feet to any lot line which abuts the R-A, R-C, R-E, R-1, R-2, R-3, or R-4 Districts.
 - (7) In the R-E, R-1, R-2, R-3, R-4, and R-5 Districts, the minimum lot size is five acres.
 - (8) For hospitals, the Board of Supervisors may approve additional on-site signs when it is determined, based on the size and nature of the hospital, that additional signs are necessary to better serve the public and that such signs will not have an adverse impact on adjacent properties. All proposed signs are subject to the maximum area and height limitations for hospital signs set forth in Article 7. All requests must show the location, size, height, and number of all existing and proposed signs.

Transportation

S. Transportation Uses

Standards when permitted by special exception:

All uses in the Transportation category must comply with the following standards:

- (1) Except in the I-6 District, all maintenance, repair, and mechanical work, except that of an emergency nature, must be performed in an enclosed building; and
- (2) All facilities must be located and designed so that their operation will not unreasonably impact adjacent residential areas, particularly with respect to noise levels.

T. Airport

Standards when permitted by special exception:

- (1) Any area used by an aircraft under its own power must meet the following requirements:
 - (a) Be located at least 200 feet from any lot line;
 - (b) Be provided with an all-weather, dustless surface; and
 - (c) Be surrounded by a chain link fence. This fence must be at least six feet tall and must have at least one gate to effectively control access to the area.
- (2) In the C-7, I-I, PDH, PDC, PRC, PRM, and PTC Districts, this use is limited to heliports.

U. Transit Facility

Standards when permitted by right or by development plan or PRC plan:

- (1) A transit facility is permitted only with special exception approval in accordance with subsection 8100.3, except the following facilities are permitted by right or by development plan:
 - (a) Regional rail transit facilities in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway and Dulles Toll Road, or an interstate highway are permitted in any zoning district, despite the permissions shown in Tables 4101.3 and 4101.4;
 - (b) In the I-6 District, terminals (bus or railroad) and storage, maintenance, and inspection yards;
 - (c) In the PDH, PRC, PDC, PRM, and PTC Districts, all transit facilities, except terminals and storage, maintenance, and inspection yards; and
 - (d) In the PCC District, bus stations.

Standards when permitted by special exception:

- (2) Bus and railroad stations, except regional rail transit facilities, are allowed only in the R-E, R-1, C-6, C-7, C-8, I-2, I-3, I-4, I-5, and I-6 Districts, with special exception approval in accordance with subsection 8100.3.
- (3) Regional rail transit facilities operated by WMATA must be established in accordance with the agreement between WMATA and the County. Regional rail transit facilities operated by WMATA are not subject to subsection 8100.7.
- (4) Regional rail transit facilities are not required to comply with the minimum lot size requirements of the district in which they are located; however, any associated parking structures must comply with the bulk regulations of the zoning district where they are located.

Standards for support facilities:

- (5) Support rail transit facilities include: (a) tracks, bridges, retaining walls, piers, and related infrastructure to support the tracks; (b) traction power substations; (c) tie-breaker stations; (d) train control rooms and communication rooms; (e) stormwater management facilities; (f) access easements; (g) temporary staging/construction yards related to the construction of rail transit facilities; and (h) other similar improvements that support the functioning and operation of rail transit facilities. If any such support facility is located within 200 feet of a rail transit facility, as measured from the perimeter of the regional rail transit facility to the perimeter of the support facility structure or paved area, or to the toe of slope for a stormwater management facility or an above-ground impoundment structure, the support facility requires special exception approval as part of the rail transit facility, in accordance with subsection 8100.3. A support rail transit facility not so located is permitted by right on any lot in any zoning district if the support use conforms to the following standards:
 - (a) Support rail transit facilities are subject to the requirements of Va. Code Sect. 15.2-2232.
 - (b) A support rail transit facility is not required to comply with the lot size requirements, bulk regulations, or open space requirements of the district in which

they are located, or the transitional screening provisions of Section 5108; however, the facility must be designed to minimize adverse impacts on adjacent properties to the greatest extent practical through site design and the use of landscaping, screening, and architectural techniques.

- (c) Any building containing mechanical or electrical equipment associated with a support regional rail transit facility must be fully enclosed and must have similar architectural treatment on all sides.
- (d) A freestanding traction power substation must not exceed 8,300 square feet of gross floor area or a maximum height of 30 feet. A freestanding tie breaker station must not exceed 850 square feet of gross floor area or a maximum height of 20 feet. A freestanding communication room must not exceed 350 square feet of gross floor area or a maximum height of 20 feet. A freestanding train control room must not exceed 700 square feet of gross floor area or a maximum height of 20 feet. The cumulative gross floor area of all equipment structures on a lot must not exceed 9,350 square feet. If such equipment facilities are co-located in a structure containing a traction power substation, the maximum height of the structure must not exceed 30 feet. If such facilities are co-located in a structure that does not contain a traction power substation, the maximum height of the structure must not exceed 20 feet. Support rail transit facilities located in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway, and Dulles Toll Road or an interstate highway are not subject to this subsection.
- (e) No outdoor storage is permitted in association with any mechanical or electrical equipment structure. However, this provision does not preclude the use of temporary generators for emergency purposes, or other equipment that by its nature requires an outside location.
- (f) Except for support rail transit facilities operated by WMATA, support rail transit facilities must be established, and may be modified, or altered, in accordance with subsection 8100.7. Support rail transit facilities operated by WMATA must be established in accordance with the agreement between WMATA and the County.

Utility

V. Solar Power Facility

Standards when permitted by special exception:

- (1) All solar panels, supporting structures, and equipment must comply with the minimum setback and maximum height standards of the district where they are located.
- (2) The application must include a decommissioning plan in accordance with Section 8100.7.F(5) that describes the timeline and manner in which the facility will be decommissioned and the site restored to a condition similar to its condition before the facility was established.
- (3) In the R-A District, a solar power facility must be located on the same property with an agricultural operation.

W. Utility Facility, Heavy

Standards when permitted by right:

- (1) In the I-5 District, only supply yards for any public utility and incidental local office space and maintenance facilities are allowed by right.

Standards when permitted by special exception:

- (2) The use may be permitted by special exception only upon a finding by the Board that the facility is necessary where proposed to provide efficient utility service to consumers.
- (3) In the R-C, PRC, and I-I Districts, only regional sewage treatment and disposal facilities are allowed.
- (4) In the R-E, R-1, and R-2 Districts, only electrical generating plants and facilities, and water purification facilities are allowed.
- (5) In all districts except the I-5 and I-6 Districts, the following are prohibited:
 - (a) Supply yards;
 - (b) Storage of materials or equipment;
 - (c) Repair or servicing of vehicles or equipment; and
 - (d) Parking of vehicles except those needed by employees connected with the operation of the immediate facility.

X. Utility Facility, Light

Standards applicable to new utility distribution or transmission poles:

- (1) New utility distribution or transmission poles with attached facilities, including small cell facilities, that are not more than 50 feet in height, are permitted by right when they comply with subsection 4102.4.Y(5) for Zoning Administrator approval of an Administrative Review Eligible Permit.
- (2) New utility distribution or transmission poles with attached facilities, including small cell facilities, that are more than 50 feet in height, require special exception approval by the Board subject to subsection 4102.4.X(6).

Standards applicable to all other Light Utility Facilities:

General

- (3) If located in a street right-of-way or in an easement less than 25 feet in width, the following light facility utility uses and structures are exempt from the Ordinance regulations:
 - (a) Wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a government entity or a public utility including customary meter pedestals, distribution transformers and temporary utility facilities required during building construction, whether any such facility is located underground or aboveground.
 - (b) This exemption does not include any substation located on or above the surface of the ground or any distribution facility.

- (4) Light utility facility uses are not required to comply with the lot size requirements or the bulk regulations for the zoning district where they are located.
- (5) Except in the I-5 or I-6 District, the following are prohibited:
 - (a) Storage of materials or equipment;
 - (b) Repair or servicing of vehicles or equipment; and
 - (c) Parking of vehicles except those needed by employees connected with the operation of the immediate facility.

Standards when all other light utility facilities are permitted by right:

- (6) In all commercial districts and in the I-2 District, only telecommunication facilities, which are uses that transmit information by wire or radio, including telephone or telegraph central offices and repeat stations, are allowed by right.

Standards when all other light utility facilities are permitted by special exception:

- (7) If the proposed location is in an R district or the residential area of a P district, the use may be permitted only upon a finding by the Board that there is no alternative site in a commercial or industrial district that can provide satisfactory service within the following distances:
 - (a) One mile of the proposed location for a proposed electric transformer substation or telecommunications central office; and
 - (b) 500 feet of the proposed location for any other facility.
- (8) In the R-A District, only telecommunication facilities, including central offices and repeat stations, utility transmission facilities, and water storage, control, and pumping facilities, may be approved.
- (9) In the I-I District, only sewerage pumping facilities may be approved.

Y. Wireless Facility

Standards applicable to all wireless facilities:

- (1) The following standards apply to all wireless facilities:
 - (a) Except as may be permitted on a flagpole, commercial advertising is not allowed on any portion of a wireless facility or its associated support structure.
 - (b) Except for co-location on a light pole, signals, lights, or illumination are not permitted on wireless facilities or their support structures unless required by federal, state, or local law.
 - (c) All antennas, associated equipment, and structures must be removed within 120 days after those antennas or related equipment are no longer in use, at which point they will be deemed abandoned.
 - (d) Height is measured as follows:
 - 1. Hub site and equipment cabinet or structure height is the vertical distance between the lowest point of finished ground level adjacent to the structure and the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and the ridge for gable, hip and gambrel roofs.

2. New structure and replacement pole height is the vertical distance between the lowest point of finished ground level adjacent to the structure and the highest point of the structure, including antennas.

Standards when permitted by right with no Zoning Administrator approval:

- (2) Wireless facilities and their associated support structures are permitted on any lot in any zoning districts when those facilities meet the following limitations, unless any applicable proffered condition, development condition, special permit or special exception condition expressly prohibits those facilities, regardless of whether they are on any list of permitted uses. In addition, wireless facilities and support structures, including those located within the right-of-way, are subject to Va. Code Sect. 15.2-2232. Wireless facilities and their associated support structures that do not meet the limitations in subsections (3), (4), (5), and (7) below require special exception approval.

(3) Co-Location:

- (a) The antennas and associated mounting must be fully enclosed in a canister or other enclosure, be flush mounted, be screened by a wall, vegetation, or other existing structure, or provide other means of mitigating visual impacts.
- (b) Related equipment cabinets or structures are subject to the following:
 1. When located on an existing utility pole or light pole, the equipment structures must not exceed 32 cubic feet in volume and must be designed to match or blend with the pole on which located, or provide other means of mitigating visual impacts.
 2. When located on all other existing structures, the equipment cabinets must be fully enclosed within the existing structure, designed to match or blend with the structure on which they are located, or provide other means of mitigating visual impacts.
 3. Any ground-mounted equipment that supports a co-location under this section on a light or utility pole is subject to subsection (5)(b) below.
 4. All other ground-mounted equipment associated with an existing structure:
 - a. May not exceed 12 feet in height or 500 square feet of gross floor area.
 - b. Must meet the minimum setbacks of the zoning district in which located, or when located in a road right-of-way or utility easement, must be located a minimum of 10 feet from the right-of-way or easement line.
 - c. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), the equipment must be screened by a solid fence, wall or berm eight feet in height, an evergreen hedge with an ultimate height of eight feet and a planted height of 48 inches, or an eight-foot-tall fence, wall, berm or landscaping combination. However, if a new equipment cabinet or structure is added to an existing fenced or screened area, the screening requirements for the new equipment cabinet or structure may be satisfied with the existing screening, if the screening meets the requirements listed above.
- (c) Routine maintenance or the replacement of existing wireless facilities or associated support structures, including light poles, within a six-foot perimeter

with wireless facilities or wireless support structures that are substantially similar or the same size or smaller is permitted, and eligible facilities requests are permitted in accordance with subsection (7) below. Co-location may occur on a replacement structure that meets the criteria below, or as may otherwise be reviewed and approved under subsection (7).

1. When located in zoning districts that are zoned for single-family dwellings and are residentially developed, vacant, or common open space and not located on a major thoroughfare, the replacement pole or standard cannot be more than 15 feet higher than the existing pole. The diameter of the replacement pole or standard must not exceed 30 inches.
2. When located in zoning districts that are zoned for single-family dwellings and are residentially developed, vacant, or common open space and located on a major thoroughfare, the height of a replacement pole or standard, including antennas, must not exceed 80 feet. However, if the height of the existing pole exceeds 80 feet, the replacement pole or standard cannot be more than 15 feet higher. The diameter of the replacement pole or standard must not exceed 30 inches.
3. When located in zoning districts that are zoned for multifamily dwellings and are residentially developed with buildings that are 35 feet or less in height, vacant, or common open space, the height of a replacement pole or standard, including antennas, must not exceed 100 feet. However, if the height of the existing pole exceeds 100 feet, the replacement pole or standard cannot be more than 15 feet higher. The diameter of the replacement pole or standard must not exceed 42 inches.
4. The height of a replacement pole or standard on property used for athletic fields must not exceed 125 feet, including antennas. The diameter of the replacement pole or standard cannot exceed 60 inches.
5. In all other instances, the height of a replacement pole or standard, including antennas, must not exceed 100 feet. However, if the height of the existing pole exceeds 100 feet, the replacement pole or standard cannot be more than 15 feet higher. The diameter of the replacement pole or standards must not exceed 60 inches.

(4) Wireless Telecommunication Hub Sites:

- (a) The hub site must not exceed 12 feet in height or 750 square feet of gross floor area.
- (b) The maximum permitted floor area ratio for the zoning district must not be exceeded.
- (c) The hub site must meet the minimum setbacks of the district in which it is located, except that hub sites located in a utility transmission easement or street right-of-way may be located a minimum of 20 feet from the utility transmission easement or street right-of-way line.
- (d) Hub sites are not subject to the fence and wall height limitations of subsection 4102.7.A(7). Hub sites located within a utility easement must be screened by a solid fence, wall or berm eight feet in height, an evergreen hedge with an ultimate

height of at least eight feet and a planted height of at least 48 inches, or an eight foot tall fence, wall, berm, and/or landscaping combination. Hub sites located outside of a utility transmission easement are subject to the transitional screening requirements of Article 5 for a utility facility, light use. If a hub site is added to an existing fenced or screened enclosure that contains wireless equipment structures, the screening requirement for the hub site may be satisfied with the existing screening, if the screening meets the requirements listed above.

- (e) A wireless telecommunication hub site that is located within an existing or principal or accessory structure is not subject to subsections (a) through (d) above.

Standards when permitted by right with Zoning Administrator approval of an Administrative Review Eligible Permit:

- (5) New utility distribution or transmission poles (“new poles”) and new structures that are not more than 50 feet in height with attached wireless facilities and are designed to support small cell facilities require zoning approval of an Administrative Review Eligible Project permit, subject to the following:
 - (a) Wiring, Cables, and Conduit Requirements
 - 1. All wiring and cables must be firmly secured to the new pole or new structure.
 - 2. All mounting brackets and wiring, cables, and conduits that are not located in a fully enclosed structure must be the same color as, or otherwise demonstrated to match or blend with, the new pole or new structure on which they are mounted.
 - 3. Spools or coils of excess fiber optic or cables or any other wires may not be stored on the new pole or new structure except completely within approved enclosures or cabinets.
 - (b) Equipment and Facilities
 - 1. All equipment and support structures located on the new pole or new structure:
 - a. Must be the same color or material as the new structure and covered by rust-proof treatment or materials.
 - b. Must be flush mounted to the new pole or new structure or supported by mounting brackets.
 - c. The support brackets may not extend beyond the new structure by more than eight inches.
 - d. Must not exceed 32 cubic feet in volume.
 - 2. Ground-mounted equipment associated with a new pole or new structure is subject to the following:
 - a. In non-major-thoroughfare rights-of-way in districts zoned for single-family detached or attached dwellings, each provider is limited to one cabinet or structure that does not exceed four feet in height and a total of 50 cubic feet in volume. Ground-mounted equipment cabinets or structures must be located adjacent to the pole.
 - b. In all other street rights-of-way, and on property located outside of the right-of-way and in districts that are zoned for single-family detached or

attached dwellings and are residentially developed, vacant, or common open space:

- (1) When located on the ground in a front yard or street right-of-way, each provider is limited to one cabinet or structure that does not exceed five feet in height or a total of 70 cubic feet in volume. The cabinet or structure must be located a minimum of 10 feet from all lot lines when located outside of a street right-of-way. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), ground-mounted equipment cabinets or structures must be screened by a solid fence, wall, or berm five feet in height, an evergreen hedge with an ultimate height of five feet and a planted height of 48 inches, or a five foot tall fence, wall, berm, or landscaping combination.
 - (2) When the related equipment cabinet or structure is located on the ground in a side or rear yard, each provider is limited to a cabinet or structure that does not exceed 12 feet in height or 300 square feet in gross floor area. The cabinet or structure must be located a minimum of 10- feet from all lot lines. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), ground-mounted related equipment cabinets or structures must be screened by a solid fence, wall, or berm eight feet in height, an evergreen hedge with an ultimate height of eight feet and a planted height of 48 inches, or an eight foot tall fence, wall, berm, or landscaping combination.
- c.** When ground-mounted equipment cabinet or structure is located on property that does not meet subsection a. or b. above, each provider is limited to a cabinet or structure which does not exceed 12 feet in height or to allow equipment cabinets greater than 500 square feet in gross floor area. The cabinet or structure must be adjacent to the pole if located within the utility easement. When located outside of a utility easement, the cabinet or structure must meet the setback requirements of the district. Regardless of the fence and wall height limitations of subsection 4102.7.A(7), ground-mounted equipment cabinets or structures must be screened by a solid fence, wall, or berm eight feet in height, an evergreen hedge with an ultimate height of eight feet and a planted height of 48 inches, or an eight-foot-tall fence, wall, berm, or landscaping combination.
 - d.** Equipment cabinets or structures must not obstruct any sight distance or visibility standards required by Fairfax County or the Virginia Department of Transportation or be located in any sidewalk or trail.
 - e.** Equipment located within an existing principal or accessory structure, or equipment designed as a bench, mailbox, light pole, or other structure exempt from the setback requirements under subsection 5100.2.D(1)(b) is not subject to this subsection 2.
- 3.** Any antennas and associated mounting must be enclosed in a canister or other enclosure or provide other means of mitigating visual impacts.

- (c) All new poles and new structures under this section must be constructed of materials and colors designed to match or closely replicate existing utility poles within the same right-of-way or line of poles.
- (d) The minimum horizontal distance between any new pole or new structure under this section and any other existing, or permitted but unconstructed, utility distribution or transmission pole is:
 1. When located in zoning districts that are zoned for single-family dwellings and are residentially developed, vacant, or common open space and not located on a major thoroughfare, not less than 300 feet.
 2. When located in all other areas, not less than 100 feet.
- (e) The Zoning Administrator may disapprove an application for a new pole or new structure if it is proposed to be located in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning application proceeding as set forth in the Comprehensive Plan objectives and:
 1. The undergrounding requirement or objective existed at least three months before submission of the new structure application ;
 2. Co-location of wireless facilities is still permitted on existing utility poles, government-owned structures with government consent, existing wireless support structures, or buildings within that area;
 3. Replacement of existing utility poles and wireless support structures with poles or support structures of the same or smaller size within that area is permitted; and
 4. Disapproval does not unreasonably discriminate between the applicant and other wireless service providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.
- (f) Any application for a new pole or new structure that is proposed to be located in a Historic District is subject to review by the Architectural Review Board in accordance with Section 3101.

Standards when permitted by special exception:

- (6) Projects that do not meet any other provisions of this subsection X are Standard Process Projects and are subject to the following standards, as well as subsections 4102.4.Y(5)(d) through 4102.4.Y(5)(f):
 - (a) Except for antennas completely enclosed within a structure, all antennas and their supporting mounts must be designed to match or blend with the structure on which they are mounted or provide other means of visual mitigation.
 - (b) If any additions, changes, or modifications are to be made to monopoles or towers, the Director has the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the USBC.
 - (c) Any antennas, equipment, and associated support structures that are clearly depicted on the special exception plat may be approved as part of the wireless

facility and would not be subject to separate permit approval that would otherwise be required for such installations.

Eligible Facilities Requests:

- (7) Once wireless facilities are approved in accordance with this Ordinance, any eligible facilities request for a modification of a wireless tower or base station that does not substantially change the physical dimensions of the tower or base station under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455) is subject to subsections (1), (2), and (3) above, except to the extent of any conflict with 47 C.F.R. § 1.6100(b)(7)(i)-(iv).

5. Commercial Uses

Animal-related Services

A. Animal Shelter or Kennel

Standards applicable to all animal shelters or kennels:

- (1) The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards.

Standards when permitted by right or by development plan:

- (2) In the C-5, C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, a kennel or animal shelter must be located in a completely enclosed building. If any portion of the building or facilities include outdoor components, the use is allowed only by special exception in accordance with subsection 8100.3.
- (3) In the PCC District, a kennel must be located in a completely enclosed building.

Standards when permitted by special exception:

- (4) In the R-A, R-C, R-E, and R-1 Districts, a kennel or animal shelter that contains outdoor facilities for animals must comply with the following standards:
 - (a) The minimum lot size is two acres; and
 - (b) Outdoor facilities for the confinement, care, or breeding of animals must be located a minimum of 100 feet from all lot lines.
- (5) Off-street parking and loading must be located at least 50 feet from any adjoining property in a residential district.
- (6) The Board will consider the following in its review of an application for a special exception:
 - (a) The kinds and numbers of animals proposed to be kept;
 - (b) The proposed management techniques; and
 - (c) The proposed locations that the animals will be kept on the lot.
- (7) In approving a special exception, the Board may impose conditions of approval, such as screening or minimum yard requirements, to prevent adverse impact, emission of noise, or emission of odor that would be detrimental to adjacent properties.
- (8) All animals must be kept within a building or outdoor area surrounded by a fence, wall, or other barrier designed and maintained for secure confinement.

- (9) All animals must be kept within a completely enclosed building between the hours of 10:00 p.m. and 7:00 a.m. This does not include walking of boarded animals. The Board may modify this standard considering factors such as lot size and proximity to existing and planned residential development.

B. Pet Grooming Establishment

Standards applicable to all pet grooming establishments:

- (1) All animals must be kept within a completely enclosed building.
- (2) Animals may not be boarded overnight.

C. Veterinary Hospital

Standards applicable to all veterinary hospitals:

- (1) The construction and operation of all facilities must be approved by the Health Department before any building permit or Non-Residential Use Permit is issued.
- (2) The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards.

Standards when permitted by right:

- (3) In the C-3, C-4, and PCC Districts, a veterinary hospital must be located within a completely enclosed building.
- (4) In the C-5, C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, a veterinary hospital must be located within a completely enclosed building. If any portion of the building or facilities include outdoor components, the use is allowed only by special exception in accordance with subsection 8100.3.

Standards when permitted by special exception:

- (5) In the R-A, R-C, R-E, and R-1 Districts, the minimum lot size is one acre. If co-located with a kennel that has outdoor facilities, the minimum lot size for both uses combined is two acres.

Food and Lodging

D. Bed and Breakfast

Standards when permitted by special exception:

- (1) A bed and breakfast must be located within a single-family detached dwelling unit, which may include residential accessory structures. Any alterations of structures must not alter their exterior appearance from that of a dwelling or residential accessory structure.
- (2) A bed and breakfast may not include a restaurant as an accessory use. However, breakfast and other light fare may be provided for guests.
- (3) Accessory rental of the facility to individuals who are not staying overnight for events, such as wedding receptions, parties, or other similar activities is not allowed unless specifically approved by the Board. In approving such accessory rental, the Board may

impose conditions, including limitations on the number, size, days, and hours of such events.

- (4) All off-street parking and loading spaces must be located outside of minimum side and rear setbacks that abut an R district or a residential area of a P district.
- (5) A maximum of three off-street parking spaces may be located within the minimum front setback, except the Board may authorize additional parking spaces within the front setback if the proposed additional parking spaces will not adversely affect the character of the surrounding residential area.
- (6) All off-street parking and loading spaces must be screened to minimize adverse impacts on adjacent residential properties.

E. Catering

Standards when permitted by right or by development plan:

- (1) In the C-3, C-4, C-5, and PDH Districts, the maximum size of a catering establishment is 6,000 square feet of gross floor area.
- (2) In the I-3 District, the maximum size of a catering establishment is 10,000 square feet of gross floor area.
- (3) In industrial districts, retail sales may be permitted as an accessory use if the associated retail sales area is limited to ten percent of the gross floor area of the establishment.

F. Hotel or Motel

Standards applicable to all hotels or motels:

- (1) Any restaurant as an accessory use must be located within or structurally connected to the principal hotel or motel structure.

Standards when permitted by special exception:

- (2) In industrial districts, a hotel or motel must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.

G. Restaurant

Standards applicable to all restaurants:

- (1) The accessory uses listed in subsections (a) and (b) below may be allowed in conjunction with a restaurant only while food service is available and are subject to the following standards:
 - (a) A maximum of 15 percent of the square footage of the area accessible to the public or 250 square feet, whichever is larger, as evidenced by submission of a floor plan, may be used for accessory entertainment, as determined by the Zoning Administrator. Entertainment may include dancing, live entertainment including recorded music with a DJ, or other similar uses. Any entertainment activity that exceeds these limitations is considered public entertainment; and
 - (b) Accessory hookah and other smoking activities are not subject to the square footage limitations of subsection (a) above.

Standards when permitted by special exception:

- (2) The restaurant must have similar architectural features on all sides of the building if it is freestanding, or, if it is in-line, be architecturally compatible with the building group in which it is located.
- (3) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.
- (4) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (5) Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (6) In the I-3, I-4, I-5, and I-6 Districts, a restaurant must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the restaurant unless a building permit has been approved for the related building(s).

H. Restaurant, Carryout

Standards when permitted by special exception:

- (1) The carryout restaurant must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.
- (2) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.
- (3) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (4) Parking and stacking spaces must be provided and located to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (5) In the I-5 and I-6 Districts, a carryout restaurant must be part of an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the restaurant unless a building permit has been approved for the related building(s).

I. Restaurant with Drive-Through

Standards applicable to all restaurants with drive-through:

- (1) When located in the Highway Corridor Overlay District, access to the use must be designed to not impede traffic on public or private streets or travelways.

Standards when permitted by development plan:

- (2) In the PTC District, the drive-through facility and stacking spaces must be located within a multistory building or parking structure.

Standards when permitted by special exception:

- (3) The use must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.

- (4) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.
- (5) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (6) Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (7) Any outdoor storage or display of goods offered for sale must be shown on the special exception plat.
- (8) In the I-5 and I-6 Districts, the use must be part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the restaurant unless a building permit has been approved for the related building(s).
- (9) In the PDH District, a restaurant with drive-through must comply with the following additional standards:
 - (a) The use may be permitted only upon a finding by the Board that the planned development is of sufficient size to support the proposed use, and that the use is designed to serve primarily the needs of the residents of the development;
 - (b) The use must be designed and located so as to maintain the intended secondary nature of the use, and so that the associated impacts, including associated on-site and off-site vehicular traffic, noise, odors, and visual impact, will not adversely affect the residential character of the development and surrounding properties;
 - (c) All direct vehicular access to the use must be provided via the internal circulation system of a commercial area of the PDH development; and
 - (d) The proposed development must provide clearly designated pedestrian facilities for safe and convenient access from surrounding residential and commercial uses.

J. Retreat Center

Standards when permitted by special exception:

All buildings must be located a minimum of 45 feet from all street lines and minimum of 100 feet from all lot lines that abut the R-E, R-1, R-2, R-3, or R-4 District.

Office and Financial Institutions

K. Alternative Lending Institution

Standards when permitted by right:

- (1) An alternative lending institution must be located within a shopping center building in which all uses are connected by party walls or partitions to form one continuous structure.
- (2) An alternative lending institution must not be located:
 - (a) In a Commercial Revitalization District or a Commercial Revitalization Area; or
 - (b) Adjacent to or across a public right-of-way from land upon which any of the following uses are located: public use, religious assembly, child care center, private school, or quasi-public park, playground, or athletic field.

- (3) The daily hours of operation are limited to 8:00 a.m. to 6:00 p.m.
- (4) No on-site storage or sale of vehicles is allowed.

L. Drive-Through Financial Institution

Standards applicable to all drive-through financial institutions:

- (1) When located in the Highway Corridor Overlay District, a drive-through financial institution must comply with the following additional standards:
 - (a) Access to the use must be designed to not impede traffic on public or private streets or travelways; and
 - (b) Any outdoor storage or display of goods must be shown on the special exception plat.

Standards when permitted by right or by development plan:

- (2) In the C-5, C-6, C-7, and C-8 Districts, drive-through financial institutions are allowed only when located within a shopping center building that complies with the following standards:
 - (a) The building contains at least six other uses that are connected by party walls, partitions, or similar structural members to form one continuous structure; and
 - (b) The building is subject to an approved unified site plan, and vehicular access to the drive-through financial institution is provided only via the internal circulation system of the shopping center.
- (3) In the PTC District, the drive-through facility and stacking spaces must be located within a multistory building or parking structure.

Standards when permitted by special exception:

- (4) The institution must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.
- (5) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.
- (6) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (7) Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (8) In the C-3 and C-4 Districts, the use must not have a separate and exclusive curb cut access to an abutting highway.
- (9) Any outdoor storage or display of goods must be shown on the special exception plat.

M. Office

Standards applicable to all office:

- (1) An office is permitted by-right in the C-5, C-6, C-7, and C-8 Districts if the total gross floor area devoted to the office use does not exceed the percentages of the maximum

floor area permitted on the lot based on the maximum floor area ratio allowed in the district in accordance with Table 4102.1: Maximum Office Use Gross Floor Area.

| Table 4102.1: Maximum Office Use Gross Floor Area | | | |
|---|---|-------------------|--|
| District | Office Use Gross Floor Area as a Percent of FAR | Maximum Total FAR | Maximum Office Gross Floor Area as a Percent of Lot Area |
| C-5 | 30% | 0.30 | 9% |
| C-6 | 25% | 0.40 | 10% |
| C-7 | 50% | 0.80 | 40% |
| C-8 [1] | 50% | 0.50 | 25% |

Notes:

[1] See Section 3102 for standards applicable in Commercial Revitalization Districts.

- (2) In commercial and industrial districts and in the PDC and PTC Districts, an office may include laboratory facilities, pilot plants, prototype production, and the assembly, integration, and testing of goods and products, if the use complies with the following standards:
- (a) The mass production or manufacturing of goods or products for sale is not allowed, except as part of a production or processing facility.
 - (b) In commercial districts and in the PDC and PTC Districts, unless modified by the Board by special exception in accordance with subsection 8100.3:
 - 1. The use must occur only within a completely enclosed building; and
 - 2. The use of explosives classified as being in Division 1.1, 1.2, or 1.3 of the U.S. Department of Transportation Hazard Classification System is prohibited.
 - (c) In commercial districts, uses that would be considered Biosafety level 4 under the United States Centers for Disease Control and Prevention regulations are permitted only by special exception in accordance with subsection 8100.3.

Standards when permitted by special exception:

- (3) The maximum percentage of office may be increased above that allowed in subsection (1) above up to 100 percent with special exception approval in accordance with subsection 8100.3. For the purpose of any increase in percentage approved by the Board, the maximum FAR means the maximum FAR permitted by right in the applicable zoning district, or as increased by special exception in accordance with 5100.2.E(4).
- (4) An office with laboratory facilities, pilot plants, prototype production, and the assembly, integration, and testing of goods and products that does not conform to the standards in subsection (2)(b) or (2)(c) above, may be permitted as a special exception in accordance with subsection 8100.3.

N. Office in a Residential District

Standards when permitted by special exception:

- (1) In the R -1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 Districts, an office must comply with the following standards:

- (a) The office must be located only within a Community Business Center (CBC) as shown in the Comprehensive Plan or another area where such a use is specifically permitted in the Comprehensive Plan; and
 - (b) The office must be located in a single-family detached dwelling that was constructed before February 26, 1973, but not in any addition constructed after that date.
- (2) In the R-30 District, an office must comply with the following standards:
- (a) The office must be located only on the lower two floors of the primary building, or in an accessory structure as may be approved by the Board; and
 - (b) The aggregate floor area of all nonresidential uses on the site, including offices, must not exceed 15 percent of the total gross floor area.
- (3) In residential districts, an office may not include laboratory facilities, pilot plants, prototype production, or the assembly, integration, or testing of goods or products.

Personal and Business Services

O. Massage Therapy Establishment

Standards for all massage therapy establishments:

A massage therapy establishment is permitted in accordance with Chapter 28.1 of the County Code which requires massages to be performed by a licensed massage therapist; however, it may also provide the following massages excluded in Chapter 28.1-1-4:

- (1) Massage administered to the scalp, face, neck, shoulders, arms, hands or feet;
- (2) Massage administered to the upper body while the client is fully clothed and seated in a chair;
- (3) Massage administered in a medical care facility, hospital, medical clinic, nursing facility or similar facility, or in the office of a physician, chiropractor, osteopath, physical therapist, or nurse, licensed by the State; and
- (4) Massage at a massage therapy program that has been approved by the Virginia Board of Education or the Virginia State Council of Higher Education, only if the individual administering the massage is a student enrolled at the school and receives no compensation for the massage.

P. Personal Service

Standards for all personal service uses:

A garment cleaning establishment that includes the mechanical cleaning of garments, articles, or goods for retail customers may not exceed 3,000 square feet of gross floor area. A larger establishment or a linen or diaper cleaning service establishment is considered production or processing.

Recreation and Entertainment

Q. Campground

Standards when permitted by special permit:

- (1) The minimum lot size is 20 acres.
- (2) Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.
- (3) Except for light poles, all structures and camp sites must be located a minimum of 100 feet from all lot lines.
- (4) Accessory activities may include picnicking, boating, fishing, swimming, outdoor games, and other similar sports and activities, but not golf driving ranges or any mechanical amusement device.
- (5) A sports illumination plan must be submitted for outdoor facilities when required by Section 5109.

R. Commercial Recreation, Indoor

Standards applicable to all indoor commercial recreation uses:

- (1) Indoor recreation uses that involve the discharge of a firearm must be located within a structure that is fully enclosed with steel plate and acoustical tiles, or other materials with comparable bullet-stopping and soundproofing capacities.

Standards when permitted by right:

- (2) In the C-3 and C-4 Districts, indoor commercial recreation is allowed by right in a building that was existing on *[insert effective date of this Ordinance]*. Otherwise, indoor commercial recreation requires special exception or special permit approval in accordance with subsection (4) below.
- (3) In the C-5 District, the maximum size is 6,000 square feet of gross floor area.

Standards when permitted by special exception or special permit:

- (4) When an application for an indoor commercial recreation use is not submitted in conjunction with an application for a rezoning or special exception, a special permit is required. When an application for an indoor commercial recreation use is submitted in conjunction with a rezoning or other action before the Board, the recreation use may be approved as either a special exception in accordance with subsection 8100.3 or a special permit in accordance with subsection 8100.4, at the discretion of the applicant.

S. Commercial Recreation, Outdoor

Standards when permitted by special permit:

- (1) The only outdoor commercial recreation uses permitted by special permit in the R-C, R-E, and R-1 Districts are ropes courses, paintball, firing ranges, skeet and trapshooting ranges, and similar uses. These uses are not permitted in any other districts where outdoor commercial recreation is permitted by special exception. These uses must comply with the following standards:

- (a) Off-street parking and loading spaces must be located at least 50 feet from any adjacent residentially-zoned property; and
 - (b) All structures associated with the use, except light poles, must be located a minimum of 100 feet from all lot lines.
- (2) In approving a special permit for the use, the BZA may include conditions of approval addressing safety and noise factors.
- (3) The minimum lot area for ropes courses is ten acres.
- (4) The minimum lot area for paintball is 25 acres.
- (5) The minimum lot area for firing ranges and skeet and trapshooting ranges is 75 acres.
- (6) Firing ranges must comply with the following standards:
 - (a) Backstops having a minimum height of 20 feet are required behind all target lines;
 - (b) Supplemental barriers must be provided as needed to contain all projectiles within the boundaries of the range and to minimize noise exiting the site; and
 - (c) The owners, operators, tenants, or occupants of the site must implement appropriate environmental management practices for containing, controlling, and removing lead from the range in accordance with the latest edition of “Best Management Practices for Lead at Outdoor Shooting Ranges” from the U.S. Environmental Protection Agency (EPA).

Standards when permitted by special exception:

- (7) The only outdoor commercial recreation use permitted by special exception in the R-C, R-E, and R-1 Districts is a golf driving range. In these districts, the minimum lot size is 15 acres.
- (8) Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.
- (9) Except for light poles, fences, barriers, and containment structures approved in accordance with subsection (13) below, all structures used in connection with the outdoor recreation use must be located a minimum of 100 feet from any lot line.
- (10) If the use involves mechanical or motorized rides, the following standards apply:
 - (a) The minimum lot size is five acres;
 - (b) The use must have frontage on a public street of sufficient capacity to provide safe access and to convey the anticipated traffic associated with the proposed use, as shown by a traffic impact statement provided by the applicant;
 - (c) All mechanical or motorized rides must be located a minimum of 200 feet from any adjoining residentially-zoned property, unless the applicant demonstrates to the Board’s satisfaction that the existing topography of the site or the provision of noise attenuation measures will adequately mitigate any sound and visual impacts created by the use; and
 - (d) In reviewing an application, the Board will take into consideration factors such as safety, noise, glare, and traffic and impose conditions to ensure that the use will be compatible with and not adversely impact the adjacent properties.
- (11) Baseball hitting and archery ranges must have a minimum lot area of two acres.

- (12)** Miniature golf as an ancillary use to a golf driving range must comply with the following standards:
- (a)** The miniature golf facility must be located and oriented to the interior of the site such that the use is not visible from any abutting roadway and must be adequately screened to mitigate impacts on adjacent properties. In the R-E and R-1 Districts, the use may not include the use of sound emitting features; and
 - (b)** In reviewing an application for a special exception, the Board will take into consideration factors such as noise, lighting, and traffic and impose any necessary conditions to ensure that the use will be ancillary to the principal golf driving range use and will also be compatible with and not adversely impact adjacent properties.
- (13)** The Board may approve, in conjunction with the approval of a proffered rezoning or special exception for an outdoor sports facility, an increase in height or modification to the standards in subsection 4102.7.A(5) for containment structures for outdoor playing fields, courts, or driving ranges designed to preclude the flight of balls or other sports equipment onto adjacent property or right-of-way, in accordance with the following requirements:
- (a)** If a proposed containment structure is for a new facility, the use must be oriented and designed to minimize the height needed for the containment structure;
 - (b)** The material for the containment structure is limited to support structures, netting that is at least 75 percent open in an evenly distributed pattern, and guy wires;
 - (c)** To the extent practical, the containment structure must be designed so that, if it collapses, it will not fall onto adjacent property or right-of-way;
 - (d)** Signs may not be affixed to containment structures;
 - (e)** To the extent practical, containment netting must be removed when the facility is not in use due to seasonal changes or other factors; and
 - (f)** A containment structure may be located on an adjacent lot, whether or not there is a principal use located on the lot.

T. Entertainment, Adult

Standards when permitted by special permit:

An adult entertainment establishment must:

- (1)** Be located in the C-7 District within a regional shopping center;
- (2)** Abut only property that is not used or zoned for residential purposes; and
- (3)** Be located a minimum of 1,000 feet from all religious assemblies, schools, and other adult entertainment establishments.

U. Entertainment, Public

Standards applicable to all public entertainment uses:

- (1)** In reviewing an application, the Board will take into consideration factors such as safety, noise, hours of operation, and traffic and may impose conditions to ensure that the use will be compatible with and not adversely impact adjacent properties.

- (2) Food, beverage, and smoking activities may be offered in conjunction with the public entertainment use.
- (3) In the I-2, I-3, I-4, I-5, and I-6 Districts, a public entertainment use is only allowed in conjunction with a restaurant, craft beverage production establishment, or hotel or motel in those districts where the use is permitted.

V. Golf Course or Country Club

Standards when permitted by special exception:

- (1) A golf course or country club must have a minimum lot area of 15 acres.
- (2) Except for light poles, fences, barriers, and containment structures approved in accordance with subsection (5) below, all structures that are used in connection with a golf course or country club, must be located a minimum of 50 feet from all lot lines.
- (3) Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.
- (4) A golf course may include an accessory driving range; however, when a driving range is not accessory to a golf course, it is an outdoor commercial recreation use.
- (5) The Board may approve, in conjunction with the approval of a proffered rezoning or special exception for a golf course, an increase in height or modification to the standards in subsections 4102.7.A(5) for containment structures for golf courses designed to preclude the flight of balls onto adjacent property or right-of-way, in accordance with the following requirements:
 - (a) If a proposed containment structure is for a new golf course, the facility must be oriented and designed to minimize the height needed for the containment structure;
 - (b) The material for the containment structure is limited to support structures, netting that is at least 75 percent open in an evenly distributed pattern, and guy wires;
 - (c) To the extent practical, the containment structure must be designed so that, if it collapses, it will not fall onto adjacent property or right-of-way;
 - (d) Signs may not be affixed to containment structures;
 - (e) To the extent practical, containment netting must be removed when the facility is not in use due to seasonal changes or other factors; and
 - (f) A containment structure may be located on a lot adjacent to a golf course, whether or not there is a principal use located on the lot.

W. Health and Exercise Facility, Large

In the C-3 and C-4 Districts, a large health and exercise facility is allowed by right in a building existing on *[insert effective date of this Ordinance]*. Otherwise, a large health and exercise facility requires special permit approval in accordance with subsection 8100.4.

X. Marina, Commercial

Standards when permitted by special exception:

- (1) The minimum lot area is two acres.

- (2) Structures, other than light poles, must be located a minimum of 100 feet from all nonriparian lot lines.
- (3) Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.

Y. Marina, Private Noncommercial

Standards applicable to all private noncommercial marinas:

A private noncommercial marina must be under the control and direction of a board of managers composed, at least in part, of residents of the area intended to be served by the facility. Additionally, the owner of the private noncommercial marina must be a nonprofit organization having its membership limited to residents of the area.

Z. Quasi-Public Park, Playground, or Athletic Field

Standards when permitted by right:

- (1) In the commercial and industrial districts, a quasi-public park, playground, or athletic field is allowed subject to the following:
 - (a) The use is allowed on an interim basis for up to five years; however, upon request by the property owner, extensions of up to five years each may be approved by the Board;
 - (b) All structures and fields must be located a minimum of 100 feet from any adjoining residentially-zoned property;
 - (c) The use of lighting or loudspeakers for the athletic field or related facilities is not allowed;
 - (d) Transitional screening is required if determined necessary by the Director; and
 - (e) Parking must be provided on-site. If the use is located on the same site as another use, the Director may allow existing off-street parking to serve the use if the hours of operation of the two uses do not coincide.

Standards when permitted by special exception:

- (2) All structures and fields must be located a minimum of 100 feet from any adjoining residentially-zoned property.
- (3) The Board may approve, in conjunction with the approval of a proffered rezoning or special exception for a quasi-public park, playground, or athletic field, an increase in height or modification to the standards in subsection 4102.7.A(5) for containment structures for quasi-public park, playground, or athletic field designed to preclude the flight of balls onto adjacent property or right-of-way, in accordance with the following requirements:
 - (a) If a proposed containment structure is for a new quasi-public park, playground, or athletic field, the quasi-public park, playground, or athletic field must be oriented and designed to minimize the height needed for the containment structure;
 - (b) The material for the containment structure is limited to support structures, netting that is at least 75 percent open in an evenly distributed pattern, and guy wires;

- (c) To the extent practical, the containment structure must be designed so that, if it collapses, it will not fall onto adjacent property or right-of-way;
- (d) Signs may not be affixed to containment structures;
- (e) To the extent practical, containment netting must be removed when the outdoor sports facility is not in use due to seasonal changes or other factors; and
- (f) A containment structure may be located on a lot adjacent to a quasi-public park, playground, or athletic field, whether or not there is a principal use located on the lot.

AA. Smoking Lounge

Standards when permitted by right:

- (1) Smoking lounges are permitted in the C-5, C-6, C-7, and C-8 Districts when established as a principal use.

Standards when permitted by special exception or special permit:

- (2) When an application for a smoking lounge is not submitted in conjunction with an application for a rezoning or special exception, a special permit is required. When an application for a smoking lounge is submitted in conjunction with a rezoning or other action before the Board, the use may be approved as either a special exception in accordance with subsection 8100.3 or a special permit in accordance with subsection 8100.4, at the discretion of the applicant.
- (3) Accessory retail sales of smoking products not for consumption on the premises may be provided in conjunction with the lounge.

Standards when permitted as an accessory use:

- (4) Smoking lounges are permitted accessory uses in conjunction with restaurants (see subsection 4102.5.G) and public entertainment uses (see subsection 4102.5.U), subject to applicable use standards.

BB. Zoo or Aquarium

Standards applicable to all zoos and aquariums:

- (1) The Animal Services Division of the Police Department must be granted access to the premises and any necessary records to review the operation of the zoo or aquarium on a quarterly basis and is authorized to conduct unannounced inspections of facilities during daylight hours.
- (2) The keeping of animals, including wild or exotic animals as defined in Chapter 41.1 of the County Code, is allowed only if the Animal Services Division of the Police Department determines that the animal does not pose a risk to public health, safety, and welfare and that there will be adequate feed, water, shelter, veterinary care, and space in the primary enclosure for the particular type of animal depending upon its age, size, and weight.

Standards when permitted by special permit:

- (3) Off-street parking and loading spaces must be located a minimum of 50 feet from any adjoining residentially-zoned property.

- (4) If the use includes the keeping of animals outside of a completely enclosed building, it must comply with the following standards:
 - (a) The minimum lot area is ten acres; and
 - (b) Except for light poles, all structures must be located a minimum of 50 feet from all lot lines.

Retail Uses

CC. Convenience Store

Standards applicable to all convenience stores:

- (1) When located in the Highway Corridor Overlay District, a convenience store must comply with the following additional standards:
 - (a) Access to the use must be designed to not impede traffic on public or private streets or travelways; and
 - (b) Any outdoor storage or display of goods must be shown on the special exception plat.

Standards when permitted by right:

- (2) A convenience store is allowed in the C-5, C-6, C-7, and C-8 Districts only if it is located within a shopping center building that complies with the following standards:
 - (a) The building contains at least six other uses that are connected by party walls, partitions, or similar structural members to form one continuous structure; and
 - (b) The building is subject to an approved unified site plan, and vehicular access to the convenience store is provided only via the internal circulation system of the shopping center.

Standards when permitted by special exception:

- (3) The convenience store must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.
- (4) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.
- (5) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (6) Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (7) In the C-5, C-6, and C-7 Districts, any outdoor storage or display of goods offered for sale must be shown on the special exception plat.
- (8) In the I-5 and I-6 Districts, a convenience store must be part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the convenience store unless a building permit has been approved for the related building(s).

DD. Drive-Through, Other

Standards when permitted by right:

- (1) In the C-8 District, other drive-throughs are permitted by right only when located within a shopping center building that complies with the following standards:
 - (a) The building contains at least six other uses that are connected by party walls, partitions, or similar structural members to form one continuous structure; and
 - (b) The building is subject to an approved unified site plan, and vehicular access to the use is provided only via the internal circulation system of the shopping center.

Standards when permitted by special exception:

- (2) The use must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.
- (3) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with pedestrian and vehicular circulation on adjacent properties.
- (4) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (5) Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (6) In the C-5, C-6, and C-7 Districts, any outdoor storage or display of goods offered for sale must be shown on the special exception plat.

EE. Drive-Through Pharmacy

Standards when permitted by right or by development plan:

- (1) In the C-5, C-6, C-7, and C-8 Districts, a drive-through pharmacy is only allowed by right when not abutting or across a local or collector street from land in a residential district.
- (2) In the PTC District, the drive-through facility and stacking spaces must be located within a multistory building or parking structure.
- (3) In the PCC District, a drive-through pharmacy is allowed by right in association with a continuing care facility when designed to facilitate safe and efficient on-site vehicular and pedestrian circulation. Adequate parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the lot.

Standards when permitted by special exception:

- (4) The drive-through pharmacy must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.
- (5) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with pedestrian and vehicular circulation on adjacent properties.
- (6) In the C-5, C-6, and C-7 Districts, any outdoor storage or display of goods offered for sale must be shown on the special exception plat.

- (7) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation and parking
- (8) The site must include adequate parking and stacking spaces for the drive-through pharmacy which are located to facilitate safe and convenient vehicle and pedestrian access to all uses on the lot.

FF. Drug Paraphernalia Establishment

Standards when permitted by special exception:

A drug paraphernalia establishment may not be located within 1,000 feet of the property line of:

- (1) A parcel that is planned, zoned, or used for residential use;
- (2) A park, religious assembly, public library, school (private or public use), or child care center; or
- (3) Another drug paraphernalia establishment.

GG. Garden Center

Standards when permitted by right:

- (1) Landscape contracting services are permitted as an accessory use in accordance with the following standards:
 - (a) All outdoor storage and loading areas must be completely enclosed by screening; and
 - (b) There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or materials; or other vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor-trailer trucks.

Standards when permitted by special exception:

- (2) The minimum lot area is five acres.
- (3) All nursery stock sold must be grown or maintained on the premises.
- (4) A garden center may also include the sale of items designed to maintain and preserve the life and health of nursery stock such as soil, mulch, plant food/nutrients, fertilizers, herbicides, insecticides, and limited related items.
- (5) The sale of a wide range of products normally associated with a hardware, building supply, or craft store is not permitted. However, the Board may allow the retail sales of related items, in accordance with the following:
 - (a) Items may include landscaping materials, decorative garden features, materials for water gardens, supplies and non-powered tools for gardening, firewood, and similar items;
 - (b) Items may include artificial and dried plants and flowers and seasonal/holiday decorations, provided sales of such plants and decorations must be confined to one fully-enclosed structure and to an area, designated on the special exception plat, that does not exceed the following percentages of the total gross floor area designated on the plat for the sale of all retail items:

1. 20 percent during the months of February through October; and
 2. 50 percent during the months of November through January;
 - (c) The following may not be sold:
 1. Electric or gasoline powered tools;
 2. Motorized equipment;
 3. Sheds and outdoor storage containers;
 4. Play houses or play sets;
 5. Indoor furniture or outdoor lawn or patio furniture;
 6. Hot tubs, spas, or pools;
 7. Barbecue grills;
 8. Propane fuel;
 9. Food (except in conjunction with an approved special event); or
 10. Clothing; and
 - (d) The Board may condition the location, size and extent of any areas or structures used for the retail sale of accessory items, to include a requirement for such sales areas to be within a fully enclosed structure.
- (6) Off-street parking spaces and loading spaces must be located a minimum of 50 feet from lot lines abutting an R district or a residential area of a P district.
- (7) All off-street parking areas, including aisles and driveways must be constructed and maintained with a dustless surface in accordance with the provisions of the Public Facilities Manual, unless a modification or waiver of the dustless surface requirement is approved by the Director.
- (8) The lot must have frontage on an arterial street as defined in the Comprehensive Plan.
- (9) Buildings and structures, other than light poles, must be located a minimum of 100 feet from lot lines abutting an R district or a residential area of a P district.
- (10) Accessory uses may also include the following:
 - (a) Landscape contracting services utilizing nursery stock grown on the property and those accessory retail items permitted to be sold in accordance with the special exception approval, provided that all structures, equipment, vehicle storage and other areas dedicated to the landscape contracting services must be delineated on the special exception plat; and
 - (b) Special events, festivals, or classes. The Board may impose conditions on such activities, including conditions addressing the type and number of activities; the time of year during which such activities are allowed; the area of the site devoted to such activities; the use of lighting and public address systems; and parking.
- (11) The Board may impose conditions and restrictions that it deems necessary to ensure the use will be compatible with the adjacent residential area, including conditions addressing:
 - (a) Location, size, height, and use of structures;
 - (b) Location and number of commercial vehicles and equipment;
 - (c) Lighting, public address systems, and hours of operation; and

- (d) Location and type of nursery stock and materials and other items stored, displayed, or offered for sale outside. No storage, parking of equipment or vehicles used for landscape contracting services, display, or sales area may be located in any minimum setback.
- (12) The Board may waive the requirements in subsections (2), (6), and (9) above, for a plant nursery that is accessory to a single-family detached dwelling that is the domicile of the nursery operator.

HH. Retail Sales, General

Standards applicable to all general retail sales:

- (1) Live auctions are allowed only in the C-8 District.

Standards when permitted by special exception:

- (2) Retail sales may be allowed in the I-4, I-5, and I-6 Districts, subject to the following requirements:
 - (a) A maximum of 60 percent of the gross floor area may be devoted to retail sales, display area, and any accessory office, with the remaining gross floor area devoted to warehousing;
 - (b) The Board must determine that the retail use is in conformance with the Comprehensive Plan for commercial and industrial development in the area and will be compatible with and not adversely impact the adjacent properties. The Board may impose conditions and restrictions that it deems necessary to ensure compatibility and to mitigate potential adverse impacts, including conditions addressing:
 - 1. Hours of operation;
 - 2. Site development or design standards; and
 - 3. Transitional screening and landscaping requirements;
 - (c) The structure must be designed to promote the character of the district through architectural design that is compatible with surrounding industrial uses;
 - (d) Parking for the retail and warehouse uses as required by Article 6, is provided on-site, or a cooperative parking arrangement in accordance with the provisions of Article 6, may be approved;
 - (e) The site must be designed so that pedestrian and vehicular circulation are coordinated on-site and with adjacent properties. Vehicular access to the use must to the greatest extent possible be provided via the internal circulation system of the building or complex;
 - (f) The site must be designed to provide safe and convenient access and to minimize any potential conflicts between industrial service and delivery vehicles, passenger vehicles, and pedestrians;
 - (g) All refuse must be contained in completely enclosed facilities;
 - (h) The use is limited to 500 square feet of accessory outdoor storage and display in accordance with subsection 8100.7.D; however, additional storage and display may be permitted if designated on the special exception plat or site plan;

- (i) Outdoor storage and loading areas must be screened from the view from the first story of all abutting lots and right-of-way; and
- (j) There may be no outdoor storage or parking of construction equipment; construction machinery; vehicles used for transporting construction equipment or materials; or other vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor trailer trucks.

II. Retail Sales, Large

Standards applicable to all large retail sales:

- (1) A special exception, special permit, conceptual development plan, final development plan, development plan, or proffered generalized development plan approved before May 22, 2007 that allows a retail sales establishment that is equal to or greater than 80,000 square feet of floor gross area is permitted, if the establishment is in substantial conformance with the approved plan, proffers, and conditions.
- (2) For the purpose of this use, the words “replacement” and “enlargement,” as used in subsection 8104.3.C, do not include any interior or exterior alteration, demolition, or reconstruction of any part of a building or use existing as of May 22, 2007, as long as any such change:
 - (a) Does not result in an increase in gross floor area (GFA) of more than 2.5 percent of the area of the footprint existing as of May 22, 2007;
 - (b) Is within the building footprint existing as of May 22, 2007 or are within an expanded footprint not to exceed 2.5 percent of the area of the footprint existing as of May 22, 2007; and
 - (c) Does not result in an increase in the building height existing as of May 22, 2007 other than that resulting from a roof replacement or roof redesign.

Standards when permitted by right or by development plan:

- (3) In the C-6, C-7, and C-8 Districts, a large retail sales establishment is allowed only if it is located within a building that contains a minimum of 1,000,000 square feet of gross floor area and a minimum of six principal uses that are connected by party walls, partitions, or similar structural members to form one continuous structure.
- (4) In the PTC District, a large retail sales establishment is permitted only when located in a multistory structure designed to contain at least one or more other permitted uses.

Standards when permitted by special exception:

- (5) In the C-6, C-7, C-8, PDC, PRC and PTC Districts, the following standards apply:
 - (a) The establishment must be compatible with and not adversely impact adjacent properties and the local area road system. The Board may impose conditions and restrictions to ensure compatibility and to mitigate adverse impacts, including conditions addressing:
 - 1. Hours of operation and other operational restrictions;
 - 2. Site development or design standards; and
 - 3. Transitional screening and landscaping requirements;

- (b) Parking must be provided in accordance with Article 6 and must be designed to minimize impacts on adjacent properties through structured parking, the location and distribution of parking, landscaping techniques, or other methods. All required parking must be provided on-site;
- (c) The establishment must be designed so that pedestrian and bicycle circulation is coordinated on-site and with adjacent properties for the purpose of maximizing ease of inter-parcel and intra-parcel movement;
- (d) The establishment must be designed to provide safe and convenient access, and to minimize any potential conflicts between service and delivery vehicles, passenger vehicles, and pedestrians;
- (e) Outdoor lighting must be designed to minimize the impacts of glare, light trespass, and overlighting and to promote a safe and secure environment for pedestrian and vehicular traffic;
- (f) All structures must be designed to protect the character of the neighborhood in which they are located through the use of architectural design and site design methods. The layout and architecture must be designed to be compatible with surrounding buildings and to minimize the impacts of building bulk through variations in roof lines, variations in building setbacks, landscaping, enhanced architectural treatments to all sides of a building, windows, or other methods;
- (g) Where there is a significant contrast in topography between the site and adjacent properties, appropriate mitigation methods, such as screening, must be used to mitigate potential noise and visual impacts;
- (h) All rooftop mechanical structures must be screened or fully enclosed within a structure so they are not visible from the ground level of adjacent properties;
- (i) All business, service, storage, and display of goods must be conducted within a completely enclosed building, and all refuse must be contained in completely enclosed facilities. However, outdoor seating, service, storage, and display is allowed, subject to the following requirements:
 1. The area and extent of all outdoor seating areas and outdoor areas for the service, storage, and display of goods must be designated on the approved special exception plat. The Board may impose conditions on the location, size, and extent of any such areas or associated structures. No such storage, display, or sales area may be located in any minimum setback; and
 2. Except for outdoor seating areas, outdoor service, storage, and display areas must be screened using structures, materials, and design elements that are compatible with those used in the principal structure. Screening methods must include one or a combination of the following: solid fences, walls, berms, or evergreen hedges; and
- (j) In the PTC District, outdoor activities are limited to outdoor seating.

Vehicle-related uses

JJ. Car Wash

Standards when permitted by development plan:

- (1) In the PTC District, drive-through facilities and stacking spaces must be located within a multistory building or parking structure.

Standards when permitted by special exception:

- (2) The car wash must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.
- (3) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.
- (4) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (5) Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (6) In the C-5, C-6, C-7, I-3, and I-4 Districts, any areas for outdoor storage or display of goods offered for sale must be shown on the special exception plat.
- (7) In the I-3, I-4, I-5, and I-6 Districts, a car wash must be part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, and no building permit may be approved for the car wash unless a building permit has been approved for the related building(s).

KK. Commercial Off-Street Parking

Standards applicable to all commercial off-street parking:

- (1) In the C-3, I-2 and I-3 Districts, commercial off-street parking is allowed only as part of an office, commercial, or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis.
- (2) Commercial off-street parking must have safe and convenient access to a street, and ingress and egress must be provided only through driveway openings as approved by the Director in accordance with the Public Facilities Manual.
- (3) A parking space that is located contiguous to a street must have a curb between the space and the street.
- (4) A parking space that is located on the ground and is open to the sky may be located in any required yard, provided a parking space must be located a minimum distance of ten feet from front lot line(s), except as may be qualified by the provisions of Section 5108.
- (5) All structures are subject to the bulk regulations of the zoning district in which they are located, except parking structures that are completely underground may be located in any required yard but must be located a minimum of one foot from all lot lines.
- (6) Commercial off-street parking must be used for the parking of passenger vehicles in operating condition and not for the storage of commercial vehicles such as buses or

tractor-trailers. No motor vehicle repair work, except emergency service, is permitted in association with commercial off-street parking.

LL. New Vehicle Storage

Standards when permitted by right or by development plan:

- (1) New vehicle storage is limited to new automobiles, motorcycles, sport utility vehicles, pick-up trucks, and vans.
- (2) New vehicle storage may not include the following vehicles:
 - (a) Vehicles designed primarily for the transportation of or more passengers;
 - (b) Trucks other than those allowed as a part of the vehicle sales and rental use type;
 - (c) Farm machinery or equipment;
 - (d) Construction machinery or equipment;
 - (e) Buses;
 - (f) Motor homes, recreational vehicles, trailers, or boats of any size;
 - (g) Manufactured homes; or
 - (h) Any other specialized vehicles.
- (3) New vehicle storage is solely for the parking or storage of vehicles. The following are prohibited on-site in conjunction with new vehicle storage:
 - (a) Customers and clients;
 - (b) Sale of vehicles;
 - (c) Vehicle preparation; and
 - (d) Display of signs on the new vehicles, except invoices required by federal or state law.
- (4) In the C-3, C-4, C-6, C-7, C-8, I-3, I-4, and PDC Districts, new vehicle storage is allowed only when located within a parking structure that is accessory to another use and in parking spaces that are in excess of the minimum number of required off-street parking spaces for the use to which the parking structure is accessory. The new vehicle storage must comply with the following requirements:
 - (a) The owner of the parking structure must submit a parking tabulation in accordance with subsection 8100.7 that demonstrates that excess parking spaces are available for the proposed new vehicle storage.
 - (b) The layout of the new vehicle storage may not hinder the internal vehicle circulation within the parking structure, and there must be no mechanical parking lift devices or fencing associated with the new vehicle storage.
 - (c) Transitional screening in accordance with Section 5108 is not required.
- (5) In the PTC District, new vehicle storage is allowed only when located within a parking structure as a temporary use and must comply with the following requirements:
 - (a) The owner must demonstrate to the Zoning Administrator that existing parking spaces are available for the new vehicle storage due to phasing of the development or tenant vacancies within the building. The Zoning Administrator will determine if such use is in substantial conformance with the approved final

development plan as provided for in subsection 8100.2.E(3) and the approved parking plan;

- (b) The layout of the new vehicle storage may not hinder the internal vehicle circulation within the parking structure, and there must be no mechanical parking lift devices or fencing associated with the new vehicle storage; and
- (c) No signs are allowed for the use or its associated vehicle sales, rental, and service.

MM. Truck Rental Establishment

Standards that apply to all truck rental establishments:

- (1) All rental trucks must be parked on-site.

Standards when permitted by special exception:

- (2) A truck rental establishment is allowed only as an ancillary use to a principal use on a lot, and the following standards apply:
 - (a) The truck rental establishment is limited to the rental and minor servicing of trucks and trailers typically rented to individuals for the moving of personal belongings (i.e., rental moving vans and trailers);
 - (b) A truck rental establishment must have safe and convenient access to a street. The street frontage must be curbed, and ingress and egress must be provided only through driveway openings as approved by the Director in accordance with the Public Facilities Manual;
 - (c) The area used for the parking and storage of rental trucks and trailers may not exceed 10 percent of the total area of the site;
 - (d) All outdoor storage areas, including aisles and driveways, must be designated on the special exception plat, constructed and maintained with an approved surface in accordance with subsection 6100.2.C, and improved in accordance with construction standards presented in the Public Facilities Manual;
 - (e) All trucks and trailers that are stored outdoors must be in operating condition;
 - (f) All trucks and trailers must be stored on-site and only on the portion of the site designated on the special exception plat for the storage of rental trucks and trailers; and
 - (g) Rental trucks and trailers may not be parked or stored within 15 feet of the front lot line.
- (3) Rental trucks and trailers are limited to vehicles with no more than two axles, a maximum box length of 17 feet, a maximum height of 12 feet, and those that do not require a commercial driver's license to operate.
- (4) In the I-4 District, a truck rental establishment is permitted by special exception only when associated with self-storage.

NN. Vehicle Fueling Station

Standards applicable to all vehicle fueling stations:

- (1) A vehicle fueling station may not be used for the performance of major repairs; however, it may include accessory minor servicing and repair of vehicles, such as: the

sales and servicing of spark plugs, batteries, distributors, brakes, and tires, but not recapping or regrooving; replacement of mufflers, tail pipes, fan belts, grease retainers, wheel bearings, and the like; greasing, lubrication, and radiator flushing; repair of carburetors, fuel, oil, and water pumps and lines; minor motor adjustments not involving removal of the head or crank case or racing the motor; and emergency wiring repairs.

- (2) Wrecked, inoperative, or abandoned vehicles may not be stored outdoors for a period of more than 72 hours. Dismantling, wrecking, or sale of such vehicles or their parts is not permitted. A maximum of two such vehicles in the C-3, C-4, C-5, and C-6 Districts, and the PDH, PDC, PRC, and PTC Districts, and four such vehicles in the C-7, C-8, I-3, I-4, I-5, and I-6 Districts, may be stored on the site at any one time.
- (3) A maximum of 50 square feet is allowed for accessory outdoor storage and display area for goods offered for sale.
- (4) The retail sales of food, beverages, and other frequently needed items for household consumption is allowed, in accordance with the following:
 - (a) The maximum gross floor area devoted to such sales is 2,500 square feet; and
 - (b) The preparation of food is not allowed, except for that allowed in a Limited Food-Service Establishment in accordance with Chapter 43.1 of the County Code or the use of microwave ovens by customers for purchased food items.
- (5) In the PDH, PDC, PRC, and PTC Districts, vehicle and tool rental is not allowed.
- (6) In the PTC District, any vehicle repair or service must be located within a completely enclosed structure.
- (7) Pump islands and associated canopies may be located in any required yard.
- (8) When located in the Highway Corridor Overlay District, access to the use must be designed to not impede traffic on public or private streets or travelways.

Standards when permitted by special exception:

- (9) The station must have similar architectural features on all sides of the building if it is freestanding, or if it is in-line, be architecturally compatible with the building group in which it is located.
- (10) The site must be designed so that pedestrian and vehicular circulation is coordinated on-site and with the circulation on adjacent properties.
- (11) The site must be designed to minimize the potential for turning movement conflicts and to facilitate safe and efficient on-site circulation.
- (12) Parking and stacking spaces must be provided and located in such a manner as to facilitate safe and convenient vehicle and pedestrian access to all uses on the site.
- (13) In the C-3, C-4, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, the following additional standards in Table 4102.2: Summary of Vehicle Fueling Standards apply:

Table 4102.2: Summary of Vehicle Fueling Standards

(Subsections 13, 14, and 15)

✓ = standard applies

| Standard | Zoning District | | | | | | | |
|---|-----------------|-----|-----|-----|-----|-----|-----|-----|
| | C-3 | C-4 | C-7 | C-8 | I-3 | I-4 | I-5 | I-6 |
| Must be part of an office building or complex containing a minimum GFA of 35,000 SF | ✓ | ✓ | | | | | | |
| No separate and exclusive curb cut access to the abutting highway | ✓ | ✓ | | | | | | |
| Limited to the servicing and retail sales of products used primarily by passenger vehicles | ✓ | ✓ | | | | | | |
| No vehicle or tool rental | ✓ | ✓ | | | | | | |
| Outdoor areas for uses such as vehicle or tool rental are limited to the area designated on the special exception plat | | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Must be part of an industrial building or complex containing a minimum GFA of 30,000 SF | | | | | ✓ | ✓ | ✓ | ✓ |
| No building permit may be approved for the station unless a building permit has been approved for the related industrial building | | | | | ✓ | ✓ | ✓ | ✓ |

00. Vehicle Repair and Maintenance, Light

Standards applicable to all vehicle repair and maintenance, light:

- (1) Any area for the storage of vehicles must be shown on an approved site plan and does not count as part of the minimum required parking.

Standards when permitted by right or by development plan:

- (2) In the C-6, C-7, and C-8 Districts, light vehicle repair and maintenance is allowed by right if it complies with the following standards:
 - (a) The use must be located within the main structure of a regional shopping center;
 - (b) The regional shopping center and the building where the use is located must be subject to an approved unified site plan; and
 - (c) Vehicular access to the use must be provided only via the internal circulation system of the regional shopping center.
- (3) In the I-5 and I-6 Districts, light vehicle repair and maintenance is allowed by right if it complies with the following standards:
 - (a) The use is part of an office or industrial building complex that is planned, designed, constructed, and managed on an integrated and coordinated basis; and
 - (b) The use does not have frontage or direct access to a street defined in the Comprehensive Plan as a major or minor arterial.
- (4) In the PDH, PDC, and PTC Districts, the following standards apply:
 - (a) Vehicle rental, tool rental, outdoor storage, and outdoor display of goods offered for sale are not allowed; and
 - (b) Wrecked, inoperative, or abandoned vehicles may not be stored outdoors for a period of more than 72 hours, and a maximum of two such vehicles may be stored on the site at any one time.

- (5) In the PDH and PDC Districts, light vehicle repair and maintenance may be located only in a commercial center containing a minimum of three other commercial establishments.
- (6) In the PTC District, all vehicle repair and service must occur within a completely enclosed structure.

PP. Vehicle Sales, Rental, and Service

Standards when permitted by right:

- (1) Vehicle rental is allowed by right in the C-3, C-4, C-6, C-7, and C-8 Districts when the use complies with the following standards:
 - (a) The maximum size is 2,500 square feet of gross floor area;
 - (b) Rentals are limited to the rental of automobiles and passenger vans. Rental of trucks or other vehicles is not allowed;
 - (c) A maximum of 15 rental vehicles may be stored on-site. Vehicles must be parked in parking spaces that comply with the design standards in the Public Facilities Manual; and
 - (d) Maintenance, refueling, and washing of the rental vehicles on-site are prohibited.

Standards when permitted by special exception:

- (2) Vehicle rentals, but not vehicle sales, are allowed in the C-3, C-4, I-3, I-4, and I-5 Districts and in the PRC District when shown on a development plan or with special exception approval as indicated in Table 4101.2, when the use complies with the following standards:
 - (a) Rentals are limited to the rental of automobiles and passenger vans. Rental of trucks or other vehicles is not allowed;
 - (b) A maximum of 25 rental vehicles may be stored on-site. Vehicle storage is limited to that portion of the site designated on the special exception plat for the storage of rental vehicles; and
 - (c) Maintenance and refueling of the rental vehicles on-site are prohibited.
- (3) In the PDC, PRM, and PTC Districts, vehicle sales and rental are allowed with final development plan or special exception approval. All vehicle display and storage must be located within an enclosed building or parking garage and any ancillary service establishment use must be located within a completely enclosed building.
- (4) Any sales room, rental office, or service facility must be entirely enclosed within a building.
- (5) The use must have safe and convenient access to a street, and ingress and egress must be provided only through driveway openings as approved by the Director in accordance with the Public Facilities Manual.
- (6) All structures are subject to the bulk regulations of the zoning district in which they are located, except structures that are completely underground may be located in any yard but must be located a minimum of one foot from all lot lines.

- (7) Outdoor areas devoted to storage, loading, parking, and display are limited to the portion of the site designated for such activities. Such areas must comply with the following standards:
 - (a) The areas must be located on the same lot with and ancillary to a sales room, rental office, or service facility;
 - (b) Except loading areas, if located on the ground and open to the sky, the areas may be located in any yard, provided, the areas must be located a minimum of ten feet from any front yard lot line, except as may be qualified by the provisions of Section 5108;
 - (c) If located contiguous to a street, the areas must have a curb between the area and the street;
 - (d) The areas, including aisles and driveways, must be constructed and maintained with an approved surface in accordance with subsection 6100.2.C(3)(a), and must be improved in accordance with construction standards presented in the Public Facilities Manual; and
 - (e) The storage or display of vehicles that are not in operating condition is not allowed.

QQ. Vehicle Transportation Service

Standards when permitted by right or by development plan or PRC plan:

- (1) In the C-6, C-7, C-8, PDC, PRC, PRM, and PTC Districts, a vehicle transportation service must comply with the following standards:
 - (a) A maximum of five company vehicles are allowed on-site at any given time.
 - (b) Maintenance and refueling of vehicles on-site are not allowed.
 - (c) Except in the PTC District, transitional screening and barriers must be provided in accordance with use group #9, not use group #15.
- (2) In the I-4 District, all storage of vehicles and activities associated with a vehicle transportation service must be conducted within a completely enclosed building.

Standards where permitted by special exception:

- (3) In a Commercial Revitalization District, a vehicle transportation service requires a special exception in the C-6, C-7, and C-8 Districts.

6. Industrial Uses

Freight Movement, Warehousing, and Wholesale Distribution

A. Data Center

Standards applicable to all data centers:

- (1) In all districts except the I-4, I-5, and I-6 Districts, all equipment necessary for cooling, ventilating, or otherwise operating the facility must be contained within an enclosed building where the use is located. This includes emergency power generators and other emergency power supply equipment.

- (2) In the C-3 and C-4 Districts, the maximum size is 40,000 square feet in gross floor area. However, this size limit may be exceeded:
 - (a) If the use is located in a building existing on *[insert effective date of this Ordinance]*; or
 - (b) With special exception approval in accordance with subsection 8100.3.
- (3) In the I-2 and I-3 Districts, the maximum size is 80,000 square feet in gross floor area. However, this size limit may be exceeded:
 - (a) If the use is located in a building existing on *[insert effective date of this Ordinance]*; or
 - (b) With special exception approval in accordance with subsection 8100.3.

B. Goods Distribution Hub

Standards when permitted by right or by development plan:

- (1) Vehicles associated with the use are subject to the following standards:
 - (a) The use of semitrailers, including tractor or trailer units, or any vehicle that exceeds 28 feet in length to deliver goods from the facility is prohibited; and
 - (b) No more than five vehicles that exceed 21 feet in length may be stored on-site in surface parking lots. The on-site storage of semitrailers, including tractor trailer units, or any vehicle that exceeds 28 feet in length is prohibited.
- (2) Except as otherwise provided in subsection (3) below, the goods distribution hub may not exceed is 6,000 square feet of gross floor area in the C-3, C-4, and C-5 Districts, or 10,000 square feet of gross floor area in the C-6, C-7, C-8, PDC, and PTC Districts.
- (3) When located in a building existing on *[insert effective date of this Ordinance]*, the maximum gross floor area of the goods distribution hub may exceed the maximum gross floor areas in subsection (2) above, up to a total of 80,000 square feet of gross floor area for the entire site, including all buildings in a shopping center, if a minimum of ten percent of the gross floor area of each building housing a goods distribution hub is used for retail sales or other activities characterized by in-person interaction with the public.

Standards when permitted by special exception:

- (4) The Board may approve a special exception for an increase in the size of a goods distribution hub above that specified in subsection (3) above, and for an increase in the number or size of delivery vehicles stored on-site specified in subsection (1)(b) above.
- (5) Retail sales accessible to customers must be provided and arranged to maintain the commercial nature of the district.
- (6) The layout and architecture must be designed to be compatible with surrounding buildings and to minimize the impacts of building bulk through variations in roof lines, variations in building setbacks, landscaping, enhanced architectural treatments to all sides of a building, windows, or other methods.
- (7) The number, location, and screening of distribution vehicles stored on-site must be consistent with the commercial nature of the district.
- (8) The use must comply with subsection (1)(a) above. The site must be designed to facilitate safe and efficient on-site circulation, parking, and stacking of vehicles.

C. Self-Storage

Standards applicable to all self-storage:

- (1) Incidental retail sale of storage-related items, including, but not limited to, boxes and packing tape, is permitted.
- (2) In the I-3 District, self-storage is permitted by right if it complies with the following:
 - (a) Loading and unloading areas must be located, screened, or fully enclosed to minimize the potential for adverse impacts on adjacent property. All other activities associated with the use must be conducted completely indoors in a minimum three-story structure;
 - (b) No individual storage bay doors, storage items, or lighted hallways along the lengths of the building façades may be visible from the outside of the storage structure; and
 - (c) Incidental parking or storage of motor vehicles, including trucks, trailers, or moving vans, is not permitted, except for purposes of loading and unloading. Parking or storage of vehicles is allowed in conjunction with a self-storage facility if approved as part of a special exception for a storage yard in accordance with 4102.6.I.
- (3) In the PDC and PTC Districts, self-storage must comply with the following:
 - (a) Loading and unloading areas must be located, screened, or fully enclosed to minimize the potential for adverse impacts on adjacent property. All other activities associated with the use must be conducted completely indoors in a multistory structure;
 - (b) All storage must be within a building that is office-like in appearance and harmonious in color and design with that of the surrounding development so as to minimize any adverse visual impact;
 - (c) No individual storage bay doors, storage items, or lighted hallways along the lengths of the building façades may be visible from the outside of the storage structure;
 - (d) The site must be designed to facilitate safe and efficient on-site circulation and parking;
 - (e) Signage must be in scale and harmony with the surrounding development so not to detract from the desired character of the area, as described in the purpose of the zoning district and any established development plans for the area; and
 - (f) Incidental parking or storage of motor vehicles, including trucks, trailers, or moving vans, is not permitted, except for purposes of loading and unloading. Truck, trailer, or van rentals may not be conducted from the site.

Standards when permitted by special exception:

- (4) All storage must be within a completely enclosed building.
- (5) Loading and unloading areas must be located, screened or fully enclosed to minimize the potential for adverse impacts on adjacent property.
- (6) Incidental parking or storage of motor vehicles, including trucks or moving vans is not allowed, except for purposes of loading and unloading, or if approved as a part of a truck rental establishment.

D. Warehouse

Standards when permitted by right:

Retail sales to the general public are allowed as an accessory use, in accordance with the following limitations:

- (1) In the I-4 District, a maximum of 25 percent of the gross floor area of the establishment or 5,000 square feet, whichever is smaller, may be used for retail sales.
- (2) In the I-5 and I-6 Districts, retail sales may be permitted if a minimum of 60 percent of the gross floor area of the facility is devoted to warehouse use that is not display area.

E. Wholesale Facility

Standards when permitted by right or by development plan:

- (1) Retail sales to the general public are allowed only as an accessory use. A maximum of 10 percent of the gross floor area of the establishment or 1,000 square feet, whichever is smaller, may be accessible to the general public for retail sales.
- (2) In the I-2 and I-3 Districts, a wholesale facility may be permitted as incidental and accessory to a permitted, special exception, or special permit use.

Standards when permitted by special exception:

- (3) In addition to the standard in subsection (1) above, all business, service, storage, and display of goods must be conducted within a completely enclosed building.

Industrial Services and Extraction of Materials

F. Contractor's Office and Shop

Standards when permitted by right or by development plan:

- (1) Retail sales to the general public are allowed only as an accessory use. A maximum of 10 percent of the gross floor area of the establishment or 1,000 square feet, whichever is smaller, may be accessible to the general public for retail sales.
- (2) In the PTC District, a contractor's office and shop and all associated operations and activities, including the storage of materials and company vehicles, is permitted only when contained within a building or parking structure.

G. Extraction Activity

Standards when permitted by special permit:

- (1) Any extraction activity must comply with the following standards:
 - (a) The minimum lot area is 20 acres. This requirement, however, does not preclude the approval of a permit to enlarge or extend an existing extraction activity use onto contiguous land containing less than 20 acres;
 - (b) With the exception of stone quarrying and related grading activity, the grading, mining, excavating, removal of trees, and any other disturbance of natural vegetation is not permitted:

1. Within 200 feet of contiguous property subdivided into residential lots of one acre or smaller not under the ownership or control of the applicant; or
 2. Within 250 feet of an occupied dwelling;
- (c) Exceptions to the setbacks established in subsection (b) above for all uses except stone quarrying may be granted by the BZA if:
1. The application includes a notarized letter, signed by the owner of the adjacent property, indicating approval of the encroachment; and
 2. The BZA determines that the ultimate grades of the proposed encroachment are suitable for future development of the property in accordance with the Comprehensive Plan for that area;
- (d) All natural resource extraction, quarrying, and related operations must comply with provisions in subsection 5104.2 relating to erosion and sedimentation;
- (e) No building or structure used in connection with such an operation, except buildings for office and administrative purposes only, may be located within 200 feet of (a) the right-of-way of any public street or (b) any adjoining property. Buildings devoted solely to office and administrative uses may be located not less than 100 feet from the right-of-way of a public street or adjoining property when specifically approved as part of the special permit;
- (f) In conjunction with all extraction activity uses except stone quarrying, no washing, crushing, processing or similar operation may be conducted within 200 feet of the right-of-way line of any public street or any adjoining residential property;
- (g) In conjunction with a stone quarry, no washing, crushing, processing or similar operation may be conducted within 200 feet of the right-of-way of any public street or a safe distance to be established by the BZA from any adjoining occupied dwelling. No stone quarrying or related grading activity, except restoration work, may be permitted within 150 feet of contiguous property subdivided into residential lots of one acre or smaller, not owned or controlled by the applicant, or the right-of-way of any public street;
- (h) An exception to the setbacks established in subsection (g) above may be granted by the BZA if the application for special permit approval includes a notarized letter, signed by the owner of the adjacent property, indicating approval of the encroachment;
- (i) The top of all open excavations having a depth of ten feet or more which creates a slope of 45 degrees or more from the horizontal edge and remains for a period of more than 24 hours, must be enclosed by a substantial fence erected at least 50 feet outside the excavation. The fence must have a minimum height of six feet and must effectively control access to the excavation;
- (j) All operations are limited to the hours of 7:00 AM to 6:00 PM. However, the BZA may modify the hours to permit loading and delivery after 6:00 PM if the BZA determines the modification will not adversely impact the surrounding area;
- (k) All settlement ponds used in connection with an operation, except those entirely within a fenced area required by subsection (i) above, must be enclosed by a chain link fence having a minimum height of six feet and having an arm extending 18 to 24 inches above the chain link portion of the fence that includes at least three

strands of four barb barbed wire. The fence must have a locked gate at all access points;

- (l) All vehicles used to transport excavated material must be loaded in a way that prevents the unintentional discharge of material from the vehicle. Trucks must be cleaned of all material not in the load-bed before entering the public streets;
 - (m) Existing trees and ground cover along public road frontage must be preserved, maintained, and supplemented by selective cutting, transplanting, and addition of new trees, shrubs, and other ground cover for the depth of the roadside setback;
 - (n) Roadside landscaping must be provided to reflect the purpose of the natural resource area and protect it from becoming an eyesore, to dampen noise from the operation of equipment, and to absorb dust that might result from the extraction activity; and
 - (o) Extraction activity is subject only to the following performance standards. They are not subject to subsection 5102.
 - 1. No blasting is permitted except in conjunction with a permit for stone quarrying;
 - 2. Blasting vibration is limited to a maximum resultant peak particle velocity of 1.5 inches per second in the earth as measured at any occupied structure not on quarry property. In addition, the BZA may further limit such blasting vibration where it makes a finding that the density of population in the area warrants additional protection;
 - 3. Earth vibration produced from sources other than blasting must not exceed 0.05 inches per second at any occupied structure not on the property;
 - 4. The peak over-pressure (noise) from any blast is limited to 0.0092 pounds per square inch (130 decibels) at any occupied structure not on the property; and
 - 5. Airborne noise produced from sources other than blasting must not exceed, at any structure not on the property, 10dB(A) above the ambient in residential districts and/or 16dB(A) in commercial districts.
- (2) Special permits for extraction activity are subject to the following procedural requirements:
- (a) The special permit application will be approved or denied after a complete application is filed by the applicant except as extended by the Zoning Administrator for good cause. This period will be suspended during any time when the application is returned to the applicant for the furnishing of further information;
 - (b) The BZA may grant a special permit for a stone quarry for a period not to exceed five years. Such special permit may be extended in accordance with the provisions of subsection 8100.4.D(3) for a period not to exceed five years. Only one such extension may be granted, and at the end of a ten-year period, a permit may be renewed in accordance with the provisions of subsection 8100.4.D(3);
 - (c) The BZA may grant a special permit for all other extraction uses, except a stone quarry, for a period not to exceed two years. Such permit may be extended in accordance with the provisions of subsection 8100.4.D(3) for not more than one additional two-year period;

- (d) Natural resource related operations and uses approved under any previous ordinance for which an expiration date has been established, either by that previous ordinance or by a condition placed by the BZA, expire on such date and may only be renewed or extended in accordance with this Ordinance;
- (e) The Zoning Administrator must make an annual inspection of each extraction use and must make a report of the findings to the BZA. The report must include the following:
 - 1. A statement of whether the operation complies with the requirements of the special permit;
 - 2. A statement of changes which have occurred in the vicinity since the granting of the application, such as new development in the area; and
 - 3. A statement on the condition of the roads in the area which might indicate the spillage of material from trucks; and
- (f) As a result of the annual inspection, the Zoning Administrator may find it necessary, for the health, safety, and welfare of the general public, to recommend additional restrictions and limitations on such use. In such event, the Zoning Administrator must transmit the findings to the BZA which will hold a public hearing following notice in accordance with subsection 8100.1.B(1).

H. Petroleum Products Storage Facility

Standards when permitted by special exception:

The Board may approve a special exception if it determines that the proposed location of the facility is necessary for the rendering of efficient utility service to consumers within the immediate area.

I. Storage Yard

Standards when permitted by special exception:

- (1) In the I-3 and I-4 Districts, a storage yard limited to vehicle storage is permitted by special exception only when associated with self-storage. The storage of semitrailers, including tractor or trailer units, is not permitted.
- (2) The Board may impose additional conditions regarding the type of vehicles stored and the size, location, and screening of the outdoor storage area.

J. Vehicle Storage or Impoundment Yard

Standards when permitted by right:

- (1) In the I-4 District, vehicle storage and impoundment facilities must be conducted only within a completely enclosed building.
- (2) In the I-5 District, no more than five inoperable vehicles may be located outside.

Production of Goods

K. Craft Beverage Production Establishment

Standards when permitted by right or by development plan or PRC plan:

- (1) Storage of materials used in the production process is permitted only within a completely enclosed structure.
- (2) A maximum of 15 percent of the square footage of the area accessible to the public or 250 square feet, whichever is larger, as evidenced by submission of a floor plan, may be used for accessory entertainment, as determined by the Zoning Administrator. Entertainment may include dancing, live entertainment including recorded music with a DJ, or other similar uses. Any entertainment activity that exceeds these limitations is considered public entertainment.
- (3) In the C-5, C-6, C-7, C-8, PDC, PRC, PRM, and PTC Districts, craft beverage production establishments are permitted by right in accordance with the following:
 - (a) Production is limited to not more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually; however, the Board may approve other production limits in conjunction with the approval of a development plan for the PDC, PRC, PRM, or PTC District;
 - (b) In the C-5, C-6, C-7, and C-8 Districts, production activities and the area devoted to such activities must be accessory to an on-site tasting room; and
 - (c) In the PDC, PRC, PRM, and PTC Districts, the establishment must include an on-site tasting room.
- (4) In the I-3, I-4, I-5, and I-6 Districts, craft beverage production establishments are permitted by right in accordance with the following:
 - (a) A tasting room, consisting of up to 30 percent of the total gross floor area of the establishment, for the consumption of products produced on-site may be permitted as an accessory use. Any food served must be as an accompaniment to those products produced on-site and is limited to pre-packaged food items or food items that require limited preparation or reheating;
 - (b) Parking for the portion of the establishment devoted to production activities must be provided in accordance with the parking requirements for a manufacturing establishment in accordance with subsection 6100.3.E. Parking for a tasting room must be provided in accordance with the requirements for a craft beverage production establishment in accordance with subsection 6100.3.E; and
 - (c) Retail sales may be permitted as an accessory use, as long as the associated retail sales area is limited to 10 percent of the gross floor area of the establishment.

L. Production or Processing

Standards when permitted by right:

- (1) In the I-3 District, establishments for printing, food and beverage manufacturing, and bulk storage of flammable materials for resale are not allowed.
- (2) In the I-4, I-5, and PTC Districts, bulk storage of flammable materials for resale is not allowed.

- (3) In the I-3 through I-6 Districts, production or processing may include accessory retail sales as long as the retail sales area is limited to 10 percent of the gross floor area of the establishment or 1,000 square feet, whichever is smaller.

M. Production or Processing, Heavy

Standards when permitted by special exception:

The Board may establish additional yard requirements, landscaping and screening requirements, and other requirements in approving the special exception to ensure compatibility with the surrounding community.

N. Small-Scale Production Establishment

Standards when permitted by right or by development plan or PRC plan:

- (1) The maximum size of an individual small-scale production establishment is as follows, based on the district where it is proposed to be located:

| Zoning District | Maximum Gross Floor Area (square feet) |
|--------------------|---|
| C-3, C-4, C-5, C-6 | 6,000 |
| C-7, C-8, I-3 | 10,000 |
| PDH, PDC, PRC, PRM | 10,000 or as modified by the Board in conjunction with the approval of a development plan |

- (2) In the PDH District, the use may be located in commercial areas only as shown on an approved final development plan.
- (3) The maximum size established in subsection (1) does not preclude the location of more than one establishment per lot.
- (4) The use may not include the bulk storage of flammable materials for resale.
- (5) Storage of materials and production activities must be located within a completely enclosed structure. The emission of odor and noise must be mitigated through the provision of ventilation and soundproofing in accordance with all County and State standards.
- (6) A small-scale production establishment may not include heavy industrial activities as described in the definition of heavy production or processing.
- (7) In the C-5, C-6, C-7, C-8, PDH, PDC, PRC, and PRM Districts, a small-scale production establishment must include accessory retail sales or another accessory component that provides direct interaction with the public. For food or beverage production, this requirement may be satisfied by an accessory carryout restaurant that is subordinate and incidental to the commercial production, and where the counter and customer waiting and seating areas do not exceed ten percent of the gross floor area of the establishment. This requirement may also be satisfied by a retail sales establishment or a restaurant or carryout restaurant that is established and parked as a separate principal use.
- (8) In the I-3 District, retail sales may be permitted as an accessory use, if the associated retail sales area is limited to ten percent of the gross floor area of the establishment.

Waste and Recycling Facilities

O. Mixed Waste Reclamation Facility

Standards when permitted by special exception:

All mixed waste reclamation facilities must comply with the siting, design, construction and operating standards of the Virginia Department of Environmental Quality Solid Waste Management Facility Standards for Materials Recovery Facilities.

P. Recycling Center

Standards when permitted by-right:

- (1) No recycling center may receive, store, process or transfer any material other than source-separated nonputrescible or source-separated commingled nonputrescible metal, glass, paper, or plastic containers, corrugated cardboard, or other recyclable materials designated by the Director of the Department of Public Works and Environmental Services or designee.
- (2) In the I-5 District, a recycling center may not have outdoor storage.

Q. Solid Waste Disposal Facility

Standards when permitted by special exception:

- (1) The Board may approve a special exception if it determines that the proposed location of the facility is necessary for the rendering of efficient utility service to consumers within the immediate area.
- (2) No land or building in the R-E, R-1, R-2, I-2, I-3, or I-4 Districts may be used for the storage of materials or equipment, for the repair or servicing of vehicles or equipment, or for the parking of vehicles except those needed by employees connected with the operation of the immediate facility.
- (3) In the R-E, R-1, and R-2 Districts, this use is limited to landfills only.
- (4) The following standards apply to all applications for special exception approval of landfills, including but not limited to those that are part of a solid waste treatment facility, which are not owned or operated by a public agency.
 - (a) A special exception for a landfill is not valid unless the Virginia Department of Environmental Quality approves the site for landfill use;
 - (b) Every special exception for a landfill is deemed to incorporate all other provisions of law related to the use as specific conditions;
 - (c) Unacceptable pollutants must not be introduced into surface or groundwater or otherwise cause a potential health hazard. This must be demonstrated through comprehensive soil and groundwater investigations and subsequent design methods to the satisfaction of the County;
 - (d) All landfills are subject to any additional regulations adopted by the Board. The Board may limit the type of debris and materials to be deposited and may require a degree of soil compaction adequate to support ultimate use of the property in accordance with the Comprehensive Plan;

- (e) The Board will establish the amount, per acre and total, of surety adequate to guarantee the planned restoration;
- (f) The Director will make an annual inspection of each landfill and will make a report of the findings to the Board. The report must include the following:
 - 1. A statement of whether the operation is in compliance with all of the requirements of the special exception;
 - 2. A statement of changes that have occurred in the vicinity since the granting of the application, such as new development in the area; and
 - 3. A statement on the condition of roads in the area that might indicate the spillage of materials from trucks;
- (g) As a result of the annual inspection, the Director may find it necessary, for the health, safety and welfare of the general public, to recommend additional restrictions and limitations on the use. If so, the Director will transmit the findings to the Board, which will hold a public hearing, following notice in accordance with subsection 8100.1.B(1);
- (h) Upon completion of operations, the land must be left in a safe condition and in such a state that it can be used for development of the property in accordance with the Comprehensive Plan. Sufficient drainage improvements must be provided to prevent water pockets or erosion, and such improvements must be designed in accordance with plans and specifications approved by the Director in conformance with the Public Facilities Manual. Where restoration has not been accomplished, or where the restoration was not done in conformance with the approved restoration plan, the Director will take appropriate action, including demand for performance or payment by the surety on the bond; and
- (i) No improvements may be constructed in or upon any landfill for a period of 20 years after the termination of the landfill operation without the approval of the Board. No such approval may be granted unless the applicant demonstrates that:
 - 1. Any residual post-construction settlement will not affect the appearance or structural integrity of the proposed improvement; and
 - 2. The nature and extent of corrosion-producing properties, the generation and escape of combustible gases and potential fire hazards of the constituent material, considering its state of decomposition, has been provided for adequately and will not create an unsafe or hazardous condition in or around any of said proposed improvements.

7. Accessory Uses

A. General Standards for Accessory Uses and Structures

(1) Generally Permitted

Unless qualified by another provision of this Ordinance, accessory uses and structures, as defined in Article 9, are permitted in any zoning district, subject to the standards in this subsection 4102.7.

(2) Relation to Principal Use

- (a)** Accessory uses and structures are allowed only in connection with, incidental to, and on the same lot with a principal use or structure which is permitted within the district where the accessory use or structure is located.
- (b)** No accessory structure may be occupied or used unless the principal structure to which it is accessory is occupied or used.
- (c)** If an accessory structure is designed as a cohesive part of the principal building and has direct access to the principal building through an interior space that is fully enclosed, it is considered part of the principal building and must comply with the principal building setbacks, except as permitted to extend by subsection 5100.2.D(5).

(3) Must Comply with District Use Standards

All accessory uses and structures must comply with the use standards applicable in the zoning district where they are located.

(4) Height

All accessory uses and structures must comply with the maximum height regulations applicable in the zoning district where they are located, except as may be qualified by another Section of this Zoning Ordinance. For the purposes of determining height, unless otherwise specified by another provision in this Ordinance, the height of an accessory structure is measured from the highest point of the structure to the lowest point of finished ground level adjacent to the structure, as specified in the definition of grade in Article 9.

(5) Rear Setback Coverage Limitations

The following limitations on coverage of the minimum rear setback apply to any lot developed with a single-family detached dwelling:

- (a)** Unless otherwise approved in accordance with subsection (e) below, all accessory structures and uses may cumulatively cover no more than:
 - 1.** 30 percent of the minimum rear setback on any lot located in a conventional residential district;
 - 2.** 50 percent of the minimum rear setback on any lot located in a planned district and containing more than 5,000 square feet of land area, unless otherwise specified on an approved development plan or in a proffered or development condition; or
 - 3.** 75 percent of the minimum rear setback for a lot located in a planned district and containing no more than 5,000 square feet of land area, unless otherwise specified on an approved development plan or in a proffered or development condition.
- (b)** Coverage of the minimum rear setback includes the following (see Figure 4102.1: Determining Coverage):

1. Any fully or partially roofed freestanding accessory structure, such as a garage, shed, gazebo, and other similar structure, including any horizontal projection;
2. Any other freestanding accessory structure, including any children’s play equipment, sports court, pool and associated decking, and any other similar structure measured around the perimeter of the outermost horizontal extensions of the equipment, structure, or surface;
3. Any horizontal projection from the principal dwelling that touches the ground, such as a chimney, stair, stoop, HVAC equipment, patio, deck and other similar projection. However, any horizontal projection from the principal dwelling that does not touch the ground (other than the support posts for a deck), including an eave, bay window, open deck, or other similar projection is not included in the minimum rear setback coverage;
4. Any driveway, parking space, walkway and sidewalk greater than five feet in width, regardless of the surface or edging material used.

(c) Any portion of the minimum rear setback covered by an approved encroachment of the principal dwelling is not

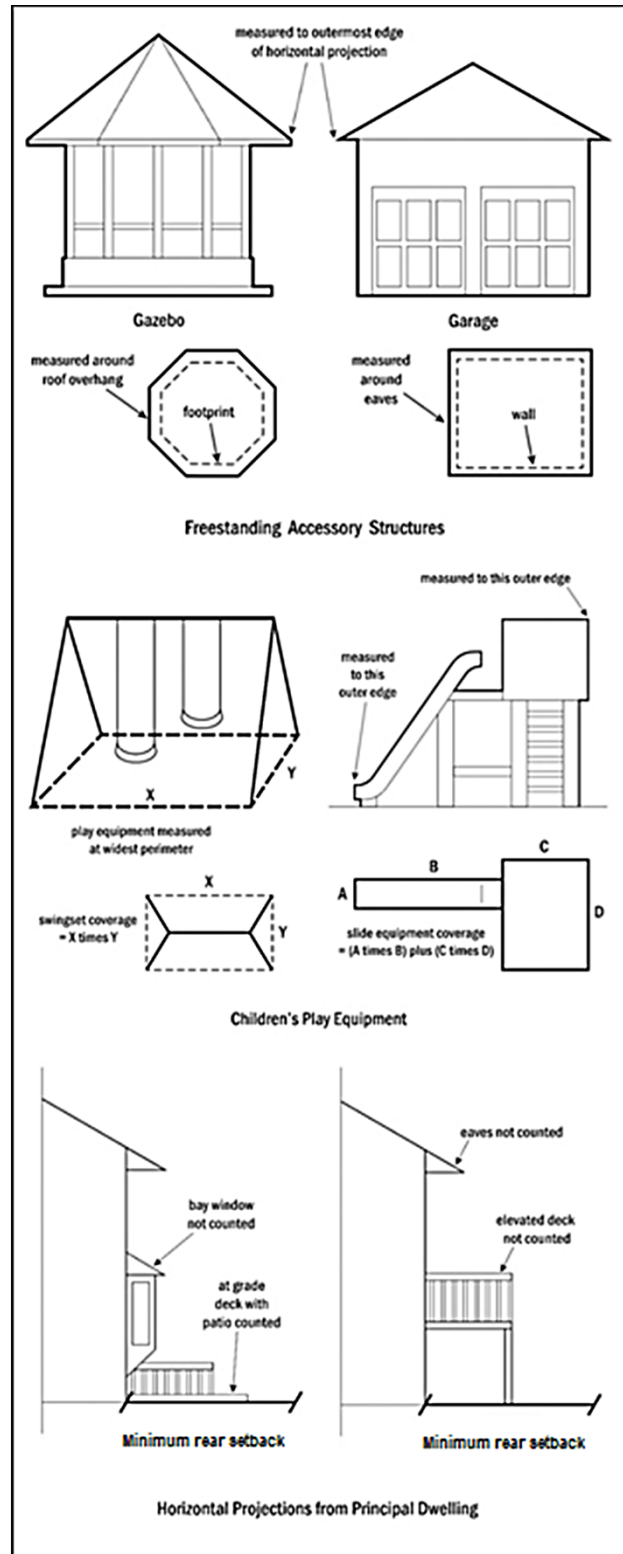


Figure 4102.1: Determining Coverage

included in the rear setback calculation (see Figure 4102.2: Approved Portions of Principal Dwelling).

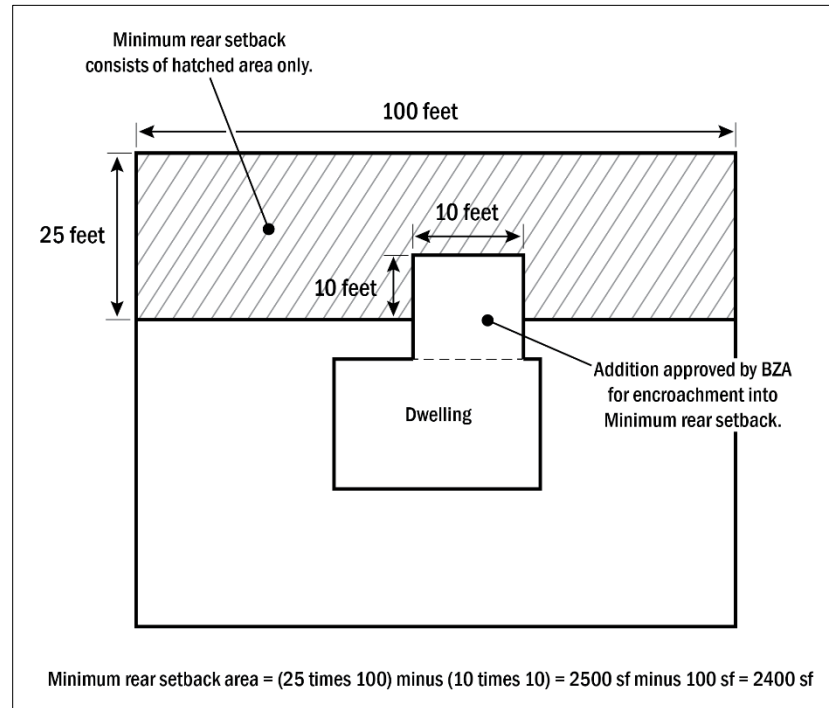


Figure 4102.2: Approved Portions of Principal Dwelling

- (d) For purposes of this provision, for any single-family detached lot in a planned district that is not subject to a proffered condition establishing minimum rear setbacks, the minimum rear setback will be governed by the setbacks for a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the Zoning Administrator or the existing distance to the lot line established by the location of the dwelling on the lot, whichever is less..
- (e) An increase in the limitations on coverage of the minimum rear setback in subsection (a) above may be permitted by special permit in accordance with subsection 8100.4, except where the lot is located in a planned district that is subject to proffered yards, in which case an amendment to the development plan is required. Approval of the special permit by the BZA is subject to the following:
1. The maximum percentage of the minimum rear setback that may be covered by accessory structures and uses is 60 percent;
 2. All accessory structures and uses located on the property must be clearly subordinate in purpose, scale, use, and intent to the principal dwelling;
 3. The BZA determines that the existing or proposed accessory structures and uses on the property are harmonious with the surrounding off-site uses and structures in terms of the location, height, bulk, and scale of the surrounding structures, topography, existing vegetation, and the preservation of trees;

4. The BZA determines that the existing or proposed accessory structures and uses on the property will not adversely impact the use or enjoyment of any adjacent property;
5. The BZA determines that the proposed increase in the minimum rear setback coverage is appropriate to accommodate the existing or proposed accessory structures and uses on the lot. Specific factors to be considered include, but are not limited to, the location of the dwelling on the lot; the shape of the lot and its yards; the layout of existing or proposed accessory structures and uses; the availability of alternate locations for the existing or proposed accessory structures and uses outside of the minimum rear setback; the characteristics of the site, including the presence of steep slopes, floodplains, or Resource Protection Areas; the preservation of existing vegetation and significant trees; the location of a well or septic field; the location of easements; and the preservation of historic resources; and
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including, but not limited to, limitations on the maximum sizes or specific locations of existing or proposed accessory structures and uses, and landscaping or screening requirements.

(6) General Standards for Freestanding Accessory Structures

Unless otherwise specified, freestanding accessory structures, such as sheds, garages, gazebos, and treehouses and other recreational equipment, must comply with the following standards:

(a) Location in Front Yard

1. On a lot that is larger than 36,000 square feet, accessory structures, except for composting, may be located in the front yard but may not be located in the minimum front setback as specified in the applicable zoning district regulations, except as listed in subsection 3 below.
2. On a lot that is 36,000 square feet or less, accessory structures may not be located in the front yard, except as listed in subsection 3 below.
3. Only the following freestanding accessory structures or uses may be located in a front setback as specified in subsection 1 above, or a front yard as specified in subsection 2 above, unless otherwise allowed by another provision of this Ordinance:
 - a. Flagpole, subject to the requirements of 7100.3.B(1)(c);
 - b. Landscaping (see Article 9);
 - c. Basketball standard, which may be located no closer than 15 feet to any front yard lot line, and no closer than 12 feet to any side lot line or a distance equal to the minimum side setback, whichever is less (see Figure 4102.3: Basketball Standard Setbacks); and
 - d. Gardening not to exceed a maximum area of 100 square feet and located no closer than 15 feet to any front yard lot line (see Figure 4102.4: Garden Setbacks). Composting is not permitted in any front yard.

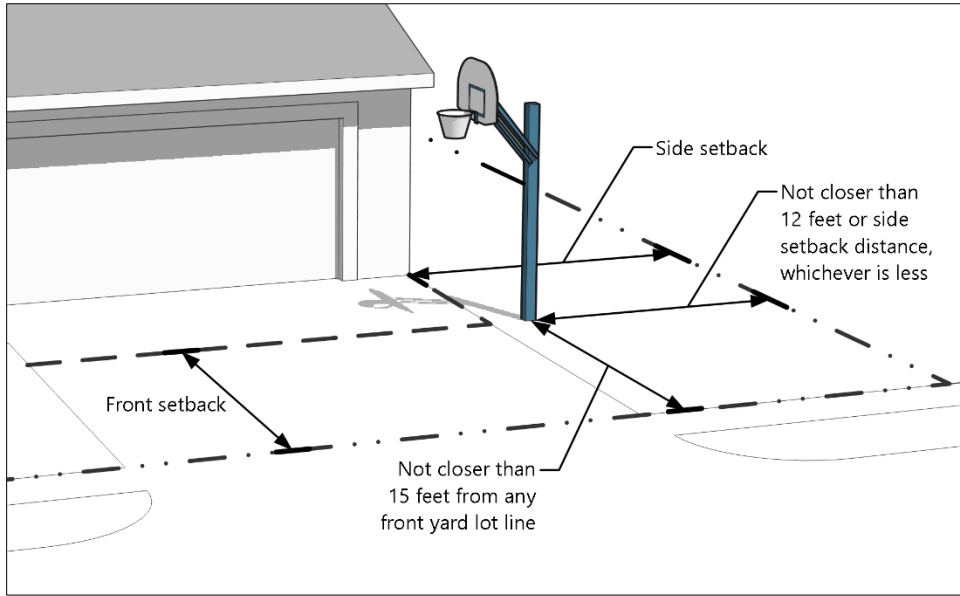


Figure 4102.3: Basketball Standard Setbacks

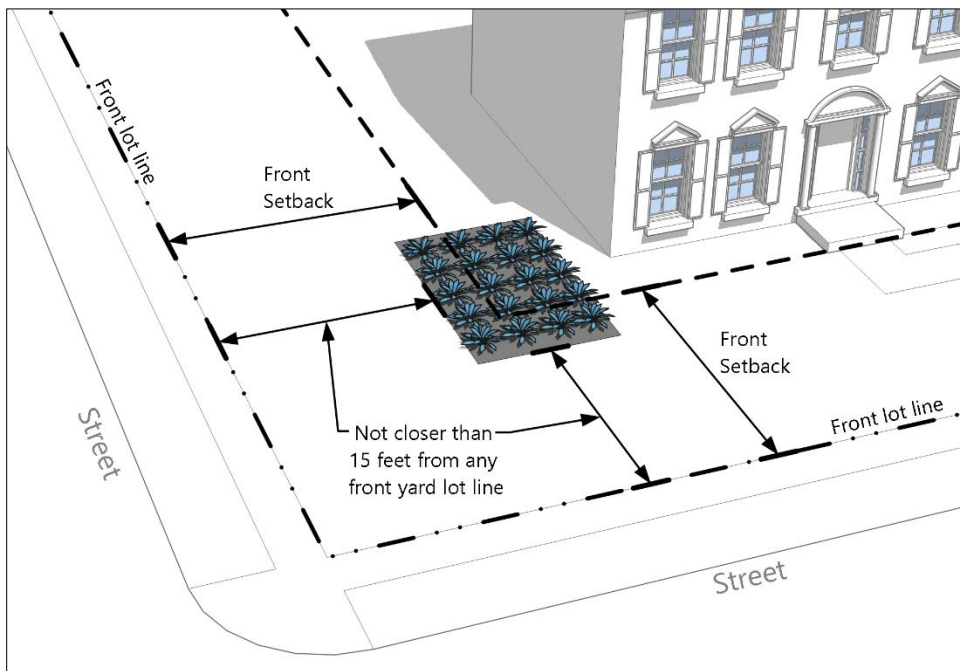


Figure 4102.4: Garden Setbacks

(b) Location in Side or Rear Yard

1. If the structure does not exceed eight and one-half feet in height, it may be located in any part of a side yard or rear yard, except as qualified by subsection 5100.2.D(4)(b).

2. If the structure is between eight and one-half feet in height and 12 feet in height **[advertised range: 10 to 12 feet]**, it must be located a minimum of five feet from any side lot line and a minimum of five feet from any rear lot line. However, on a single-family attached lot, a freestanding structure up to 12 feet in height and located wholly underneath a deck is not subject to this five-foot setback and may be located in any part of a side or rear yard.
3. If the structure is more than 12 feet in height **[advertised range: 10 to 12 feet]**, it must be located at least:
 - a. A distance equal to the minimum side setback from all side lot lines. For a single-family attached lot, for the purpose of freestanding accessory structures, the side setback that applies to peripheral (end) units also applies to interior units; and
 - b. A distance equal to or greater than its height from the rear lot line.
4. In the PDH, PDC, PRM, and PTC Districts where minimum setbacks are not proffered or shown on a final development plan, for the purpose of subsection 3.a above, the minimum side setback dimension is equal to the side setback of a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the Zoning Administrator, or the existing distance to the lot line established by the location of the dwelling on the lot, whichever is less.
5. In the PRC District, where minimum setbacks are not proffered or shown on a development plan, for the purpose of subsection 3.a above, the minimum side setback dimension is eight feet from a side lot line.
6. The requirements of subsections 1, 2, and 3 are summarized in Table 4102.3.

| Table 4102.3: Accessory Structure Height and Yard Requirements | |
|--|--|
| Height of Accessory Structure | Setbacks Required |
| Up to 8.5 feet | Side: None |
| | Rear: None |
| Greater than 8.5 feet to 12 [10-12 advertised] feet | Side: 5 feet [1], [3] |
| | Rear: 5 feet [2] |
| Greater than 12 [10-12 advertised] feet | Side: Required side yard setback of district [3] |
| | Rear: Distance in height from rear lot line |

Notes:

- [1] This setback does not apply in commercial and industrial districts if there is no minimum side setback for the district.
- [2] This setback does not apply in industrial districts if there is no minimum required rear setback for the district.
- [3] Although the side yard requirements do not apply to individual single-family attached units except at peripheral lot lines, the setbacks are required for freestanding accessory structures on single-family attached lots.

7. The transitional screening requirements of Section 5108, which include a specific width for open space and planting beds, are required and must be

satisfied regardless of the accessory structure yard requirements presented above.

(c) Maximum Height

On lots 36,000 square feet in size or less, when accessory to a single-family dwelling, the height of an enclosed freestanding accessory structure may not exceed 20 feet [**advertised range: 15 to 25 feet**]; however, the BZA may approve a special permit for an increase in height. Additional height restrictions may apply, depending on the location of the structure in the side or rear yard, in accordance with subsection (b) above.

(d) Maximum Cumulative Square Footage

On lots 36,000 square feet in size or less, when accessory to single-family dwellings, the following applies:

1. The cumulative square footage of all enclosed freestanding accessory structures on a lot may not exceed 50 percent of the gross floor area of the dwelling unit; however, the BZA may approve a special permit for an increase in size; and
2. For the purpose of this subsection, enclosed freestanding accessory structures include all roofed structures containing three or more walls, and the cumulative square footage is measured from the perimeter of the exterior of the structure measured to the outermost edge of the horizontal projection, as demonstrated in Figure 4102.7.A(7)(d).

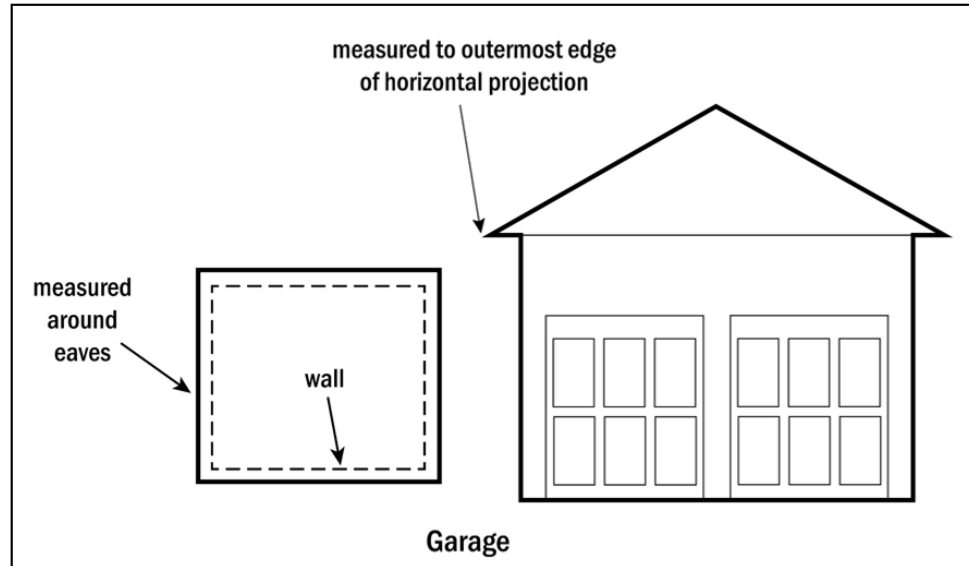


Figure 4102.5: Enclosed Freestanding Structure Area Measurement

(7) Fences and Walls

Fences and walls must comply with the following standards:

(a) Materials

1. Barbed wire fences are prohibited in all zoning districts except on lots of at least five acres in the R-A, R-C, R-E, and R-1 Districts. However, barbed wire

strands may be used to enclose storage yards, other similar industrial or commercial uses, or swimming pools where the strands are restricted to the uppermost portion of the fence and do not extend lower than a height of six feet.

2. Electric fences are not allowed on lots of two acres or less that are located within a subdivision, as defined in Chapter 101 of the County Code, The Subdivision Ordinance.

(b) Height

1. Unless otherwise allowed by subsection (c) below, the maximum allowed height for a fence or wall is as established in Table 4102.4: Maximum Allowed Fence or Wall Height.

| Table 4102.4: Maximum Allowed Fence or Wall Height | | | |
|--|--|---|---|
| Yard where Fence or Wall Located | Location, Size, or Use of Lot | Material Fence or Wall Composed of | Maximum Allowed Height of Fence or Wall (ft.) |
| Front, Side, or Rear | Lot of 2 or more acres located in R-A, R-C, R-E, or R-1 Districts | No requirement | 7 |
| | Any Industrial use | No requirement | 8 |
| Front | All uses | No requirement | 4 |
| | Residential corner lot that abuts a major thoroughfare [1] | Solid wood or masonry located flush to the ground | 8 |
| Side or Rear | All uses | No requirement | 7 |
| | Reverse frontage lot [2] or where the side or rear lot line is within 150 feet of a major thoroughfare and abuts common or dedicated open space located between the lot and the major thoroughfare | Solid wood or masonry located flush to the ground | 8 |

Notes:

[1] The driveway entrance to the lot must be from a street other than the major thoroughfare, and the principal entrance of the dwelling must face a street other than the major thoroughfare. Additionally, the lot must not be contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare. The fence may not extend into the front yard between the dwelling and a street other than the major thoroughfare.

[2] The Director may approve a privacy fence or wall if it does not obstruct the view of traffic from an intersecting street and maintains the minimum sight distance acceptable to the Virginia Department of Transportation for the permitting of entrances onto a thoroughfare of the class involved.

2. Posts, not wider than six inches by six inches, finials, post caps, lighting fixtures, or similar decorative features as determined by the Zoning Administrator, may exceed the maximum or approved height of any fence or wall by not more than nine inches, provided such features are spaced an average distance of six or more feet apart and a minimum distance of three feet apart.
3. For a public use, a fence or wall which is to be provided in conjunction with the use may be of such height and location as approved by the Board.
4. A fence or wall that is an integral part of any accessory use, such as a tennis court or swimming pool, may exceed the maximum height in Table 4102.7.A(11)(b) above, if it conforms to the height and yard requirements for a freestanding accessory structure in subsection (5) above.

(c) Allowed Increases in Height

1. Table 4102.5: Allowed Increases in Maximum Fence or Wall Height, summarizes the types of approval needed and the applicable standards for increases in fence, wall, gate, or gate post height.

| Table 4102.5: Allowed Increases in Maximum Fence or Wall Height | | | |
|---|--|--|----------------------|
| Yard where Fence or Wall Located | Increase in Maximum Height Permitted | Type of Approval | Applicable Standards |
| Any Yard | Five Percent | Administrative | 4102.7.A(7)(c)2 |
| Front | Up to a maximum fence or wall height of six feet | Special Permit OR Special Exception | 4102.7.A(7)(c)3 |
| Side or Rear | No limit | Special Permit OR Special Exception/ Rezoning | 4102.7.A(7)(c)4 |
| Structures with Additional Permissions | Maximum Height Permitted | Type of Request | Applicable Standards |
| Noise Barriers | No limit | Special Permit OR Special Exception/ Rezoning | 4102.7.A(7)(c)5 |
| Containment Structures | No limit | Special Permit OR Special Exception/ Rezoning | 4102.7.A(7)(c)6 |

2. In any yard, the Zoning Administrator may approve up to a five percent increase in fence or wall height for an existing fence or wall which does not comply with the requirements in Table 4102.4: Maximum Allowed Fence or Wall Height, if the following requirements are met:
 - a. The fence or wall is not subject to a height increase in accordance with subsections 3 or 4 below;
 - b. The fence or wall must meet the sight distance requirements of subsection 5100.2.D(4)(b);
 - c. The increase in fence or wall height is due to variations in topography on the site or of the fence materials;
 - d. Any existing noncompliance was done in good faith and through no fault of the property owner; and
 - e. The fence or wall height increase must not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.
3. In any front yard, the Board may approve, in conjunction with a proffered rezoning, PRC plan, or another special exception, or the BZA may approve a special permit, to allow a fence or wall height greater than the maximum height allowed by Table 4102.4: Maximum Allowed Fence or Wall Height, if the following requirements are met:
 - a. The fence or wall height may not exceed six feet;
 - b. The fence or wall must meet the sight distance requirements contained in subsection 5100.2.D(4)(b);

mitigation of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties; and

- c. Before establishment, the noise barrier is subject to the provisions of subsection 8100.7 or other appropriate submission as determined by the Director.
- 6. For containment structures, an increase in fence or wall height may be approved by the Board or BZA in accordance with subsection 4102.4.F; subsection 4102.5.S; subsection 4102.5.V; or subsection 4102.5.Z.

(8) Gates and Gate Posts

Gates and gate posts may be located within any required minimum front setback as follows:

- (a) Four gate posts no taller than ten feet.
- (b) Two gates no taller than eight.
- (c) Gates and gate posts no taller than four feet must not exceed 15 percent of the width of the lot.

(9) Trellises

When located in the minimum front setback, a maximum of two trellises no more than eight feet in height and four feet in width are permitted.

(10) Solid Waste and Recycling Storage Containers

Solid waste and recycling storage containers may be located in any yard, provided they comply with the following standards:

- (a) Containers may not be located in any required parking space, parking aisle, open space, or landscaped area; and
- (b) If located in a minimum front setback, the containers must be located at least 15 feet from the front lot line and be screened from view from the abutting street by either plantings or solid fencing. The height of the solid fencing may not exceed the height of the containers by more than one foot.

(11) Limitation on Motor Vehicle Fuel Storage Tanks

In residential districts, motor vehicle fuel storage tanks are not allowed as accessory to a dwelling.

(12) Shipping Containers

Shipping or sea cargo containers are subject to the following standards:

- (a) On a lot developed with a residential dwelling, shipping containers are not permitted, except as temporary storage during construction on the lot with an active building permit.
- (b) On a lot developed with non-residential uses, shipping containers are subject to all other applicable regulations, including the General Standards for Freestanding Accessory Structures in subsection 4102.7.A(6) above.

(13) Vehicle Storage

- (a) Inoperative motor vehicles, as defined in Chapter 110 of the County Code, are permitted if kept within a fully enclosed structure or if kept completely screened from view in accordance with the County Code.
- (b) Any vehicles covered by a tarp are considered outdoor storage.
- (c) In R districts and the residential areas of P districts, a maximum of two vehicles ***[advertised range: 0 to 3 vehicles]*** may be kept under a fitted vehicle cover.

(14) Television and Satellite Dish Antennas

Except as may be qualified by subsection 5100.2.D(4)(b), conventional television antennas and satellite dish antennas designed to send and receive television or video programming, voice, or data services with a diameter or diagonal measurement of 39 inches (one meter) or less may be located in any yard.

(15) Amateur Radio Antenna Structures

- (a) Ground-supported antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may be permitted in any residential district as follows:
 - 1. Structures 75 feet or less in height must not be located closer to any lot line than a distance equal to one-fifth of their height.
 - 2. Structures greater than 75 feet in height must not be located closer to any lot line than a distance equal to their height.
- (b) Roof-mounted antenna structures for the operation of personal or amateur radio facilities under Parts 95 and 97 of the Federal Communications Commission regulations may extend up to five feet above the applicable maximum building height in the district where it is located.

(16) Swimming Pools

A swimming pool is considered a freestanding accessory structure and is subject to the applicable height and setback limitations outlined in this section. The following additional limitations may also be applicable:

- (a) Pool equipment is subject to subsection 5100.2.D(5); and
- (b) Pools and all associated decking, surrounding aprons, and associated structures are subject to the rear setback coverage limitations below.

B. Accessory Living Unit

Standards when permitted by administrative permit:

[Advertised to allow the Board to consider requiring special permit approval for all accessory living units.]

- (1) An accessory living unit is permitted only in association with a single-family detached dwelling unit, and no more than one accessory living unit is permitted on a single-family lot.
- (2) An accessory living unit must be wholly contained within the structure of a single-family detached dwelling unit and must have direct access to the principal dwelling through an interior space that is finished, temperature controlled, and fully enclosed.

- (3) Any new external entrance proposed for an accessory living unit must be located on the side or rear of the dwelling. Any proposed garage or carport must be located directly adjacent to any existing garage or carport, and the associated driveway and curb cut must be the same as that which serves the principal dwelling.
- (4) The accessory living unit must not exceed 800 square feet of gross floor area **[advertised range: 500 to 1,200 square feet]** or 40% of the gross floor area of the principal dwelling, whichever is less. A larger size may be allowed by special permit in accordance with subsection 8100.4. For the purpose of determining the size of an accessory living unit approved either by administrative permit or special permit, regardless of the definition in Article 9, gross floor area includes the area of any basement or cellar having a structural headroom of six feet six inches or more, but does not include a garage.

[Advertised option: Allow the size limit to be exceeded if the accessory living unit is in the basement or cellar.]

- (5) The accessory living unit may not contain more than two bedrooms.
- (6) The occupancy of the accessory living unit and the principal dwelling unit must be in accordance with the following:
- (a) One of the dwelling units must be owner occupied.
 - (b) One of the dwelling units must be occupied by:
 - 1. A person 55 years of age or over; or
 - 2. A person with a disability.

[Advertised to allow the Board to consider removing the age and disability requirements in (b)1 and 2.]

- (c) The accessory living unit may be occupied by no more than two people.
- (d) The principal single-family dwelling unit may be occupied by not more than one of the following:
 - 1. Two or more persons related by blood or marriage and any number of their natural children, foster children, stepchildren, adopted children, or children in kinship care;
 - 2. One or two persons with their dependent children, including natural children, foster children, stepchildren, adopted children, or children in kinship care, functioning as a single household; or
 - 3. A group of not more than four persons not related by blood or marriage, functioning as a single household.
- (e) An accessory living unit occupied by a person with a disability must provide for reasonable access and mobility, such as:
 - 1. Uninterrupted access to at least one entrance; and
 - 2. Accessibility and usability of at least one full bathroom.

[Advertised to remove this requirement if the Board removes the age and disability requirements in (b)1 and 2.]

- (7) As specified in Article 6, a dwelling with an accessory living unit must provide the number of on-site parking spaces required for the principal dwelling unit, plus one additional space. Only one space serving the lot must provide convenient access to the street.

- (8) An accessory living unit must meet all applicable regulations for building, safety, health, and sanitation, and the construction of an accessory living unit is not deemed to be a subdivision of the lot on which the dwelling is located. If the dwelling is served by well or septic system, the applicant must obtain approval of the Health Department prior to approval of an administrative permit or special permit for the accessory living unit.
- (9) The accessory living unit must have a working multi-purpose fire extinguisher and smoke and carbon monoxide detectors (when required for a fireplace or gas service) that are interconnected with the principal dwelling.
- (10) Before occupancy of the accessory living unit, the owner must record a copy of the administrative permit among the land records of Fairfax County. The permit must contain a description of the property and must be indexed in the Grantor Index in the name of the property owner(s).
- (11) An administrative permit for an accessory living unit may be issued to the owner for an initial period of two years from the date of approval. An administrative permit may be extended for succeeding periods of up to five years by the Zoning Administrator based on the applicant's record of compliance with the standards in this subsection.
- (12) If the standards above are no longer being met, the accessory living unit may not be occupied as a dwelling unit and the property must meet the occupancy limitations of a single-family dwelling in accordance with subsection 4102.3.A. This standard does not require the removal of any kitchen or other facilities.

Standards when permitted by special permit:

- (13) The accessory living unit must conform to all applicable standards for an administrative permit above, except that the BZA may approve a special permit for an accessory living unit to modify one or more of the standards as identified in the subsections below:
 - (a) Subsection (2), to permit an accessory living unit in a freestanding structure, but only on a lot of at least two acres;
 - (b) Subsection (3), to modify the location of any external entrance and access from the street;
 - (c) Subsection (4)(a), to exceed the maximum size for an interior accessory living unit; and
 - (d) Subsection (7), when the required on-site parking is not provided.
- (14) The area devoted to a detached accessory living unit must not exceed 1,200 square feet of gross floor area **[advertised range: 700 to 1,500 square feet]** and must be clearly subordinate to the principal dwelling.
- (15) The BZA may require the provision of off-street parking spaces in addition to the requirements specified in Article 6 for a single-family detached dwelling.
- (16) The County may inspect the property during reasonable hours and in accordance with subsection 8106.2.D.
- (17) Upon the approval of a special permit, the owner will record a copy of the BZA's resolution of approval, including all accompanying conditions among the land records of Fairfax County. The resolution must contain a description of the property and must be indexed in the Grantor Index in the name of the property owner(s).

- (18) A special permit for an accessory living unit may only be issued to the owner and approved for an initial period of two years from the date of approval. The special permit may be extended for succeeding periods of up to five years based on the applicant's record of compliance, in accordance with subsection 8100.4.D(3).

C. Caretaker Quarters [Advertised option: Delete this use if the Board removes the age or disability requirement for accessory living units]

Standards when permitted by special permit:

- (1) The minimum lot size is two acres.
- (2) Caretaker quarters located in a structure detached from the principal dwelling must comply with the applicable zoning district bulk regulations for single-family detached dwellings.
- (3) Before the establishment of caretaker quarters, a restrictive covenant must be recorded in the land records and attached to the deed of the property, which states that the structure cannot be used for any other use.
- (4) The gross floor area of a caretaker quarters, including any cellar space, must not exceed 800 square feet *[advertised range: 700 to 1,200 square feet]*.
- (5) The BZA may impose such conditions as it deems necessary, including, but not limited to, a time limit.
- (6) The owner must allow inspections of the property by County personnel during reasonable hours upon prior notice.
- (7) A special permit for caretaker quarters may only be issued to the owner and approved for an initial period of two years from the date of approval. The special permit may be extended for succeeding periods of up to five years based on the applicant's record of compliance, in accordance with subsection 8100.4.D(3).

D. Child Care Center for Occasional Care

Child care provided to any child may not exceed four hours in any 24-hour day or ten days in any month.

E. Donation Drop-off Box

Standards when permitted by right or by development plan or PRC plan:

- (1) The locations of donation drop-off boxes are limited to the following:
 - (a) The C-5, C-6, C-7, and C-8 Districts where the lot size is a minimum of 40,000 square feet;
 - (b) Residential zoning districts where the principal use of the property is not residential;
 - (c) Commercial areas of P districts when located with a principal use and when shown on an approved development plan; and
 - (d) Where specifically identified on a development plan that is approved in conjunction with a special permit or special exception for another use, or a proffered rezoning.

- (2)** The owner or operator of the donation drop-off box must obtain written permission from the property owner, lessee, or their authorized agent to place the donation drop-off box on the property. When requested by Fairfax County, the property owner, lessee, donation drop-off box operator or owner, or their authorized agent must make such written consent available for review.
- (3)** Donation drop-off boxes are not allowed in the following locations:
 - (a)** Minimum front setback;
 - (b)** Required open space, transitional screening yards, landscaped areas, private streets, sidewalks or trails, or required parking spaces;
 - (c)** Any location that blocks or interferes with vehicular, bicycle, or pedestrian circulation;
 - (d)** Any location that blocks or interferes with the sight distance provisions of subsection 5100.2.D(4)(b); or
 - (e)** Any location prohibited by applicable building and fire code regulations for fire protection and in order to ensure safe ingress and egress and access to utility shut-off valves.
- (4)** Donation drop-off boxes must be screened from view from the first-story window of any neighboring residential use.
- (5)** A maximum of two donation drop-off boxes are permitted on any one lot, and they must be located within in a contiguous area of not more than 120 square feet.
- (6)** No individual drop-off box may exceed dimensions of seven feet in height, six feet in width, or six feet in length.
- (7)** Donation drop-off boxes must be weather-proof, constructed of painted metal, plastic, or other similarly noncombustible material, properly maintained in good repair and in a manner that complies with all applicable USBC and Fire Code regulations, and secured from unauthorized access.
- (8)** All donated items must be collected and stored in the donation drop-off box.
- (9)** Each donation drop-off box must be emptied as needed or within 48 hours of a request by the property owner or authorized agent. Items and materials including trash may not be located outside or in proximity to a donation drop-off box for more than 24 hours and must be removed by the property owner, operator of the donation drop-off box or their authorized agent.
- (10)** Donation drop-off boxes must display the following information in a permanent and legible format that is clearly visible from the front of the container:
 - (a)** The specific items and materials requested;
 - (b)** The name of the operator or owner of the container, together with a telephone number where the owner, operator or agent of the owner or operator may be reached at any time;
 - (c)** The entity responsible for the maintenance of the container and the removal of donated items, including any abandoned materials and trash located outside the donation drop-off box; and
 - (d)** A notice stating that no items or materials may be left outside of the donation drop-off box and the statement, "Not for refuse disposal. Liquids are prohibited."

F. Electric Vehicle Charging

Standards when permitted as an accessory use:

- (1) An electric vehicle charging space as an accessory use is permitted in accordance with the following standards:
 - (a) The space must not interfere with vehicular, bicycle, or pedestrian circulation, including fire lanes and access to the site.
 - (b) When accessory to any residential development:
 1. Electric vehicle charging is allowed only for the residents and their guests; and
 2. Unless located in a parking structure, chargers are limited to Level 1 or Level 2 facilities as defined by the U.S. Department of Energy.
 - (c) When accessory to any nonresidential or mixed use development:
 1. The space must be located in a parking structure or parking lot that serves a principal use; and
 2. The minimum height of the dispenser is three feet.
 - (d) When located in a surface parking lot and not mounted on the exterior of the principal structure, or when located on the top level of a parking structure open to the sky:
 1. The maximum height of the dispenser and any associated transformer, switchgear, or other similar items is nine feet;
 2. A canopy is not permitted in association with an electric vehicle charging space located in a surface parking lot unless it supports a solar collection system. Any canopy supporting a solar collection system must comply with height and setback requirements for a freestanding accessory structure in 4102.7.A(6) and cannot include signage or illumination on the sides of the canopy;
 3. On the top level of a parking structure, a canopy may be allowed if it does not include signage or illumination on the sides of the canopy;
 4. Electric vehicle charging spaces and related equipment cabinets or structures must not be located in any required transitional screening yard or impact any required internal parking lot landscaping in accordance with Section 5108; and
 5. Related equipment, including transformers, switchgear, and other similar items must be screened with a fence, wall, berm, evergreen landscaping, or any combination. Any landscaping used for screening purposes must be maintained.
 - (e) Each dispenser is permitted to have digital display area up to one square foot in size. Digital display areas greater than one square foot are regulated as signs and are subject to Article 7.
- (2) Accessory electric vehicle charging spaces must be in conformance with any zoning approvals.
- (3) An electric vehicle charging space that does not conform to the standards in subsection (1) above is considered a vehicle fueling station.

G. Family Health Care Structure

Standards when permitted by administrative permit:

- (1) Family health care structures are allowed only on lots zoned for and developed with single-family detached dwellings, subject to approval of a permit issued by the Zoning Administrator, and the following provisions.
- (2) Occupancy of the structure is limited to one mentally or physically impaired person, who is a Virginia resident and requires assistance with two or more daily living activities as defined in Va. Code Sect. 63.2-2200, or, in the case of a married couple, two occupants, one of whom is mentally or physically impaired and the other requires assistance with one or more daily living activities.
- (3) The property must be owned or occupied by an adult caregiver who provides care for a mentally or physically impaired person and the property must be used as the caregiver's primary residence. The adult caregiver must be related by blood, marriage, or adoption to or the legally appointed guardian of the physically or mentally impaired person(s) occupying the family health care structure.
- (4) Only one family health care structure is permitted on a lot.
- (5) Family health care structures are limited to a maximum of 300 square feet of gross floor area and must meet the minimum yard requirements for single-family detached dwellings of the zoning district in which it is located. When located in a Planned Development district, the family health care structure is subject to any proffered yards and/or yards depicted on an approved development plan. If there are no proffered yards or yards depicted on an approved development plan in a Planned Development district, the family health care structure will be deemed an alteration to a single-family dwelling unit and subject to subsection 8100.2.E(3)(f).
- (6) Family health care structures may not be installed on a permanent foundation.
- (7) Family health care structures are subject to the Industrialized Building Safety Law and the USBC.
- (8) Family health care structures may be required to connect to any water, sewer, and electric utilities that are serving the principal residence on the property, and must comply with all applicable Health Department requirements.
- (9) Evidence of compliance with these provisions must be provided to the Zoning Administrator on an annual basis.
- (10) Family health care structures must be removed from the property within 60 days from the date on which the structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided for by the caregiver.
- (11) The following materials must be submitted with an application to the Zoning Administrator:
 - (a) The name and contact information of the proposed caregiver, and the relationship of the caregiver to the physically or mentally impaired proposed occupant.
 - (b) Address of the property.
 - (c) Written certification of physical or mental impairment of the proposed occupant, including verification that the person requires assistance with two or more

activities of daily living as defined in Va. Code Sect. 63.2-2200, by a physician licensed in the State.

- (d) Three copies of a plat drawn to a designated scale of not less than 1" = 50', which may be prepared by the applicant, that contains the following information:
 - 1. The dimensions of the lot, the boundary lines of the lot, and the land area;
 - 2. The dimensions, height, and distance to all lot lines of any existing structure on the lot and of the proposed temporary family health care structure; and
 - 3. The signature and certification number, if applicable, of the person preparing the plat.

H. Garage Sale or Yard Sale

In R districts and the residential areas of P districts, garage sales and yard sales are limited to two per calendar year for each lot.

I. Home-Based Business

Standards when permitted by administrative permit:

- (1) A home-based business must be conducted by the person to whom the home-based business permit is issued and must be located within the dwelling that is their primary residence or in an accessory structure located on that same lot.
- (2) A home-based business may only include the following uses:
 - (a) General retail sales, where the sale and delivery of items occurs exclusively online or off-site;
 - (b) Health and exercise facility, small;
 - (c) Household repair and rental service, limited to repairing small household items such as musical instruments, sewing machines, radios, and watches;
 - (d) Office;
 - (e) Personal service, limited to a barbershop or hair salon, sewing, or tailoring. A hair salon may not include other services such as nail, facial, or massage services;
 - (f) Music, photography, and art studios;
 - (g) Small-scale production, limited to items created on-site and home-based food production, where the sale and delivery of items occurs exclusively online or off-site; and
 - (h) Specialized instruction center.
- (3) The premises must have the exterior appearance of a dwelling or residential accessory structure. There must be no exterior evidence that the property is used in any way other than for a dwelling. No sign is allowed, other than yard signs as permitted under subsection 7100.4.D. The home-based business must take place entirely within enclosed structures.
- (4) Outside display or storage of goods, equipment, or materials used in connection with the home-based business is not allowed.
- (5) The total area used for the home-based business, including storage, is limited to a maximum size of 400 square feet **[advertised range of 200 to 750 square feet]**.

- (6) Only one commercial vehicle is permitted per dwelling unit, subject to subsection 4102.1.B(2).
- (7) The delivery or distribution of products or materials related to the home-based business must be from vehicles that do not exceed a maximum length of 28 feet. The use of semitrailers, including tractor or trailer units, for delivery or distribution is not permitted.
- (8) **Employees:**
Employees on-site are limited to persons who occupy the dwelling as their primary residence, except that in a single-family detached dwelling, one employee who does not occupy the dwelling as their primary residence is also allowed. This exception applies regardless of the number of home-based businesses or home day care facilities operating on the lot. ***[Advertised to allow the Board to consider one employee for all dwelling unit types]***. A nonresident employee, whether paid or not, may work on-site only between the hours of 7:00 AM to 6:00 PM.
- (9) **Customers or clients:**
- (a) A maximum of two ***[advertised range: zero to four]*** customers or clients are permitted on-site at any given time.
 - (b) A cumulative maximum of six ***[advertised range: zero to eight]*** customers or clients are permitted on-site in any one day, including all home-based businesses and short-term lodging.
 - (c) If a home day care facility is established on-site, visits to the site by customers or clients of the home-based business are not allowed.
 - (d) General retail sales and small-scale production uses are not permitted to have on-site customers or clients. However, for items created on-site, customers may visit the dwelling to view samples only.
 - (e) If the home-based business has on-site customers or clients, one designated off-street parking space must be made available for the customer or client parking.
 - (f) The hours during which customers or clients may visit the premises are limited to 8:00 AM to 9:00 PM.
 - (g) Customers or clients are permitted by appointment only, with a minimum of 15 minutes between appointments.
 - (h) Customers or clients include all persons who come to the dwelling for business services.
- (10) A permit for a home-based business is valid for the original applicant only and is not transferable to any other resident, address, or occupation. Upon termination of the applicant's residency, the home-based business permit becomes null and void.

Standards when permitted by special permit:

- (11) The home-based business must conform to all applicable standards above, except that the BZA may approve a special permit for a home-based business to modify one or more of the standards as identified in the subsections below:
- (a) Subsection (3) to allow outdoor activities such as swimming or soccer lessons;
 - (b) Subsection (5) to allow a larger area;

- (c) Subsection (7) to allow more employees or different work hours; and
 - (d) Subsection (8) to allow more customers or clients.
- (12) The BZA may require the provision of off-street parking spaces in addition to the requirements specified in Article 6.
- (13) The BZA must determine that the proposed business, together with all other nonresidential uses in the area, will not modify or disrupt the predominantly residential character of the area.

J. Home Day Care Facility

Standards when permitted as an accessory use:

- (1) The maximum number of people under the care of a provider permitted at any one time, in addition to the provider's own children, is:
- (a) Seven children when the facility is located in a single-family detached dwelling;
 - (b) Five children when the facility is located in a single-family attached, stacked townhouse, or multifamily dwelling, or a manufactured home; or
 - (c) Three persons who are aged or infirm or persons with disabilities receiving supportive services, health monitoring, protection, or supervision during part of a 24-hour day.
- (2) A home day care facility must be operated by the provider within the provider's primary residence. Except during emergency situations, the provider must be on the premises while the home day care facility is in operation, subject to the following exceptions:
- (a) A day care provider may operate in a dwelling other than the provider's own if the dwelling is the primary residence of at least one of the people being cared for by the provider. This day care provider will comprise the one nonresident person allowed by subsection (3) below.
 - (b) A substitute care provider may operate a home day care facility in the absence of the provider for a maximum of 240 hours per calendar year.
- (3) One nonresident person, whether paid or not for their services, may be involved in the home day care use on the property at any one time. The hours of the nonresident person's involvement are limited to 7:00 AM to 6:00 PM, Monday through Friday.
- (4) There must be no exterior evidence that the property is used in any way other than as a dwelling, except that play equipment and other accessory uses and structures permitted by subsection 4102.7.A are allowed. No sign is allowed, other than yard signs as permitted under subsection 7100.4.D.
- (5) An increase in the number of children permitted under subsection (1) above or the involvement of more than one nonresident person or an extension of the hours of attendance of such nonresident person as provided for under subsection (3) above may be permitted by special permit in accordance with subsection 8100.4.
- (6) The care of more than three aged, infirmed, or handicapped adults is considered to be an adult day care center and is subject to the applicable permissions and standards.

Standards when permitted by special permit:

- (7) A home day care facility as a special permit use must comply with the standards in subsections (2) and (4) above.
- (8) A maximum of 12 children may be cared for in a home day care facility at any one time, excluding the provider’s own children. The BZA may also allow more than one nonresident person to be involved with the use or an expansion of the hours and days for the nonresident person’s involvement in the use beyond the hours and days permitted under subsection (3) above.
- (9) The BZA will review access to the site and all existing and proposed parking, including the availability of on-street parking and any alternative drop off and pick up areas located in proximity to the use, to determine if the proposed parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on-site at any one time.
- (10) The BZA may require the provision of landscaping and screening based on the specifics of each application.

K. Keeping of Animals

Standards when permitted as an accessory use:

- (1) The keeping of animals allowed under Chapter 41.1 of the County Code is allowed as an accessory use on any lot if the animals are not for the purpose of commercial breeding, boarding, or any other activity meeting the definition of a kennel or animal shelter. However, up to four companion animals not owned by the resident are allowed to be sheltered, fed, and watered in exchange for a fee, subject to the animal unit limitations set forth below.
- (2) The keeping of dogs, except as kennel, is allowed as an accessory use on any lot in accordance with the following standards:
 - (a) The total number of dogs on-site must comply with the limits shown in the table below. These limits apply regardless of the ownership of any of the dogs. Only dogs six months or older in age are counted towards these limits.

| Maximum Number | Minimum Lot Size |
|----------------|--|
| 2 | No requirement |
| 3 | 10,000 square feet |
| 4 | 12,500 square feet |
| 6 | 20,000 square feet |
| More than 6 | 25,000 square feet plus 5,000 square feet for each dog above 7 |

- (3) The keeping of livestock or poultry, excluding roosters, is allowed as an accessory use on any lot of two acres or more in size. Roosters are only permitted as part of a bona fide agricultural operation. The keeping of permitted livestock or poultry must be in accordance with the following:
 - (a) The number of livestock kept on a given lot may not exceed the ratio of one animal unit per one acre, with an animal unit identified as follows:

| Number of Livestock | Equivalent Animal Unit |
|---------------------|------------------------|
| 2 head of cattle | 1 animal unit |
| 5 sheep | 1 animal unit |
| 3 horses | 1 animal unit |
| 5 swine | 1 animal unit |
| 5 goats | 1 animal unit |
| 5 llamas | 1 animal unit |
| 5 alpacas | 1 animal unit |

1. Horses includes ponies, mules, burros, and donkeys.
 2. In determining the number of livestock permitted, only horses six months or older in age and cattle, sheep, goats, and swine one year or older in age are counted.
 3. In determining the number of livestock permitted, combinations of animals are allowed, provided that the ratio of one animal unit per one acre is maintained.
- (b) The number of domestic fowl kept on a given lot must not exceed the ratio of one bird unit per one acre, with a bird unit identified as follows. Only fowl two months or older in age are counted towards these limits.

| Number of Fowl | Equivalent Bird Unit |
|---------------------|----------------------|
| 32 chickens | 1 bird unit |
| 16 ducks | 1 bird unit |
| 8 turkeys | 1 bird unit |
| 8 geese | 1 bird unit |
| 2 ostriches or emus | 1 bird unit |

- (4) The keeping of honeybees in four beehives or less is allowed as an accessory use on any lot. On any lot of 10,000 square feet in size or larger, more than four beehives may be kept, provided there is an additional lot area of 2,500 square feet for each hive. In all instances, there must be one adequate and accessible water source provided on-site and located within 50 feet of the beehive(s). In addition, if the main entrance of the hive faces and is within ten feet of any lot line, there must be a flight path barrier, consisting of a fence, structure, or plantings not less than six feet in height, located in front of the hive. The beekeeper is not required to reside on the property. These limitations do not relate to solitary bees or their structures, which are regulated as freestanding accessory structures.
- (5) The keeping of racing, homing, or exhibition (fancy) pigeons is allowed as an accessory use on any lot 10,000 square feet or more in size.
- (6) Structures for the housing of animals must set back from lot lines as follows:
- (a) Barns and other structures used for the confining or sheltering of livestock and poultry must be located at least 100 feet from all lot lines when used in connection with an agricultural operation and must be located at least 50 feet from all lot lines when used as permitted by this section. Additional provisions governing the location of hog pens are set forth in Chapter 41.1. of the Code.
 - (b) Structures used for the confining or sheltering of horses or ponies must be located at least 40 feet from front and side lot lines and at least 20 feet from rear lot lines.
 - (c) Barns used for the purposes of subsection (a) or (b) above are excluded from the maximum height regulations.
 - (d) Cages, lofts, hives, pens, and other structures that are eight and one-half feet or less in height and that are used for the keeping of homing, racing, or exhibition

(fancy) pigeons or honeybees must be located at least three feet from all lot lines. Any such structure that exceeds eight and one-half feet in height must be located on the lot in accordance with subsection 4102.7.A.

- (e) Doghouses, runs, pens, rabbit hutches, cages, and other similar structures for the housing of dogs and other commonly accepted pets must be located on the lot in accordance with subsection 4102.7.A, except a structure, run, or pen for three or more dogs must be located at least 25 feet from all lot lines.

Standards when permitted by special permit:

- (7) The BZA may approve a special permit to modify the provisions of subsections (1) through (6) above, in accordance with the following:
 - (a) In reviewing an application, the BZA must consider the following:
 1. The kinds and numbers of animals proposed to be kept;
 2. The characteristics of those animals;
 3. The proposed management techniques; and
 4. The location that such animals will be kept on the lot.
 - (b) The BZA may impose such conditions, to include screening and minimum yards, as may be necessary to ensure that there will be no adverse impact on any adjacent property and no emission of noise or odor detrimental to other property in the area.
 - (c) Such modification may be approved if it is established that the resulting use will be harmonious and compatible with the adjacent area.
 - (d) The BZA may not approve a special permit to allow roosters.
- (8) The BZA may not approve an activity meeting the definition of a riding or boarding stable or a kennel as an accessory use of property.

L. Limited Riding or Boarding Stable

Standards when permitted by right:

- (1) On lots containing two to less than five acres, up to five horses may be boarded, and on lots containing five or more acres, up to eight horses may be boarded. Boarding of horses in excess of these numbers is deemed a riding or boarding stable and requires special exception or special permit approval.

Standards when permitted by administrative permit:

- (2) Riding lessons are permitted on lots containing a minimum of two acres, subject to approval by the Zoning Administrator and this subsection 4102.7.L. Each permit is revocable by the Zoning Administrator because of the failure of the owner or operator of the use covered by the permit to observe all requirements of the permit and the Zoning Ordinance.
- (3) Riding lessons are subject to the following standards. Riding lessons that do not comply with these standards are deemed a riding or boarding stable and require special exception or special permit approval in those districts where permitted.

- (a) On lots containing a minimum of two acres but less than five acres, no more than two students are allowed at any given time and up to eight students are allowed in any one day.
 - (b) On lots containing five acres or more, a maximum of four students are allowed at any given time and up to eight students are allowed in any one day.
 - (c) The primary residence of the permit applicant must be located on the same lot where the horseback riding lessons are given; however, the applicant is not required to conduct the horseback riding lessons or care for the horses that are kept, boarded, or maintained on the property.
 - (d) The hours of horseback riding lessons are limited to 7:00 AM to 7:00 PM. During that time, one nonresident person, whether paid or not for their services, may assist with the horseback riding lessons or care for the horses.
 - (e) All horses used in the horseback riding lessons must be kept on the property and no horses may be transported or ridden onto the property for the lessons.
- (4) If there is a lighted outdoor riding ring or riding area, the use of outdoor lighting for such areas is limited to 7:00 AM to 7:00 PM.
 - (5) A Conservation Plan approved by the Northern Virginia Soil and Water Conservation District must be submitted for the property, and all activity on the property must conform to that Plan.

M. Residence for Manager or Employee

Standards when permitted by administrative permit:

- (1) An accessory residence for a manager or employee is only allowed if it is located within the principal structure.

Standards when permitted by special exception or special permit:

- (2) A residence for manager or employee may be located in a structure detached from the principal structure only if it is approved in conjunction with approval of another SE or SP use and if it complies with the applicable bulk regulations for a principal structure set forth in the specific district in which it is located. Any locational requirements set forth as additional standards for a special exception or special permit use are not applicable to detached structures occupied by dwelling units.

N. Sawmilling

Standards when permitted by special permit:

- (1) Sawmilling operations are limited to timber grown on the same property.
- (2) A permit issued for a sawmilling operation must not exceed two years in duration. The permit may be extended in conformance with the provisions of subsection 8100.4.D(3) for up to two successive periods of two years each, but the sawmilling operation may not exist for more than a total of six years.
- (3) No structure and no storage of lumber, logs or timber may be located closer than 100 feet to any lot line. No structure housing or enclosing a saw may be located closer than 400 feet to any lot line that abuts a residential district.

- (4) The mill may operate only one saw at any one time, and no blade may exceed 48 inches in diameter.
- (5) There may be a maximum of five employees per shift, and no more than one shift is permitted in any 24-hour period.
- (6) The on-site stockpile is limited to not more than 100 unsawn logs and not more than 8,500 board feet of sawn lumber at any one time.
- (7) The hours and days of operation will be established by the BZA, except that the operation may not occur between 8:00 PM and 8:00 AM.
- (8) The BZA may require screening, planting, fencing, preservation of trees, entrances, design of structures, or any other requirement that will minimize impacts of the sawmilling use on the surrounding area.

0. Short-Term Lodging

Standards when permitted by administrative permit:

- (1) Short-term lodging is permitted in a dwelling or manufactured home only upon the Zoning Administrator's issuance of a permit in accordance with subsection 4102.1.1.
 - (a) An application for a short-term lodging permit must be submitted to the Zoning Administrator on a form furnished by the County.
 - (b) The permit will be valid for two years from the date of issuance.
- (2) A dwelling or manufactured home used for short-term lodging must:
 - (a) Comply with the requirements of the applicable version of the USBC or Virginia Manufactured Home Safety Regulations, as determined by the Building Official;
 - (b) Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service);
 - (c) Have a plan posted inside the door to each sleeping room showing the exit pathway from the sleeping room to the nearest exit from the dwelling or manufactured home; and
 - (d) Have one designated off-street parking space available for lodgers, which the operator has the authority to reserve for short-term lodging purposes.
- (3) A short-term lodging operator must:
 - (a) Be a permanent resident of the property hosting the short-term lodging use, as demonstrated at the time of application for a permit to operate short-term lodging;
 - (b) Obtain written consent from the owner of the property for the short-term lodging use;
 - (c) Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or manufactured home prohibit short-term lodging; and
 - (d) Designate at least one person who consents to serve as an authorized agent for the short-term lodging operator. Contact information (name, address, telephone, and email address) for the authorized agent(s) must be provided on the application for a short-term lodging permit, posted in a prominent location within the area

made available for short-term lodging, and provided in any written material given to lodgers during their overnight stay.

- (4) The short-term lodging use is subject to the following use limitations:
- (a) A dwelling or manufactured home may be used for short-term lodging for no more than 60 nights per calendar year.
 - (b) The maximum number of lodgers per night may not exceed six adults, except where the USBC requires fewer occupants.
 - (c) All lodgers occupying a short-term lodging must be associated with the same rental contract. The maximum number of rental contracts per night is one.
 - (d) Events and activities, including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation, are prohibited in association with any short-term lodging.
 - (e) All advertisements for short-term lodging, posted on any platform online or in any other format, must include the short-term lodging permit number and identify the location of the parking space required by subsection (2)(d), above, and any other available parking or public transportation options.
 - (f) A short-term lodging operator must maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.
 - (g) Short-term lodging is prohibited in a detached accessory structure, accessory living unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.
 - (h) The Zoning Administrator's issuance of a permit does not invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners' association by-law.

P. Solar Collection System

Standards when permitted as an accessory use:

- (1) A solar collection system mounted on the roof of a building or on another type of structure such as a light pole may extend up to five feet above the applicable maximum building height in the district where it is located.
- (2) Any accessory structure supporting a solar collection system, such as a canopy, must comply with height and setback requirements for freestanding accessory structures in 4102.7.A(5).

Q. Wayside Stand

Standards when permitted by right:

- (1) A wayside stand is permitted only on a lot containing at least two acres and during the crop-growing season.
- (2) A wayside stand may not exceed 400 square feet in gross floor area and must be removed after the crop-growing season.

- (3) Wayside stands may only be used for the sale of agricultural products grown on the same property, or the sale of products of approved home-based businesses conducted on the same property. Plants that are balled, burlapped, and bedded are not considered as having grown on the same property.
- (4) Wayside stands are not subject to the location requirements set forth in subsection 4102.7.A, but must be located a minimum distance of 25 feet from any lot line.
- (5) Wayside stands must be located to allow adequate off-street parking spaces and safe ingress and egress to the adjacent street.

8. Temporary Uses

A. General Standards for Temporary Uses

- (1) Upon application as provided for in subsection 8100.1.A(1), the Zoning Administrator may issue an administrative permit for any temporary use, except where Table 4101.3 or Table 4101.4 requires that the temporary use be approved by special exception or special permit.
- (2) The application for an administrative permit for any temporary use must be filed at least 30 days before the proposed use is to take effect, unless the Zoning Administrator approves a lesser time period. The application forms must provide such information as the Zoning Administrator finds to be reasonably necessary for the proper administration of this Section.
- (3) Upon the finding that the application sufficiently complies with the standards set forth for the use in question as well as those general standards set forth in subsection 4102.1.F, the Zoning Administrator may issue an administrative permit, setting forth the duration of the permit and specifying such conditions as to hours, location, parking, traffic access, and safety requirements as will protect the health, safety, and welfare of the public and that will protect adjoining properties from any adverse effects of the activity.
- (4) In the case of an appeal from the revocation of an administrative permit for a temporary use, the aggrieved party may request a meeting with the Zoning Administrator to present grounds for appeal. The Zoning Administrator will meet with the aggrieved party within two business days of the date upon which the appeal is received. Within a business day of the date of the meeting, the Zoning Administrator will then inform the aggrieved party, in writing, of his decision to affirm, modify, or rescind the revocation of the administrative permit.

B. Community Gardens

- (1) Community gardens may be permitted as either a principal use or an accessory use subject to any associated proffers or development conditions.

Standards when permitted without an administrative permit:

- (2) Community gardens may be permitted as an accessory use, for the exclusive use and enjoyment of members of a homeowner association, condominium association, or non-residential development, without approval of an administrative permit, if the operation conforms to the provisions of subsections (3)(a) – (j) below.

- (3) Community gardens may also be permitted on County owned and controlled property, including the Park Authority or Fairfax County Public Schools, with the permission of the property owner and subject to compliance with all other applicable regulations.

Standards when permitted by administrative permit:

- (4) A community garden may be permitted as a principal use in any district, subject to the following:
- (a) The land area for the community garden cannot exceed two acres in size, unless approved by special permit in accordance with 8100.4.
 - (b) The cumulative area of all associated structures is limited to 250 square feet, except as may be approved by the BZA in accordance with subsection (5) below. All accessory structures must comply with the applicable location regulations in 4102.7.A(5).
 - (c) A community garden may not be located closer than 15 feet to the front lot line and 25 feet from all other lot lines.
 - (d) Designated composting areas may not be located in the front setback, must be screened from adjoining residential property with either a fence or other adequate screening material, and must be maintained in a manner that protects adjacent properties from nuisance odors, runoff, and pests.
 - (e) Adequate parking and safe ingress and egress to the adjacent street must be provided.
 - (f) Only practices and equipment commonly used in residential gardening may be used. No lighting is allowed.
 - (g) The hours of operation are limited from 7:00 a.m. to dusk.
 - (h) Community gardens and the surrounding area must be maintained in good condition. When the operation ceases, the land or area must be restored, and all structures associated with the community garden must be removed from the property.
 - (i) The operation of a community garden cannot create an erosive condition, as identified in Chapter 104 of the County Code. A Conservation Plan approved by the Northern Virginia Soil and Water Conservation District is recommended for gardens of not more than 5,000 square feet in area and is required for gardens greater than 5,000 square feet in area. All activity in and around the garden must adhere to the recommendations of the Plan to preclude the development of erosive conditions.
 - (j) This administrative permit is valid for a period of two years and may be renewed on a biennial basis with approval of the Zoning Administrator. Any subsequent expansion or change of permit holder may require submission of a new application as determined by the Zoning Administrator.

Standards when permitted by special permit:

- (5) The BZA may approve a special permit for the following:
- (a) A community garden larger than two acres up to a maximum size of five acres.
 - (b) Accessory structures exceeding the 250 square foot cumulative square footage above.

- (6) A special permit application must be filed at least 90 days before the permit is to take effect.

C. Construction Site Office and Storage

Standards when permitted by administrative permit:

- (1) An administrative permit may be issued for a period beginning no earlier than 30 days before the commencement of actual construction and terminating no later than 20 days after completion of the last building to be constructed in the project. All buildings, materials, supplies, and debris must be completely removed from the temporary use site before the administrative permit expires.
- (2) The use must be located within the recorded subdivision that it serves or on the same lot where the construction project is located.
- (3) No portion of the use may be located closer than 50 feet to any right-of-way line of any public street existing before the recording of the subdivision served by the use or existing before the commencement of the construction project.
- (4) No portion of the use may be located closer than 150 feet to any pre-existing dwelling not owned or leased by the owner of the subdivision or construction project served by the use.
- (5) If the use is to be used in connection with the construction of 100 or more single-family detached dwellings, then the distances specified in subsections (3) and (4) above are doubled.
- (6) All areas of the use site and access roads to the use must be treated or maintained to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way. The use site must be maintained in a clean and orderly manner, and building material and construction residue and debris must not be permitted to accumulate.
- (7) The use may commence no earlier than 30 days before the beginning of actual construction.
- (8) When the use is located in or adjacent to a residential district, the Zoning Administrator may require that appropriate screening or fencing measures be provided.

D. Farmers Market

- (1) Farmers markets on County owned and controlled property, including the Park Authority or Fairfax County Public Schools, are permitted with the property owner's permission if the market complies with all other applicable regulations. An administrative permit is not required.

Standards when permitted by administrative permit:

- (2) A farmers market may be permitted subject to the following conditions:
 - (a) Adequate parking and safe ingress and egress to the adjacent street must be provided.
 - (b) No storage of vehicles, canopies, display items or produce is permitted when the market is not in operation. Additionally, no permanent structures are allowed; however, canopy tents, fabric canopies primarily attached to vehicles, temporary

portable shelving, portable tables, bins, hanging racks, and similar display items are not deemed structures.

- (c) Sales are limited to agricultural products and items made from farm products, including vendor-produced food, beverage, and other value-added items.
- (d) The hours of operation are limited to daylight hours.
- (e) The administrative permit is valid for a period of two years and may be renewed on a biennial basis with approval of the Zoning Administrator. Any subsequent expansion or change of permit holder or renewal of a farmers market permit may require submission of a new application as determined by the Zoning Administrator.

E. Food Truck

- (1) Food trucks may be permitted on County or Park Authority owned and controlled property or in conjunction with the approval of an administrative permit for a special event, provided that such food trucks comply with all applicable regulations, including the Health Department and the Department of Cable and Consumer Services requirements. These food trucks do not require a separate administrative permit under subsection (5) below.

Standards when permitted by administrative permit:

- (2) A food truck may not be operated without a food truck location permit and an annual food truck operation permit (see subsection (5) below).
- (3) Food trucks are permitted as an accessory use in the following locations:
 - (a) In a planned district, but only in commercial areas;
 - (b) In any industrial or commercial district;
 - (c) On any construction site with an active building permit and ongoing construction activity; and
 - (d) In conjunction with any approved nonresidential use in a residential district or a residential area of a planned district, limited to 12 times per calendar year. This time limitation may be exceeded with special exception approval in accordance with subsection 8100.3, special permit approval in accordance with subsection 8100.4, or as specifically permitted with an approved final development plan or executed proffers.
- (4) Each food truck must be in substantial conformance with any proffered condition, development plan, special exception, or special permit for the site on which it operates. If any proffered condition, development plan, special exception or special permit approval specifically precludes food trucks or otherwise regulates food trucks, including the location, hours of operation, or number of food trucks, the zoning approval will govern that aspect of the food truck location or operation in lieu of the standards in this Section 4102.8.E. Unless otherwise specified in any zoning approval, all provisions of this Section 4102.8.E apply.
- (5) Food trucks may be operated from an approved location, subject to the following procedures:

- (a) The owner of property on which a food truck may be located must file a food truck location permit application with the Zoning Administrator on forms furnished by the County.
 - (b) Each year, the owner and/or operator of any food truck doing business in the County must file a food truck operation application with the Zoning Administrator on forms furnished by the County. The permit application must be accompanied by the written consent of the private property owner or authorized agent authorizing the food truck to be located on their approved food truck location and by a copy of the property owner's food truck location permit. If a food truck operates on more than one site, only one food truck operation application is required to be obtained from the Zoning Administrator for such food truck, provided that the property owner on any additional sites has obtained a food truck location permit for that site, the food truck operator has written consent from the property owner or authorized agent to operate on that site, and the food truck is operating in conformance with that approval. The operation of any food truck is subject to all Health Department and Department of Cable and Consumer Services permits/licenses.
 - (c) Upon the finding that the application complies with the standards set forth in subsection (6) below, the Zoning Administrator will approve the permit application, setting forth conditions that protect the public health, safety and welfare and adequately protect adjoining properties from any adverse impacts of the food truck, which may include, but are not limited to, hours of operation, location, parking, vehicular access, and safety requirements.
- (6) All food trucks must be located and operated in compliance with the following standards:
- (a) Food trucks must be located on private property with the written consent of the property owner or authorized agent holding an approved food truck location permit.
 - (b) Food trucks may only be permitted in conjunction with a principal use consisting of a minimum of 25,000 square feet of gross floor area or on a construction site with an active building permit and on-going construction activity. This standard does not apply to food trucks operated in conjunction with approved nonresidential uses in residential districts in accordance with subsection (3)(d) above.
 - (c) Food trucks may only operate for a maximum of four hours in any one day at any one location, including set-up and break-down.
 - (d) A maximum of three food trucks are permitted at any one location at the same time, provided that additional food trucks may be permitted in conjunction with administrative permits or other special events regulated by any proffered condition, development condition, special exception or special permit.
 - (e) Food trucks may not be located in any fire lane, travel lane, entrance/exit, or any required parking space.
 - (f) Food trucks must be located on a level, paved, or gravel surface with safe pedestrian access.
 - (g) The vicinity around the food truck must be kept clean and free of debris.
 - (h) Trash receptacles must be provided.

- (7) Any food truck location permit or food truck operation permit is revocable by the Zoning Administrator because of the failure of the property owner or the food truck operator to comply with any of the provisions of this subsection 4102.8.E.
- (8) All other sale of goods or services from any vehicle other than a food truck are subject to all the regulations for the zoning district in which the sale is conducted, but this regulation does not prohibit any vending from vehicles on public streets that is not otherwise prohibited by law.

Standards when permitted by special exception or special permit:

- (9) The Board or BZA, as applicable, in conjunction with the approval for a nonresidential use in a residential district or a residential area of a planned district, may allow food trucks in excess of twelve times per calendar year.

F. Interim Off-Street Parking in Metro Station Area

Standards when permitted by special exception:

In order to address Metro Station parking deficiencies, the Board may approve a special exception to allow a privately-operated off-street parking lot as a temporary use within a specified distance of a Metro Station in accordance with the requirements in this section. The temporary parking lot use is intended only as an interim use to serve a public need and not as a transitional use to a higher density or intensity development than currently is planned.

- (1) The parking lot may be used only to provide ground surface parking of motor vehicles for the general public. Motor vehicle repair work, except emergency service, is prohibited.
- (2) Accessible off-street parking spaces and related access aisles and accessible routes must be provided in accordance with Article 6. All other provisions of Article 6 do not apply; instead, the parking lot must comply with the following standards:
 - (a) The Director may approve a temporary surfacing material in accordance with the following requirements:
 - 1. Pavement must be placed from the edge of existing pavement for a minimum distance of 25 feet into the interior of the site at each entrance and exit to prevent the parking area surfacing materials from entering the abutting street.
 - 2. Temporary paved sidewalks must be provided within and adjacent to the parking area at all locations where significant pedestrian traffic is anticipated.
 - 3. Safe and convenient pedestrian access must be provided from the parking area to the station entrance.
 - 4. The surfacing material must be maintained in good condition at all times.
 - (b) The parking lot must provide adequate aisle clearance and safe and convenient access to a street.
 - (c) All parking spaces must be delineated.
 - (d) Subject to subsection (e) below, parking spaces and parking kiosks may be located in any minimum setback, unless the setback abuts a Residential district.
 - (e) Parking spaces must be located at least ten feet from all public rights-of-way and private streets.

- (3)** In addition to the submission requirements set forth in Section 8101, the application for the proposed parking lot must include the following:

 - (a)** Demonstration that the proposed temporary off-street parking, and related site improvements, will not preclude the subsequent development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and the Comprehensive Plan; and
 - (b)** Plans for grading and stormwater drainage. Grading that would not be allowed for the permanent development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and/or the Comprehensive Plan, is prohibited.
- (4)** In approving the special exception, the Board may impose conditions and restrictions it deems necessary to assure that the off-street parking area will be compatible with and not adversely impact the adjacent area or adversely impact the site itself in a manner that would hinder future development in accordance with the existing zoning and Comprehensive Plan. Conditions may include, but are not limited to the following:

 - (a)** Limits on the size and location of the parking lot to ensure retention of natural site features, including vegetation, that should be preserved and maintained until evaluation as part of the establishment of the permanent use of the property;
 - (b)** The imposition of speed limits; and
 - (c)** The provision of dust control measures
- (5)** The Board may approve the special exception for a period of up to three years from the date of approval of the Non-Residential Use Permit. The special exception may be renewed in accordance with subsection 8101.3. Once established, the parking lot use may be continued for the duration of the special exception unless one-year written notice of intent to cease the use is given to the Board. No approvals to permit the commencement of land-disturbing activity contrary to the temporary parking use may be issued during the life of the special exception or the one-year notice period, whichever is applicable.
- (6)** In Residential districts, the following requirements apply in addition to subsections (1) through (5) above:

 - (a)** The minimum lot size is five acres.
 - (b)** More than 50 percent of the proposed parking area must be located within a 1,500-foot radius of a Metro Station platform entrance.
 - (c)** The number of off-street parking spaces allowed within the vicinity of any one Metro Station may not exceed the number of Metro Station parking spaces temporarily displaced during construction on the Metro Station site.
 - (d)** At a minimum, Transitional Screening 3 is required at the outer boundaries of the lot where the lot abuts or is across the street from a Residential district. Adequate landscaping and screening must be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity. The Board may require the preservation of existing natural screening and plant materials.
 - (e)** The Board must impose a time limitation on the special exception to ensure that the use will not be operational before the displacement or after the

re-establishment of the Metro Station parking spaces; however, the special exception may be renewed in accordance with the provisions of subsection 8101.3.

- (7) In commercial and industrial districts, and on land in residential districts that is designated for commercial or industrial development, the following requirements apply in addition to subsections (1) through (5) above:
- (a) More than 50 percent of the proposed parking area must be located within a 2,000-foot radius of a Metro Station platform entrance.
 - (b) The number of temporary off-street parking spaces allowed within the vicinity of any one Metro Station must not exceed the difference between the ultimate number of Metro Station parking spaces planned for the station and the number existing at the time the application is filed; however, in the case of an in-line station serving temporarily as a terminus, the Board may allow an appropriate portion of the future Metro Terminal Station's parking allocation to be temporarily located in the vicinity of the in-line station, if the applicant demonstrates that there is presently a need for the additional parking spaces.
 - (c) The provisions of Section 5108 do not apply. Adequate landscaping and screening must be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity. The Board may require the preservation of any natural screening and plant materials.

G. Model Home Sales and Leasing Office

Standards when permitted by administrative permit:

- (1) An administrative permit may be issued for a period not to exceed two years. The office use is allowed only until the end of the two-year period or until all units in the development are sold or leased, whichever occurs first. This permit may be extended if approved by the Zoning Administrator based on the continued existence of units that have not had an initial sale or lease executed at the end of the two-year period.
- (2) The model home sales and leasing office must be incidental to and located within the recorded subdivision that it serves or on the same lot where the sales project is located.
- (3) If located in a permanent structure, such structures must comply with all of the requirements of this Ordinance, including the applicable zoning district regulations.

H. Portable Storage Container

Standards when permitted as an accessory use:

- (1) Portable storage containers are allowed as a temporary use only on lots containing a dwelling and may be located in any yard.
- (2) Portable storage containers are permitted for the following time periods:
 - (a) On a lot containing 36,000 square feet or less and developed with a single-family detached dwelling, for a period not to exceed 30 consecutive days within a six-month period.
 - (b) On a lot containing more than 36,000 square feet and developed with a single-family detached dwelling, for a period not to exceed 60 consecutive days within a six-month period.

- (c) On lots developed with single-family attached, stacked townhouse, or multiple family dwellings, for a period not to exceed seven consecutive days within a six-month period.
- (d) Where a dwelling has been damaged by casualty, a period of time established in accordance with subsection (7) below.
- (3) Portable storage containers must not exceed eight and one-half feet in height.
- (4) Portable storage containers must not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.
- (5) Portable storage containers must not be located in any required open space, landscaped area, on any street, sidewalk or trail, or in any location that blocks or interferes with any vehicular or pedestrian circulation, and must be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection.
- (6) Portable storage containers are also subject to the sight distance provisions of subsection 5100.2.D(4)(b).

Standards when permitted by administrative permit:

- (7) An administrative permit may be issued for a period longer than set forth in subsection (2) above, but only in accordance with all of the following:
 - (a) Only in instances where a dwelling has been destroyed or damaged by casualty and only when such dwelling is to be rebuilt or repaired.
 - (b) An administrative permit may be issued for a period not to exceed six months or for the period of an active building permit, whichever is shorter. This permit may be extended by the Zoning Administrator if construction of the dwelling is being diligently pursued.

I. Special Event

Standards when permitted by administrative permit:

- (1) An administrative permit may be issued for a period not to exceed 21 days. Any request for a longer period of time may be approved by special permit in accordance with subsection 8100.4.
- (2) An administrative permit may not be issued unless adequate provision is made for off-street parking and loading requirements.
- (3) Outdoor display of goods and merchandise must be located within the designated area on a plan submitted with the application.
- (4) The following events must be sponsored by a charitable, educational, or nonprofit organization operating within the County:
 - (a) Open-air markets, such as craft fairs or flea markets; and
 - (b) Seasonal sales located on sides used for nonresidential uses in residential districts.
- (5) Seasonal sales located in commercial districts are subject to the following:
 - (a) These events are limited to 21 days with 30 days between events; and
 - (b) If limited to the timeframe in (a) above, this use is exempt from site plan or minor site plan requirements per subsection 8100.7.D.

- (6) The sale of used merchandise, such as furniture, household goods, or other similar items, is only permitted with an open-air market.
- (7) The outdoor display of automobiles, manufactured homes, trailers, camping equipment, boats, antiques, and similar large items may not include the sale of such items in conjunction with and on the site of the display.
- (8) The Zoning Administrator may not issue an administrative permit for a carnival or circus where the proposed activity will:
 - (a) Occur within two miles of any other carnival or circus for which an administrative permit has been previously obtained; and
 - (b) Commence within a time period of three weeks from the ending date of any other carnival or circus within a two-mile radius for which an administrative permit has been previously obtained.
- (9) The Zoning Administrator will notify the Animal Services Division of the Police Department upon receipt of an application for an administrative permit involving the display or exhibition of animals. In addition to the requirements of this Ordinance, the property owners or operators of any special event such as a carnival, circus, animal exhibition, or any other similar event that involves the exhibition of animals must obtain a County license in accordance with the provisions of Chapter 25 of the County Code, and a permit in accordance with the provisions of Chapter 41.1 of the County Code.

Standards when permitted by special permit:

- (10) An application for any such approval by the BZA must be filed 120 days before the date on which the permit is to take effect.
- (11) A special event as a special permit use must comply with the standards in subsections (1) through (9) above.

J. Temporary Dwelling or Manufactured Home

Standards when permitted by administrative permit:

- (1) A temporary dwelling or manufactured home may be allowed where a single-family detached dwelling has been destroyed or damaged by fire or other disaster to an extent that the dwelling is uninhabitable, if the destroyed or damaged dwelling is to be rebuilt or repaired, and subject to the following:
 - (a) An administrative permit may be issued for a period not to exceed nine months or for the period of an active building permit, whichever is shorter. This permit may be extended by the Zoning Administrator if construction of the dwelling is being diligently pursued.
 - (b) A temporary dwelling or manufactured home may be allowed only on a lot where a single-family detached dwelling is permitted by the provisions of this Ordinance.
 - (c) Occupancy of a temporary dwelling or manufactured home is allowed only if appropriate sanitary facilities are provided as approved by the Health Department.
 - (d) Occupancy of a temporary dwelling or manufactured home must terminate when the construction of the dwelling is completed or when the administrative permit expires, whichever occurs first.

- (e) Additional conditions and requirements may be imposed by the Zoning Administrator to mitigate any impacts of the temporary dwelling or manufactured home on surrounding properties.
- (f) An administrative permit for a temporary dwelling or manufactured home may be issued in a residential district.
- (g) An administrative permit for a temporary dwelling or manufactured home may be issued in the commercial or industrial districts only if the single-family detached dwelling was occupied as a nonconforming dwelling use before the damage or destruction in accordance with Section 8104.

Standards when permitted in conjunction with a special exception or special permit use:

- (2) Manufactured homes may be allowed as temporary dwellings for faculty, staff, or students in conjunction with the approval of a special exception or special permit for a child care center; religious assembly; religious assembly with private school, specialized instruction center, or child care center; or private school. These manufactured homes must be connected to public sewer or an approved septic field, public water or an approved well, and to electricity and must be subject to the regulations of the zoning district in which they are located. In approving the special exception or special permit, the Board or BZA, as appropriate, may impose conditions of approval to ensure that the use will be compatible with the use of adjacent properties, including limitations on location and duration and landscaping and screening requirements.

Article 5 - Development Standards

5100. Lot, Bulk, and Open Space Regulations

1. General Dimensional Standards

- A. The dimensional standards for residential, commercial, industrial, planned, overlay, and commercial revitalization districts are identified for each district as follows:
 - (1) Standards for Residential Districts in Section 2102.
 - (2) Standards for Commercial Districts in Section 2103.
 - (3) Standards for Industrial Districts in Section 2104.
 - (4) Standards for Planned Districts in Section 2105.
 - (5) Standards for Overlay and Commercial Revitalization Districts in Article 3.
- B. Setbacks or open space provided on any lot for the purpose of complying with this Ordinance may not be reduced in width or area to less than what is required by this Ordinance, and may not be used to satisfy the setback or open space requirements for any other lot, unless it is specified in this Ordinance.

2. Lot and Bulk Regulations

A. Lot Size Regulations

- (1) In this Ordinance, lot size regulations may be expressed in terms of:
 - (a) Minimum lot area;
 - (b) Minimum lot width; and
 - (c) Minimum district size, which is only applicable to proposed rezonings and amendments thereto, and cluster subdivisions.
- (2) The minimum lot area and lot width requirements for conventional subdivision lots and cluster subdivision lots in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts, are set forth in subsection 5100.2.O. The minimum lot area and lot width requirements for affordable dwelling unit developments in the R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, and R-30 Districts are set forth in the same section.
- (3) No parcel may be rezoned to a given district unless it meets the applicable minimum district size, except:
 - (a) By the Board acting on its own motion; or
 - (b) As a part of a rezoning or special exception, by the provisions of subsection 5100.2.K.
- (4) All uses are subject to the lot size requirements specified for a given district. The minimum lot size requirement for non-residential uses in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts is the greater of either the average or minimum lot area of conventional subdivision lots. However, minimum lot size requirements for a specific use set forth in this Ordinance will apply.

- (5) The computation of minimum lot area or minimum district size includes ordinary transmission lines in the public right-of-way or easements totaling less than 25 feet in width, but excludes any land area that is encumbered by a covenant, easement, or interest that allows the establishment of power distribution facilities, including high power transmission lines, ground transformer stations, and natural gas, petroleum, or other transmission pipelines.

B. Bulk Regulations

- (1) Bulk regulations control the size of structures and the relationship of structures and uses to each other and to open areas and lots lines. They are expressed in terms of the following which are further defined in Article 9:
 - (a) Maximum building height;
 - (b) Minimum setbacks; and
 - (c) Maximum floor area ratio.
- (2) No structure or part of a structure may be built, moved, used, occupied, or arranged for use on a lot that does not meet all minimum bulk regulations presented for the zoning district in which it is located, except as may be qualified by the provisions of this Ordinance.

C. Height Regulations

- (1) Maximum building height applies to all structures in the zoning district except those structures or features listed below and those structures assigned a different maximum height elsewhere in this Ordinance.
- (2) The height limitations of this Ordinance do not apply to accessory structures such as barns, silos, flagpoles, birdhouses, flues, monuments, or roof structures such as chimneys, spires, cupolas, gables, mechanical penthouses, domes, television antennas, water towers, water tanks, smoke-stacks, or other similar roof structures and mechanical equipment unless:
 - (a) The structure(s) on a building roof cumulatively occupies an area greater than 25 percent of the total roof area; or
 - (b) The structure is not used for a purpose accessory to the principal use of the building.
- (3) HVAC units on building roofs are subject to the height limitations unless the units are located in a penthouse or are completely screened on all four sides and the penthouse or screening designed as an integral architectural element of the building.
- (4) Freestanding accessory structures must be located in accordance with subsection 4102.7.
- (5) A parapet wall, cornice, or similar projection may exceed the height limitations by a maximum of three feet if the projection does not extend more than three feet above the roof level of the building.
- (6) Rooftop guardrails required by the USBC for safety reasons are excluded from building height limits.

- (7) The BZA may approve a special permit for the modification of grade as it applies to the height measurement of a single-family dwelling that is located within or in proximity to a floodplain and when the structure must be elevated to meet all applicable floodplain regulations. Any applicant seeking approval of a grade modification must demonstrate that the requested increase in grade is the minimum amount required to meet the floodplain regulations.
- (8) The Board may approve a special exception for an increase in building height above the maximum height permitted in accordance with the following:
- (a) The special exception may be approved:
1. In the C-3, C-4, C-5, C-6, C-7, C-8, I-2, I-3, I-4, I-5, I-6 Districts, and the Sully Historic Overlay District for any use; and
 2. In any zoning district, for a residence hall, stadium or arena, or any use in the community, cultural, and educational facilities category or the health care category.
- (b) An increase in height may be approved only if:
1. The increase will be in harmony with the Comprehensive Plan;
 2. The resultant height will not be detrimental to the character and development of adjacent lands; and
 3. The remaining regulations for the zoning district can be satisfied.
- (c) An increase in height up to 60 feet may be approved in the Sully Historic Overlay District and within 500 feet of the Sully Historic Overlay District perimeter boundary. The applicant must demonstrate that the proposed structure is compatible with and is not detrimental to the Sully property in terms of mass, scale, color, and visual impacts, and the increase in height is in compliance with Federal Aviation Administration standards. Rooftop structures excluded from the maximum height regulations in accordance with subsection 5100.2.C and those portions of the roof excluded from the building height calculations in accordance with the definition are subject to approval under this subsection. The Board may consider, among other factors, changes to existing topography, existing vegetation, building lighting, and signage when determining the impact of an increase to the height of a structure. The actual building height may not exceed 65 feet as measured from the grade to the top of any roof or rooftop structure.

D. Setback Regulations

(1) Minimum Setbacks

Minimum setbacks are subject to the following:

- (a) Minimum setbacks are specified for each zoning district, except as may be further qualified by other provisions of this Ordinance.
- (b) Minimum setbacks apply to all buildings and structures as they relate to the lot lines and public streets except as provided in subsection 5100.2.F(2) and for the following:
1. Underground utility equipment;
 2. Mailboxes;

3. Bus shelters;
 4. Street lights;
 5. Public bicycle shelters; and
 6. Any similar structures or devices that are in the public interest and are in harmony with and do not adversely impact the surrounding area as determined by option of the Zoning Administrator.
- (c) Minimum side setbacks do not apply to interior units of single-family attached dwellings and stacked townhouses. Minimum setback requirements for freestanding accessory structures are included in subsection 4102.7.A(5).
- (d) The minimum distance between single-family detached dwellings without individual lots and groups of single-family attached or stacked townhouse dwellings or multifamily structures may not be less than the sum of the minimum setbacks for the individual structures, determined as if a lot line were located between the structures drawn perpendicular to the shortest line between them.
- (e) The Board may modify or waive the minimum setback or privacy yard requirements for single-family attached dwelling units in conjunction with the approval of a rezoning or a special exception. A modification or waiver may be approved only if it will further the intent of this Ordinance, and the implementation of the Comprehensive Plan and other adopted policies.
- (f) The Board may modify any setback requirement for an existing structure or use, including but not limited to principal and accessory structures and off-street parking spaces as part of the approval of a rezoning or another special exception, but only in accordance with the following:
1. It must be demonstrated that the existing structure or use complied with the minimum setbacks in effect when the use was established and that the setbacks have not been further reduced, unless the reduction was the result of condemnation or acquisition for public purposes by any governmental agency.
 2. The Board may impose conditions as it deems necessary, including landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

(2) Requirements When Setbacks are not Proffered in Certain Planned Districts

The following standards are applicable to dwellings in the PDH, PDC, PRM, and PTC Districts where minimum setbacks are not proffered or shown on a final development plan:

- (a) Any alteration to a single-family detached or single-family attached dwelling unit is subject to the setbacks for a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the Zoning Administrator, or the existing distance to the lot line established by the location of the dwelling on the lot, whichever is less. An alteration that is not in substantial conformance with the approved final development plan will be allowed only after amendment of the final development plan.
- (b) If a dwelling is destroyed or damaged by natural disaster, the reconstructed dwelling is subject to the setbacks for a cluster subdivision for the R zoning district that most closely characterizes the given development as determined by the

Zoning Administrator, or the distance to the lot line established by the location of the previous dwelling on the lot, whichever is less. A reconstructed dwelling that is not in substantial conformance with the approved final development plan will be allowed only after amendment of the final development plan.

- (c) Freestanding accessory structures on lots with no proffered setbacks are subject to the provisions of subsection 4102.7.A(6)(b)4.

(3) Setback Requirements for Open Land

The minimum setbacks specified in the zoning district apply to lots that are occupied by a permitted use that does not have structures, unless otherwise specified in this Ordinance. Front, side, and rear setbacks are not required on lots used for agricultural purposes, open public areas, or open space, except that structures associated with these uses may not be located in the minimum setbacks.

(4) Corner Lots

The following regulations apply to corner lots:

(a) Lot Lines and Yards

1. The two yards lying between the principal building and the intersecting streets are both deemed to be front yards.
2. The shorter street line is deemed to be the front lot line, regardless of the location of the principal entrance or approach to the main building, and the rear yard is opposite the front lot line.

(b) Rear Setback

The rear yard must meet the minimum rear setback for the district or as proffered; however, the rear setback for structures that lawfully exist as of [*insert effective date of this Ordinance*] and future additions to these structures on lots designed for single-family detached dwellings in the R-E, R-1, R-2, R-3, R-4, R-5, and R-8 Districts may continue to equal the dimension for the minimum side setback in effect before adoption of this Ordinance.

(c) Sight Distance Requirements on Corner Lots

Sight distance on corner lots must be maintained in accordance with the following standards:

1. The sight distance triangle is formed by the by the street lines of a lot and a line drawn between points established in accordance with the following (see Figure 5100.1 below):
 - a. For a lot having an interior angle of 90 degrees or more at the street corner: Points must be 30 feet from the property lines extended.
 - b. For a lot having an interior angle of less than 90 degrees at the street corner: Points must be 30 feet from the property lines extended, plus one foot for every ten degrees or fraction by which such angle is less than 90 degrees.
2. Sight distance must be maintained between two horizontal planes, one of which is three and one-half feet, and the other ten feet above the established grade of either street (see Figure 5100.1 below).

3. This sight distance triangle must be maintained clear of structures and plantings, except for a post, column, or trunk of a tree (not to include branches or foliage) equal or lesser than one foot in diameter.
4. The Board may modify the sight distance requirements on a corner lot in conjunction with the approval of a rezoning or special exception application, based on an evaluation of the specific development proposal which may consider compliance with sight distance requirements of the Virginia Department of Transportation and a specific sight distance analysis or any other relevant design guidelines that would demonstrate safe and adequate vehicular, bicycle, or pedestrian movements at an intersection.

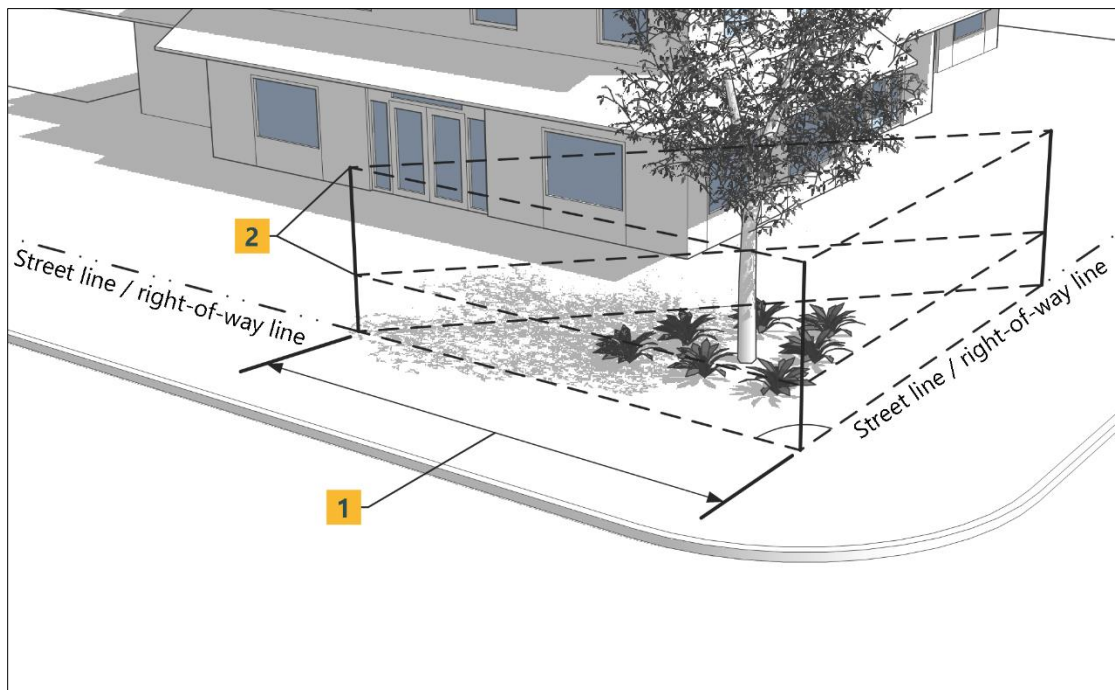


Figure 5100.1: Sight Distance Requirements

(5) Permitted Extensions into Minimum Required Setbacks

(a) Extensions in Planned Districts

Unless minimum setbacks are proffered or shown on a development plan or PRC plan, the minimum setback in the P Districts, for the purpose of extensions into the minimum required setback, is one-half the distance of the setback that has been established by the location of the principal structure.

(b) General Extensions

1. Awnings, cornices, canopies, eaves, or other similar architectural features may extend up to three feet into any minimum required setback if the feature is not located within two feet of any lot line and is at least ten feet above finished ground level. Permanent canopies over fuel pump islands that have

supports located on the pump islands may extend into minimum required setbacks but may not extend into any required transitional screening areas or overhang travel lanes, service drives, or sidewalks.

2. Sills and similar ornamental features may extend up to 12 inches into any minimum required setback.
3. Open fire escapes, smokeproof enclosures, uncovered stoops and any stairs, heating, ventilation, and air conditioning (HVAC) equipment, pool pumps, generators, and similar required features and equipment whether attached or detached may extend up to five feet into any minimum required setback if the individual feature is not more than ten feet in width and is not located within five feet of any lot line.
4. Bay windows and chimneys may extend up to three feet into any minimum required setback if the feature is not more than ten feet in width and is not located within five feet of any lot line, including any eaves or foundations (see Figure 5100.2). A minimum of 50 percent of the surface area of a bay window must consist of glass (see Figure 5100.3). If the bay window does not contain a foundation, the structural support beneath the window does not count toward the surface area.

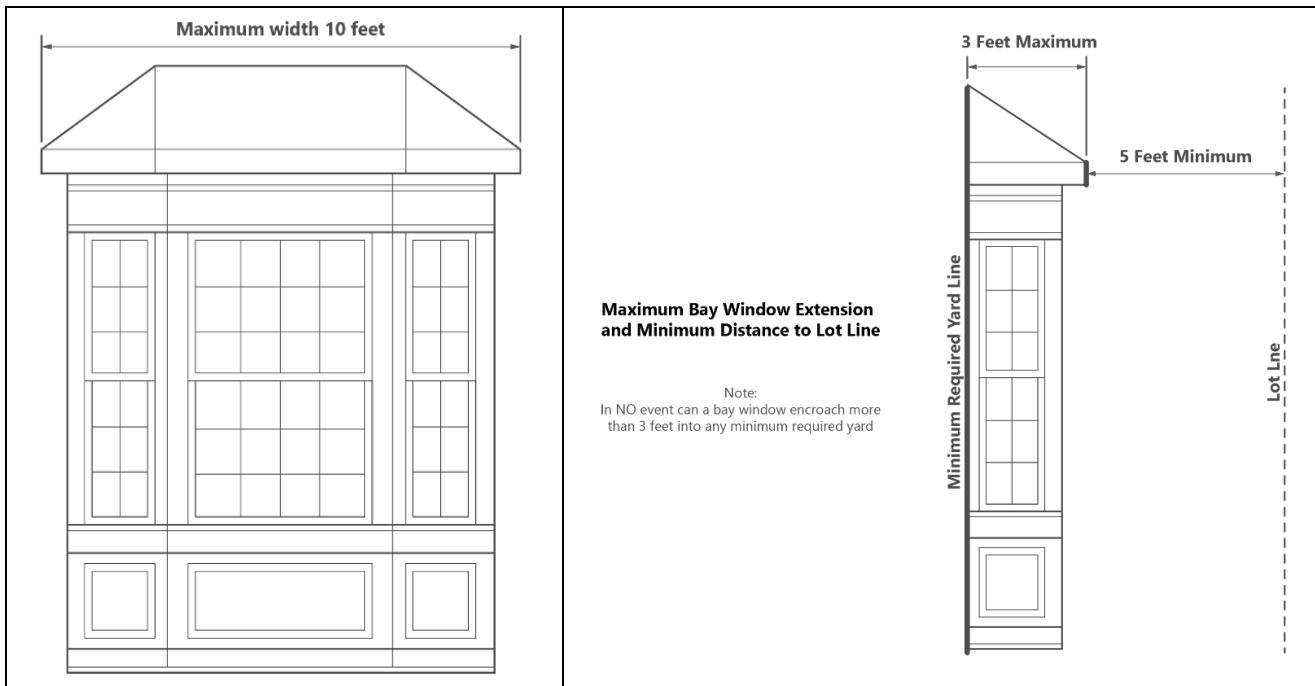


Figure 5100.2: Bay Window Extension into Required Setback

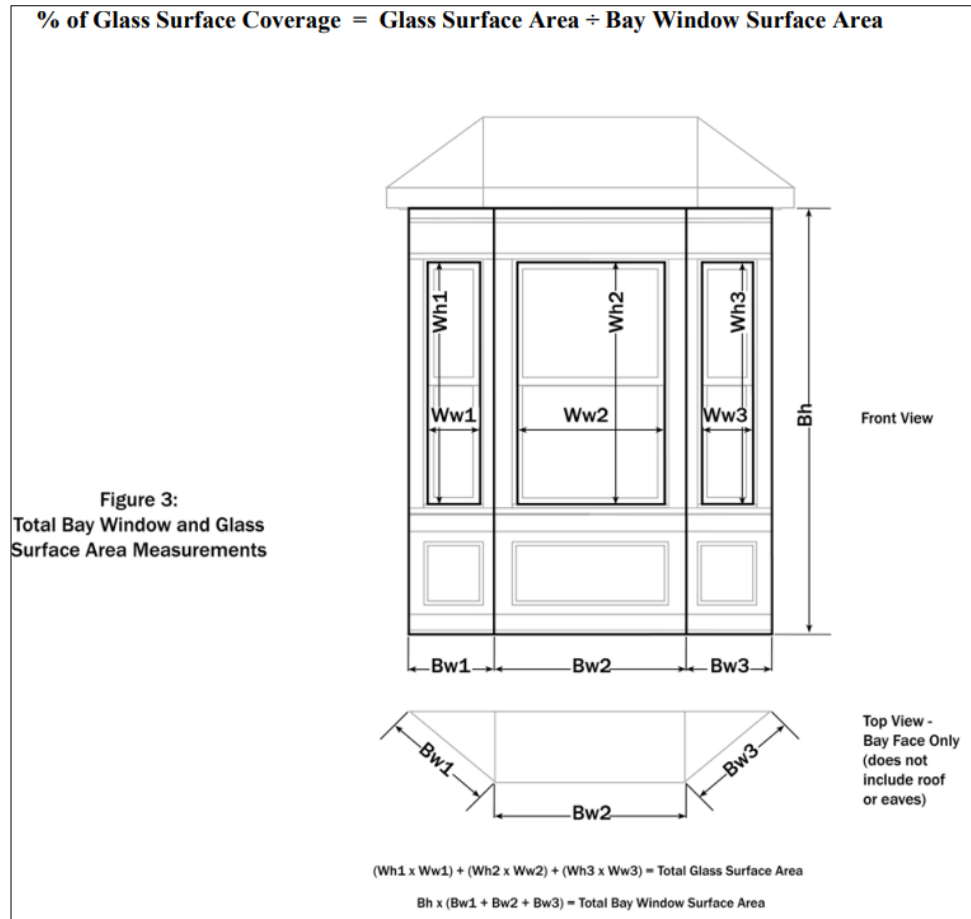


Figure 5100.3: Bay Window Glass Surface Coverage

5. Any accessibility improvement under the ADA may extend into any minimum required setback, except that it may not obstruct sight distance.

(c) Extensions for Decks or Patios

Table 5100.1 below summarizes the extensions allowed for decks or patios by structure type. For the purposes of this table, the following applies:

1. Height is measured from the lowest point of finished ground level adjacent to the structure to the highest part of the deck floor.
2. “Not closer than” is in reference to location from the lot line.
3. The extension that is most restrictive applies.
4. An attached or detached deck or patio is permitted to encroach into any setback if it is less than or equal to eight inches above finished ground level. A deck or patio greater than 8 inches above finished ground level is subject to the permitted extensions in Table 5100.1. The standards in subsections 7 and 8 below do not apply to detached decks or patios; any screening or design features on detached decks or patios are subject to the applicable regulations for fences or freestanding accessory structures.

5. A deck may have an 'open-work' railing or wall if it is not over four feet in height and at least 50 percent of the railing or wall area is open in an evenly distributed pattern.
6. The area beneath a deck may be enclosed by a privacy screen that is not solid.
7. A deck may include a privacy screen that is not solid located above the deck on not more than two sides extending from the dwelling. The privacy screen may extend up to eight and one-half feet in height from the deck floor.
8. A deck may include design features such as pergolas, trellises, and overhanging planters at or above the railing. These features may extend up to eight and one-half feet in height from the deck floor and be a maximum of three feet deep.

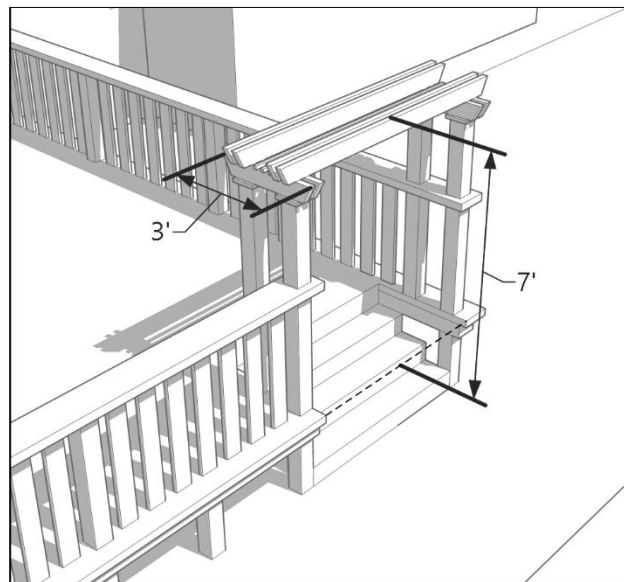


Figure 5100.4: Deck Design Features

9. A roofed deck is any deck that is completely or partially enclosed by an overhanging feature that exceeds the three-foot depth permitted in subsection 8 above.

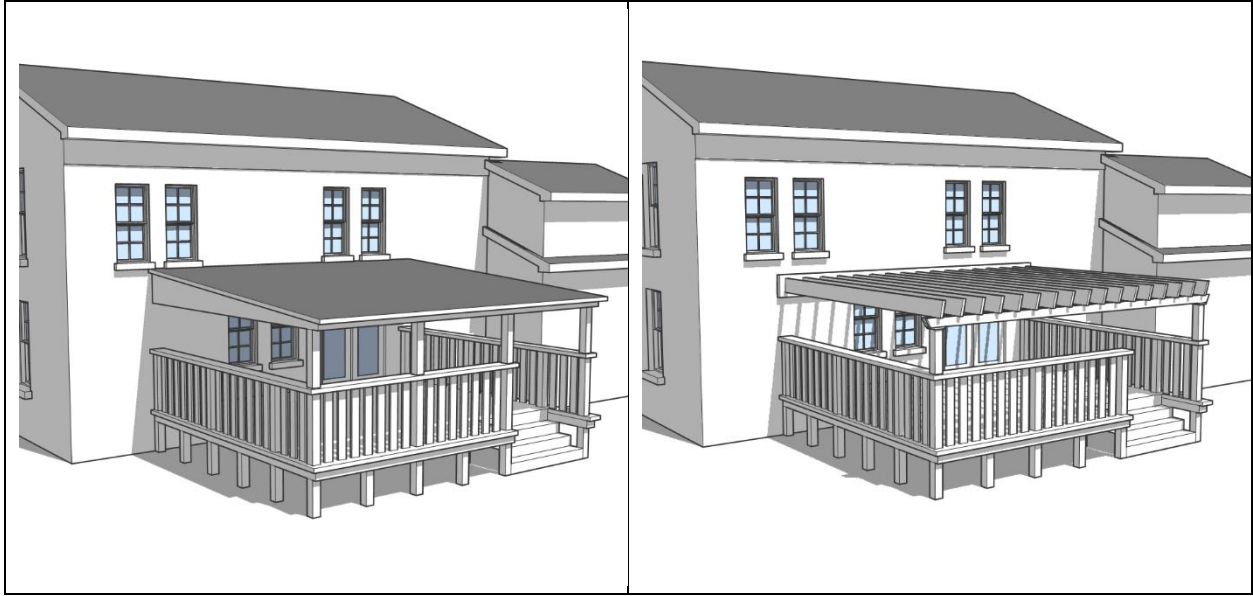


Figure 5100.5: Roofed Deck Examples

- 10.** Accessory structures such as storage sheds, gazebos, and fireplaces located on decks or patios are not considered design features and are subject to the freestanding accessory structure regulations in subsection 4102.7.A(5).

TABLE 5100.1: Permitted Extensions for Decks or Patios

| Attached to Single-Family Detached Dwelling | | | | | |
|--|---|--|--|---------------------------------------|--|
| | | Height Less than or Equal to Four Feet | | Height Greater than Four Feet | |
| Setback | Open | Roofed | Open | Roofed | |
| Front | 6 feet into setback, but not closer than 14 feet | No extension | No extension | No extension | |
| Side | 5 feet into setback, but not closer than 5 feet | No extension | No extension | No extension | |
| Rear | 20 feet into setback, but not closer than 5 feet | 12 feet into setback, but not closer than 5 feet | 12 feet into setback, but not closer than 5 feet | No extension | |
| Attached to Single-Family Attached Dwelling | | | | | |
| | | Height Less than or Equal to Three Feet | | Height Greater than Three Feet | |
| Setback | Open | Roofed | Open | Roofed | |
| Front | No extension | No extension | No extension | No extension | |
| Side (End Units) | 5 feet into setback, but not closer than 5 feet | No extension | No extension | No extension | |
| Rear | Decks on interior units can extend to rear lot line; end units not closer than 5 feet | 12 feet into setback, but not closer than 5 feet | 12 feet into setback, but not closer than 5 feet [1] | No extension | |
| Stacked Townhouse, Multifamily, Industrial, Commercial, or Institutional Structures | | | | | |
| Width | Height Less than or Equal to Three Feet | | Height Greater than Three Feet | | |
| Less than 10 feet | 6 feet into any setback | | 3 feet into any setback | | |
| Greater than 10 feet | No extension | | | | |

Notes:

[1] If the rear yard is 17 feet or less and abuts open space or a utility easement with a minimum width of 10 feet, the deck or patio may encroach to no closer than 2 feet.

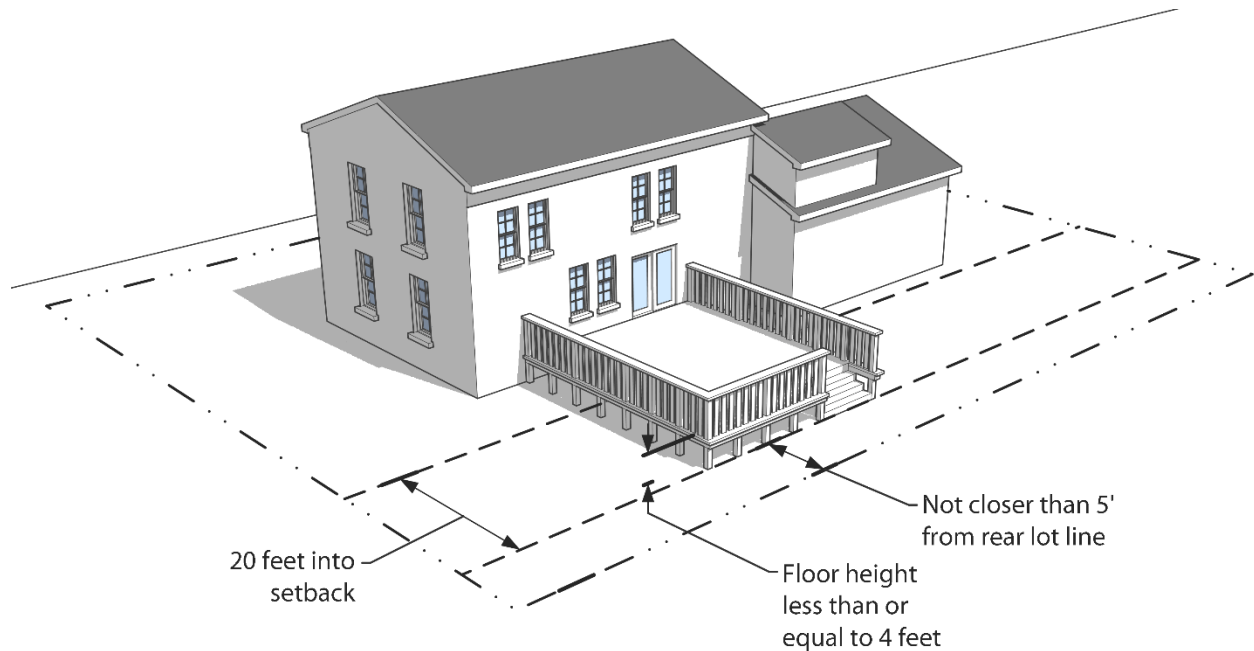


Figure 5100.6: Deck Extension into Setback

(d) Setback Reduction for Reconstruction of Single-Family Detached Dwellings Destroyed by Casualty

- 1.** The Board may approve a special exception to allow an extension into minimum setbacks for the reconstruction of single-family detached dwellings that are subject to subsection 8104.3 and are destroyed by casualty, in accordance with the following requirements:
 - a.** The application must be filed within two years of the date of the casualty;
 - b.** The single-family detached dwelling must have been in a habitable condition immediately before the casualty;
 - c.** The casualty cannot have been intentionally caused by the owner or owner's agent;
 - d.** The resulting gross floor area of the reconstructed dwelling must not exceed 125 percent of the gross floor area of the dwelling that existed immediately before the casualty;
 - e.** The setback after reconstruction may not be reduced by more than 25 percent or be less than five feet if the structure that existed before the casualty encroached into the minimum setback; and
 - f.** The Board may allow the enlarged or relocated reconstructed dwelling to extend into a minimum setback, if the enlargement or relocation does not result in a reduction of any setback by more than 25 percent or a setback of less than five feet.
- 2.** The Board may allow extensions of uncovered stairs, stoops, and ramps that are necessary for access or the safety of the occupants into the yards beyond that permitted by subsections 1.e and 1.f above. These features are not

allowed within three feet of any property line, except as an accessibility improvement, as defined by Section 9102.

(6) Setbacks for Residential Reverse Frontage Lots

- (a) The minimum front setback for any residential reverse frontage lot along a major thoroughfare applies to the yard in front of the principal entrance or containing the approach to the primary building on the lot. The opposing yard is deemed to be the rear yard and is subject to the rear setback requirements.

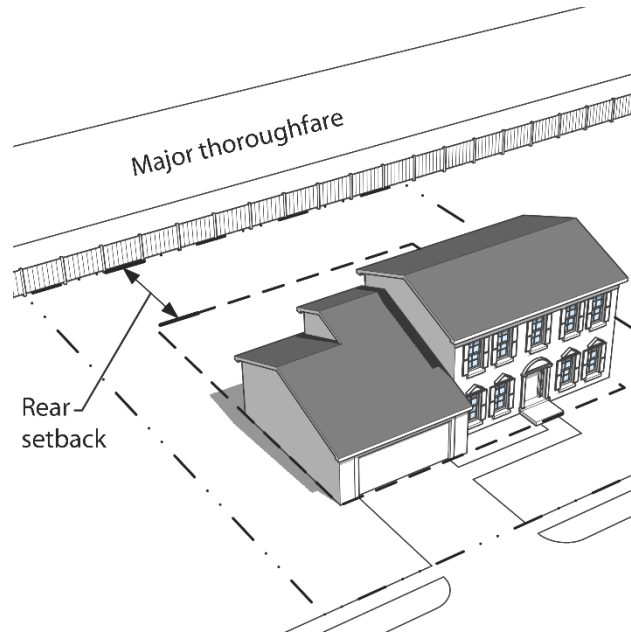


Figure 5100.7: Rear Setback on Reverse Frontage Lot

- (b) Accessory uses, including fences, may be permitted within the rear and side yards of residential reverse frontage lots in accordance with subsection 4102.7 and subject to the minimum sight distance requirements as stated above.

(7) Setbacks on Through Lots

- (a) The minimum front setback on a through lot, applies to the two yards lying between the principal building and the two or more abutting public streets, except as qualified in subsection (6) above for residential lots having reverse frontage, and when one of the public streets is an alley.

(b) Special Permit for Accessory Structures on Through Lots

The BZA may approve an existing or proposed freestanding accessory structure in the front yard of a through lot that serves as a functional rear yard if the BZA determines all of the following:

1. The structure meets the minimum required front setback;
2. The structure is in character with the existing on-site development in terms of the location, height, bulk, and scale of the existing structure(s) on the lot; and

3. The structure is harmonious in scale and topography with the surrounding off-site development and existing vegetation and significant trees, as determined by the Director, are preserved in a manner characteristic of surrounding off-site development. The proposal may not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.

(8) Setbacks from Specific Highways and Railroad Tracks

The following minimum distances must be maintained between all principal buildings and rights-of-way.

- (a) All principal buildings must be setback from the rights-of-way of interstate highways, the Dulles International Airport Access Highway, and the combined Dulles International Airport Access Highway and Dulles Toll Road, as follows:
 1. Principal residential buildings - 200 feet
 2. Commercial and industrial buildings - 75 feet
- (b) Principal residential buildings must be setback a minimum of 200 feet from all railroad tracks, except for those tracks associated with regional rail transit facilities.
- (c) The setbacks required in this subsection do not apply to a minor adjustment of lot lines in accordance with subsection 5100.2.J(1)(b).
- (d) The Board may approve deviations from the provisions of subsections (a) and (b) above in conjunction with the approval of a rezoning or the BZA may approve a variance if it finds that the deviations will further the intent of this Ordinance, the Comprehensive Plan, and other adopted County policies.
- (e) The setbacks required in this subsection may be modified by the Zoning Administrator to not less than those required by the zoning district for:
 1. A lot that has been recorded before August 14, 1978; and
 2. Where the setbacks required in this subsection would prevent development of the lot in accordance with the provisions of this Ordinance.

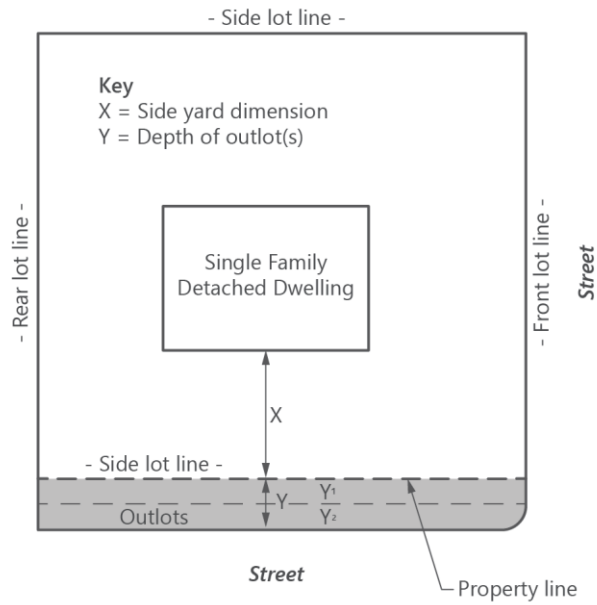
(9) Setbacks from the Floodplain

Setbacks from the edge of a floodplain are specified in Section 5105.

(10) Setbacks on Lots Abutting Outlots Contiguous to Streets

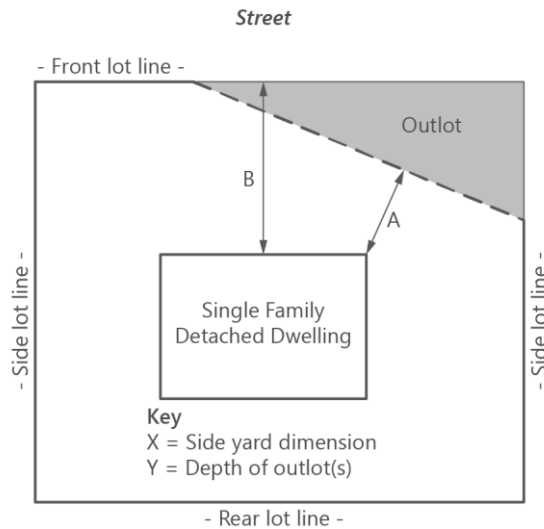
- (a) When a lot abuts an outlot that is contiguous to a street, the minimum distance between the principal structure on the building lot and the street line of the outlot must be equal to or greater than the minimum required front setback for the district in which the lot is located.
- (b) The applicable minimum required front setback must be maintained between the principal structure on a lot and the street line if two or more contiguous outlots are located between the building lot and street line. In addition, the minimum setback of the lot abutting the outlot must be equal to or greater than the applicable minimum required setback for the district in which the building lot is located.

- (c) The Board may modify the requirements in subsections (a) and (b) above, in conjunction with the approval of a rezoning or special exception if it determines that the modification will have minimal adverse impacts on adjacent properties.
- (d) The provisions in subsections (a) and (b) above, do not apply to the following:
 1. Lots that existed before February 24, 2010, and that were created or are validated in accordance with the Subdivision Ordinance.
 2. All special permit, special exception, and proffered rezoning applications and their amendments, containing outlots that abut a street, when approved before February 24, 2010.



- Notes: (1) $X+Y$ (or $X+Y1+Y2$) - must be equal to or greater than the front setback of the district in which located.
 (2) X - must be equal to or greater than the side setback of the district in which located.

Figure 5100.8: Outlot Setback Measurements (I)



- Notes: (1) A - must be equal to or greater than the side setback of the district in which located.
 (2) B - must be equal to or greater than front setback of the district in which located.

Figure 5100.9: Outlot Setback Measurements (II)

(11) Reductions in Setback Requirements

(a) Acquisition, Condemnation, or Dedication for Public Purposes

- 1.** On lots where a yard is reduced below the minimum setback by condemnation or by acquisition for public purposes by any governmental agency, the Director will approve a 20 percent reduction of the minimum setback from the new lot line created by the condemnation or acquisition.
- 2.** The dedication of land for a service drive, bus turnout, or bus shelter to the County or to the Virginia Department of Transportation does not affect the applicable minimum setback requirements. The minimum setback is established from the lot line as it existed before such dedication, except in no instance may a building be erected closer than 15 feet from the nearest street line. This subsection does not apply to lots that contain a single-family detached dwelling unit.

(b) Design Guidelines for Specified Areas in the Comprehensive Plan

The Board, in conjunction with the approval of a rezoning or special exception, or by the Director in approving a site plan, may reduce the minimum setback requirements if:

- 1.** The development is located in an area where specific design guidelines have been established in the Comprehensive Plan, such as in Community Business Centers, Commercial Revitalization Areas, and Transit Station Areas; and
- 2.** The reduction is in accordance with the Comprehensive Plan.

(c) Errors in Building Location – Zoning Administrator Authorized Reductions

The Zoning Administrator may approve a reduction in the minimum setback requirements when a building or freestanding accessory structure (whether existing or partially constructed) does not comply with the minimum setback requirements applicable at the time such building or accessory structure was erected. A reduction may be approved in accordance with the following provisions:

- 1.** The Zoning Administrator determines that:
 - a.** The error does not exceed ten percent of the applicable measurement;
 - b.** The noncompliance was done through no fault of the property owner, or was the result of an error in the location of the building or structure after the issuance of a building permit, if required;
 - c.** It will not impair the purpose and intent of this Ordinance;
 - d.** It will not be detrimental to the use or enjoyment of other property in the immediate vicinity;
 - e.** It will not create unsafe conditions regarding other properties or public streets;
 - f.** Compliance with the minimum setback requirements would cause the owner unreasonable hardship; and
 - g.** It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district.

2. In approving such a reduction or modification under the provisions of this subsection, the Zoning Administrator may allow only the minimal reduction necessary to provide reasonable relief and may prescribe conditions such as landscaping and screening measures to assure compliance with the intent of this Ordinance.
3. The Zoning Administrator may not waive or modify the criteria necessary for approval as specified in this subsection.
4. The BZA, in accordance with (d) below, can grant a reduction or modification in the minimum setback requirement if the error in building location is greater than ten percent of the applicable measurement.
5. The BZA may grant a reduction of the minimum setback requirements or a modification of the accessory structure location requirements due to an error in building location that is no greater than ten percent of the applicable measurement if the reduction or modification is requested in conjunction with:
 - a. The approval of a special permit for another use or application for a variance on the property; or
 - b. The approval of a special permit for an error in building location on the property that exceeds ten percent.

(d) Errors in Building Location – BZA Authorized Reductions

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

1. The BZA must determine that:
 - a. The error exceeds ten percent of the applicable measurement; or
 - b. The error is up to ten percent of the applicable measurement and the reduction or modification is requested in conjunction with the approval of another special permit or application for a variance on the property;
 - c. The noncompliance was done through no fault of the property owner, or was the result of an error in the relocation of the building after the issuance of a building permit, if one was required;
 - d. It will not impair the purpose and intent of this Ordinance;
 - e. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
 - f. It will not create an unsafe condition regarding other properties or public streets;
 - g. Compliance with the minimum setback requirements or location regulations would cause the owner unreasonable hardship ; and
 - h. It will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. The BZA reduction or modification must be the minimum amount necessary to provide reasonable relief, and the BZA may prescribe conditions to assure

compliance with the intent of this Ordinance, including landscaping and screening measures.

3. The modification may not result in the placement of a detached accessory structure in a front yard if that location is not otherwise permitted in that yard.

(e) Special Permit Approval for Reduction of Setback Requirements

The BZA may approve a special permit to allow a reduction of setback requirements subject to the following:

1. Only the following setback requirements are subject to special permit approval:
 - a. Minimum required setbacks in the residential, commercial, industrial, and planned development districts set forth in Article 2 If (i) no proffered conditions or development conditions related to setbacks apply; and (ii) no setbacks are depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat, or variance plat.
 - b. Setback regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Section 5100.2.L(2).
 - c. Accessory structure location requirements set forth in subsection 4102.7.A(5).
 - d. Regulations on permitted extensions into a minimum setback as set forth in subsection 5100.2.D(5).
2. The required setback must not be reduced by more than 50 percent, as measured from the lot line to the closest point of the proposed structure.
3. The resulting setback approved under a., b., and c. above must not be less than five feet.
4. The reduction may not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
5. There is a principal structure and use that complied with the minimum setback requirements in effect when the use or structure was established.
6. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether that addition complies with the minimum setback requirements or is the subject of a subsequent setback reduction special permit. If a portion of a single-family detached dwelling is to be removed, no more than 50 percent of the gross floor area of the existing dwelling at the time of the first yard reduction may be removed. The gross floor area of a single-family dwelling for the purpose of this subsection is deemed to include the floor area of any attached garage.

7. The resulting gross floor area of an existing accessory structure and any addition to it must be clearly subordinate in purpose, scale, use, and intent to the principal structure on the site.
8. The BZA must determine that the proposed scale of the development is harmonious with the existing on-site and surrounding off-site development, and the development preserves existing vegetation and significant trees, as determined by the Director, in a manner that is characteristic of surrounding off-site development. The proposal may not adversely impact the use or enjoyment of any adjacent property through the creation of issues related to noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA must determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include the following:
 - a. The layout of the existing structure;
 - b. Availability of alternate locations for the addition;
 - c. Orientation of the structure(s) on the lot;
 - d. Shape of the lot and the associated setback designations on the lot;
 - e. Environmental characteristics of the site, including presence of steep slopes, floodplains or Resource Protection Areas;
 - f. Preservation of existing vegetation and significant trees as determined by the Director;
 - g. Location of a well or septic field;
 - h. Location of easements;
 - i. Preservation of historic resources; and
 - j. Any additional relevant site considerations.
10. The BZA may impose conditions it deems necessary to satisfy these criteria, such as a maximum gross floor area, floor area ratio, lot coverage, landscaping, and screening requirements.

(f) Special Permit Approval for Certain Additions to Existing Single-Family Detached Dwellings

The BZA may approve a special permit for certain additions to an existing single-family detached dwelling when the existing dwelling extends into a minimum setback by more than 50 percent or is closer than five feet to a lot line in accordance with the following:

1. Only the following yard requirements may be modified:
 - a. Minimum required setbacks specified in the residential district that are not subject to proffered conditions, development conditions, or depicted on any approved special exception plat, special permit plat, variance plat, or proffered generalized development plan.
 - b. Yard regulations for pipestem lots and lots contiguous to pipestem driveways as required by subsection 5100.2.L.
 - c. Regulations on permitted extensions into minimum required setbacks as permitted by subsection 5100.2.D(5).

2. The applicant must demonstrate that the existing single-family detached dwelling complied with the minimum required setbacks in effect when the dwelling was constructed and that the yards have not been further reduced, except by condemnation or by acquisition for public purposes by any governmental agency.
3. When the existing single-family detached dwelling and the proposed addition extend into a minimum required yard by more than 50 percent of the minimum required setback or are closer than five feet to a lot line, no portion of the proposed addition may extend closer to the lot line associated with such yard than any portion of the existing dwelling. The eaves or other extensions associated with the addition may not extend beyond the point of the existing single-family detached dwelling that is closest to the affected lot line.
4. The total gross floor area resulting from an addition to an existing single-family detached dwelling may be up to 150 percent of the total gross floor area of the dwelling that existed at the time of the first expansion request. The total gross floor area resulting from any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether that addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. No more than 50 percent of the gross floor area of an existing single-family detached dwelling at the time of the first yard reduction may be removed. For the purpose of this subsection, the gross floor area of a single-family dwelling includes the floor area of any attached garage.
5. The BZA determines that the proposed addition is in character with the existing on-site development in terms of the location, height, bulk, and scale of the existing structure(s) on the lot.
6. The BZA determines that the location, height, bulk, and scale of the proposed addition is harmonious with the surrounding off-site uses and structures, and its development preserves existing vegetation and significant trees, as determined by the Director, characteristic of surrounding off-site uses and structures.
7. The property is not in violation of any provision of this Ordinance.
8. The BZA determines that the proposed addition will not adversely impact the use and enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.

E. Maximum Density and Intensity

(1) General

- (a) The maximum density and intensity are specified in Article 2 for each zoning district.
- (b) The maximum density and intensity specified for a given zoning district may not be exceeded, except as otherwise permitted by this Ordinance. Maximum density means the number of dwelling units per acre, except in the PRC District where it means both the number of dwelling units per acre and the number of persons per

acre. Maximum intensity means floor area ratio which is determined by dividing the gross floor area of all buildings on a lot by the area of the lot.

(2) Density Penalty

- (a)** Maximum density is calculated based on the gross area of the lot, except when 30 percent or more of the area of the lot is comprised of any or all of the following features:
 1. Floodplains and adjacent slopes in excess of 15 percent grade;
 2. Quarries;
 3. Marine clays; and
 4. Existing water bodies, unless a water body is a proposed integral design component of an open space system for a development, in which case total density credit is calculated including the area of the water body.
- (b)** If 30 percent or more of the area of a lot is comprised of any or all of the features in subsection 2(a) above, the permitted density for that area is 50 percent of the maximum. That area may be used for open space, parks, schools, rights-of-way, utility easements, or other uses as may be presented in the following subsections. The density penalty of this subsection does not apply in the PRC District or to floor area ratio.

| Example: Density Penalty Calculations | |
|--|----------|
| Site Area [1] | 38.28 ac |
| A. Floodplains and adjacent steep slopes (and not marine clay) | 18.3 ac |
| B. No quarries exist on-site | n/a |
| C. Areas of marine clays (and not floodplain) | 12.2 ac |
| D. No bodies of water exist outside the floodplain | |
| Site area consisting of features in A-D above | 30.5 ac |
| Percent of site consisting of features in A-D above | 79.7% |
| Percent of site consisting of features in A-D above that is in excess of 30% | 49.7% |
| Zoning District: R-2, maximum density 2 du/ac: | |
| 49.7% of 38.28 ac = 19.02 ac @ 50% of maximum density (1 du/ac) = 19.02 du | |
| 50.3% of 38.28 ac = 19.26 ac @ 100% of maximum density (2 du/ac) = 38.53 du | |
| 19.02 + 38.53 = 57.54 = 57 total dwelling units allowed | |
| Notes: | |
| [1] Total existing site area, including areas that may be dedicated in the future. | |

(3) Density Credit for Major Utility Easements

The Board may approve a special exception to allow density credit for a major utility easement in accordance with the subsection (5) below, and the following:

- (a) The granting of an easement was not made in exchange for monetary compensation unless the Board determines that:
 - 1. The easement is for a major utility facility providing regional benefit;
 - 2. The location of the easement impacts the property;
 - 3. Monetary compensation is appropriate under the circumstances; and
 - 4. The proposed location for the easement is determined to significantly benefit the public interest.
- (b) The easement is necessary for the installation or improvement of a public facility in accordance with the Comprehensive Plan.
- (c) If the public facility requires approval under Va. Code Sect. 15.2-2232, the approval must be obtained before or concurrent with the granting of density credit under this subsection.

(4) Increase in Floor Area Ratio

The Board may approve a special exception to allow an increase in the maximum permitted FAR for all uses in the C-6, C-7, C-8, I-3, I-4, I-5, and I-6 Districts, in accordance with the maximum FAR set forth in the respective zoning district as shown below:

| Zoning District | Maximum FAR for District | Maximum FAR with SE |
|-----------------|--------------------------|---------------------|
| C-6 | 0.40 | 0.50 |
| C-7 | 0.80 | 1.0 |
| C-8 | 0.50 | 0.70 |
| I-3 | 0.40 | 0.50 |
| I-4 | 0.50 | 0.70 |
| I-5 | 0.50 | 1.0 |
| I-6 | 0.50 | 1.0 |

(5) Density or Floor Area Ratio Credit

- (a) No density or floor area ratio credit may be calculated for an area within a lot that is in a major utility easement or right-of-way acquired after August 14, 1978, unless: (i) the Board grants a special exception in accordance with subsection 8100.3, and (ii) the Board or an authority or other governmental organization appointed by the Board owns the easement. The foregoing does not apply to areas planned or zoned to the PRC District.
- (b) For the purpose of this subsection, a major utility easement or right-of-way is one having a width of 25 feet or more that is located entirely outside of a right-of-way.
- (c) In cases where an area within a lot is needed by the County for a public park, school site, other public facility site, mass transit facility or street improvement, or public street right-of-way and there are no encumbrances to the title to that area that would interfere with its use, density or floor area ratio credit is calculated on that area severed for those purposes in accordance with the following:
 - 1. Density or floor area ratio credit was approved before recordation of the dedication or conveyance among the County's land records by:
 - a. An approved a rezoning or special exception application included the dedication or conveyance;

- (d) Cross-use easements and joint maintenance agreements for public and private improvements are provided to the satisfaction of the County Attorney and the Director; and
- (e) The property owner(s) records an instrument in the Fairfax County land records notifying future owners that the property will always be subject to one site plan.

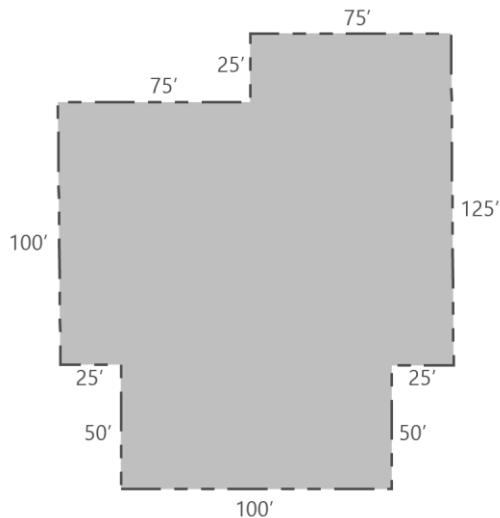
G. Limitation on the Number of Dwelling Units on a Lot

- (1) A maximum of one dwelling unit on any one lot is permitted. A dwelling unit may not be located on the same lot with any other principal building. This provision does not preclude:
 - (a) Multifamily dwelling and stacked townhouse units as permitted by this Ordinance;
 - (b) Accessory uses or associated service uses as permitted by the provisions of Article 4;
 - (c) Accessory living units in accordance with subsection 4102.7.B;
 - (d) Single-family attached dwellings in a rental development;
 - (e) Condominium development as provided for in Section 8105; or
 - (f) Wireless facilities and associated support structures in accordance with subsection 4102.4.Y.

H. Shape Factor Limitations

- (1) To provide for the orderly subdivision of land and to avoid irregularly-shaped lot configurations, lots located in the R-E, R-1, R-2, R-3, R-4, R-5, or R-8 Districts and the single-family portions of a PDH, PDC, or PRC District may be subdivided if the following shape factor limitations are met:
 - (a) All lots must have a shape factor less than or equal to 35, except as follows:
 - 1. Lots with shape factors greater than 35 but less than 50 may be permitted with special exception approval by the Board in accordance with subsection (3) below.
 - 2. This requirement does not apply to lots designated as open space.
 - 3. This requirement may be modified by the Board for lots depicted on an approved development plan in a PRC District, lots depicted on an approved final development plan in a PDH or PDC District, and lots located in a cluster subdivision approved under the provisions of 5100.2.O.
 - (b) Lots located within the R-2, R-3, or R-4 Districts that are approved by the Director for cluster development, or lots that are subject to a waiver of the minimum lot width requirements approved by the Board in accordance with 5100.2.K, must exclude the pipestem portion of a pipestem lot from the shape factor computation. The lot perimeter includes the width of the pipestem portion of the lot at the point where it joins the main portion of the lot.
- (2) All lots in the R-C District must have a shape factor less than or equal to 60, except for lots designated as open space, or lots developed under the cluster provisions of 5100.2.O,. Lots with shape factors greater than 60 but less than 100 may be permitted by special exception in accordance with subsection (3) below. Lots in the R-C District

that were recorded on or before September 21, 2016, are not subject to the shape factor requirement.



$$\frac{\text{Perimeter}^2}{\text{Area}} = \text{Shape factor}$$

Example:

Perimeter = 650'
Area = 21875 sq. ft.

$$\frac{\text{Perimeter}}{\text{Area}} = \frac{650^2}{21,875} = \frac{422,500}{21,875} = 19.3$$

Figure 5100.10: Shape Factor Calculation

- (3) The Board may approve a special exception for a modification of the shape factor limitations set forth above in accordance with subsection 8100.3. The applicant must provide sufficient justification for the increase in shape factor to show compliance with the following requirements:
- (a) the Board may approve a lot with a shape factor greater than 35, but less than 50 in the R-C, R-E, R-1, R-2, R-3, R-4, R-5, and R-8 Districts, if: (i) it determines that a portion of the property is required for a wastewater or stormwater management facility or a stream valley trail as an outlot within the proposed subdivision; and (ii) there is no alternative location on the property being subdivided for the proposed facility or trail.
 - (b) The Board may approve a lot with a shape factor greater than 60, but less than 100 in the R-C District, if it determines that the increase in shape factor results in a development that minimizes the impact on existing vegetation, topography, historic resources, or other environmental features.

I. Subdivided Parcels not included on Individual Lot

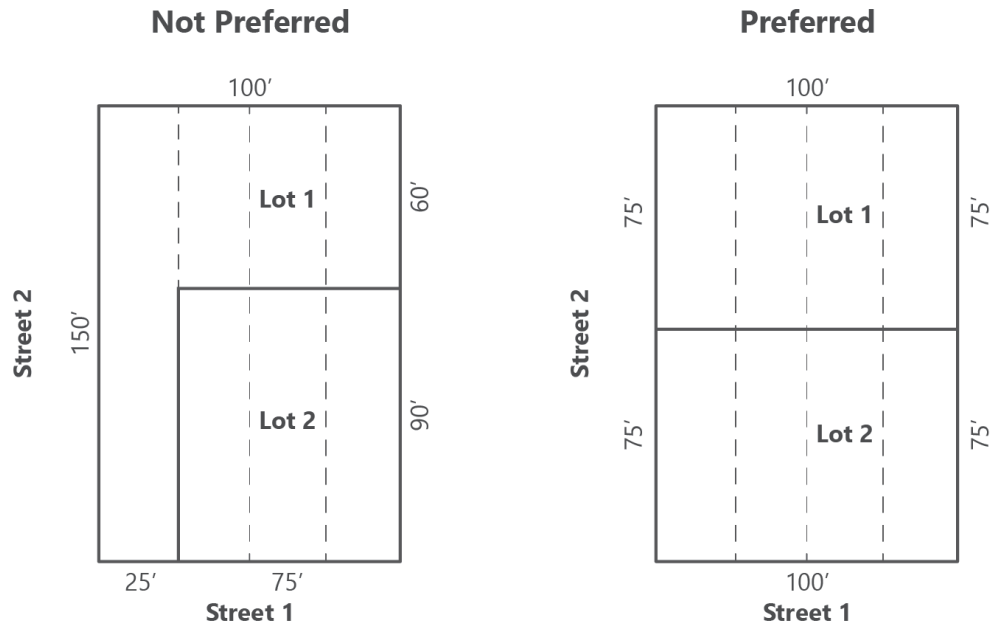
Any area of a subdivided parcel that is not included as a part of an individual lot for a single-family dwelling unit, including areas established to meet the open space requirements of this Ordinance, must be recorded with the instruments of subdivision, covenants, or other restrictions and designate the proposed use of such areas.

J. Permitted Reductions in Lot Size Requirements for Certain Existing Lots

- (1) Any lot recorded before March 1, 1941, or any lot that met the requirements of the Zoning Ordinance in effect at the time of recordation, is not required to meet the minimum lot area, lot width, or shape factor requirements of the district, provided the

lot meets all other regulations of this Ordinance. This exemption does not apply to any lot that is rezoned or subdivided, unless it is:

- (a)** A subdivision resulting from a voluntary dedication by the owner, or a condemnation or acquisition of a portion of the subdivision for public purposes by any governmental agency; or
- (b)** A subdivision for a minor adjustment of lot lines approved by the Director in accordance with Chapter 101 of the County Code and the following:
 - 1.** The subdivision consolidates land area of contiguous lots, or rearrange lot lines to reallocate land area between contiguous lots such that the reconfigured lots contain either the same lot area that existed before the adjustment of the lot lines or a greater area than existed before the adjustment of the lot lines, resulting in a reduced number of lots; and
 - 2.** No additional lots or outlots are created, there is no increase in the maximum density, and the resultant lot lines do not create any new or increase any existing noncompliance regarding minimum lot area, lot width, shape factor, or minimum setback requirements; or
 - 3.** A minor lot line adjustment may occur between corner lots and contiguous lots that changes the road frontage or orientation of the lots if: (a) no additional lots or outlots are created, (b) the number of lots that do not comply with the current minimum lot width requirements is not increased, (c) the amount of the lot width noncompliance is not increased, and (d) the adjustment of lot lines does not create or increase any existing noncompliance regarding minimum lot area, shape factor, or minimum setback requirements.
 - 4.** A minor lot line adjustment may occur between lots located in different subdivisions, subject to subsections 1 through 3 above. This provision applies even if one of the existing lots is subject to the provisions of this section and the other existing lot meets the requirements of the current Ordinance. In addition, the adjustment of lot lines must be in substantial conformance with any prior zoning approvals.
 - 5.** Subsection 1 above does not apply if the minor lot line adjustment results in no additional lots or outlots, does not increase density, and all of the resulting lots meet the current lot area, lot width, and shape factor.



- (2) Any lot that did not meet the requirements of the Zoning Ordinance in effect at the time of recordation is not required to meet the minimum lot area, lot width, and shape factor requirements of the district if:
- (a) The lot is depicted in a metes-and-bounds description or on a subdivision plat not approved by the County, and the description or plat was recorded among the land records of Fairfax County before March 25, 2003;
 - (b) The lot described in the metes-and-bounds description or on the plat was identified as a separate lot on the Fairfax County Real Property Identification Map and was taxed as a separate parcel on or before March 25, 2003;
 - (c) The lot contained a principal structure on March 9, 2004 that was:
 - 1. Occupied or had been occupied at any time within five years before March 9, 2004; or
 - 2. Under construction in accordance with a building permit, and a Residential or Nonresidential Use Permit was issued within 12 months after March 9, 2004; and
 - (d) Except for the minimum lot area, lot width, and shape factor requirements of the district, all other regulations of this Ordinance must be satisfied, including the bulk and permitted use regulations applicable to the underlying zoning district.

K. Waiver of Minimum Lot Size Requirements

- (1) The Board may approve a waiver of the following lot size requirements in conjunction with a rezoning or special exception:
- (a) R districts, but not cluster subdivision other than the R-1 Cluster – minimum district size or lot width requirements;
 - (b) C districts – minimum lot area or lot width requirements; and

- (c) I districts – minimum district size, lot area, or lot width requirements.
- (2) The Board must make the following findings to approve an application to waive lot size requirements that does not involve the creation of a new lot:
 - (a) The lot width or area has not been reduced after August 14, 1978, to a width or area less than required by this Ordinance;
 - (b) Granting the waiver will not have an adverse effect and will be compatible with the existing and planned development of properties and area roadways; and
 - (c) The remaining provisions of this Ordinance are satisfied.
- (3) The Board must make the following findings to approve an application to waive lot size requirements that involve the creation of a new lot:
 - (a) The waiver results in a development that: (i) preserves existing topography, historic resources, environmental features; (ii) preserves quality vegetation or replaces existing vegetation with species that are suited to post-development conditions on the site; (iii) results in less impervious surface than the maximum impervious surface allowed without approval of the waiver; (iv) maintains or improves stormwater management systems; and (v) mitigates other similar impacts.
 - (b) Granting the waiver will not have any adverse effect and will be compatible with the existing and planned development of properties and on area roadways.

L. Pipestem Lots and Setbacks

- (1) The Director may approve pipestem lots either as a single lot or in a group of up to five lots when necessary to achieve more creative planning and preservation of natural property features or to provide for affordable dwelling unit developments, but only in accordance with the provisions of the Public Facilities Manual and at least one of the following:
 - (a) Affordable dwelling unit developments required under Section 5101 below;
 - (b) Residential cluster subdivisions approved under 5100.2.O;
 - (c) When shown on an approved proffered generalized development plan in the R-5 or R-8 District;
 - (d) When shown on an approved final development plan in the PDH or PDC District;
 - (e) When shown on an approved PRC plan in the PRC District; or
 - (f) In conjunction with the approval of a special exception waiving minimum lot width requirements in accordance with 5100.2.J.
- (2) Setbacks for pipestem lots and lots contiguous to pipestem driveways are as follows:
 - (a) The minimum front setback on a pipestem lot is 25 feet. The setback is measured from the lot line or the edge of the pipestem driveway pavement, whichever results in a greater setback. The minimum front setback in an affordable dwelling unit development is the lesser of either 25 feet or the requirement of the applicable district.
 - (b) On a lot contiguous to a pipestem driveway serving more than one pipestem lot, in addition to the minimum front setback requirements of the district, the area contiguous to the pipestem driveway must also meet a minimum required front

setback of 25 feet as measured from the lot line formed by the pipestem or the edge of the pipestem driveway pavement, whichever results in a greater setback. Such lot configuration is not deemed a corner lot. In an affordable dwelling unit development, the lesser of 25 feet or the minimum front setback requirement of the district applies.



Figure 5100.11: Setback Measurement on Pipestem Lots

- (3) Lots with pipestem driveways that were created by a variance granted by the BZA before *[insert effective date of this Ordinance]*, will be treated as “pipestem lots” for the purpose of this Ordinance.

M. Residential Access to Public Street

All dwelling units must have access to a public street dedicated to VDOT, except as provided by Section 5107, Private Streets.

N. Limitation on Driveways for Uses in C and I Districts

A driveway for a use in any C or I district is prohibited in any R district or a residential area of a P district unless the use served by the driveway is also allowed in the R district in which the driveway is located; or unless the driveway is approved by the Board by special exception in accordance with subsection 8100.3. For the purpose of this subsection, a travel lane is not a driveway. The Board must determine the following:

- (1) The proposed driveway will not unduly impact the use or development of adjacent properties in accordance with the Comprehensive Plan; and
- (2) No other means of access is reasonable available; or
- (3) The proposed access will result in a minimized traffic impact on the streets in the vicinity.

0. Cluster Subdivisions

(1) Where Permitted

- (a) The Director may approve cluster subdivisions in the R-2 District with a minimum district size of two acres or greater and in the R-3 and R-4 Districts with a minimum district size of three and one-half acres or greater in accordance with Chapter 101 of the County Code.
- (b) The Board may approve cluster subdivisions in the R-C, R-E, and R-1 Districts, and the R-3 and R-4 Districts with a minimum district size of two acres or greater but less than three and one-half acres, by special exception in accordance with this section.

(2) Post-July 1, 2004 Rezoning and Special Exceptions

- (a) Applications after July 1, 2004, are subject to the following:
 - 1. New cluster subdivisions are not permitted by special exception in the R-2 District or in the R-3 and R-4 Districts with a minimum district size of three and one-half acres or greater;
 - 2. The Board may approve a proffered rezoning to the R-2 District, or a proffered rezoning to a R-3 or R-4 District with a minimum district size of three and one-half acres or greater, for the development of a cluster subdivision without bonus density when the application is for a rezoning to a residential district with a higher permitted maximum density than the existing zoning district. In conjunction with Board approval of that proffered rezoning, all minimum district size, lot area, lot width, shape factor, and open space requirements of the district and all applicable cluster subdivision provisions of Chapter 101 of the County Code must be met without modification or waiver. The provisions of 8100.2.D apply to such approved proffered rezoning.
 - 3. The Board may approve a proffered rezoning to the R-C, R-E, or R-1 District or a proffered rezoning to a R-3 or R-4 District with a minimum district size of two acres but less than three and one-half acres, for the development of a cluster subdivision without bonus density when the application is for a rezoning to a residential district that has a higher permitted maximum density than the permitted maximum density of the existing zoning of the property.
 - 4. The Board may approve a rezoning to a PDH District for a development wholly or partially containing single-family detached dwellings without bonus density, if the application is for rezoning to a PDH District that has a higher permitted maximum density than the permitted maximum density of the existing zoning of the property or is a rezoning from a district that permits cluster development with Director approval. Rezoning to a PDH District for a development containing single-family detached dwellings is prohibited if the existing zoning of the property has the same permitted maximum density as the requested PDH District and the existing zoning permits cluster development with Board approval. In addition, rezoning to a PDH District is prohibited if the application request is from the R-5 District to the PDH-5 District or from the R-8 District to the PDH-8 District for development containing single-family detached dwellings.

(3) Pre-July 1, 2004 Cluster Subdivisions

- (a)** Cluster subdivisions in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts that were approved by proffered rezoning by the Board before July 1, 2004, continue to be subject to the proffered rezoning approval. Amendments to those proffered rezonings may be filed and considered in accordance with the provisions of 8100.2.D. Minor modifications to those subdivisions may be permitted in accordance with 8100.5.
- (b)** Special exceptions for cluster subdivisions in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts that were approved by the Board before July 1, 2004 and established remain valid and are subject to the special exception approval, including any approved development conditions. Amendments to special exceptions for these cluster subdivisions may be filed and considered in accordance with subsections 8100.3.D(5) and 5100.2.O. Minor modifications to those subdivisions may be permitted in accordance with subsection 8100.3.D(3)(b).
- (c)** Cluster subdivisions in the R-E, R-1, R-2, R-3, and R-4 Districts that were approved administratively by the Director before October 20, 1987, or that are subject to the provisions adopted under Zoning Ordinance Amendment ZO 87-150 for previous approvals, may continue under any conditions of such approval. Any modification to the subdivision may be approved by the Director, in accordance with the requirements of this section and Chapter 101 of the County Code.

(4) Standards for a Cluster Subdivision

The Board may approve a cluster subdivision in an R-C, R-E, or R-1 District or a cluster subdivision in a R-3 or R-4 District which has a minimum district size of two acres or greater but less than three and one-half acres if it is in conjunction with the approval of a rezoning or as a special exception and complies with the provisions of this section. Special exceptions for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 or R-4 Districts that were approved by the Board before July 1, 2004, will remain valid and are subject to the approved special exception, including any imposed development conditions. Amendments to a special exception for these cluster subdivisions must be reviewed in accordance with subsection 8100.3 and the following.

- (a)** It must be demonstrated by the applicant that the location, topography, and other physical characteristics of the property are such that the cluster development will:
 - 1.** Preserve the environmental integrity of the site by protecting and promoting the preservation of features such as steep slopes, stream valleys, desirable vegetation, or farmland, and either:
 - a.** Produce a more efficient and functional development; or
 - b.** Provide land necessary for public or community facilities.
 - 2.** Be in accordance with the Comprehensive Plan and the established character of the area. To accomplish this end, the cluster subdivision must be designed to maintain the character of the area by preserving, where applicable, rural views along major roads and from surrounding properties through the use of open space buffers, minimum yard requirements, varied lot sizes, landscaping, or other measures.

- (b) The maximum density specified for the applicable district must not be increased and the other applicable regulations or use limitations for the district must not be modified or changed; however, the Board may approve a modification to the minimum lot size or setback requirements if it can be concluded that the modification is in keeping with the provisions of this section and the applicable zoning district. No lot may extend into a floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area unless approved by the Board based on a determination that:
 1. The floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area, by reason of its size or shape, has no practical open space value;
 2. The amount of floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area on the lot is minimal; and
 3. The lot otherwise meets the required minimum lot area specified for the district in which located.
- (c) A cluster subdivision plat may be approved if it conforms with the plat approved by the Board and complies with the provisions of this section and the cluster subdivision provisions presented in the zoning district regulations.
- (d) In the R-C District, in addition to subsection (4)(a) above, the applicant must demonstrate that the cluster subdivision and the use of its open space is designed to achieve runoff pollution generation rates no greater than would be expected from a conventional R-C District subdivision of the property.

P. Compliance with Other Applicable Regulations and Standards

No structure is allowed if it is precluded by any provision of the County Code or is subject to any applicable requirements of the USBC that conflict with the zoning approval.

Q. Major Underground Utility Easements

- (1) A major underground utility easement is one which contains a transmission pipeline that carries products such as natural gas, petroleum, or other fuels. After June 27, 1995, no land area that is encumbered by any major underground utility easement and that is located outside of a public right-of-way may be obstructed, restricted, or impeded in any manner by any new structure, building, plantings, stockpiling of material, or use except for the following when approved by the Director. The approval may include the imposition by the Director of conditions related to maintaining the structural integrity of the transmission pipeline.
 - (a) Transmission pipelines and appurtenant structures and facilities, to include temporary structures used in conjunction with the maintenance or repair of the underground utility lines.
 - (b) Aboveground utility crossings and underground crossings of franchised cable television lines and crossings of underground utilities including, but not limited to storm drains, water and sanitary sewer lines, liquid petroleum lines, gas lines, electric and telephone cables, as specified in subsection 4102.4.X(3)(a).
 - (c) Erosion and sediment controls.

- (d) Temporary equipment crossings if the transmission pipelines are adequately protected from any adverse impacts caused by such crossing.
 - (e) Crossings of railroad tracks, private streets, driveways, trails, sidewalks, and public rights-of-way if those facilities will not adversely impact the structural integrity of transmission pipelines.
 - (f) Trails as shown on the Comprehensive Plan if the trails will not adversely impact the structural integrity of transmission pipelines.
 - (g) Open play areas and athletic fields that do not contain any permanent structures other than fencing, backstops, benches, bleachers, scoreboards, and other similar accessory structures, if the installation or removal of those structures will not require the use of mechanical equipment of any type and the facilities will not adversely impact the structural integrity of transmission pipelines.
 - (h) Off-street surface parking facilities in accordance with the provisions of the Public Facilities Manual if the facilities will not adversely impact the structural integrity of transmission pipelines.
 - (i) Garden or landscaping with low growing plants or ornamental type shrubbery, with no vegetation having a maximum expected height of more than four feet, if no mechanical equipment of any type will be used in the planting or removal of such vegetation.
 - (j) Accessory structures such as playground equipment, children’s playhouses, doghouses, fences, storage structures, and other similar structures that do not require approval of a building permit, if the installation or removal of those structures will not require the use of mechanical equipment of any type and the structures will not adversely impact the structural integrity of transmission pipelines.
 - (k) Any vegetation required by this Ordinance must be planted and maintained in such a manner that will not obstruct, restrict, or impede any major underground utility easement.
- (2) This Section is not construed to restrict measures necessary to identify the location of a transmission pipeline facility as required by the County or to restrict an operator or agent of a transmission pipeline facility from providing maintenance or emergency service to the underground facilities.

R. Lots Bordered by Access Easements

- (1) The following apply when a lot is bordered by a public or private street on one side and an access easement on another side:
- (2) The lot is not considered a corner lot or a through lot unless the access easement serves more than five existing or potential lots or dwelling units based on the existing zoning or Comprehensive Plan.
- (3) If the access easement provides the only access to five or fewer existing or potential lots or dwelling units based on the existing zoning or Comprehensive Plan, the setback from the access easement is 25 feet, measured from the edge of pavement or face of the curb within the easement and not from the easement line itself.

- (4) If the access easement serves or has the potential to serve more than five lots, the setback from the easement is the front setback of the applicable district.

3. Open Space Requirements

A. Open Space Requirements, Generally

- (1) The open space requirements for any given district are minimums, and the required open space must be located on the same lot as the primary use, unless otherwise specifically required elsewhere in this Ordinance. Open space requirements are generally presented as a percent of the gross area of the lot.
- (2) No part of required open space may later be reduced below the minimum requirements of this Ordinance or used in any manner contrary to this Ordinance. Open space may not be disturbed in any manner without the approval of the Director.
- (3) Calculation of open space area is based on the following rules:
 - (a) Land not contained in lots and streets that is needed by the County for parks, recreational areas, or stream valleys, and is suitable in location, size, shape, condition, and topography for the needed purposes as determined by the Director, must be deeded to the County for those purposes. This land is referred to as dedicated open space and is given full credit in satisfying the open space requirement for a given district.
 - (b) Fifty percent of the area within a lot that is dedicated to the County for a school site is credited toward satisfying the open space requirement of the applicable district.
 - (c) Land not contained in lots and streets that is not needed by the County for those purposes set forth in subsections (a) and (b) above, may be conveyed to a nonprofit organization as provided for in Section 5106 with the approval of the Director. That land is referred to as common open space and is given full credit in satisfying the open space requirement for a given district.
 - (d) In cluster subdivisions, at least 75 percent of the minimum required open space or one acre, whichever is less, must be provided as a contiguous area of usable open space. For cluster subdivisions in which the required open space will approximate five acres in area, the open space must be usable open space as defined in Article 9, based on location, dimension, and topography, unless a waiver is approved in accordance with subsection B below.
 - (e) Open space in a major utility easement or right-of-way is subject to the following:
 1. Fifty percent of the area that lies within a major utility easement or right-of-way may be calculated as open space if the remaining rights of the easement or right-of-way are dedicated for recreational or open space use.
 2. Lands that lie within a major utility easement or right-of-way may not constitute more than 30 percent of the total land area needed to satisfy the open space requirement for a given district.
 3. For the purpose of this provision, a major utility easement or right-of-way is one having a width of 25 feet or more that is located entirely outside a street right-of-way.

- (f) Open space credit may not be given for lands that are included in or reserved for the right-of-way of any street, for any mass transit facility, or for any public facility except as qualified above.
- (g) In the administration of these provisions, the Director has the authority to determine whether lands qualify as open space and whether those lands are common open space, dedicated open space, landscaped open space, or recreational open space.
- (h) The Board may waive the open space requirement presented for a given zoning district in accordance with the provisions of 5100.3.B.
- (i) Any area required for interior parking lot landscaping must not comprise more than 25 percent of the total required open space.

B. Waiving Open Space Requirements

The Board may waive the open space requirement presented for a given zoning district or the open space requirement set forth in subsection A above for cluster subdivisions in the R-C, R-E, and R-1 Districts and cluster subdivisions in the R-3 and R-4 Districts that have a minimum district size of two acres or greater but less than three and one-half acres, in conjunction with the approval of appropriate proffered conditions or as a special exception, if the following criteria are satisfied:

- (1) The waiver will further the intent of this Ordinance and the Comprehensive Plan and other adopted policies;
- (2) It is established that the resultant development will be compatible with adjacent development; and
- (3) The provisions of Section 5108, Landscaping and Screening, are satisfied.

5101. Affordable Dwelling Unit Program

1. Purpose

The Affordable Dwelling Unit (ADU) Program is established to assist in the provision of affordable housing for persons of low and moderate income. The program is designed to promote a full range of housing choices and to require the construction and continued existence of affordable dwelling units that are integrated and dispersed within the development.

2. Applicability

The requirements of the Affordable Dwelling Unit Program apply to any site or portion thereof at one location, which is the subject of an application for rezoning, PRC plan, special exception, site plan, or subdivision plat approval, which includes 50 or more dwelling units at an equivalent density more than one unit per acre and is located within an approved sewer service area, except as may be exempt under the provisions of subsection 5101.3 below.

An owner or applicant may not avoid the requirements of this section by submitting piecemeal applications for rezoning, PRC plan, special exception, site plan, or subdivision plat approval for less than 50 dwelling units at any one time. However, an owner or applicant may submit a site plan or subdivision plat for less than 50 dwelling units if the owner or applicant agrees in writing that the next application for the site or portion thereof will meet the requirements of this section when the

total number of dwelling units in the current application and the next application has reached 50 or more. This written statement must be recorded in the Fairfax County land records and must be indexed in the names of all owners of the site or portion thereof.

A. Site or Portion Thereof

- (1) For purposes of this Ordinance, "site or portion thereof at one location" includes all adjacent undeveloped land of the property owner or applicant, the property lines of which are contiguous or nearly contiguous at any point, or the property lines of which are separated only by a public or private street, road, highway or utility right-of-way or other public or private right-of-way at any point, or separated only by other land of the owner or applicant, which separating land is not subject to the requirements of this section.
- (2) Sites or portions thereof at one location includes all land under common ownership or control by the owner or applicant, including, but not limited to, land owned or controlled by separate partnerships, land trusts, or corporations in which the owner or applicant (to include members of the owner or applicant's immediate family) is a partner, beneficiary, or is an owner of one percent or more of the stock, and other such forms of business entities. Immediate family members include the owner or applicant's spouse, children, and parents. However, in instances in which a lending institution, such as a pension fund, bank, savings and loan, insurance company or similar entity, has acquired, or acquires an equity interest by virtue of its agreement to provide financing, such equity interest will not be considered in making determinations of applicability.

B. Submission and Application Information

- (1) The submission of an application for rezoning, PRC Plan, special exception, site plan, or subdivision plat approval must include an affidavit with the following information:
 - (a) The names of the owners of each parcel of the sites or portions thereof.
 - (b) The Fairfax County Property Identification Map Number, parcel size and zoning district classification for each parcel which is part of the site or portion thereof.
- (2) The County will process site plans or subdivision plats proposing the development or construction of affordable dwelling units within 280 days after the receipt of the application, if the plans and plats substantially comply with all ordinance requirements when submitted. The calculation of the review period includes only that time the plans or plats are under review by the County and does not include time the applicant is making revisions or modifications necessary to comply with the requirements of this Ordinance.

C. Independent Living Facilities

Affordable dwelling units are required in accordance with for independent living facilities approved by special exception or as part of a rezoning.

D. Compliance with Federal, State and Other Local Laws

- (1) The Zoning Administrator may determine that a development satisfies the requirements of the Affordable Dwelling Unit Program if the number of affordable dwelling units that are provided under federal, state or other local programs results in the same or more

number of units that are required under subsection 5101.4 and are subject to terms and restrictions equivalent to the requirements of this section.

- (2) The rent and sale prices for affordable dwelling units provided under federal, state, or other local programs must be in accordance with the rules and regulations governing those programs, and the units must be marketed in accordance with those rules and regulations. The rent and sale prices must not exceed those set forth in this section.

3. Developments Exempt from the Affordable Dwelling Unit Program

The requirements of this section do not apply to the following:

- A. Any multifamily dwelling unit structure which is constructed of Building Construction Types 1, 2, 3 or 4, as specified in the VUSBC.
- B. Applications for rezoning or special exception or amendments to such rezoning or special exception approved before July 31, 1990, or applications for rezoning or amendments to rezonings approved before January 31, 2004, for elevator multifamily dwelling unit structures that are four stories or more in height and constructed of Building Construction Type 5 (combustible) as specified in the VUSBC, which either:
 - (1) Include a development plan or special exception plat which contains a lot layout; or
 - (2) Include a proffered or approved total maximum number of dwelling units or FAR; or
 - (3) Include a proffered or approved unit yield per acre less than the number of units per acre otherwise permitted by the applicable zoning district regulations; or
 - (4) Fully satisfy the provisions of subsection 5101.2.D.
- C. Applications for a proffered condition amendment, development plan amendment, PRC plan, or special exception amendment, which deal exclusively with the following issues or combinations of those issues:
 - (1) Building relocation, ingress or egress, storm water drainage, or other engineering or public facilities issues;
 - (2) The preservation of historic structures;
 - (3) Child care centers;
 - (4) Changes in the size of units, reductions in the number of units, or changes in dwelling unit type which propose no increase in density over the previously approved density;
 - (5) The addition of a special exception use or special permit use; and
 - (6) An amendment to add land area with no additional dwelling units.
 - (7) Despite the definition of "site or portion thereof at one location" in subsection 5101.2.A, for additional dwelling units to a previously exempt development, the previously approved development continues to remain exempt if density for the new units is calculated only over the new land area. The entire development is subject to this section if the density calculation for the new dwelling units includes the total land area.
- D. Conversion to condominium of developments which were built in accordance with site plans filed or preliminary subdivision plats approved on or before July 31, 1990.
- E. Site plans filed and preliminary subdivision plats approved on or before July 31, 1990, and not exempt under A, B, or C above:
 - (1) Provided that one or both of the following conditions are met:

- (a) The site plan was approved within 24 months of the return of the initial submission to the applicant or agent; and a building permit(s) for the structure(s) shown on the approved site plan was issued in accordance with subsection 8100.7.F(3); and the structure(s) was constructed in accordance with such building permit(s); or
 - (b) The preliminary plat was approved and a final plat was approved and recorded in accordance with the provisions of Chapter 101 of the County Code, Subdivision Ordinance.
- (2) Site plans may be revised or resubmitted in order to comply with the requirements of this section at the owner's option. The revision or resubmission will be processed expeditiously in accordance with the provisions of subsection 5101.2.B(2) above.
- F. Site plans for elevator multifamily dwelling unit structures that are four stories or more in height and are to be constructed of Building Construction Type 5 (combustible) as specified in the VUSBC filed on or before January 31, 2004, if:
 - (1) The site plan is approved within 12 months of the return of the initial submission to the applicant or agent;
 - (2) The site plan remains valid;
 - (3) A building permit(s) for the structure(s) shown on the approved site plan is issued; and
 - (4) The structure(s) is in fact constructed in accordance with such building permit(s).
- G. Any independent living facility for low income residents approved in accordance with subsection 4102.4.Q in which 100 percent of the dwelling units are provided for residents whose annual household income is 50 percent of the median income for the Washington Metropolitan Statistical Area (WMSA) for not less than 70 percent of the dwelling units and 30 percent of the WMSA for not more than 30 percent of the units. This development may be administered under these provisions or under the provisions of any other affordable housing program deemed equivalent by the Zoning Administrator.
- H. If the total number of dwelling units approved by the Board or the total number of dwelling units shown on the subsequent site plan or subdivision plat is less than the total number approved and provides for a density at or below the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling developments, then no affordable dwelling units are required and the applicable zoning district regulations for affordable dwelling unit developments do not apply.
- I. If the building construction changes from Type 5 to Types 1, 2, 3 or 4, as specified in the VUSBC, as demonstrated by the applicant and confirmed by the County, no affordable dwelling units are required; however, no density bonus may be realized and the applicable zoning district regulations for affordable dwelling unit development do not apply.

4. Affordable Dwelling Unit Calculations

- A. For rezoning, PRC plan, and special exception applications approved after March 31, 1998, or for proffered rezoning applications approved before that date, which specifically provide for the applicability of an amendment to this section:
 - (1) If the application requests approval of single-family detached dwelling units, single-family attached, or stacked townhouse dwelling units, the lower and upper end of the density range set forth in the Comprehensive Plan applicable to the application property

is increased by 20 percent for purposes of calculating the potential density which may be approved by the Board.

- (2) If the application requests approval of non-elevator multifamily dwelling unit structures; or elevator multifamily dwelling unit structures which are three stories or less in height, the lower and upper end of the density range set forth in the Comprehensive Plan applicable to the application property is increased by 10 percent for purposes of calculating the potential density which may be approved by the Board. However, at the applicant’s option, the range set forth in the Comprehensive Plan is increased by 20 percent for purposes of calculating maximum potential density.
- (3) For the purposes of administration of this Section 5101, where the Comprehensive Plan does not specify a density range in terms of dwelling units per acre, the density range is determined in accordance with subsection 5101.4.D below.
- (4) Required affordable dwelling units must comply with the following:
 - (a) If the total number of dwelling units approved by the Board or the total number of dwelling units shown on the subsequent site plan or subdivision plan is less than the total number approved by the Board, results in a density above the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling unit developments, affordable dwelling units must be provided in accordance with the following formulas:

Where:

A = Approved Density, the dwelling units per acre approved by the Board or as shown on the approved site plan or subdivision plat.

L = Low End of Density Range, the lower limit of the density range specified in the Comprehensive Plan in terms of dwelling units per acre or calculated in subsection D below before application of the permitted density increase for affordable dwelling unit developments.

H = High End of Density Range, the upper limit of the Comprehensive Plan in terms of dwelling units per acre or calculated in subsection D below before application of the permitted density increase for affordable dwelling unit developments.

Notes:

[1] The numbers 5.0, 6.25 and 12.5 in the formulas below and in subsection 5101.4.B(4) represent absolute numbers, not percentages.

[2] The denominators in the formulas express the adjusted density range of the Comprehensive Plan in accordance with the applicable density bonus.

- 1. For developments with a 20 percent density bonus:

$$ADU\% = 12.5 \times \frac{A-L}{1.2(H-L)}$$

- 2. For multifamily dwelling unit developments with a 10 percent density bonus and for the multifamily dwelling unit component of a mixed unit development with a 10 percent density bonus:

$$ADU\% = 6.25 \times \frac{A-L}{1.1(H-L)}$$

- (b) The affordable dwelling unit requirement may not exceed either:
 1. 6.25 percent for those development for which a ten percent increase in density has been applied to the density range specified in the Comprehensive Plan; or 12.5 percent for those developments for which a 20 percent increase in density has been applied.
- B. Rezoning applications approved after January 31, 2004, which request approval of elevator multifamily dwelling unit structures that are four stories or more in height and are to be constructed of Building Construction Type 5 (combustible) as specified in the USBC, are subject to the following:
 - (1) The lower and upper end of the density range set forth in the Comprehensive Plan applicable to the application property is increased by 17 percent for purposes of calculating the potential density which may be approved by the Board.
 - (2) For the purposes of administration of this Section 5101, the applicable density range is determined in accordance with subsection 5101.4.D when one is not specified in the Comprehensive Plan in terms of dwelling units per acre.
 - (3) The provision of affordable dwelling units or, in the case of a modification approved by the ADU Advisory Board, the conveyance of land, contribution to the Fairfax County Housing Trust Fund or combination thereof, as provided for in subsection 5101.8.E(3) below, satisfies the development criteria for the provision of affordable housing.
 - (4) Required affordable dwelling units must comply with the following:
 - (a) If the total number of dwelling units approved by the Board or if the total number of dwelling units shown on the subsequent site plan or subdivision plat is less than the total number approved by the Board, results in a density which is at or below the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling developments, then no affordable dwelling units are required and the applicable zoning district regulations for affordable dwelling unit developments do not apply.
 - (b) If the total number of dwelling units approved by the Board or if the total number of dwelling units shown on the subsequent site plan or subdivision plat is less than the total number approved by the Board, results in a density which is above the low end of the density range specified in the Comprehensive Plan before application of the bonus density permitted for affordable dwelling unit developments, affordable dwelling units for which the rental or sales price is controlled in accordance with the provisions of this section must be provided in accordance with the following formulas:
 1. For developments with 50 percent or less of the required parking for multifamily dwelling units provided in the above- or below-surface structures:

$$ADU\% = 6.25 \times \frac{A-L}{1.17(H-L)}$$

2. For developments with more than 50 percent of the required parking for multifamily dwelling units provided in above- or below-surface structures:

$$ADU\% = 5.0 \times \frac{A-L}{1.17(H-L)}$$

3. The terms uses in these formulas are as described in subsection 5101.4.A(4)(a) above.
- (c) The requirement for affordable dwelling units may not exceed either 6.25 percent in accordance with subsection (a)1 above or 5.0 percent in accordance with subsection (a)2 above, as applicable, for those developments in which a 17 percent increase in density has been applied to the density range specified in the Comprehensive Plan.
- C. The requirement for affordable dwelling units, as calculated in accordance with the above subsections, is rounded down when the fractional unit is less than 0.5 and is rounded up when the fractional unit is greater than 0.5 to produce an additional affordable dwelling unit.
- D. Where the Comprehensive Plan does not specify a density range in terms of dwelling units per acre, the following applies:
 - (1) If the plan specifies an upper density limit in terms of dwelling units per acre, but there is no lower density limit, then the low end of the density range is 50 percent of the upper density limit specified in the plan.
 - (2) If the plan specifies a maximum number of dwelling units for an area, but no density range in terms of dwelling units per acre is specified, the density range is determined as follows:
 - (a) The upper density limit is equal to the maximum number of dwelling units specified in the plan divided by the land area covered by the plan recommendation, and
 - (b) The lower density limit is equal to 50 percent of the upper density limit calculated above.
 - (3) If the plan specifies a square footage or floor area ratio (FAR) range for residential uses for a specific area, but no density range in terms of dwelling units per acre:
 - (a) The dwelling unit per acre density range for single-family dwelling unit developments and multifamily dwelling unit developments that do not have an elevator, or have an elevator and are three stories or less in height, is determined by dividing the residential square footage specified in the Comprehensive Plan by an average dwelling unit size for the proposed dwelling unit type within the development.
 - (b) The dwelling unit per acre density range for multifamily dwelling unit developments consisting of four stories or more with an elevator, the dwelling unit per acre density range is determined by multiplying the residential square footage specified in the Comprehensive Plan by 85 percent, and dividing that product by an average dwelling unit size for the proposed dwelling unit type within the development.
 - (4) If the plan specifies only a maximum square footage or FAR, and does not specify residential density, the residential density range is determined as follows:
 - (a) The upper density limit is equal to the maximum number of dwelling units calculated in subsections A, A(4)(b), or C as applicable, divided by the land area covered by the plan recommendation, and
 - (b) The lower density limit is equal to 50 percent of the upper density limit calculated in accordance with subsection (a) above.

E. Opt-In Provisions

- (1)** Any developer may provide affordable dwelling units in any residential development in the R-2 through R-30 and P Districts that does not otherwise require affordable dwelling units under this section. Development is subject to the applicable zoning district regulations for affordable dwelling unit developments as modified by the following:
 - (a)** For single-family detached, single-family attached, and stacked townhouse dwelling unit developments, a density bonus of up to 20 percent may be approved by the County, if not less than 12.5 percent of the total number of dwelling units are provided as affordable dwelling units.
 - (b)** For multifamily dwelling unit structures that do not have an elevator, or have an elevator and are three stories or less in height:
 - 1.** A density bonus of up to ten percent may be approved by the County, if not less than 6.25 percent of the total number of dwelling units are provided as affordable dwelling units; or
 - 2.** A density bonus of between ten and 20 percent may be approved by the County, if not less than 12.5 percent of the total number of dwelling units are provided as affordable dwelling units.
 - (c)** For multifamily dwelling unit structures that have an elevator and are four stories or more in height:
 - 1.** If 50 percent or less of the required parking is provided in parking structures, a density bonus up to 17 percent may be approved by the County, if not less than 6.25 percent of the total number of dwelling units are provided as affordable dwelling units; or
 - 2.** If more than 50 percent of the required parking is provided in parking structures, a density bonus of up to 17 percent may be approved by the County, if not less than five percent of the total number of dwelling units are provided as affordable dwelling units.
 - (d)** The affordable dwelling units must comply with all applicable provisions of this section and be of the same dwelling unit type as the market rate units constructed on the site to qualify for consideration of a density bonus.
 - (e)** The Affordable Dwelling Unit Advisory Board does not have authority to modify the percentage of affordable dwelling units required under this subsection 5101.2, nor to allow the construction of affordable dwelling units that are of a different dwelling unit type from the market rate units on the site.
- (2)** For developments that were rezoned before July 31, 1990:
 - (a)** For single-family dwelling unit developments which are not otherwise exempt under subsection 5101.3 above, the total maximum number of dwelling units permitted under the approved density, exclusive of additional units allowed in accordance with this subsection may be increased by up to 20 percent.
 - 1.** If a 20 percent increase in density is obtained, not less than 12.5 percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.

2. If a density increase of less than 20 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 20 to 12.5 ratio between the density increase and the affordable dwelling units.
 3. If no density increase is achieved, no affordable dwelling units are required.
- (b) For developments consisting of non-elevator multifamily dwelling unit structures, or elevator multifamily dwelling unit structures which are three stories or less in height, which are not otherwise exempt under subsection 5101.3 above, the total maximum number of dwelling units permitted under the approved density, exclusive of additional units allowed in accordance with this subsection may be increased by up to 20 percent.
1. If a 20 percent increase in density is obtained, not less than 12.5 percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.
 2. If a density increase of less than 20 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 20 to 12.5 ratio between the density increase and the affordable dwelling units.
 3. If no density increase is achieved, no affordable dwelling units are required.
- (3) For developments, which were rezoned before January 31, 2004 and are not otherwise exempt under subsection 5101.3 above, for elevator multifamily dwelling unit structures that are to be four stories or more in height and constructed of Building Construction Type 5 (combustible) as specified in the USBC:
- (a) The total maximum number of dwelling units permitted under the approved density applicable to the property, exclusive of additional units allowed in accordance with this subsection 5101.4.E, may be increased by up to 17 percent.
1. For developments with 50 percent or less of the required parking for multifamily dwelling units provided in above- or below-surface structures:
 - a. If a 17 percent increase in density is obtained, not less than 6.25 percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.
 - b. If a density increase of less than 17 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 17 to 6.25 ratio between the density increase and the affordable dwelling units.
 - c. If no density increase is achieved, no affordable dwelling units are required.
 2. For developments with more than 50 percent of the required parking for multifamily dwelling units provided in above- or below-surface structures:
 - a. If a 17 percent increase in density is obtained, not less than five percent of the adjusted total maximum number of dwelling units must be affordable dwelling units.
 - b. If a density increase of less than 17 percent is obtained, then the percentage of affordable dwelling units required is reduced to maintain a 17 to five ratio between the density increase and the affordable dwelling units.

- c. If no density increase is achieved on the property, no affordable dwelling units are required.

5. Additional Development Regulations

A. Compliance with Zoning District Regulations

Any development that provides affordable dwelling units on-site or that includes bonus market rate dwelling units on-site in accordance with the provisions of this section must comply with the respective zoning district regulations, including but not limited to bulk regulations, unit type, open space, and lot size regulations, which apply to affordable dwelling unit developments.

B. Integration and Dispersion of Affordable Dwelling Units

- (1) In affordable dwelling unit developments where the dwelling unit type for the affordable dwelling unit is different from that of the market rate units, the affordable dwelling units must be integrated within the developments as determined either by the Board in conjunction with a rezoning, PRC plan, special exception, or other development plan approval or by the Zoning Administrator in conjunction with a by right subdivision or site plan approval.
- (2) In affordable housing developments where the affordable dwelling units are provided in a dwelling unit type that is the same as the market rate dwelling units, the affordable dwelling units must be dispersed among the market rate dwelling units as determined by the Board or the Zoning Administrator.

C. Required Bedroom Mix

In multifamily dwelling developments, the number of bedrooms in affordable dwelling units must be proportional to the bedroom mix of market rate units, unless the owner elects to provide a higher percentage of affordable dwelling units with a greater bedroom count.

D. Provisions for Manufactured Home Parks

To encourage the redevelopment of manufactured home parks to house low and moderate income families in Fairfax County, in conjunction with the review and approval of a rezoning application and proffered generalized development plan, the Board may grant an increase in the number of mobile homes or dwelling units per acre permitted in the R-MHP District by a factor of 50 percent. Where deemed necessary, as part of that approval for the provision of moderately-priced housing units, the Board may waive other regulations of the R-MHP District and the provisions of subsection 5100.2.E(2) related to lots comprised of marine clays.

E. Affordable Dwelling Unit Specifications

- (1) The Fairfax County Redevelopment and Housing Authority ("the Authority") has the authority to develop specifications for the prototype affordable housing products both for sale and rental, which specifications must be reviewed and approved by the Affordable Dwelling Unit Advisory Board before becoming effective. All building plans for affordable dwelling units must comply with the specifications.

- (2) Any applicant or owner may voluntarily construct affordable dwelling units to a standard in excess of such specifications, but only 50 percent of any added cost for exterior architectural compatibility upgrades (such as brick facade, shutters, bay windows, etc.) and additional landscaping on the affordable dwelling unit lot may be included within recoverable costs, up to a maximum of two percent of the sales price of the affordable dwelling unit, with the allowance for additional landscaping not to exceed one-half of the above-noted two percent maximum.

F. Limitations on Building Permits and Residential Use Permits

In the administration of the Affordable Dwelling Unit Program, the design and construction specifications established in both rental and sales prices must be structured to make the units affordable to households whose incomes do not exceed 70 percent of the median income of the Washington Standard Metropolitan Statistical Area.

- (1) In any development, except for one that is comprised solely of rental multifamily units, building permits may be issued for all of the dwelling units in the development; however, Residential Use Permits (“RUPs”) may not be issued for more than 75 percent of the total number of units in the development until RUPs have been issued for at least 75 percent of the affordable dwelling units in the development. Additionally, in accordance with subsection 5101.8 below, the required Notice of Availability and Sales Offering Agreement must be submitted before the issuance of the first RUP for any affordable dwelling unit in the development.
- (2) A development which is comprised solely of rental multifamily units is not subject to the limitations on the issuance of RUPs contained in this section, except in accordance with subsection 5101.8.B below, which requires execution of a Notice of Availability and Rental Offering Agreement before the issuance of the first RUP for the development.

6. Designation of Affordable Dwelling Units on Subdivision/Site Plans

- A.** Approved site plans and record subdivision plats for all development except rental multiple-family developments under single ownership must designate the specific lots or units which are the affordable dwelling units required in accordance with this section.
- B.** Approved site plans or building plans for all multifamily developments must note the number of affordable dwelling units by bedroom count and the number of market rate dwelling units by bedroom count, and that notation is a condition of the approved site plan and building plan to demonstrate compliance with 5101.5.C.
- C.** Affordable dwelling units included on approved site plans and recorded subdivision plats are deemed to be features shown for purposes of Va. Code Sect. 15.2-2232, and do not require further approvals pursuant Va. Code Sect. 15.2-2232 in the event The Authority acquires or leases such units.
- D.** For multiple section developments where all the required affordable dwelling units will not be provided in the first section of the development, the site plan or record subdivision plat for the first section and all subsequent sections must contain a notation identifying in which section(s) the affordable dwelling units will be or have been provided and a total of all affordable dwelling units for which such site plan(s) or subdivision plat(s) have been approved.

7. Condominium Developments

A. Developments Initially Constructed as Condominiums

If a development is initially built as a condominium and the development is subject to the requirements of this Section 5101, the affordable dwelling units required under this section must be specifically identified on the approved site plan and building plans, and designated in the recorded condominium declaration.

B. Developments Initially Constructed as Rental Projects

If a development was initially built as a rental project under single ownership and was subject to the requirements of this section and is later converted to a condominium:

- (1) The provisions of subsection 5101.4 above apply.
- (2) The affordable dwelling units required under this section must be specifically identified by unit number in the recorded condominium declaration.
- (3) The sales price for the affordable dwelling units being converted will be established by the County Executive under this section. If the owner of the condominium conversion elects to renovate the affordable dwelling units, the Affordable Dwelling Unit Advisory Board will consider the reasonable cost of labor and materials associated with the renovation, and costs will be factored into the Advisory Board's recommendation to the County Executive regarding the permissible sales prices for the renovated affordable dwelling units.
- (4) For any condominium conversion development for which an application for registration of a condominium conversion was filed with the Virginia Real Estate Commission in accordance with Va. Code Sect. 55-79.89, as amended, after February 28, 2006, the affordable dwelling units may not be retained as rental units within a condominium conversion development if such units are also subject to condominium conversion.
- (5) For any condominium conversion development for which the initial sale of individual units occurred on or after February 28, 2006, the term of sales price control for affordable dwelling units must be for a period of 30 years and the units must be priced in accordance with the provisions of this subsection. Upon any resale or transfer of an affordable dwelling unit within the initial 30-year period of sales price control, the sales prices for each subsequent resale or transfer for each such affordable dwelling unit to a new owner must be controlled for a new 30-year period commencing on the date of the resale or transfer. Each initial 30-year control period and each subsequent 30-year control period may be referred to as the renewable sale price control period or control period.
- (6) For any condominium conversion development for which an application for registration of the condominium conversion was filed with the Virginia Real Estate Commission in accordance with Va. Code Sect. 55-79.89, as amended, on or before February 28, 2006, the affordable dwelling units may be retained as rental units within the development. The condominium declaration and an amended covenant associated with the affordable dwelling units must specifically set forth:
 - (a) The term of sales price control for affordable dwelling units for condominium conversion developments for which the initial sale of individual units occurred

before February 28, 2006 must be for a period of 20 years from the date of issuance of the first RUP for the affordable dwelling units required for the development.

- (b) All rental affordable dwelling units within the development must be transferred to the same entity or individual.
 - (c) The affordable dwelling units must be rented in accordance with the rental provisions of the ADU Program, including but not limited to, pricing and monthly reporting, and no additional condominium or homeowner association fees may be assessed to the tenants of the affordable dwelling units.
 - (d) Parking for the affordable dwelling units must be provided in accordance with the applicable provisions of the Zoning Ordinance with at least the minimum number of required spaces retained and made available for use by the affordable dwelling unit tenants.
 - (e) The affordable dwelling units must be provided in substantially the same bedroom mix as the market rate units in the development.
 - (f) The tenants of the rental affordable dwelling units must have access to all the site amenities that were provided when the affordable dwelling units were originally established in the development.
- (7) All other covenants set forth in the original covenants and all regulations set forth in the Zoning Ordinance must remain in full force and effect.
 - (8) The rental tenant occupants of the affordable dwelling units subject to the condominium conversion must have the right to purchase the dwelling unit they occupy at the sales price established by the County Executive. The Authority must have the right to purchase any or all of the affordable dwelling units that are not purchased by those rental tenant occupants at the sales price established for those units by the County Executive under this section and in accordance with subsection 5101.8.C(2)(b) below.

8. Administration of ADU Program

A. For-Sale Affordable Dwelling Units

(1) Administrative Authority

The sale of affordable dwelling units is regulated by the Authority. The Authority may adopt reasonable rules and regulations to assist in the regulation and monitoring of the sale and resale of affordable dwelling units, which may include giving a priority to persons who live or work in Fairfax County.

(2) Initial Right to Purchase

(a) The Authority has an exclusive right to purchase up to one-third of the for-sale affordable dwelling units within a development for a 90-day period beginning on the date that a complete Notice of Availability and ADU Sales Offering Agreement, submitted by the owner, is executed by the Redevelopment and Housing Authority.

1. The notice must be in writing and may be sent by the owner at any time after the issuance of a building permit for affordable dwelling unit and approval of the sales price for the unit by the County Executive, but must occur before the

issuance of the first RUP for any affordable dwelling unit in the development. The notice must advise the Authority that a particular affordable dwelling unit or units are or will be completed and ready for purchase, and must include specific identification of the unit or units being offered; the number of bedrooms, floor area, and amenities for each unit; the approved sales price for each unit, and evidence of issuance of a building permit(s) for the unit(s).

2. If the Authority elects to purchase a particular affordable dwelling unit, the Redevelopment and Housing Authority will so notify the owner in writing and an all-cash closing must occur within 30 days from the end of the respective 90-day period, provided a RUP has been issued for the unit before closing.

- (b) The remaining two-thirds of the for-sale affordable dwelling units within a development and any units that the Authority does not elect to purchase must be offered for sale exclusively for a 90-day period to persons who meet the income criteria established by the Redevelopment and Housing Authority, and who have been issued a Certificate of Qualification by the Redevelopment and Housing Authority. This 90-day period begins on the date that a complete Notice of Availability and ADU Sales Offering Agreement, submitted by the owner, is executed by the Redevelopment and Housing Authority.

1. The written notice may be sent by the owner at any time after the issuance of a building permit for the affordable dwelling unit and approval of the sales price for the unit by the County Executive. The Notice of Availability must:
 - a. Be in the form prescribed by the Redevelopment and Housing Authority;
 - b. Advise the Authority that a particular affordable dwelling unit or units are or will be completed and ready for purchase;
 - c. Include the information described in subsection B1 above; and
 - d. Provide marketing materials concerning the units and the development to be used in the sale of the units.
2. After the first 30 days of the 90-day period referenced in this subsection, the Authority may elect to purchase up to one-half of the affordable dwelling units offered under this subsection by giving written notice of its election to do so for those units then available within the 90-day period, which notice must provide for an all-cash closing within 30 days from the end of the 90-day period, provided a RUP has been issued before closing.

(3) Sale of Remaining Units to Nonprofit Housing Groups

- (a) After the first 60 days of the 90-day period(s) referenced in subsection (2) above, the affordable dwelling units not sold must be offered for sale to nonprofit housing groups, as designated by the County Executive, subject to the established affordable dwelling unit prices and the requirements of this section. The nonprofit housing groups have a 30-day period within which to commit to purchase the units. This 30-day period begins on the date of receipt of written notification from the owner, sent by registered or certified mail, advising them that an affordable dwelling unit is or will be ready for purchase.

- (b) The notice must state the number of bedrooms, floor area and amenities for each unit offered for sale. The written notice may be sent by the owner any time after the commencement of the 90-day period referenced in subsection (2) above.
- (c) If a nonprofit housing group elects to purchase a particular affordable dwelling unit, it must so notify the owner in writing and an all-cash closing must occur within 30 days after the end of the 30-day period, provided a RUP has been issued for the unit before closing.

(4) Sale to General Public

After the expiration of the time period(s) referenced in subsections (2) and (3) above, the affordable dwelling units not sold may be offered to the general public as for sale units subject to established affordable dwelling unit prices and the requirements of this section.

(5) Sales Prices

- (a) A schedule of County-wide cost factors and the cost calculation formula used to determine sales prices will be established and may be amended periodically by the County Executive, based upon the following:
 1. A determination of all ordinary, necessary, and reasonable costs required to construct the various affordable dwelling unit prototype dwellings by private industry in Fairfax County;
 2. Consideration by the County Executive of written comment from the public, the Authority, and the Affordable Dwelling Unit Advisory Board; and
 3. Other information which may be available, such as the area's current general market and economic conditions.
- (b) Sales prices include, among other costs, a marketing and commission allowance of 1.5 percent of the sales price for the affordable dwelling unit, provisions for builder-paid permanent mortgage placement costs and buy-down fees, and closing costs, except pre-paid expenses required at settlement, but do not include the cost of land.
- (c) There will be a semiannual review and possible adjustment in affordable dwelling unit sales prices which will then be applied to the affordable dwelling unit sales prices initially established by the County Executive adjusted according to the percentage change in the various cost elements as indicated by the U.S. Department of Commerce's Composite Construction Cost Index or such other comparable index or indices selected by the County Executive and recommended by the Affordable Dwelling Unit Advisory Board.
- (d) The sales prices for affordable dwelling units within a development must be established so that the owner/applicant does not suffer economic loss as a result of providing the required affordable dwelling units. "Economic loss" means that the owner or applicant of a development fails to recoup the cost of construction and certain allowances determined by the County Executive for the affordable dwelling units in accordance with this section, exclusive of the land acquisition cost and cost voluntarily incurred, but not authorized under this section, upon the sale of an affordable dwelling unit.

- (e) For the purposes of this section, the “annual household income” does not include the income of any live-in aide when determining the eligibility of the qualified household, provided such live-in aide meets the standards set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Article 24, of the Code of Federal Regulations, Section CFR 5.403 and 982.316, and is further subject to Public and Indian Housing Notices PIH 2008-20 and 2009-22 and any future applicable notices issued by HUD.

B. Rental Affordable Dwelling Units

(1) Administrative Authority

The Authority may adopt reasonable rules and regulations to assist in the regulation and monitoring of the rental of affordable dwelling units, which may include giving a priority to persons who live or work in Fairfax County.

(2) Initial Right to Lease

- (a) The Redevelopment and Housing Authority or its designee has an exclusive right to lease up to one-third of the rental affordable dwelling units within a single-family detached or attached dwelling unit development during the control period.
 1. For the initial rentals of units within a single-family detached or attached dwelling unit development or multifamily dwelling development, the owner must send the Redevelopment and Housing Authority a Notice of Availability and ADU Rental Offering Agreement in a form prescribed by the Authority, to advise that a particular affordable dwelling unit or units are or will be completed and ready for rental. The written notice may be sent by the owner any time after the issuance of a building permit for the affordable dwelling units which are being offered for rental. The Notice of Availability and ADU Rental Offering Agreement must be submitted to and executed by the Authority before the issuance of the first RUP for any dwelling within the development. The notice must state the number of bedrooms, floor area, amenities and rent for each unit offered for rental. If the Authority elects to assume control for a particular affordable dwelling unit, the Redevelopment and Housing Authority will notify the owner in writing within 30 days from the execution of the notice by the Redevelopment and Housing Authority.
 2. For multifamily dwelling developments, for 30 days after execution of the Notice of Availability described in subsection 1 by the Authority, up to one-third of the rental affordable dwelling units, which units must be of proportional bedroom count to the market rate units in the multifamily development, must be made available to households meeting owner’s normal rental criteria, other than income, having state or local rental subsidies, and certified as eligible by the Authority at rents affordable to households with incomes up to 50 percent of the Washington Standard Metropolitan Statistical Area median income. If the name of a qualifying tenant is not made available to the owner by the Authority, at the end of the 30-day notice period, the owner may rent the unit(s) to households with income up to 50 percent of the median income for the Washington Standard Metropolitan Statistical Area at a rent affordable to such a household.

- (b) At the owner's option, the Authority may lease additional rental units at the affordable dwelling unit or market rent as appropriate.
- (c) The remaining two-thirds of the for-rent affordable dwelling units within a development, which units must be of proportional bedroom count to the market rate units in the multifamily development, must be offered to persons who meet the established income criteria.
 1. Any affordable dwelling units required under this section that are not leased by the Authority must be leased for a lease period of between six months and one year to tenants who meet the eligibility criteria established by the Authority. The lease agreements for those units must include conditions that:
 - a. Require the tenant to occupy the unit as his or her domicile,
 - b. Prohibit the subleasing of the unit;
 - c. Require continued compliance with the eligibility criteria established by the Authority; and
 - d. Require the tenant to annually verify under oath, on a form approved by the Authority, his or her annual income and other facts that the landlord may require in order to ensure that the tenant continues to meet the eligibility criteria established by the Authority.

(3) Continued Tenant Eligibility Required

- (a) Eligible tenants must continue to meet the income criteria established by the Authority in order to continue occupancy of the affordable dwelling unit. However, a tenant who no longer meets such criteria may continue to occupy an affordable dwelling unit until the end of the lease term. Affordable dwelling units not leased by the Authority may not be subleased.
- (b) By the end of each month, the owner of a development containing rental affordable dwelling units leased to individuals other than the Authority must provide the Authority with a statement verified under oath which certifies the following as of the first of such month:
 1. The address and name of the development and the name of the owner.
 2. The number of affordable dwelling units by bedroom count, other than those leased to the Authority, which are vacant.
 3. The number of affordable dwelling units by bedroom count which are leased to individuals other than the Authority. For each such unit, the statement must contain the following information:
 4. The unit address and bedroom count.
 5. The tenant's name and household size.
 6. The effective date of the lease.
 7. The tenant's (household) income as of the date of the lease.
 8. The current monthly rent.
 9. That to the best of owner's information and belief, the tenants who lease affordable dwelling units meet the eligibility criteria established by the Authority.

10. The owner must provide the Authority with a copy of each new or revised annual tenant verification obtained from the renters of affordable dwelling units in accordance with subsection 5101.8.B(2)(c) above.

(4) Rental Prices and Cost Factors

- (a) For single-family detached or attached dwelling units, County-wide rental prices are established initially by the County Executive, based upon the following:
 1. A determination of all ordinary, necessary, and reasonable costs required to construct and market the required number of affordable dwelling rental units by private industry in the area;
 2. Consideration by the County Executive of written comments from the public, the Authority, and the Affordable Dwelling Unit Advisory Board;
 3. Other information which may be available, such as the area's current general market and economic conditions; and
 4. Consideration will be given to reasonable and customary allowances in the rental industry for construction, financing, and operating costs of the rental units.

- (b) For multifamily dwelling units, County-wide rental prices are established by the County Executive in accordance with the following:

1. Two-thirds of the affordable units in multifamily dwelling unit structure developments, which are not otherwise exempt under subsection 5101.3 above, are established according to the formula below which is based on 65 percent of the median income for the Washington Standard Metropolitan Statistical Area.
2. This base figure will be adjusted by the following factors for different multifamily dwelling unit sizes based on the number of bedrooms in the dwelling unit:

| Number of Bedrooms | Adjustment Factor |
|------------------------|-------------------|
| Efficiency (0 bedroom) | 70% |
| 1 Bedroom | 80% |
| 2 Bedroom | 90% |
| 3 Bedroom | 100% |

3. The result of this calculation for each size multifamily dwelling unit is then divided by 12, then multiplied by 25 percent and rounded to the nearest whole number to establish the rent for the unit, excluding utilities.
4. One-third of the affordable units in multifamily dwelling unit structure developments, which are not otherwise exempt under subsection 5101.3 above, are established according to the following formula which is based on 50 percent of the median income for the Washington Standard Metropolitan Statistical Area. This base figure will be adjusted by the same factors set forth in subsection 2 above and the results of this calculation for each size dwelling unit is then divided by 12, then multiplied by 25 percent and rounded to the nearest whole number to establish the rent for the unit, excluding utilities.
5. Rental prices for affordable dwelling units in independent living facility projects which have a monthly charge that combines rent with a service package will be

established on a case by case basis after consideration of written comments from the public, the Authority, and the Affordable Dwelling Unit Advisory Board.

- (c) Rental prices for affordable dwelling units must be established so the owner/applicant does not suffer economic loss on the development solely as a result of providing rental affordable dwelling units.
- (d) There will be a semiannual review and possible adjustment in affordable dwelling unit rental prices which will then be applied to the affordable dwelling unit rental prices initially established by the County Executive, adjusted according to the percentage change in the various cost elements as indicated by the U. S. Department of Commerce's Composite Construction Cost Index or such other comparable index or indices that are selected by the County Executive and recommended by the Affordable Dwelling Unit Advisory Board. In setting adjusted rental prices, the County Executive may establish different rental classifications and prices which reflect the age and condition of the various rental developments within Fairfax County. Rental prices for multifamily dwelling units will be adjusted in accordance with the formulas set forth in subsection (b) above.
- (e) For the purposes of the subsection, the "annual household income" does not include the income of any live-in aide when determining the eligibility of the qualified household, provided such live-in aide meets the standards set forth in the U.S. Department of Housing and Urban Development (HUD) regulations, Article 24, of the Code of Federal Regulations, Section CFR 5.403 and 982.316, and is further subject to Public and Indian Housing Notices PIH 2008-20 and 2009-22 and any future applicable notices issued by HUD.

C. Covenant, Price, and Financing Control of Affordable Dwelling Units

(1) Term of Affordable Dwelling Unit Price Control

Except as qualified by this section, subsequent price control of affordable dwelling units must comply with the following:

- (a) For affordable dwelling units for which the initial sale or rental occurred before March 31, 1998, the prices for subsequent resales and re-rentals must be controlled for a period of 50 years after the initial sale or rental transaction for the respective affordable dwelling unit, provided that the control period may be amended upon recordation of a revised covenant. The revised covenant is subject to the following:
 1. For individual affordable dwelling units conveyed before March 31, 1998, the owner may modify the existing covenant recorded with that conveyance by recording a revised covenant in the form prescribed by the Redevelopment and Housing Authority. If the recordation of such modified covenant occurs before February 28, 2006, the 15-year control period with respect to for sale units and the 20-year control period with respect to rental units is deemed to have commenced on March 31, 1998. If the recordation of the modified covenant occurs on or after February 28, 2006, the renewable sales price control period of 30 years applies with respect to for sale units and the 30-year control period with respect to rental units applies and is deemed to have

commenced on March 31, 1998. Any revised covenants hereafter recorded that reduce the control period from 50 years must expressly provide that the terms and conditions of other previously recorded covenants continue to apply, as amended to include terms and conditions in accordance with the terms required by this subsection (3).

- (b) For affordable dwelling units for which the initial sale/rental occurred on or after March 31, 1998, and before February 28, 2006, the prices for subsequent resales must be controlled for a period of 15 years and re-rentals must be controlled for a period of 20 years after the initial sale or rental transaction for the respective affordable dwelling unit; or
- (c) For affordable dwelling units for which the initial sale occurred on or after February 28, 2006, the price for subsequent resales must be controlled for a period of 30 years after the initial sale. However, upon any resale or transfer to a new owner of such affordable dwelling unit within the initial 30-year period of control, the prices for each subsequent resale or transfer to a new owner must be controlled for a new 30-year period commencing on the date of such resale or transfer of the affordable dwelling unit. Each initial 30-year control period and each renewable subsequent 30-year control period may be referred to as a sales price control period. For any affordable dwelling unit that is owned for an entire 30-year control period by the same individual(s), the price control term will expire and the first sale of the unit after such expiration must be in accordance with subsection (6) below; or
- (d) For affordable dwelling units for which the initial rental occurred on or after February 28, 2006, the prices for later re-rental must be controlled for a period of 30 years after the initial rental.

(2) Covenants Required for For-Sale Affordable Units

In developments containing affordable dwelling units offered for sale, Affordable Dwelling Unit Program covenants applicable to the affordable dwelling units, running in favor of and in the form prescribed by the Authority, must be recorded simultaneously with the final subdivision plat or, in the case of a condominium, recorded simultaneously with the condominium declaration. All initial and any subsequent or revised Affordable Dwelling Unit Program covenants thereafter recorded must expressly provide the following:

- (a) The dwelling unit may not be resold during any sales price control period set forth in this subsection 5101.8.C for an amount that exceeds the limits set by the County Executive and, before offering the dwelling unit for sale, the sales price must be approved by the Department of Housing and Community Development.
- (b) Each time the unit may be offered for resale during any sales price control period set forth in this subsection 5101.8.C it must first be offered exclusively through the Authority. The owner of each such unit to be resold must provide the Authority with written notification sent by certified mail that the affordable dwelling unit is being offered for sale. The Authority has the exclusive right to purchase the unit at a purchase price that does not exceed the control price of the unit at that time as established in accordance with this Part.

- (c) The Authority will notify the owner in writing within 30 days after receipt of the written notification from the owner advising whether or not the Authority will enter into a contract to purchase the unit on the form approved by the and subject to certain conditions, such as acceptable condition of title and acceptable physical and environmental conditions. An all cash closing must occur within 90 days after receipt by the Authority of the written notification of the owner offering the unit for sale, if all the such conditions of the contract are satisfied. The Authority may either take title to the affordable dwelling unit and amend and restate the covenants applicable to that unit to make the covenants consistent with the then current provisions of this section or may assign the contract of purchase to a qualified homebuyer with a condition of the assignment being that the amended and restated covenants would be recorded and effective as express terms of the deed of resale. Affordable dwelling units so acquired or contracted for purchase by the Authority must be resold to qualified homebuyers in accordance with the Affordable Dwelling Unit Program.
- (d) For the initial sale of an affordable dwelling unit after the expiration of any sales price control period set forth in this subsection 5101.8.C, it must first be offered exclusively to the Authority for 60 days. Regardless of whether or not the Authority purchases the unit, one-half of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) below) must be contributed to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County.
- (e) The unit is subject to the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance.
- (f) For the initial and revised covenants recorded before July 2, 2002:

 1. The covenants are senior to all instruments securing permanent financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest. However, the covenants may provide that, in the event of foreclosure, the covenants are released.
 2. Any or all financing documents must require the lender to provide to the County Executive and the Authority written notice of any delinquency or other event of default under a mortgage and that the Authority has the right for a 60-day period to cure such a default.
- (g) For any individual affordable dwelling unit initially conveyed between July 2, 2002 and February 28, 2006 and the resale of any individual affordable dwelling unit conveyed between July 2, 2002 and February 28, 2006, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002, and for initial and revised covenants recorded between July 2, 2002 and February 28, 2006:

 1. The covenants are senior to all instruments securing financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest, except that the covenants are released in the event of foreclosure by an Eligible Lender, as such term is defined in Section 9102, as and only to the extent provided for in subsection 5101.8.C(8)(b) below.

2. Any and all financing documents must require every Eligible Lender and every other lender secured by an individual for sale affordable dwelling unit to provide to the County Executive and the Authority written notice of any delinquency or other event of default under the deed of trust or mortgage and that the Authority has the right to cure such delinquency or other event of default within a period of 90 days immediately after receipt by the Authority of the notice.
 3. No sale, transfer or foreclosure affects the validity of the covenants except as expressly set forth in the provisions of the Affordable Dwelling Unit Program as set forth in this section.
 4. Each Eligible Lender and any other lender secured by an interest in the affordable dwelling unit must provide written notice of foreclosure to the County Executive and the Authority at least 90 days before foreclosure.
 5. The unit is subject to all of the provisions set forth in subsection 5101.8.C(8)(b) below and includes those provisions.
 6. The total aggregate amount of principal and accrued interest for all financing secured by an individual for sale affordable dwelling units may not exceed the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) below). Any financing in excess of the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) below) may not be secured by any interest in the applicable individual for sale affordable dwelling unit.
- (h) For any individual affordable dwelling unit initially conveyed on or after February 28, 2006, the resale during the sales price control period of any individual affordable dwelling unit conveyed on or after February 28, 2006 and for the conversion of rental affordable dwelling units to condominiums on or after February 28, 2006, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before February 28, 2006, and for initial and revised covenants recorded on or after February 28, 2006:
1. The covenants are senior to all instruments securing financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest, except that the covenants are released in the event of foreclosure by an Eligible Lender, as that term is defined in subsection 5101.8.C(8)(b) below, as and only to the extent provided for in subsection 5101.8.C(8)(b) below.
 2. Any and all financing documents must require every Eligible Lender and every other lender secured by an individual for sale affordable dwelling unit to provide to the County Executive and the Authority written notice of any delinquency or other event of default under the deed of trust or mortgage and that the Authority has the right to cure such delinquency or other event of default within a period of 90 days immediately after the Authority receives notice.
 3. No sale, transfer or foreclosure affects the validity of the covenants except as expressly set forth in the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance.

4. Each Eligible Lender and any other lender secured by an interest in the affordable dwelling unit must provide written notice of foreclosure to the County Executive and the Authority at least 90 days before foreclosure.
5. The unit is subject to all of the provisions set forth in subsection 5101.8.C(8)(b) below and includes those provisions.
6. The total aggregate amount of principal and accrued interest for all financing secured by an individual for sale affordable dwelling units may not exceed the owner's purchase price (as adjusted in accordance with subsection D below). Any financing in excess of the owner's purchase price (as adjusted in accordance with subsection D below) may not be secured by any interest in the applicable individual for sale affordable dwelling unit.
7. Upon any resale or transfer to a new owner of such affordable dwelling unit within the initial 30-year control period, the prices for each subsequent resale or transfer to a new owner must be controlled for a new 30-year period commencing on the date of that resale or transfer of the unit.

(3) Buyer's Notice of Covenants and Restrictions

- (a) At the time of the initial sale of an individual affordable dwelling unit, which sale occurs on or after March 31, 1998, the owner or applicant must provide in the sales contract for each affordable dwelling unit offered for sale a copy of the recorded covenant running with the land in favor of the Redevelopment and Housing Authority. The owner or applicant must include in the deed for each affordable dwelling unit sold an express statement that the affordable dwelling unit is subject to the terms and conditions of the Affordable Dwelling Unit Program covenants recorded in accordance with this section with a specific reference to the deed book and page where such covenants are recorded.
- (b) At the time of the initial sale or any resale of an individual affordable dwelling unit, which sale or resale occurs on or after July 2, 2002, the owner or applicant must also include in the deed for each affordable dwelling unit sold an express statement that the total aggregate amount of indebtedness that may be secured by the affordable dwelling unit is limited and that other terms and conditions apply, including but not limited to a right for the Authority or a nonprofit agency designated by the County Executive to acquire the affordable dwelling unit on certain terms in the event of a pending foreclosure sale, as set forth in the Affordable Dwelling Unit Program covenants or in the Affordable Dwelling Unit Program set forth in the Fairfax County Zoning Ordinance, as it may be amended.

(4) Authority's Right to Purchase Units or Qualify Purchasers

- (a) The owner of each affordable dwelling unit to be resold during any sales price control period and, subject to the provisions of subsection 5101.7.B(6) above, for the conversion of rental affordable dwelling units to condominium affordable dwelling units, must provide the Authority written notification sent by certified mail that the affordable dwelling unit is being offered for sale.
- (b) The Authority has the exclusive right to purchase that unit at a purchase price that may not exceed the control price of the unit at that time, as established in

accordance with this section and such owner must sell the unit to the Authority if requested.

- (c) Within 30 days after receipt of the written notification from the owner that the affordable dwelling unit is being offered for sale, the Authority must notify the owner in writing whether or not the Authority will enter into a contract to purchase the unit on the form approved by the Authority and subject to certain conditions, such as acceptable condition of title and acceptable physical and environmental conditions.
- (d) An all-cash closing must occur within 90 days after receipt by the Authority of the written notification of the owner offering the unit for sale if all conditions of the contract are satisfied.
- (e) The Authority may either take title to the affordable dwelling unit and amend and restate the covenants applicable to that unit to make the covenants consistent with the then current provisions of this section or may assign the contract of purchase to a qualified homebuyer with a condition of the assignment being that the amended and restated covenants would be recorded and effective as express terms of the deed of resale.
- (f) Affordable dwelling units acquired or contracted for purchase by the Authority must be resold to qualified homebuyers in accordance with its Affordable Dwelling Unit Program.
- (g) If the Authority does not elect to purchase an available affordable dwelling unit, for the first 60 days individual affordable dwelling units are offered for resale, the units must first be offered exclusively through the Authority to persons who meet Authority's criteria, and who have been issued a Certificate of Qualification by the Authority. Upon the expiration of the 60-day period, the unit may be offered for sale to the general public to persons who meet income requirements hereunder and at the current controlled price as set in accordance with subsection 5101.8 above.

(5) Sales Price and Adjustments

- (a) Affordable dwelling units offered for sale during any control period may not be offered for a price greater than the original selling price plus a percentage of the unit's original selling price equal to the increase in the U. S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive following consideration of the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the Authority in accordance with its regulations to be:
 1. Substantial and appropriate replacements or improvements of existing housing components; and/or
 2. Structural improvements made to the unit between the date of original sale and the date of resale, plus an allowance for payment of closing costs on behalf of the subsequent purchaser which must be paid by the seller.

- (b) Those features deemed to be substantial and appropriate replacements or improvements of housing components and structural improvements are as set forth by the Authority.
- (c) No increase in sales price is allowed for the payment of brokerage fees associated with the sale of the unit, except that:
 1. An increase of 1.5 percent of the resale price is allowed for marketing and transaction costs for units purchased and resold by the Authority; and
 2. Resales by other owners are allowed an increase of 1.5 percent of the sales price as a fee to be paid to a real estate broker or agent licensed to conduct residential real estate transactions in the State who meets the qualifications determined by the Redevelopment and Housing Authority and who serves as a dual agent for both the qualified buyer and the seller in the resale of the affordable dwelling unit in accordance with sales procedures approved by the Authority. The 1.5 percent fee must be paid to that real estate broker or agent by the seller at the time of settlement of the resale of the affordable dwelling unit as part of the disbursement of settlement proceeds.

(6) Initial Sale After End of Price Control Period

- (a) The Authority has the exclusive right to purchase an affordable dwelling unit at the initial sale after the end of any control period. The owner of each unit must provide the Authority with written notification sent by registered or certified mail that the unit is for sale. If the Authority elects to purchase such unit, the Authority will so notify the owner in writing within 30 days of receipt of the written notification from the owner and the all-cash closing must occur within 60 days after receiving notification.
- (b) Whether or not the Redevelopment and Housing Authority elects to purchase such unit, one-half of the amount of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price plus a percentage of the unit's selling price equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive following consideration of the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the Authority in accordance with its regulations to be (a) substantial and appropriate replacements or improvements of existing housing components; and/or (b) structural improvements made to the unit between the date of the owner's purchase and the date of resale must be contributed to the Fairfax County Housing Trust Fund to promote housing affordability in the County as part of the disbursement of settlements proceeds.
- (c) The equity interest of the Fairfax County Housing Trust Fund applies to each affordable dwelling unit. Notice of the Trust Fund's equity interest may be evidenced by a document recorded among the land records of Fairfax County, Virginia, encumbering any affordable dwelling unit.
- (d) Net sales price excludes closing costs such as title charges, transfer charges, recording charges, commission fees, points and similar charges related to the closing of the sale of the property paid by the seller.

- (e) All amounts necessary to pay and satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the unit, other than the equity interest of the Fairfax County Housing Trust Fund, must be paid by the seller. Any such amounts required to be paid by the seller may not reduce the amount, as determined in accordance with this subsection, required to be contributed to the Trust Fund in accordance with this subsection 5101.8.C(6).

(7) Covenants Required for Rental Affordable Units

- (a) In the case of a rental project having received zoning approval before February 28, 2006, where such approval includes a proffered condition or approved development plan that addresses affordable dwelling units in accordance with this section, first RUP for the development will not be issued and no offering for rent of any affordable dwelling units is permitted until the owner records a covenant running with the land in favor of the Authority which provides that for 20 years from the date of issuance of the first RUP for the affordable dwelling units required under this section, which date must be later specified in the covenant, that:
 - 1. No affordable dwelling unit may be rented for an amount that exceeds the limits set by the County Executive;
 - 2. The project is subject to the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance;
 - 3. The covenant is senior to all instruments securing permanent financing; and
 - 4. The covenant is binding upon all assignees, mortgagees, purchasers and other successors in interest.
- (b) In the case of a rental project that receives zoning approval on or after February 28, 2006, or that received zoning approval before February 28, 2006 where such approval does not include a proffered condition or approved development plan that addresses affordable dwelling units in accordance with this section, before the issuance of the first RUP for the development and the offering for rent of any affordable dwelling units, the owner must record a covenant running with the land in favor of the Authority which provides that for 30 years from the date of issuance of the first RUP for the affordable dwelling units required under this section, which date must be later specified in the covenant, that:
 - 1. No affordable dwelling unit may be rented for an amount that exceeds the limits set by the County Executive
 - 2. The project is subject to the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance
 - 3. The covenant is senior to all instruments securing permanent financing; and
 - 4. The covenant is binding upon all assignees, mortgagees, purchasers and other successors in interest.
- (c) For initial and revised covenants recorded:
 - 1. Before July 2, 2002, the covenants must provide that in the event of foreclosure, the covenants are released;
 - 2. Between July 2, 2002, and February 27, 2006, the covenants terminate in the event of the foreclosure sale of a rental project by an Eligible Lender, in accordance with subsection 5101.8.C(8)(b) below;

3. After February 28, 2006, the covenants remain in full force and effect in the event of the foreclosure sale of a rental project by an Eligible Lender, in accordance with 5101.8.C(8)(b) below. Additionally, before the issuance of the first RUP for any of the dwelling units within the development, the owner must provide the Notice of Availability and Offering Agreement required by subsection (a) above.

(d) Continual Applicability of Rental Rate Limits

Rentals after the initial rental during the 20- or 30-year control period, as applicable, may not exceed the rental rate established by the County Executive under subsection 5101.8.B(4)(d) above.

(e) Option for Rezoning and Payment

1. For multifamily dwelling re-rentals that were initially rented before February 28, 2006:
 - a. All of the relevant provisions of this section apply for the 20-year control period except as described below:
 - b. After the initial ten years and provision of 120 day written notice to the Authority and the tenants of the affordable dwelling units, the owner may elect to file a rezoning application and comply with the approved rezoning, or pay to the Fairfax County Housing Trust Fund an amount equivalent to the then fair market value of the land attributable to all bonus and affordable dwelling units and provide relocation assistance to the tenants of the affordable dwelling units in accordance with the requirements of Article 4 of Chapter 12 of the County Code.
 - c. If the requirements above are satisfied, the units previously controlled by this section as affordable dwelling units are released fully.
2. For multifamily dwelling re-rentals that were initially rented on or after February 28, 2006, all of the relevant provisions of this section apply for the 30-year control period; however, no early release of the covenants after the initial ten years is available.

(8) Requirements for Affordable Dwelling Unit Financing

The financing of affordable dwelling units provided in accordance with this section must comply with the following:

- (a) For initial and revised covenants recorded before July 2, 2002, the covenants must provide that:
 1. The covenants are senior to all instruments securing permanent financing, and are binding upon all assignees, mortgages, purchasers and other successors in interest. However, the covenants may provide that, in the event of foreclosure, the covenants are released.
 2. Any and all financing documents must require the lender to provide to the County Executive and the Authority written notice of any delinquency or other event of default under a mortgage and the Authority has the right for a 60-day period to cure such a default.

3. Any and all financing documents must provide that, in the event of foreclosure of projects and units subject to the requirements of this section that are comprised of rental or for sale affordable dwelling units, the lender must give written notice to the Authority of the foreclosure sale at least 30 days before the foreclosure sale and in the case of individual for sale affordable dwelling units, the Housing Authority has the right to cure the default.
- (b) For any individual affordable dwelling unit initially conveyed on or after July 2, 2002 and the resale of any individual affordable dwelling unit conveyed on or after July 2, 2002, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002, and for initial and revised covenants recorded on or after July 2, 2002:
1. The covenants are senior to all instruments securing financing, and are binding upon all assignees, mortgagees, purchasers and other successors in interest, except that the covenants are released in the event of foreclosure by an Eligible Lender, as and only to the extent provided for in subsection 5 below.
 2. Any and all financing documents must require every Eligible Lender and every other lender secured by an individual for sale affordable dwelling unit to provide to the County Executive and the Authority written notice of any delinquency or other event of default under the deed of trust or mortgage and that the Authority has the right to cure the delinquency or other event of default within a period of 90 days immediately after receipt by the Authority of the notice.
 3. No sale, transfer or foreclosure affects the validity of the covenants except as expressly set forth in the provisions of the Affordable Dwelling Unit Program as set forth in the Fairfax County Zoning Ordinance.
 4. The total aggregate amount of principal and accrued interest for all financing secured by an individual for sale affordable dwelling unit may not exceed the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) above). Any financing in excess of the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) above) may not be secured by any interest in the applicable individual for sale affordable dwelling unit.
 5. An Eligible Lender has the right to foreclose on a rental project or an affordable dwelling unit and the covenants on the rental project or affordable dwelling unit terminates upon foreclosure by the Eligible Lender if the rental project or the affordable dwelling unit is sold by a trustee on behalf of the Eligible Lender to a bona fide purchaser for value at a foreclosure sale, and all the requirements of the Affordable Dwelling Unit Program as set forth in this section, the covenants, and applicable regulations with respect to such foreclosure sale are satisfied.
 6. In the case of foreclosure on an individual for-sale affordable dwelling unit, the requirement for satisfaction of the covenants include but are not limited to the Eligible Lender having provided the County Executive and the Redevelopment and Housing Authority written notice of the foreclosure sale proposed and having provided the Right to Cure and the Right to Acquire, as such terms are defined in subsection 5101.8.C(8)(b)7 below. In the case of foreclosure on a

rental project, an Eligible Lender is not required to provide the Right to Cure and the Right to Acquire.

- 7.** Each Eligible Lender with respect to an individual for sale affordable dwelling unit must also provide a right to cure any delinquency or default (Right to Cure), and a right to acquire an individual for sale affordable dwelling unit subject to the foreclosure notice given in accordance with subsection 11 below (Right to Acquire).
- 8.** The Right to Cure or the Right to Acquire, as applicable, may be exercised by the Authority, or by a nonprofit agency designated by the County Executive in the event the Authority elects not to exercise its right, at any time during the 90-day period after the Authority has received notice of the delinquency or default or of the proposed foreclosure up to and including at such foreclosure sale. The affordable dwelling unit must be acquired for the purpose of resale of such unit to persons qualified under the Affordable Dwelling Unit Program and not for conversion of the affordable dwelling unit to a rental unit.
- 9.** The Right to Acquire entitles the Redevelopment and Housing Authority or the nonprofit agency designated by the County Executive to acquire the affordable dwelling unit at or before any foreclosure sale for which such notice has been given upon payment in full of the outstanding indebtedness on the affordable dwelling unit owed to the Eligible Lender including principal, interest, and fees that together in the aggregate do not exceed the amount of the owner's purchase price (as adjusted in accordance with subsection 5101.8.C(5) above), and other reasonable and customary costs and expenses (the Outstanding First Trust Debt), with no owner, prior owner or other party, whether secured or not, having any rights to compensation under such circumstances.
- 10.** If neither the Authority nor the nonprofit agency designated by the County Executive exercises the Right to Acquire and the individual for -sale affordable dwelling unit is sold for an amount greater than the Outstanding First Trust Debt, one-half of the amount in excess of the Outstanding First Trust Debt must be paid to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlement proceeds.
- 11.** Each Eligible Lender and any other lender secured by an interest in a rental project or an individual for sale affordable dwelling unit must provide written notice of foreclosure to the County Executive and the Authority at least 90 days before foreclosing on the rental project or individual for-sale affordable dwelling unit.
- 12.** All financing documents for financing secured by an individual for-sale affordable dwelling unit must state that the Eligible Lender's financing provides the Right to Cure and Right to Acquire which may be exercised by the Authority, or by a nonprofit agency designated by the County Executive in the event the Authority elects not to exercise its rights, at any time during such 90-day period after the Authority has received notice, as applicable, of the delinquency or default or of the proposed foreclosure up to and including at the foreclosure sale.

(9) Applicability of Restrictions to Pre-July 2, 2002 Covenants

The provisions set forth in subsections 5101.8.C(2)(f) and 5101.8.C(8)(b) above apply and the applicable covenants are deemed to incorporate such provisions, whether or not expressly set forth in such covenants, to any individual affordable dwelling unit initially conveyed on or after July 2, 2002 and the resale of any individual affordable dwelling unit conveyed on or after July 2, 2002, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002.

(10) Foreclosure Sale Proceeds to Housing Trust Fund

If any affordable dwelling unit is sold in a foreclosure sale after September 14, 2004, the following shares of the proceeds of the sale must be paid to the Fairfax County Housing Trust Fund to promote housing affordability in the County:

- (a)** For any individual affordable dwelling unit initially conveyed on or after July 2, 2002, and any individual affordable dwelling unit resold and conveyed on or after July 2, 2002, regardless of whether the covenants applicable to any such initial conveyance or resale conveyance were recorded before July 2, 2002, and for initial and revised covenants recorded on or after July 2, 2002, in the event that the individual for sale affordable dwelling unit is sold at the foreclosure sale for an amount greater than the Outstanding First Trust Debt, as that term is defined in subsection 5101.8.C(8)(b)9 above, one-half of the amount in excess of the Outstanding First Trust Debt must be paid to the Fairfax County Housing Trust Fund as part of the disbursement of settlement proceeds.
- (b)** For all other individual affordable dwelling units:
 - 1.** One-half of the amount of the difference between the net sales price paid by the purchaser at that sale and the foreclosed owner's purchase price plus a percentage of the unit's selling price equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area Index or other index selected by the County Executive following consideration of the recommendation by the Affordable Dwelling Unit Advisory Board, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the Redevelopment and Housing Authority in accordance with its regulations to be (a) substantial and appropriate replacements or improvements of existing housing component, and/or (b) structural improvements made to the unit between the date of the foreclosed owner's purchase and the date of resale (the "Housing Trust Fund Share") must be contributed to the Fairfax County Housing Trust Fund as part of the disbursement of settlement proceeds.
 - 2.** Net sales price excludes closing costs such as title charges, transfer charges, recording charges, commission fees, points and similar charges related to the closing of the sale of the property paid by the seller.
 - 3.** All amounts necessary to pay and satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the unit, other than the equity interest of the Fairfax County Housing Trust Fund, must be paid out of proceeds of the foreclosure sale that are not the Housing Trust Fund Share, as determined in

accordance with this subsection, or must be otherwise paid by the foreclosed owner.

4. Any amounts required to be paid by the foreclosed owner do not reduce the Housing Trust Fund Share, as determined in accordance with this subsection, which is to be contributed to the Fairfax County Housing Trust Fund in accordance with this subsection.

D. Occupancy of Affordable Dwelling Units

- (1) An individual must obtain a Certificate of Qualification from the Authority before purchasing an affordable dwelling unit. The Authority must determine that the applicant meets the criteria established by the Authority for low- and moderate-income persons before issuing a Certificate of Qualification.
- (2) An individual must meet the eligibility criteria established by the Authority for persons of low- and moderate -income before renting an affordable dwelling unit. they The landlord/owner is responsible for determining that the tenant meets the eligibility criteria.
- (3) It is a violation of this Ordinance for someone to sell an affordable dwelling unit to an individual who has not been issued a Certificate of Qualification by the Authority unless the circumstances in subsections 5101.8.A(4) and 5101.8.C(4) apply.
- (4) It is a violation of this Ordinance for someone to rent or continue to rent an affordable dwelling unit to an individual who does not meet or fails to continue to meet the income eligibility criteria established by the Authority unless subsection applies.
- (5) Purchasers or renters of affordable dwelling units must occupy the units as their domicile and must provide an executed affidavit on an annual basis certifying their continuing occupancy of the units. Owners of for sale affordable dwelling units must forward each such affidavit to the Authority on or before June 1 of each year that they own the unit. Renters must provide that affidavit to their landlords/owners by the date specified in their lease or is otherwise specified by the landlord/owner.
- (6) If the renter of an affordable dwelling unit fails to provide an executed affidavit to the landlord/owner in accordance with the preceding subsection within 30 days of a written request for such affidavit, then the lease automatically terminates, becomes null and void, and the occupant must vacate the unit within 30 days of written notice from the landlord/owner.
- (7) If a renter of an affordable dwelling unit no longer meets the eligibility criteria established by the Authority as a result of increased income or other factor, then at the end of the lease term, the occupant must vacate the unit unless subsection applies.
- (8) A default occurs if a renter fails to occupy a unit for a period in excess of 60 days, unless such failure is approved in writing by the Authority. The lease automatically terminates, becomes null and void, and the occupant must vacate the unit within 30 days of written notice from the landlord/owner.
- (9) In addition to subsections (6), (7), or (8) above, if the landlord/owner immediately designates an additional comparable unit as an affordable dwelling unit to be leased under the controlled rental price and requirements of this section, the renter of such unit referenced in subsections (6), (7), or (8) above may continue to lease such unit at the market value rent.

E. Modifications to the Affordable Dwelling Unit Program

- (1)** Requests for modifications to the requirements of the Affordable Dwelling Unit Program as applied to a given development may be submitted in writing to the ADU Advisory Board. The application must include an application fee as provided for in Section 8102 and the applicant must specify the precise requirement for which a modification is being sought and must provide a description of the requested modification and justification for the request. In the case of a modification request filed under subsection (3) below, the applicant must demonstrate in detail how the request complies with the required findings by the ADU Advisory Board for the modification as listed in subsection (4) below and why the requirements of this section cannot be met on the applicant's property.
- (2)** An applicant must promptly provide any additional information in support of the request for a modification that the Affordable Dwelling Unit Advisory Board may require.
- (3)** In addition, in exceptional cases, instead of building the required number of affordable dwelling units, the ADU Advisory Board may permit an applicant to:
 - (a)** Convey to the Fairfax Redevelopment and Housing Authority the equivalent amount of land within the development that would be necessary to provide the required number of affordable dwelling units. In such instances, the total number of dwelling units which the applicant may build on the remainder of the site is reduced by the number of affordable dwelling units required in accordance with subsection 5101.4 above; or
 - (b)** Contribute to the Fairfax County Housing Trust Fund an amount equivalent to the fair market value for the lot on which each affordable dwelling unit would otherwise have been constructed; or
 - (c)** Provide any combination of affordable dwelling units, land, or contribution to the Fairfax County Housing Trust Fund.
- (4)** Permitting an applicant to meet the requirements of the Affordable Dwelling Unit Program by providing either land or contributions to the Fairfax County Housing Trust Fund in accordance with subsection (3) above is not favored. However, modifications may be allowed upon demonstration by the applicant and a finding by the ADU Advisory Board that:
 - (a)** The provision of all the affordable dwelling units required is not physically or economically feasible;
 - (b)** The overall public benefit outweighs the benefit of the applicant constructing affordable dwelling units on the site; and
 - (c)** The alternative will achieve the objective of providing a broad range of housing opportunities throughout Fairfax County.
- (5)** The ADU Advisory Board will act on requests for modifications within 90 days of receipt of a complete application. The 90-day time period is tolled during the time it takes the applicant to provide information requested in accordance with subsection (2) above.
- (6)** The ADU Advisory Board may approve, deny, or approve in part a request for a modification filed in accordance with this subsection.
- (7)** Persons aggrieved by the affordable dwelling unit for sale and rental prices established by the County Executive under the provisions of this section, including decisions under

subsection 5101.7.B(3) above, may appeal those prices to the Board. The appeal must be filed with the Clerk to the Board and must specify the grounds upon which aggrieved and the basis upon which the applicant claims the established for sale or rental prices should be modified. The Board will act within 90 days of receipt of a complete application for appeal. An appeal to the Circuit Court is provided in subsection 5101.8.F below.

- (8) The time limits set forth in Va. Code Sections 15.2-2258 through 15.2-2261, will be tolled during the pendency of an application filed in accordance with subsections (1) or (7) above.

F. Enforcement and Court Appeals

- (1) Violations of this section are subject to the remedies and penalties in Section 8106.
- (2) The Board or its designee has all the enforcement authority provided under its Zoning and Subdivision Ordinances to enforce the provisions of the Affordable Housing Dwelling Unit Program.
- (3) In addition to the provisions of Va. Code Sect. 15.2-2311, any person aggrieved by a decision of the ADU Advisory Board or by the Board in the case of a decision made by the latter regarding an appeal of affordable dwelling unit for sale and rental prices, or by any decision made by an administrative officer in the administration or enforcement of the Affordable Dwelling Unit Program, may appeal such decision to the Circuit Court for Fairfax County by filing a petition of appeal which specifies the grounds upon which aggrieved within 30 days from the date of the decision.
- (4) Any petition of appeal properly filed under subsection (3) above, does not constitute a de novo proceeding and will be considered by the Circuit Court in a manner similar to petitions filed in accordance with Va. Code Sect. 15.2-2314.

9. Example Calculations for a FAR Based Comprehensive Plan Recommendation for Single-Family Attached or Stacked Townhouse Dwelling Unit Development

A. Assumptions

The following data points are required to calculate the ADU requirement for a new single-family attached or stacked townhouse development. In accordance with subsection 5101.4.A the site is subject to a 20 percent density bonus and 12.5 percent ADU requirement. The ADU requirement is calculated in accordance with subsection 5101.4.D.

Total Site Area: 19.92 acres (867,571 square feet)

Total Number of Single-Family Attached or Stacked Townhouse Dwelling Units: 158 units (7.93 du/ac)

Comprehensive Plan Recommendation: 0.5 FAR

Average Dwelling Unit Size: 2,300 square feet

B. Calculation of Required Affordable Dwelling Units:

Due to the Comprehensive Plan recommendation being FAR based rather than dwelling unit per acre, the 0.5 FAR recommendation must be converted using the site area in square feet, Comprehensive Plan FAR recommendation, and the average dwelling unit size provided by the applicant.

| | | | | |
|-----------------------------------|---|---|---|--|
| Maximum number of Dwelling Units: | = | $\frac{\text{Comp. Plan FAR Potential}}{\text{Average Dwelling Unit Size}}$ | = | $\frac{(\text{Site Area} \times \text{Comp Plan FAR})}{\text{Average Dwelling Unit Size}}$ |
| | = | $\frac{(867,571 \text{ sf} \times 0.5)}{2,300 \text{ sf}}$ | = | 188.6 dus (prior to density bonus) |

Once the maximum number of dwelling units is calculated, the maximum number needs to be applied to the subject property to determine the Comprehensive Plan upper density limit. The lower density limit is 50 percent of the upper density limit.

| | | | | | | |
|----------------------|---|--|---|--|---|------------|
| Upper Density Limit: | = | $\frac{\text{Maximum Number of Dwelling Units}}{\text{Land Area (Acres)}}$ | = | $\frac{188.6 \text{ dus}}{19.92 \text{ ac}}$ | = | 9.47 du/ac |
|----------------------|---|--|---|--|---|------------|

| | | | | | | |
|----------------------|---|--|---|------------------------------|---|------------|
| Lower Density Limit: | = | $\frac{\text{Upper Density Limit}}{2}$ | = | $\frac{9.47 \text{ dus}}{2}$ | = | 4.74 du/ac |
|----------------------|---|--|---|------------------------------|---|------------|

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 20 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|--------------------|------|---|-----|---|-------------|
| Adjusted High End: | 9.47 | x | 1.2 | = | 11.36 du/ac |
|--------------------|------|---|-----|---|-------------|

| | | | | | |
|-------------------|------|---|-----|---|------------|
| Adjusted Low End: | 4.74 | x | 1.2 | = | 5.69 du/ac |
|-------------------|------|---|-----|---|------------|

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted ranges that were calculated above.

| | | | |
|---------------------|--|--|--------------------------------|
| Calculation: | $\frac{(\text{Proposed Density} - \text{Low End of Density Range})}{(\text{Adjusted High End} - \text{Adjusted Low End})}$ | x | 12.5 |
| | = | $\frac{(7.93 - 4.74)}{(11.36 - 5.69)}$ | x 12.5 = 7.03% ADU requirement |

Therefore, 7% of the 158 single-family or stacked townhouse dwelling units are required to be ADUs.

| | | | | | |
|----------------|---------|---|-------|---|------------|
| ADUs Required: | 158 dus | x | 7.03% | = | 11.11 ADUs |
|----------------|---------|---|-------|---|------------|

* Rounded to 11 ADUs in accordance with subsection 5101.4.C.

10. Example Calculations Dwelling Units Per Acre Based Comprehensive Plan Recommendation for a Multifamily Dwelling Unit Development

A. Assumptions

The following data points are required to calculate the ADU requirement of new non-elevator or three story or less multifamily development. In accordance with subsection 5101.4.A, the site is subject to a 10 percent density bonus and 6.25 percent ADU requirement. (At the applicants option a 20% density bonus and 12.5 percent ADU requirement can be applied. The formula is the same as below with the replacement of bonus density and ADU requirement percentage.)

Total Site Area: 10 acres (435,600 sf)

Total Number of Multifamily Dwelling Units: 700 units (70 du/ac)

Comprehensive Plan Density Recommendation: 1,200 dus on 20 acres

B. Calculation of Required Affordable Dwelling Units:

Due to the Comprehensive Plan recommendation being designated for a larger area than subject property, the recommendation must be converted in a density recommendation (du/ac) for the High End of the Comprehensive Plan.

| | | | | | | |
|-------------------------------------|---|---|---|---|---|----------|
| High End Comp Plan Rec. in du/ac | = | $\frac{\text{Planned Units}}{\text{Plan Area}}$ | = | $\frac{1,200 \text{ du}}{20 \text{ acres}}$ | = | 60 du/ac |
|-------------------------------------|---|---|---|---|---|----------|

In accordance with subsection 5101.4.D, the Low End of density is 50 percent of the high end of the density range. Therefore, the range for this scenario becomes 30 – 60 du/ac.

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 10 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|--------------------|----|---|-----|---|----------|
| Adjusted High End: | 60 | x | 1.1 | = | 66 du/ac |
|--------------------|----|---|-----|---|----------|

| | | | | | |
|-------------------|----|---|-----|---|----------|
| Adjusted Low End: | 30 | x | 1.1 | = | 33 du/ac |
|-------------------|----|---|-----|---|----------|

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted ranges that were calculated above.

| | | | | |
|--------------|--|---|------|-------------------------|
| Calculation: | $\frac{(\text{Proposed Density} - \text{Low End of Density Range})}{(\text{Adjusted High End} - \text{Adjusted Low End})}$ | x | 6.25 | |
| | $= \frac{(70 - 30)}{(66 - 33)}$ | x | 6.25 | = 7.58% ADU requirement |

However, per subsection 5101.4.A, the maximum percentage of ADUs that can be required is 6.25% for the 700 multifamily dwelling units.

| | | | | | |
|----------------|---------|---|-------|---|------------|
| ADUs Required: | 700 dus | x | 6.25% | = | 43.75 ADUs |
|----------------|---------|---|-------|---|------------|

* Rounded to 44 ADUs in accordance with subsection 5101.4.C.

11. Example Calculations for a Mixed Dwelling Unit Development

A. Assumptions

The following data points are required to calculate the ADU requirement for new development with single-family attached or stacked townhouse dwellings and non-elevator or 3 story and less multifamily building. In accordance with subsection 5101.4.A(4)(a)1, the single-family attached and stacked townhouse dwellings are subject to a 20% bonus density and 12.5% ADU requirement. In accordance with subsection 5101.4.A(4)(a)2, the multifamily is subject to a 10% density bonus and 6.25% ADU requirement. Because the density bonus and ADU requirement is different for the proposed single-family attached or stacked townhouse dwellings and multifamily units, you calculate each out separately. (At the developer’s option, a 20 percent bonus density and 12.5 percent ADU requirement, may be applied. If they developer elects this option, there is no need to separately calculate the requirement for each unit type since they would have the same density bonus and ADU requirement.)

Total Site Area: 15.56 acres (677,793.6 sf)

Single-Family Attached or Stacked Townhouse Area: 5.28 acres (229,996.8 sf)

Multifamily Area: 10.28 acres (447,796.8 sf)

Total Number of Dwelling Units: 170 units (10.93 du/ac)

Single-Family Attached or Stacked Townhouse Dwelling Units: 50 units (9.47 du/ac)

Multifamily Dwelling Units: 120 units (11.67 du/ac)

Comprehensive Plan Density Range: 8-12 dwelling units per acre (du/ac)

B. Calculation of Required Affordable Dwelling Units:

(1) Multifamily, in accordance with subsection 5101.4.A(2):

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 10 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|--------------------|----|---|-----|---|------------|
| Adjusted High End: | 12 | x | 1.1 | = | 13.2 du/ac |
|--------------------|----|---|-----|---|------------|

| | | | | | |
|-------------------|---|---|-----|---|-----------|
| Adjusted Low End: | 8 | x | 1.1 | = | 8.8 du/ac |
|-------------------|---|---|-----|---|-----------|

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted range that was calculated above. The proposed density is based on the proposed multifamily units and land area associated with those units.

| | | |
|--------------|--|--|
| Calculation: | $\frac{\text{(Proposed Density – Low End of Density Range)}}{\text{(Adjusted High End – Adjusted Low End)}} \times 6.25$ | |
| | $= \frac{(11.67 - 8)}{(13.2 - 8.8)} \times 6.25 = 5.21\% \text{ ADU requirement}$ | |

Therefore, 5.21% of the 120 multifamily dwelling units are required to be ADUs.

| | | | | | |
|----------------|---------|---|-------|---|-----------|
| ADUs Required: | 120 dus | x | 5.21% | = | 6.25 ADUs |
|----------------|---------|---|-------|---|-----------|

(2) Single-family or Stacked, in accordance with subsection 5101.4.A(1):

The proposed density is based on the proposed single-family attached or stacked townhouse units and land area associated with those units. Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 20 percent bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|--------------------|----|---|-----|---|------------|
| Adjusted High End: | 12 | x | 1.2 | = | 14.4 du/ac |
|--------------------|----|---|-----|---|------------|

| | | | | | |
|-------------------|---|---|-----|---|-----------|
| Adjusted Low End: | 8 | x | 1.2 | = | 9.6 du/ac |
|-------------------|---|---|-----|---|-----------|

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted range that was calculated above.

| | | |
|--------------|--|--|
| Calculation: | $\frac{\text{(Proposed Density – Low End of Density Range)}}{\text{(Adjusted High End – Adjusted Low End)}} \times 12.5$ | |
| | $= \frac{(9.47 - 8)}{(14.4 - 9.6)} \times 12.5 = 3.83\% \text{ ADU requirement}$ | |

Therefore, 3.83% of the 50 multifamily dwelling units are required to be ADUs.

| | | | | | |
|----------------|--------|---|-------|---|-----------|
| ADUs Required: | 50 dus | x | 3.83% | = | 1.92 ADUs |
|----------------|--------|---|-------|---|-----------|

Total ADUs required: 6.25 from multifamily + 1.92 single-family attached or stacked = 8.17 ADUs

*Rounded to 8 ADUs in accordance with subsection 5101.4.C.

12. Example Calculations for a Mixed-Use Development

A. Assumptions

The following data points are required to calculate the ADU requirement for new development for a mixed use development with 300 unit four story multifamily building with

more than 50 percent of required parking provided in above- or below-surface structures and a separate building containing commercial uses. Per subsection 5101.4.E(3)(a)2, a 17 percent bonus density and 5 percent ADU requirement are applicable. (For developments with 50 percent or less of the required parking is located in above or below parking structure a 6.25 percent ADU requirement is applied.)

Total Site Area: 18.16 acres (791,049.6 square feet)

Residential Acreage: 11.73 acre (510,959 square feet)

Commercial Acreage: 6.43 acres (280,000 square feet)

Comprehensive Plan Recommendation: 0.5 FAR

Residential Gross Floor Area: 250,000 square feet

Total Residential Unit Count: 220 units (18.76 du/ac)

Average Dwelling Unit Size: 1,136 square feet

Commercial Gross Floor Area: 140,000 square feet

B. Calculation of Required Affordable Dwelling Units:

Due to the Comprehensive Plan recommendation being FAR based rather than dwelling unit per acre, the 0.5 FAR recommendation must be converted. However, because there are residential and commercial uses in the same building, we must adjust the Comprehensive Plan FAR by applying the percentage of residential uses within the building.

| | | | | |
|--------------------------------|---|---|--|--|
| Max. Number of Dwelling Units: | = | $\frac{\text{Comprehensive Plan FAR}}{\text{Average Dwelling Unit Size}}$ | = | $\frac{(\text{Res. Site Area} \times \text{Max. FAR}) \times 85\%}{\text{Average Dwelling Unit Size}}$ |
| | | = | $\frac{(510,959 \text{ sf} \times 0.5) \times 0.85}{1,136 \text{ sf}}$ | = 191.16 dus (prior to density bonus) |

Once the maximum number of dwelling units is calculated, the maximum number needs to be applied to the subject property to determine the density recommendation which in accordance with subsection 5101.4.D becomes the upper density limit and the lower density limit is 50% of the upper density limit.

| | | | | | | |
|----------------------|---|--|---|---|---|------------|
| Upper Density Limit: | = | $\frac{\text{Maximum Number of Dwelling Units}}{\text{Res. Land Area (in acres)}}$ | = | $\frac{191.16 \text{ dus}}{11.73 \text{ ac}}$ | = | 16.3 du/ac |
|----------------------|---|--|---|---|---|------------|

| | | | | | | |
|----------------------|---|--|---|------------------|---|------------|
| Lower Density Limit: | = | $\frac{\text{Upper Density Limit}}{2}$ | = | $\frac{16.3}{2}$ | = | 8.15 du/ac |
|----------------------|---|--|---|------------------|---|------------|

Therefore, the range for this scenario becomes 8.15 – 16.3 du/ac.

Before calculating the ADU percentage required for the project, the adjusted high and low end must be calculated. These data points are calculated by applying the 17% bonus density to the high and low end of the Comprehensive Plan recommendation range.

| | | | | | |
|--------------------|------|---|------|---|-------------|
| Adjusted High End: | 16.3 | x | 1.17 | = | 19.07 du/ac |
|--------------------|------|---|------|---|-------------|

| | | | | | |
|-------------------|------|---|------|---|------------|
| Adjusted Low End: | 8.15 | x | 1.17 | = | 9.54 du/ac |
|-------------------|------|---|------|---|------------|

The ADU percentage calculation can be performed with the use of the proposed density, low end of the Comprehensive Plan recommendation, and the adjusted range that was calculated above.

| | | | |
|---------------------|--|----------|---------------------------|
| Calculation: | (Proposed Density – Low End of Density Range) | x | 5 |
| | (Adjusted High End – Adjusted Low End) | | |
| 10.1/11.3 | = $\frac{(18.76 - 8.15)}{(19.07 - 9.54)}$ | x | 5 = 5.57% ADU requirement |

In accordance with Par. 5 of Sect. 2-804 the maximum ADU requirement is 5 percent of the 220 multifamily dwelling units.

| | | | | | |
|----------------|-----|---|----|---|---------|
| ADUs Required: | 220 | x | 5% | = | 11 ADUs |
|----------------|-----|---|----|---|---------|

5102. Earthborn Vibration Standards

1. Required Performance Level

No use, operation, or activity may cause or create earthborn vibrations in excess of the peak particle velocities prescribed below. However, extraction activity is subject to compliance with the performance standards presented in subsection 4102.6.G.

2. Administration of Vibration Standards

A. Generally

- (1) For the purpose of administering the vibration standards, the standards are divided into Groups I and II. Table 5102.2 sets forth the applicable performance standard that must be met in each zoning district.
- (2) The Zoning Administrator may require evidence that the applicant is able to conform to the standards of this section before a building permit is issued if a violation has occurred. The Zoning Administrator may require the applicant to submit, at the expense of the applicant, reports or the certified results of tests with respect to any current or proposed operation of the use that is involved in relation to conformity to such standards, which reports or test must be made by a competent laboratory or other agency.

B. Method of Measurement

- (1) Measurements are made at or beyond the adjacent lot line or the nearest district boundary line as indicated in Table 5102.1 below. Ground-transmitted vibration will be measured with a seismograph or other instruments capable of recording vibration displacement and frequency, particle velocity, or acceleration simultaneously in three mutually perpendicular directions.
- (2) The maximum particle velocity is the maximum vector sum of three mutually perpendicular components recorded simultaneously. Particle velocity may also be

expressed as 6.28 times the displacement in inches multiplied by the frequency in cycles per second.

- (3) For the purpose of this Ordinance, steady state vibrations are vibrations that are continuous, or vibrations in discrete impulses more frequent than 60 per minute. Discrete impulses that do not exceed 60 per minute are considered impact vibrations.

C. Vibration Standards

(1) Applicability of Group I and II Standards

The vibration standards apply as indicated in the Table below.

| TABLE 5102.2: Required Vibration Standards (Group I or Group II) | |
|--|---|
| Zoning District | Required Vibration Standards |
| All Residential Districts | Group I |
| C-1 through C-8 Districts | Group I |
| I-1 through I-4 Districts | Group I |
| I-5 and I-6 Districts | Group II |
| P Districts | Required performance standards for uses in P districts equate to those standards for uses in the most similar R, C, or I district, as determined by the Zoning Administrator. |

(2) Maximum Vibration Levels

Uses subject to the Group I and Group II standards must not cause steady state vibrations to exceed the maximum permitted particle velocities described in Table 5102.3 below. The most restrictive vibration levels govern if more than one applies. Readings may be made at points of maximum vibration intensity.

| TABLE 5102.3: Maximum Permitted Steady State Vibration Levels | | |
|--|--|----------|
| Location (at lot line) | Maximum peak particle velocity (inches per second) | |
| | GROUP I | GROUP II |
| In a Residential District | 0.02 | 0.02 |
| At or beyond adjacent lot lines, except a Residential District | 0.05 | 0.10 |

(3) Exceptions for Hours of Operation and Impact Vibrations

- (a) The permissible vibration levels indicated above for Residential Districts are reduced to one-half the indicated values between the hours of 8:00 PM and 7:00 AM.
- (b) Impact vibrations are permitted at twice the values stated above.
- (c) For uses subject to the Group II standards, when the frequency of impacts does not exceed one per day, the maximum vibration level, measured across lot lines, must not exceed 0.4 inches per second.

5103. Water and Sewer Facility Requirements

All structures built after the effective date of this Ordinance must meet the requirements for sanitary sewer and water facilities as set forth in Chapters 67.1, 68.1 and 101 of the County Code, and the Public Facilities Manual.

1. Location

An onsite sewage disposal system or private water supply system is an integral part of the principal use and must be located on the same lot as the principal use. In the event an existing system fails, is condemned, or acquired for a public purpose, a replacement system may be installed in accordance with the following:

- A. If a location conforming with the above is not available, a replacement system may be installed at any location acceptable to the Director of the Health Department, either on the lot of the principal use or within a recorded perpetual easement approved by the County Attorney on a contiguous lot;
- B. Such a replacement system is limited to the size and capacity required to serve the existing principal use, and may not be further expanded; and
- C. Such a replacement system may not serve new construction, except as may be allowed by Section 8104.

2. Approval by Health Department

- A. An individual sewage disposal system or private water supply system requires the approval of the Director of the Health Department and may be located in any part of any front, side, or rear setback. This provision is not a basis for a waiver or modification of transitional screening or barriers, which must be provided in accordance with the requirements of subsection 5108.6.
- B. Structures either existing as of October 31, 1988, or grandfathered by the Board on October 31, 1988, that do not have an individual sewage disposal system or private water supply system located on the same lot with the structure or within a zoning district that permits the structure may be remodeled or enlarged provided such construction does not result in additional bedrooms, the addition of an appliance or fixture, or other rooms or facilities that would require an expansion or enlargement of the nonconforming system.

5104. Grading, Erosion, Sediment Control, and Drainage

1. General Limitations on the Removal and Addition of Soil

No soil may be removed from or added to any lot in any zoning district except in accordance with the following:

A. Areas 2,500 Square Feet or Less

- (1) Sod and soil may be removed from or added to any lot to a depth of not more 18 inches without approval of a grading plan if the total disturbed area is 2,500 square feet or less. This provision does not apply to the temporary storage of topsoil by a garden center.
- (2) Any sod and soil removal or addition within a major underground utility easement is only permitted in accordance with subsection 5100.2.Q. In a floodplain, sod and soil may be removed in accordance with this subsection; however, the addition of sod and soil may only be permitted in accordance with the provisions of subsection 5105 below.

B. Areas 5,000 Square Feet or Less

For disturbed areas of 5,000 square feet or less that do not require the installation of water quality controls or other drainage improvements, sod and soil may be removed or added and grading of land may be permitted by the Director in accordance with the following:

- (1) Where the removal or addition of sod and soil or the grading of land results from the:
 - (a) Demolition of a single-family dwelling;
 - (b) Demolition of an accessory structure to a single-family dwelling;
 - (c) Construction of an addition to a single-family dwelling as defined in Chapter 61 of the County Code; or
 - (d) Construction of an accessory structure to a single-family dwelling.
- (2) Disturbance must be shown on a plat that meets the following:
 - (a) Must be certified by a land surveyor, engineer, landscape architect, or architect authorized to practice as such by the State;
 - (b) Must meet the requirements of subsection 8100.8; and
 - (c) Must include siltation and erosion control measures in accordance with Chapter 104 of the County Code.

C. Areas Requiring an Approved Plan

For disturbed areas of greater than 2,500 square feet, that do not qualify under B above, sod and soil may be removed or added and grading of land may be permitted by the Director in accordance with the following:

- (1) Removal, dumping, filling, or excavation necessary for construction is permitted in accordance with an approved site plan or approved plans and profiles for a subdivision. Grading of land is permitted in accordance with a grading plan approved by the Director. The Director must determine that the amount of soil removal or fill and proposed grading is necessary to establish a use permitted in the zoning district in which the use is located, and that the grading plan provides for even finished grades that meet adjacent property grades and do not substantially alter natural drainage. Such plans must include siltation and erosion control measures in conformance with Chapter 104 of the County Code.

D. Other Activities

Any other grading, excavating, mining, burrowing, or filling of land not listed above may be permitted only in accordance with an approved extraction activity or solid waste disposal facility.

2. Erosion and Sediment Control Regulations

To mitigate the harmful effects of erosion and siltation on downhill or downstream properties during and after development, adequate erosion and sediment controls must be provided by the property owner during all phases of clearing, filling, grading, and construction. Plans and specifications for such controls must be submitted to and approved by the Director in accordance with the Public Facilities Manual.

3. Drainage, Floodplains, Wetlands and Resource Protection Areas

- A.** No building may be erected and no change may be made to the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with, or change the drainage of the land without providing adequate drainage related to the changes made, as determined by the Director in accordance with the provisions of the Public Facilities Manual. That finding must account for land development that may take place in the vicinity under the provisions of this Ordinance.
- B.** No filling, change of contours, or establishment of any use may be permitted in any floodplain except as permitted by subsection A above, or subsection 5105 below.
- C.** No filling, change of contours, or establishment of any use or activity may be permitted in any wetlands except as permitted by Chapter 116 of the County Code.
- D.** No filling, change of contours, or establishment of any use or activity may be permitted in any Resource Protection Area except as permitted by the provisions of Chapter 118 of the County Code.
- E.** No building may be erected, and no filling or cutting, change in contours, or establishment of any use or activity may be permitted within a major underground utility easement except as approved by the Director in accordance with subsection 5100.2.Q.
- F.** A subdivider or developer of land is required to pay a pro rata share of the cost of providing reasonable and necessary drainage facilities in accordance with the Public Facilities Manual.

5105. Floodplain Regulations

These regulations are intended to further the County's participation in the National Flood Insurance Program authorized under the National Flood Insurance Act of 1968, as amended (42 U.S.C. § 4001 et seq.); provide for safety from flood and other dangers; protect against loss of life, health, or property from flood or other dangers; and preserve and protect floodplains in as natural a state as possible to preserve wildlife habitats, to maintain the natural integrity and function of the streams, to protect water quality, and to promote ground water recharge.

1. Applicability and Disclaimer

- A. The floodplain regulations apply to all land within a floodplain as defined in Article 9. In addition, in accordance with subsections 5105.5 and 5105.6.B, these regulations apply to land outside the floodplain on lots that contain floodplain and on lots that abut a lot containing floodplain.
- B. The degree of flood protection required by these regulations, the USBC, and the Public Facilities Manual is considered reasonable for regulatory purposes. Larger floods may occur on rare occasions or flood heights may be increased by man-made or natural causes, such as bridge openings restricted by debris. These regulations do not imply that areas outside the floodplain, or land uses permitted within such areas, will be free from flooding and flood damages under all conditions. The granting of a permit or approval of a site, subdivision, or land development plan in an identified floodplain area does not constitute a representation, guarantee, or warranty of any kind by any official or employee of the County of the practicability or safety of the proposed use, and does not create any liability upon the County, its officials, or employees.

2. Administration of the Floodplain Regulations

A. Director Determination

The Director is responsible for the administration of the floodplain regulations. The Director must review all proposed uses and development to determine whether the land on which the proposed use or development is located is within a floodplain. The Director may require additional information from the applicant, including an engineering study of the floodplain. The Director will determine whether the proposed use or development may be permitted in accordance with subsection 3 or if it requires the approval of a special exception in accordance with subsection 4 below. Any approval by the Director must be in writing and must specify conditions deemed necessary to ensure that the proposed construction and use conform to these regulations.

B. Review Criteria

Any decision of the Director or Board regarding a use in a floodplain must be based on consideration of the following:

- (1) Type and location of proposed structure and use;
- (2) Site access;
- (3) Frequency and nature of flooding;
- (4) Nature and extent of any proposed grading or fill;

- (5) Impact of proposal on the floodplain on properties upstream and downstream;
- (6) Potential of proposal to cause or increase flooding or to jeopardize human life;
- (7) Impact of the proposed use on the natural environment and on water quality; and
- (8) Other site-specific factors deemed relevant for consideration by the Director or the Board.

C. Compliance with National Flood Insurance Program

The Director of the Department of Public Works and Environmental Services (DPWES) must collect and maintain records necessary for the County's participation in the National Flood Insurance Program. Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Director of DPWES or designee must notify the Federal Insurance Administrator or require the applicant to notify the Federal Insurance Administrator of any change in base flood elevation in any Special Flood Hazard Area (SFHA) depicted on the County's Flood Insurance Rate Map (FIRM) by submitting technical and scientific data to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision.

3. Permitted Uses

- A. Except as provided in subsection (10) below for cluster subdivisions, the uses and changes to topography identified below may be permitted in a floodplain upon a determination by the Director that the use is permitted in the zoning district in which it is located, and the use or change to topography is in accordance with these floodplain regulations and the Public Facilities Manual. Any use or change to topography not meeting the qualifications below may be permitted by the Board with the approval of a special exception.
 - (1) Changes to topography that do not require major fill. For the purpose of this subsection, major fill includes any fill, regardless of amount, in an area greater than 5,000 square feet, or any fill in excess of 278 cubic yards below the existing 100-year flood elevation in an area of 5,000 square feet or less. The cumulative area of any fill and pavement permitted under (1) through (6) may not exceed an area of 5,000 square feet for all uses on a lot.
 - (2) Any use or change to topography within a minor floodplain. A minor floodplain, as established in the floodplain definition in Article 9, is a floodplain with a drainage area greater than 70 acres but less than 360 acres.
 - (3) Agricultural operations if the use does not require the approval of a building permit or require major fill. Such uses must be operated in accordance with a conservation plan prepared in accordance with the standards of the Northern Virginia Soil and Water Conservation District.
 - (4) Uses and structures accessory to single-family detached, attached, and stacked townhouse dwellings and manufactured homes, such as play areas, lawns, paved tennis or play courts, trails, gardens, patios, decks, and docks, that do not require major fill; and accessory structures such as children's playhouses, doghouses, storage structures, and other similar structures that do not require approval of a building permit or require major fill. All structures must be anchored to prevent flotation.

- (5)** Community, commercial, and public recreational uses such as golf courses, driving ranges, picnic grounds, boat launching ramps, parks, wildlife and nature preserves, hunting and fishing areas, and hiking, bicycle, and equestrian trails. This provision does not permit a paved tennis or play court exceeding 5,000 square feet in area, swimming pool, or any use requiring the approval of a building permit or requiring major fill.
- (6)** Off-street parking and loading areas including aisles and driveways that do not exceed 5,000 square feet in area, that will have one foot or less depth of flooding and that will not require major fill.
- (7)** Metrorail, railroad track, and roadway floodplain crossings meeting applicable WMATA, VDOT, and Fairfax County design requirements and where any additional rise in water surface will not have an adverse effect upon the floodplain or will be set aside in an easement. A stream channel relocation proposed in conjunction with a crossing is subject to the provisions of the Public Facilities Manual.
- (8)** Public and private utility lines, and all public uses and public improvements performed by or at the direction of the County, including channel improvements and erosion control, reservoirs, storm water management, and best management practice facilities and similar uses. The installation of such facilities must be accomplished with appropriate easements or agreements and with the minimum necessary disruption to the floodplain. Ponds, reservoirs, storm water management, and best management practice (BMP) facilities in floodplains with a drainage area of 360 acres or greater that are designed to serve a specific private development may be permitted only with Board approval of a special exception in accordance with these floodplain regulations.
- (9)** Permitted accessory structures, other than those specified in subsection (4) above, and additions to single-family detached and attached dwellings constructed before August 14, 1978, subject to the following conditions:

 - (a)** The estimated cost of the addition or accessory structure is less than 50 percent of the market value as determined by the Department of Tax Administration of the existing structure.
 - (b)** The lowest part (i.e., the bottom of the floor joists or top of a concrete slab on grade) of the lowest floor including the basement of any such structure may be constructed less than 18 inches above the 100-year flood level if it is determined that there is less than one percent chance of flooding the structure in any given year, i.e., the structure is higher than the 100-year flood level.
 - (c)** The lowest part of the lowest floor of any accessory structure not meeting the requirements of subsection (9)(b) above may be constructed below the base flood elevation provided the following standards are met:

 - 1.** The size of the accessory structure does not exceed 1,000 square feet of gross floor area.
 - 2.** The accessory structure will only be used for parking or storage purposes.
 - 3.** The accessory structure will be constructed using flood-damage resistant materials and all interior walls and floors constructed using unfinished material.
 - 4.** The accessory structure will be anchored and floodproofed in accordance with the USBC.

5. Any mechanical, electrical, and utility equipment in the accessory structure must be elevated to or above the base flood elevation.
 - (d) The Director may require the applicant and owners to sign an agreement holding Fairfax County harmless from all adverse effects that may arise from the construction and establishment of the proposed use within the floodplain. Such hold harmless agreement must be recorded with the land records of Fairfax County.
- (10) For all cluster subdivisions in the R-2 District, and cluster subdivisions in the R-3 and R-4 Districts with a minimum district size of three and one-half acres or greater, only the following uses and improvements may be permitted by the Director, if the encroachments for those uses and improvements are the minimum necessary and minimize disturbance to the floodplain to the greatest practical extent:
- (a) No residential lot may extend into a floodplain and adjacent slopes in excess of 15 percent grade or Resource Protection Area, except to accommodate driveways when it is determined by the Director that there is no other option available to provide driveway access to the lot. The fill and pavement for driveway access may not exceed 5,000 square feet in area and may not be major fill;
 - (b) Extension of or connection to existing public and private utilities;
 - (c) Trails depicted on the Comprehensive Plan trails map or trails connecting to trails depicted on the Comprehensive Plan trails map;
 - (d) Channel improvements and erosion control measures performed by or at the direction of, or as required by the County;
 - (e) Regional stormwater management facilities included in the regional stormwater management plan; or
 - (f) Roadway floodplain crossings, as qualified by (7) above.
- B. The provisions above that exclude uses requiring a building permit do not apply when a building permit is required for structures such as retaining walls, fences, ramps, or trail bridges.

4. Special Exception Uses

- A. All uses permitted by right, special exception, or special permit that are not approved by the Director under subsection 3 above may be permitted in the floodplain with the approval of a special exception by the Board. The special exception is subject to conformance with the provisions of these floodplain regulations, the applicable special exception or special permit standards, and the standards and criteria set forth in the Public Facilities Manual.
- B. In addition to the submission requirements for all special exception uses set forth in Section 8101, the following information must be submitted for all special exception applications for uses in a floodplain:
 - (1) The following must be shown and certified on the plat provided with the application:
 - (a) Delineation of the floodplain and the source of floodplain information, such as Federal Emergency Management Agency, United States Geological Survey, Fairfax County, or other;
 - (b) Existing and proposed topography with a maximum contour interval of two feet;
 - (c) Both normal and emergency ingress and egress from highway or street;

- (d) Nature and extent of any proposed fill and any proposed compensatory cut areas with quantities;
 - (e) The location and dimensions of any structure or part of any structure that is proposed to be located in the floodplain;
 - (f) Elevation of the nearest 100-year floodplain, and the exact distance from the structure to the floodplain line at the nearest point; and
 - (g) Lowest floor elevation, including basement, of all existing and proposed buildings, and information relative to compliance with Federal and State floodproofing requirements.
- (2) A written statement providing the following information:
- (a) Any existing or anticipated problems of flooding or erosion in the area of the application, including upstream and downstream from the application property; and
 - (b) Whether additional Federal or State permits are required.
- (3) When structures are proposed, the following information must be provided:
- (a) The proposed use of the structure;
 - (b) A statement certifying all floodproofing proposed and indicating compliance with all County, State, and Federal requirements. This certification must be signed, sealed, and indicate the address of the certifying professional and it must cover all structural, electrical, mechanical, plumbing, water, and sanitary facilities connected with the use; and
 - (c) A signed affidavit acknowledging that the applicant is aware that flood insurance may be required by the applicant's lending institution and that the flood insurance rates may increase because of increases in risks to life and property.
- (4) Any additional information as may be deemed necessary by the Director, including engineering studies or detailed calculations for any proposed drainage improvement.
- C. The BZA may approve a special permit or the Board may approve, only in conjunction with the approval of a rezoning or special exception for another use, a special exception for the modification of grade as it applies to the height measurement of a single-family detached dwelling that is located within or in proximity to a floodplain and when that structure must be elevated to meet all applicable floodplain regulations. In those cases the Board may approve a special exception that allows a grade elevation to be established that permits a dwelling to be constructed in compliance with all applicable floodplain regulations. Any applicant seeking grade modification approval must demonstrate that the requested increase in grade is the minimum amount required to meet the floodplain regulations.

5. Setbacks from the Floodplain

- A. No dwelling or portion of a dwelling may be located within 15 feet of the edge of a floodplain, unless it is allowed under subsection 5100.2.D(5). The location of a property line between the floodplain and a dwelling does not eliminate the need to meet this minimum 15-foot setback. The Director may approve the following additional exceptions:
- (1) The location of dwellings within 15 feet of a permanent water surface of any appropriately designed impoundment; or

- (2)** The location of additions within 15 feet of the edge of a floodplain for single-family detached and attached dwellings constructed before August 14, 1978, based on consideration of the following factors:
 - (a)** Type and location of proposed structure;
 - (b)** Nature and extent of any proposed grading or fill;
 - (c)** Impact of proposal on the floodplain on properties upstream and downstream;
 - (d)** Potential of proposal to cause or increase flooding or to jeopardize human life;
 - (e)** Impact of the proposed use on the natural environment and on water quality; and
 - (f)** Other site-specific factors deemed relevant for consideration by the Director.
- B.** For the purpose of this section, 15 feet is considered the minimum setback from the floodplain. However, dwellings and additions proposed within a floodplain under subsections 5105.3.A(9) and 5105.4 may be permitted without this 15-foot setback.

6. Use Limitations

All permitted and special exception uses in a floodplain must comply with the following use limitations:

- A.** Any new construction, substantial improvements, or other development, including fill, when combined with all other existing, anticipated, and planned development, may not increase the water surface elevation above the 100-year flood level upstream and downstream, calculated in accordance with the Public Facilities Manual, unless it is permitted under subsections 5105.3.A(7) and 5105.3.A(8) above.
- B.** The lowest part (i.e., the bottom of the floor joists or top of a concrete slab on grade) of the lowest floor, including any basement must be at least 18 inches above the water-surface elevation of the 100-year flood level calculated in accordance with the Public Facilities Manual. This requirement for an 18-inch vertical separation applies to development within a floodplain, any lot where a floodplain is located, or on any lot that abuts a lot where a floodplain is located, for the following:
 - (1)** Any new or substantially improved dwelling or manufactured home.
 - (2)** Any proposed addition to an existing dwelling, unless it is permitted under subsection 3.A(9)(b) above.

For development on land outside the floodplain, this subsection B may be modified by the Director in accordance with the standards set forth in the Public Facilities Manual.

- C.** No structure or substantial improvement to any existing structure may be allowed unless adequate floodproofing is provided in accordance with this section or under the USBC.
- D.** Stable vegetation must be protected and maintained in the floodplain to the extent possible.
- E.** Storage of herbicides, pesticides, or toxic or hazardous substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4 and 261.30 et seq., is prohibited in a floodplain.
- F.** For uses located in a floodplain, other than those specified in subsections 3.A(3) and 3.A(4) above, the applicant must demonstrate the extent to which:
 - (1)** There are no other feasible options available to achieve the proposed use;
 - (2)** The proposal is the option that is least disruptive to the floodplain; and

- (3) The proposal meets the environmental goals and objectives of the Comprehensive Plan for the property.
- G.** Nothing in these floodplain regulations is deemed to prohibit the refurbishing, refinishing, repair, reconstruction, or other similar improvements of the structure for an existing use provided such improvements are done in conformance with the USBC, Section 8104 of this Ordinance, and the requirements of subsection 5105.6.F above.
- H.** All uses and activities are subject to the provisions of Chapter 118 of the County Code.
- I.** As-built floor elevations must be submitted to the Land Development Services Department on a standard Federal Emergency Management Agency (FEMA) Elevation Certificate upon placement of the lowest floor, including basement, and before further vertical construction if they are required by federal regulations or the USBC. A FEMA Floodproofing Certificate must be completed in addition to the Elevation Certificate for a nonresidential building that is being floodproofed. In the case of special exception uses, the Elevation Certificate must demonstrate compliance with the approved special exception elevations.
- J.** The construction of all buildings and structures are subject to the requirements of the USBC.
- K.** All recreational vehicles within a floodplain must either:

 - (1) Be on-site for fewer than 180 consecutive days;
 - (2) Meet the requirements of this section and the USBC for anchoring and elevation of manufactured homes; or
 - (3) Be fully licensed and ready for highway use. A recreational vehicle is deemed ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- L.** All necessary permits required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, as amended, 33 U.S.C. § 1334, must be obtained.
- M.** Areas designated as floodplains by FEMA must not have their base flood elevations altered without approval from FEMA. If any new construction, substantial improvements, or other development, including fill, when combined with all other existing, anticipated, and planned development, results in change in the base flood elevation in any Special Flood Hazard Area (SFHA) depicted on the County's Flood Insurance Rate Map (FIRM), the applicant must notify the Federal Insurance Administrator of the changes by submitting technical or scientific data to FEMA for a Letter of Map Revision, as soon as practicable but, not later than 6 months after the date such information becomes available or the placement of fill, whichever comes first. If the projected increase in the base flood elevation is greater than one foot, the applicant must also obtain approval of a Conditional Letter of Map Revision from the Federal Insurance Administrator before the approval of construction.
- N.** In riverine situations, adjacent communities and the Virginia Department of Conservation and Recreation must be notified before any alteration or relocation of a watercourse depicted on the Flood Insurance Rate Map (FIRM) and copies of such notifications must be submitted to the Federal Insurance Administrator. The flood carrying capacity within the altered or relocated portion of any watercourse must be maintained.

7. Definitions

Definitions pertaining to the interpretation and administration of these floodplain regulations are in Section 9104.

5106. Common Open Space and Improvements

1. Applicability

This section applies to the following features in residential developments that are proposed to be dedicated or conveyed for public use or are to be held in common ownership by the occupants of the development:

- A.** All lands in common open space areas designed for the mutual benefit of occupants of the development, and are not on individual lots or intended to be dedicated or conveyed for public use, regardless of whether such common open areas are required by this Ordinance;
- B.** All private streets, driveways, parking bays, uses, facilities, and buildings or portions thereof, that are for the common use, benefit, or enjoyment of the occupants of the development, regardless of whether such improvements are required by this Ordinance;
- C.** Condominium developments must be established and regulated in accordance with the Condominium Laws of Virginia; and
- D.** All lands to be deeded or conveyed for public use.

2. General Requirements

All lands and improvements in 1.A through 1.C above must comply with the following:

A. Establishing Separate Entity or Organization

- (1)** The applicant or developer must establish a nonprofit organization or other legal entity under the laws of Virginia for the ownership, care, and maintenance of all lands and improvements required to be held in common ownership. The organization must be created by covenants and restrictions running with the land and must be composed of persons all having ownership within the development. The organization is responsible for the perpetuation, maintenance, and function of all common lands, uses, and facilities.
- (2)** The organization, and covenants as described below, must continue in effect to control the availability of the facilities and land provided and to maintain the land and facilities for their intended function. The organization may not be dissolved nor dispose of any common open space, by sale or otherwise, unless it is to an organization conceived and organized to own and maintain the common open space, but not before offering to dedicate that land to the County or other appropriate governmental agency. If that offer is made, the Fairfax County Park Authority, the School Board, Facilities Management Department, and any other appropriate County agency must be consulted to see if there is County interest in the property. The results of the coordination with the County agencies will be provided to the Board as a Board item, and the Board will make the final determination regarding dedication of the property to the County.

- (3) An adjacent development may join the organization for purposes of using the open space in accordance with subsection 8100.2.E(4).

B. Covenant Requirements

- (1) All lands and improvements must be described and identified including location, size, use, and control in a restrictive covenant, and the covenant must establish the method of assessment for maintenance of common property and improvement.
- (2) These covenants must be written to run with the land and be in full force and effect for a period of not less than 20 years and will be automatically extended for successive periods of 20 years unless terminated in a manner established in these regulations.
- (3) These covenants must become part of the deed to each lot or parcel within the development.

C. Maintenance Requirements

(1) Routine Maintenance Allowed

No lands in common open space may be denuded, defaced, or otherwise disturbed in any manner at any time without the approval of the Director, unless it is among the routine maintenance activities specified below and is allowed under any applicable proffered conditions, conditions of special exceptions or special permits, or other laws and ordinances, and the common open space does not contain areas used to comply with Best Management Practices such as floodplains and conservation easements.

- (a) Routine maintenance of common open space limited to the removal of dead, diseased, dying or hazardous trees or shrubbery;
- (b) Removal and replacement of dead landscaping and screening materials;
- (c) Installation of supplemental plantings;
- (d) Removal of noxious vegetation such as poison ivy or greenbrier;
- (e) Lawn care and maintenance;
- (f) Repair and replacement of picnic and play equipment; or
- (g) Similar routine maintenance.

(2) County Not Responsible for Maintenance

The County is not responsible for maintaining any common open space or improvements required by this Ordinance, except as provided for in subsection (c) below. If the County becomes the owner of open space or improvements, under subsection A(2) above, the County's only responsibility is to the general public of the entire County.

(3) Procedures for Enforcement of Deficiencies

- (a) If the Director determines that the public interest requires assurance for adequate maintenance of common open space areas and improvements, the Director may require that the covenants creating such organization include the following:
 1. The County may serve notice in writing to the organization or the residents of the development if the organization or any successor organization, fails to

maintain the common open space in reasonable order and condition in accordance with the approved plans.

2. The notice must specify how the organization has failed to maintain the common open space and demand that the deficiencies be cured within 30 days.
 3. The notice must state the date and place of a public hearing to be held within 20 days of the notice.
- (b) At such hearing the County may modify the terms of the original notice as to the deficiencies and may grant an extension of time for curing such deficiencies.
 - (c) If the deficiencies are not cured within 30 days or any granted extension, the County, to preserve the taxable values of the properties within the development and to prevent the common open space from becoming a public nuisance, may enter upon the common open space and maintain the same for one year.
 - (d) County entry and maintenance does not vest any public rights to use the common open space except when the area is voluntarily dedicated to the public by the owners.
 - (e) Before the expiration of the one-year County maintenance period, the County must call, on its own initiative or at the request of the organization, a public hearing before the Board upon notice in writing to the organization or to the residents of the development, at which the organization must demonstrate why such maintenance by the County should not, at the election of the Board, be extended for another one-year period.
 - (f) If the Board determines that the organization is ready and able to maintain the common open space in reasonable condition, the County must cease maintenance of the area at the end of the one-year period.
 - (g) If the Board determines that the organization is not ready and able to maintain the common open space in a reasonable condition, the County may continue to maintain the common open space during the next succeeding year, and subject to a similar hearing and determination in each year thereafter.
 - (h) The covenants creating the organization must provide that the cost of maintenance by the County will be assessed ratably against the properties within the development that have a right of enjoyment of the common open space or improvements, regardless of the corporate status of the organization, and that such assessment must be paid by the owners of said properties within 30 days after receipt of a statement.

3. Submission Requirements

- A. The following documents must be submitted to and approved by the County before the features described in subsections 5106.1.A and 1.B above are dedicated or conveyed:
 - (1) The articles of incorporation or other organizational documentation.
 - (2) The by-laws of the organization.
 - (3) The covenants or restrictions related to the use of common property, including the system and amounts of assessments for perpetuation and maintenance.

- (4) A fiscal program for a minimum of ten years, including adequate reserve funds for the maintenance and care of all lands, streets, facilities, and uses under the purview of the organization.
 - (5) A document granting the right of entry upon such common property to the County law enforcement officers, rescue squad personnel, and the firefighting personnel while in the pursuit of their duties; and, in the case of private streets and common driveways, permitting the enforcement of cleared emergency vehicle access.
 - (6) A complete listing of all land, buildings, equipment, facilities, and other holdings of the organization, and a complete description of each.
 - (7) A recommended maintenance timing schedule for facilities including streets, street signs, pools, sidewalks, parking areas, stormwater management facilities, and buildings.
 - (8) A copy of the proposed notice that will be given to prospective buyers regarding the organization, assessments, and fiscal program.
 - (9) A copy of the Deed of Conveyance and a Title Certificate or, at the discretion of the Director, a commitment for a policy of title insurance issued by an insurance company authorized to do business in the State, assuring unencumbered title for all lands proposed to be conveyed to the County, other appropriate governmental agency, or other organization.
- B.** The documents in subsection A above must be reviewed and approved by the Director and the County Attorney, and their approval is required before recording any final plat or approving a final site plan. Those documents become part of the recorded subdivision plat or approved site plan after they are approved.

5107. Private Streets

1. Applicability

- A. Private streets may be allowed in commercial and industrial districts, and multifamily dwelling developments.
- B. With the approval of the Director or the Board in conjunction with a rezoning, private streets may also be allowed in:
 - (1) Single-family attached and stacked townhouse dwelling developments;
 - (2) Single-family detached dwelling developments in the Planned Districts and in the R-5, R-8, and R-12 Districts; and
 - (3) Single-family attached dwelling units when located in a single-family detached affordable dwelling unit development in the R-2, R-3, and R-4 Districts.
- C. Single-family detached dwelling developments that are not subject to Chapter 101 of the County Code may also have private streets, but the standards in this section do not apply to those streets.

2. Ownership, Care and Maintenance

A private street is prohibited within a residential development unless it is approved in accordance with the provisions of Section 5106.

3. Standards and Limitations

A. General Design Limitations

- (1) Private streets are limited to those streets that are not required or designed to provide access to adjacent properties as determined by the Director.
- (2) Private streets must be designed and constructed in accordance with the standards in the Public Facilities Manual.
- (3) No private street in a residential development that will be owned and maintained by an organization as provided for in Section 5106 may exceed 600 feet in length unless approved by the Director or by the Board in conjunction with a rezoning or special exception.
- (4) The length and geometric design of the street is subject to the approval of the Director based on the following considerations:
 - (a) Means of access to adjoining properties;
 - (b) Traffic movement and volume through the development;
 - (c) Access for emergency and maintenance vehicles,
 - (d) Parking; and
 - (e) Proposed provisions for maintenance and preservation of natural features of the property.

B. Ingress and Egress Easements

Ingress and egress easements for public emergency and maintenance vehicles must be granted to the County over all private streets.

5108. Landscaping and Screening

The purpose of this section is to provide for landscaping and screening to create an attractive and harmonious community by minimizing the impact of dissimilar uses on adjoining or nearby uses. Protection of neighborhood character is achieved by preserving existing vegetation and requiring the planting and maintenance of vegetative screening and other barriers. Natural resource conservation is promoted, including soil, air, and water quality. Provisions in this section lessen the impact of wind, heat, noise, dust, and other debris, and motor vehicle headlight glare or other artificial light intrusion.

Appropriate landscaping provides shade and contributes toward compliance with the Federal Clean Air Act by reducing levels of carbon dioxide and helping to alleviate atmospheric heat island production and other negative effects on the air quality and ozone levels produced by accelerated fuel evaporation from vehicles parked on non-shaded pavement. Provisions also promote adequate planting areas for healthy development of trees.

1. Applicability and Administration

- A.** The Director is responsible for the administration of this section.
- B.** The provisions of this section apply to all development subject to the provisions of subsection 8100.7.

2. Landscaping Plan and Planting Requirements

- A.** A landscaping plan must be submitted as required by subsection 8100.7 and may be required for a minor site plan as determined by the Director.
- B.** Landscaping plans must be drawn to scale, including dimensions and distances, and clearly delineate all existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size, and description of all landscaping materials in accordance with the Public Facilities Manual and the requirements of this section.
- C.** Landscaping required by this section must be shown on the landscape plan and must be completed according to specifications before approval of any Residential or Nonresidential Use Permit in accordance with subsection 8100.9.B.

3. General Landscaping Standards

The following standards apply to the preservation, installation, and maintenance of all landscaping, screening, and barriers required by this section:

A. Conformance with Public Facilities Manual

The planting and maintenance of all trees and shrubs must be in accordance with the Public Facilities Manual.

B. Size and Spacing

- (1) All trees required by this section must be a minimum of five feet in height at the time of planting.
- (2) Generally, planting required by this section should be in an irregular line and spaced at random.

C. Existing Vegetation

- (1) Existing vegetation that is suitable for use in compliance with the requirements of this section and the Public Facilities Manual, may and should be used as required planting.
- (2) Existing vegetation in a Resource Protection Area may be used to meet the requirements of this section with approval of the Director. Any addition or removal of vegetation in a Resource Protection Area is subject to Chapter 118 of the County Code as approved by the Director.

4. Maintenance

- A.** The owner or their agent is responsible for the maintenance, repair, and replacement of all landscaping materials and barriers as may be required by this section.
- B.** All plant material must be tended and maintained in a healthy growing condition, replaced when necessary due to poor health or unsafe conditions, and kept free of refuse and debris.
- C.** Fences and walls must be maintained in good repair. Openings within the barriers may be required by the Director for accessibility to an area for necessary maintenance.
- D.** When tree conservation is required on individual lots in residential districts, the homeowner, subsequent to Residential Use Permit issuance, is not precluded from adding, removing, or relocating such landscaping.
- E.** All landscaping must be installed and maintained in substantial conformance with any proffered conditions or with any approved conceptual or final development plan, general development plan, development plan, PRC plan, special exception, special permit, or variance as determined by the Zoning Administrator. Any removal or replacement of required landscaping requires approval by the Director after coordination with the Zoning Administrator.
- F.** The removal or replacement of any landscaping depicted on an approved site plan that is not subject to any of the approvals listed in subsection E above requires Director approval.
- G.** Any landscaping required by subsections E and F above that is removed or replaced without the written permission of the Director must be replaced at the owner's expense with new landscaping of the appropriate species and equal to or as large in total canopy area at the time of planting as the required landscaping that was removed as determined by the Director.

5. Parking Lot Landscaping

A. Interior Parking Lot Landscaping

- (1) **Amount Required**
 - (a) Any parking lot containing 20 or more spaces must include interior landscaping covering a minimum of five percent of the total area of the parking lot.

- (b) Such landscaping must be in addition to any planting or landscaping within six feet of a building, any planting or landscaping required as peripheral planting by subsection B below, and any transitional screening required by subsection 6.B below.

(2) Planting Requirements

- (a) The primary landscaping materials used in parking lots must be trees that provide shade or will provide shade at maturity. Shrubs and other live planting material may be used to complement the tree landscaping but may not be the sole contribution to the landscaping.
 - (b) Landscaping should be dispersed throughout the parking area to maximize shade for the vehicles using the parking lot.
- (3) The interior dimensions of any planting area must be large enough to protect all landscaping materials in conformance with the Public Facilities Manual.
 - (4) The Director may waive or modify the requirements of these planting requirements for any use in an I district where vehicles are parked or stored, provided the use is screened from view of all adjacent property and all public streets.
 - (5) The Board, in conjunction with the approval of a rezoning or special exception, may approve a waiver or modification of the requirements of these planting requirements. Such waiver or modification may be approved:
 - (a) For an interim use of a specified duration, or where deemed appropriate due to the location, size, surrounding area, or configuration of the parking lot; and
 - (b) Where such waiver or modification will not have any harmful effect on the existing and planned development of adjacent properties.
 - (6) In a Commercial Revitalization District and in the PTC District, interior parking lot landscaping must be provided in accordance with the provisions of the respective district.

B. Peripheral Parking Lot Landscaping

Any parking lot containing 20 or more spaces where transitional screening is not required by subsection 6.B below must have peripheral parking lot landscaping as follows:

(1) Property Does Not Abut Street Right-of-Way

When the property line abuts land that is not in the right-of-way of a street, a landscaping strip must be provided between the parking lot and the abutting property lines, except where driveways or other openings may necessitate other treatment, in accordance with the Public Facilities Manual.

(2) Property Abuts Street Right-of-Way

Where the property line abuts the right-of-way of a street:

- (a) A landscaping strip ten feet in width must be located between the parking lot and the property line and may not include a sidewalk or trail.
- (b) At least one tree for each 40 feet must be planted in the landscaping strip; however, trees are not required to be planted on 40-foot centers.

- (c) Where peripheral landscaping required by this subsection conflicts with street planting regulations of the Virginia Department of Transportation, the regulations of the latter govern.

(3) Exceptions

- (a) The Board, in conjunction with the approval of a rezoning or special exception, or the BZA, in conjunction with the approval of a special permit, may approve a waiver or modification of the requirements of this subsection and the requirement to provide a ten-foot minimum distance between a front lot line and an off-street parking space established in subsection 6100.2.A. The waiver or modification may be approved:
 1. For an interim use of a specified duration, or where deemed appropriate due to the location, size, surrounding area, or configuration of the parking lot; and
 2. Where such waiver or modification will not have any harmful effect on the existing and planned development of adjacent properties.
- (b) In a Commercial Revitalization District and in the PTC District, peripheral parking lot landscaping must be provided in accordance with the provisions of the respective district.

6. Transitional Screening and Barriers

A. Applicability

- (1) Transitional screening and barriers must be provided within the zoning district and on the lot of the use indicated in the left column of Table 5108.2 where it is contiguous or across the street from land used or zoned for uses indicated across the top of Table 5108.2. The numbers across the top of the table correspond to the use numbers in the left column.
- (2) The more stringent requirements of the table apply if the structure will contain more than one use or category of uses in Table 5108.2. The Director may allow the lesser requirements with a finding that the need for the more stringent requirements is eliminated by the arrangement of the uses.
- (3) In addition to the standards established in Article 4 for a particular use, all uses allowed by special exception or special permit are required to provide transitional screening and barriers as determined by the Board or BZA, using Table 5108.2 as a guide.
- (4) Transitional screening and barriers are not required between different dwelling unit types within an affordable dwelling unit development.
- (5) In a Commercial Revitalization District and in the PTC District, transitional screening and barriers must be provided in accordance with the provisions of the respective district.
- (6) The following uses are not included in Table 5108.2 below:
 - (a) Agricultural operation and office in a residential district do not require transitional screening or barriers.
 - (b) Wireless facility is subject to the requirements of subsection 4102.4.Y.
 - (c) The following uses may be required to provide transitional screening and barriers as determined by the Board or BZA: campground; cemetery; farm winery, limited

brewery, or limited distillery; group household; marina (commercial or private noncommercial); and riding or boarding stable.

B. Transitional Screening Requirements

(1) Types of Transitional Screening

There are three different transitional screening requirements as identified in Table 5108.2 that must be provided in accordance with Chapter 12 of the Public Facilities Manual and as follows:

(a) Transitional Screening I

Transitional Screening I consists of an unbroken strip of open space a minimum of 25 feet wide and planted with all of the following:

1. A mixture of large and medium evergreen trees and large deciduous trees that achieve a minimum ten-year tree canopy of 75 percent or greater;
2. A mixture of trees consisting of at least 70 percent evergreen trees, and consisting of no more than 35 percent of any single species of evergreen or deciduous tree; and
3. A mixture of predominately medium evergreen shrubs at a rate of three shrubs for every ten linear feet for the length of the transition yard area. The shrubs must generally be located away from the barrier and staggered along the outer boundary of the transition yard.

(b) Transitional Screening II

Transitional Screening II consists of an unbroken strip of open space a minimum of 35 feet wide and planted with the following:

1. A mixture of large and medium evergreen trees that achieves a minimum ten-year tree canopy of 75 percent or greater; and
2. The same mixture of trees and shrubs as provided in subsections (a)2 and (a)3 above.

(c) Transitional Screening III

Transitional Screening III consists of an unbroken strip of open space a minimum of 50 feet wide planted as required in subsections (b)1, (a)2, and (a)3 above.

C. Barrier Requirements

(1) Barrier Location

- (a)** Barriers must generally be located between the required transitional screening and the use requiring such screening so that the maximum effective screening is provided from the existing or proposed first floor level of adjoining development, as determined by the Director.
- (b)** Bracing, supports, or posts must be located on the side of the barrier facing the use requiring the barrier.

(2) Types of Barriers

- (a) Table 5108.2 identifies different barrier requirements, which must be provided in accordance with Table 5108.1. The applicant may choose the type of barrier if more than one is allowed under Table 5108.2.
- (b) In unusual circumstances related to topography, or to alleviate specific problems with nuisance issues such as glare and noise, the Director may require the use of an earth berm or more specialized barrier material in lieu of, or in combination with, any of the barrier types set forth below.

| Barrier Type | Height | Materials | Other Standards |
|--------------|--------------|---|---|
| A | 42-48 inches | Wall of brick or architectural block | Faced on the side of the existing use; may be required to be faced on both sides as determined by the Director. |
| B | 42-48 inches | Solid wood or otherwise architecturally solid fence | N/A |
| C | 42-48 inches | Evergreen hedge | Planting size minimum 36 inches and planted 36 inches on center. |
| D | 42-48 inches | Chain link fence | May be required by the Director to have inserts in the fence fabric, to be coated, or to be supplemented by trees and shrubs. |
| E | 6 feet | Wall of brick or architectural block | Faced on the side of the existing use; may be required to be faced on both sides as determined by the Director. |
| F | 6 feet | Solid wood or otherwise architecturally solid fence | N/A |
| G | 6 feet | Chain link fence | May be required by the Director to have inserts in the fence fabric or be coated. |
| H | 6 feet | Variety of trees | One row of 6-foot trees averaging 50 feet on centers. This requirement may be omitted when the building is six feet or less from the property line. |

TABLE 5108.2: Transitional Screening and Barrier Types by Use

Roman numerals in individual cells represent transitional screening type required (I, II, or III)

Letters in individual cells represent barrier type required (A through H)

* Denotes "as may be required by the Director"

See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|-------|---|-------------------|---|---|---|---|---|---|---|---|----|----|----|----|----|----|----|----|
| 1 | Dwelling, single-family detached | | | | | | | | | | | | | | | | | |
| 2 | Dwelling, single-family attached | I B, A* | | | | | | | | | | | | | | | | |
| 3 | Bed and breakfast Dwelling, multifamily Live-work development Manufactured home Stacked townhouse | I D, E or F | I | | | | | | | | | | | | | | | |

TABLE 5108.2: Transitional Screening and Barrier Types by Use

Roman numerals in individual cells represent transitional screening type required (I, II, or III)

Letters in individual cells represent barrier type required (A through H)

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See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|-------|--|---------------------|---------------------|--------------------|----------------------|---|---|---|---|---|----|----|----|----|----|----|----|----|
| 4 | Adult day care center Adult day support center Child care center Religious assembly Religious assembly with private school, specialized instruction center, or child care center School, private Specialized instruction center | I D, E or F | I D, E or F | H | | | | | | | | | | | | | | |
| 5 | Club, service organization, or community center Community swim, tennis, and recreation club Cultural facility or museum Golf course or country club | I D, E or F | I D, E or F | I D, E or F | A, B or C | H | | | | H | | | | | | | | |
| 6 | Congregate living facility Medical care facility Continuing care facility | II D, E or F | II D, E or F | I D, E or F | | | | | | | | | | | | | | |
| 7 | Financial institution | I D, E or F | I D, E or F | I B or C | H | | | | | | | | | | | | | |
| 8 | Adult entertainment Animal shelter Business service Catering Convenience store Crematory Data center Drug paraphernalia Funeral home Household repair and rental service Kennel Massage therapy establishment Office Pawnshop Pet grooming establishment Personal service Public entertainment Restaurant Restaurant, carryout Retail sales, general Smoking lounge Veterinary hospital | II D or F, E* | II D or F, E* | I D or F, E* | I A, B or C | H | | | | | | | | | | | | |

TABLE 5108.2: Transitional Screening and Barrier Types by Use

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Letters in individual cells represent barrier type required (A through H)

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| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | |
|--|--|--------------------|--------------------|--------------------|-------------------|--------------|---|---|---|---|----|----|----|----|----|----|----|----|--|
| 9 | Airport | III | III | II | D, E or F | H | | | | | | | | | | | | | |
| | Car wash | E, F or G | E, F or G | E, F or G | | | | | | | | | | | | | | | |
| | Commercial off-street parking | | | | | | | | | | | | | | | | | | |
| | Drive-through financial institution | | | | | | | | | | | | | | | | | | |
| | Drive-through pharmacy | | | | | | | | | | | | | | | | | | |
| | Drive-through, other | | | | | | | | | | | | | | | | | | |
| | Garden center | | | | | | | | | | | | | | | | | | |
| | Goods distribution hub | | | | | | | | | | | | | | | | | | |
| | Helipad | | | | | | | | | | | | | | | | | | |
| | Restaurants with drive-through | | | | | | | | | | | | | | | | | | |
| | Retail sales, large | | | | | | | | | | | | | | | | | | |
| | Transit facility | | | | | | | | | | | | | | | | | | |
| | Truck rental establishment | | | | | | | | | | | | | | | | | | |
| | Vehicle fueling station | | | | | | | | | | | | | | | | | | |
| | Vehicle repair and maintenance, light | | | | | | | | | | | | | | | | | | |
| | Vehicle sales, rental, and service | | | | | | | | | | | | | | | | | | |
| Vehicle transportation service (see use standards) | | | | | | | | | | | | | | | | | | | |
| 10 | Hotel or motel | II E, F or G | II E, F or G | I E, F or G | H | H | | | | | | | | | | | | | |
| 11 | Indoor commercial recreation | II D, E or F | II D, E or F | I D, E or F | D, E or F | H | | | | | | | | | | | | | |
| | Outdoor commercial recreation | | | | | | | | | | | | | | | | | | |
| 12 | Alternate use of public facility | II D, E or F | II D, E or F | II D, E or F | I A, B or C | D, E or F | | | | | | | | | | | | | |
| | Banquet or reception hall | | | | | | | | | | | | | | | | | | |
| | College or university | | | | | | | | | | | | | | | | | | |
| | Convention or conference center | | | | | | | | | | | | | | | | | | |
| | Craft beverage production establishment | | | | | | | | | | | | | | | | | | |
| | Health and exercise facility | | | | | | | | | | | | | | | | | | |
| | Independent living facility | | | | | | | | | | | | | | | | | | |
| | Quasi-public park, playground, or athletic field | | | | | | | | | | | | | | | | | | |
| | Religious group living | | | | | | | | | | | | | | | | | | |
| | Residence hall | | | | | | | | | | | | | | | | | | |
| | Retreat center | | | | | | | | | | | | | | | | | | |
| | Stadium or arena | | | | | | | | | | | | | | | | | | |
| | Zoo or aquarium | | | | | | | | | | | | | | | | | | |

TABLE 5108.2: Transitional Screening and Barrier Types by Use

Roman numerals in individual cells represent transitional screening type required (I, II, or III)

Letters in individual cells represent barrier type required (A through H)

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See Section 5108.6.A(1) above for direction on how to read this table.

| Use # | Use | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|-------|---|----------------------|---------------------|---------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------|----|----|----|-------------------|-------------------|
| 13 | Production or processing as permitted in I-3, I-4 Districts Self-storage Small-scale production establishment Wholesale facility | II D, E or F | II D, E or F | II D, E or F | D, E or F | H | H | | H | H | | | | | | | | |
| 14 | Solar power facility Utility facility, light | III D, E or F | II D, E or F | II D, E or F | I D, E or F | I D, E or F | I A, B or C | I A, B or C | D, E or F | D, E or F | | | | | | | | |
| 15 | Building materials storage and sales Contractor’s office & shop Freight distribution hub New vehicle storage Specialized equipment and heavy vehicle sale, rental, or service Storage yard Utility facility, heavy Vehicle transportation service (see use standards) Warehouse | III D, E or F | III D, E or F | III D, E or F | I D, E or F | I D, E or F | I A, B or C | I A, B or C | D, E or F | D, E or F | | | | | | | | |
| 16 | Extraction activity Junkyard Petroleum products storage facility Production or processing as permitted in I-5, I-6 Districts Recycling center Vehicle repair and maintenance, heavy Vehicle storage or impoundment yard | III D, E or F | III D, E or F | II D, E or F | I D, E or F | I D, E or F | I D, E or F | I D, E or F | I D, E or F | I A, B or C | I A, B or C | I A, B or C | D, E or F | | | | I A, B or C | |
| 17 | Production or processing, heavy Mixed waste reclamation facility Solid waste disposal facility | III D, E or F | III D, E or F | II D, E or F | I D, E or F | I A, B or C | I D, E or F | I D, E or F | I A, B or C | I A, B or C | I A, B or C | I A, B or C | D, E or F | | | | I D, E or F | I D, E or F |
| 18 | Public use | See most similar use | | | | | | | | | | | | | | | | |

7. Waivers and Modifications to Transitional Screening and Barriers

Transitional screening and barriers may be waived or modified under this subsection. The Board, in conjunction with a rezoning or special exception application, or the Director may attach conditions to any waiver or modification that would assure that the results of the waiver or modification will be in accordance with the purpose and intent of this section. The Board or Director may waive or modify transitional screening and barriers as follows:

- A.** Between uses developed under a common development plan in the PDC or PRM Districts or a common development or site plan or series of development or site plans within a PRC District when compatibility between uses has been addressed through a combination of the location and arrangement of buildings or through architectural or landscaping treatments.
- B.** Transitional screening and barriers may be waived or modified where the building, a barrier, or the land between that building and the property line has been specifically designed to minimize adverse impact through a combination of architectural and landscaping techniques.
- C.** The strict application of the transitional screening and barrier provisions would reduce the usable area of a lot due to lot configuration or size to a point that would preclude a reasonable use of the lot, provided the side of a building, a barrier, or the land between that building and the property line has been designed to minimize adverse impact through a combination of architectural and landscaping techniques.
- D.** The transitional screening yard width and planting requirements may be reduced as much as two-thirds where a seven-foot brick or architectural block wall is provided instead of the barrier required. The wall may be reduced to a height of six feet where the Director deems such a height will satisfy the purpose and intent of this section.
- E.** The adjoining land is designated in the Comprehensive Plan for a use that would not require transitional screening between the land under site plan and the adjoining property.
- F.** The adjacent property is zoned to allow a use similar to the parcel under site plan.
- G.** The adjoining property is used for any public purpose other than a school or hospital.
- H.** The adjacent residential property is used for any use permitted by the Board or BZA as a special exception or special permit use except for a child care center or private school.
- I.** The adjoining land is in a residential district and is used for off-street parking as permitted by the provisions of subsection 6100.2.B.
- J.** The property abuts a railroad, interstate highway right-of-way, the right-of-way of the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road.
- K.** The barrier requirement may be waived or modified if the topography of the lot providing the transitional screening and the lot being protected is such that a barrier would not be effective.
- L.** The barrier requirement may be waived or modified for single-family attached dwelling units if a six-foot fence is provided to enclose a privacy yard on all sides, and the fence is architecturally designed and coordinated with landscaping techniques to minimize adverse impact on adjacent properties.
- M.** For any public use that has been specifically designed to minimize adverse impact on adjacent properties.
- N.** The strict application of the provisions of this section in affordable dwelling unit developments would preclude compliance with the provisions of Section 5101.

8. Tree Conservation

Tree conservation must be provided as required by Chapter 122 of the County Code and the Public Facilities Manual.

5109. Outdoor Lighting

The purpose of this section is to establish outdoor lighting standards to reduce the impacts of glare, light trespass, and light pollution; promote safety and security; and encourage energy conservation.

1. Applicability

- A.** These outdoor lighting standards apply to the installation of new outdoor lighting fixtures or the replacement of existing outdoor fixtures, except as provided in subsection 2 below.
- B.** Outdoor lighting fixtures lawfully existing before June 17, 2003, that do not conform to the provisions of this section are deemed to be a lawful nonconforming use and may remain. For the purpose of the provisions in subsections 3.A(2) (correlated color temperature), 2.F (exemptions for motion activated light fixtures), and 2.G (exemptions for lots developed with single-family dwellings), outdoor lighting fixtures lawfully existing before February 12, 2020, are deemed to be a lawful nonconforming use and may remain. A nonconforming lighting fixture that is changed to or replaced by a conforming lighting fixture is no longer deemed nonconforming and must be in accordance with the provisions of this section.
- C.** For existing vehicle fueling stations, vehicle sales, service, and rental establishments, and outdoor recreation and sports facilities that do not comply with the applicable maintained lighting levels specified in subsection 4 below, replacement of or the addition of new lighting fixtures is permitted in accordance with the following:
 - (1)** There may be replacement or addition of new lighting fixtures only when the replacement or addition will not increase the noncompliance with the applicable maintained lighting level requirements of subsection 4 below.
 - (2)** A new canopy, display area, or lighted field or court may be added to the existing use only if the new canopy, display area, or playing field or court is in conformance with all the requirements of this section.

2. Exemptions

The following are exempt from the provisions of this section, as long as the fixtures, except for those in subsections A and B below, do not cause disability glare:

- A.** Lighting fixtures and standards required by the Federal Communications Commission, Federal Aviation Administration, Federal and State Occupational Safety and Health Administrations, or other federal, state, or county agencies, to include street lights within the public right-of-way.
- B.** Outdoor lighting fixtures required by law enforcement, fire and rescue, the Virginia Department of Transportation, or other emergency response agencies to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares.
- C.** Routine lighting fixture maintenance, such as changing lamps or light bulbs, ballast, starter, photo control, housing, lenses, and other similar components, does not constitute replacement and may be permitted if the changes do not result in a higher lumen output or a color temperature that exceeds the standard in subsection 3.A(2) below.
- D.** Holiday lighting fixtures.
- E.** Neon lighting used to outline a structure.

- F.** Motion activated light fixtures located as follows:
- (1)** On lots developed with single-family dwellings if such lighting fixtures:
 - (a)** Emit initial lighting levels of 4,000 lumens or less;
 - (b)** Are extinguished within five minutes upon cessation of motion; and
 - (c)** Are aimed such that the illumination is directed within the property boundary; or
 - (2)** On all other lots if the lighting fixtures are aimed such that the illumination is directed within the property boundary.
- G.** On lots developed with single-family dwellings, outdoor lighting fixtures with initial light outputs of 1,500 lumens or less are not subject to the provisions of subsections 3.A(1) and 3.C(3) below.

3. General Provisions

Except as provided in 4.B below, or exempted in 2 above, all outdoor lighting fixtures must comply with the following:

A. Lighting Fixtures and Mounting

- (1)** Full cut-off lighting fixtures must be mounted horizontal to the ground and must be used for all outdoor lighting unless otherwise specifically provided in this section, and all lighting fixtures located within those portions of open-sided parking structures that are above ground. For the purposes of this provision, an open-sided parking structure is a parking structure that contains exterior walls that are not fully enclosed between the floor and ceiling. Within an open-sided parking structure, the ceiling or walls of the structure may be used to meet the full cut-off angle requirements. An example of a full cut-off lighting fixture is shown in Figure 5109.1 below.

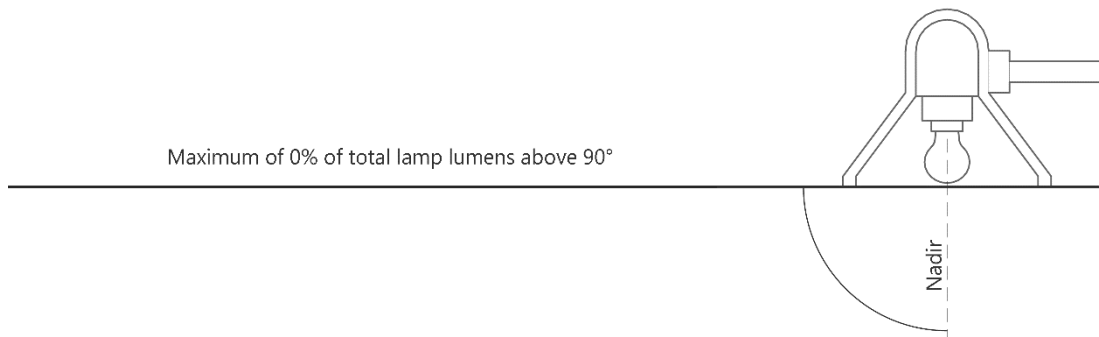


Figure 5109.1: Full Cut-Off Lighting Fixture

- (2)** Except for signs, all light sources may not exceed a maximum Correlated Color Temperature (CCT) of 3,000K unless otherwise approved by the Director. However, sports fields or courts that are subject to a sports illumination plan may have a maximum CCT of up to 5,700K.
- (3)** Except for internally illuminated signs, the use of lighting fixtures that are enclosed in clear or translucent white, off-white, or yellow casing are prohibited on the roofs of buildings or on the sides of canopies.
- (4)** The following lighting must consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is substantially confined

to the object intended to be illuminated and, where necessary, directional control shields must limit stray light and protect motorists and pedestrians from glare (see Figure 5109.2:

- (a) Lighting used to illuminate flags, statues, signs, or any other objects mounted on a pole, pedestal, or platform; and
- (b) Spotlighting or floodlighting used for architectural or landscape purposes.

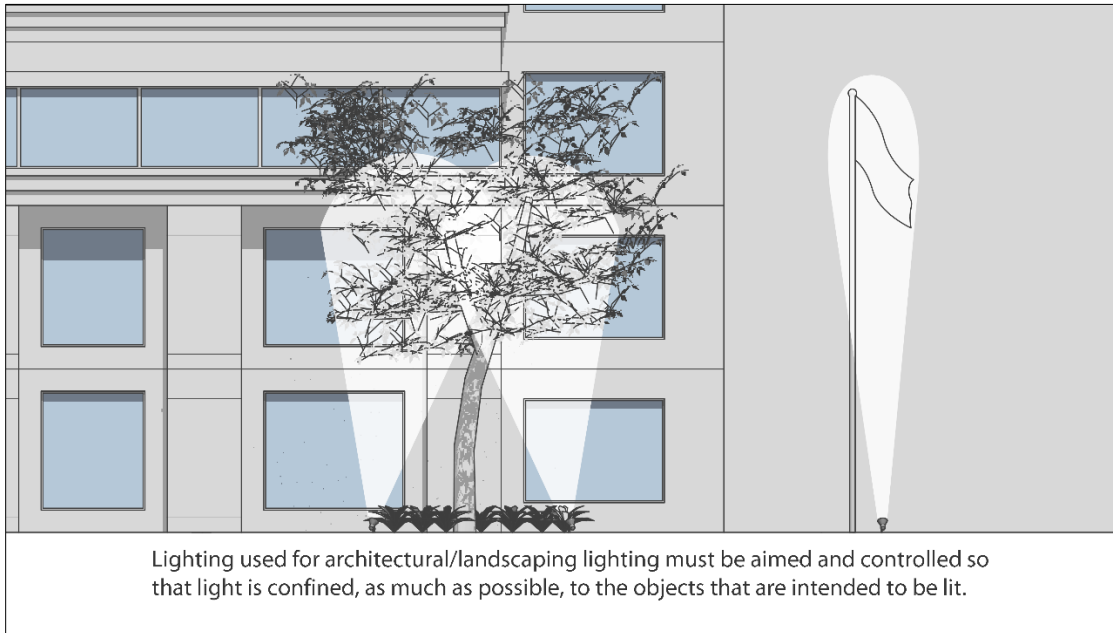


Figure 5109.2: Uplighting Examples

- (5) All outdoor lighting fixtures must be aimed, located, and maintained so as not to produce disability glare. The lighting fixtures specified in 3.A and 3.B above are excluded from this provision.
- (6) High intensity light beams in the form of outdoor search lights, lasers, or strobe lights are prohibited.

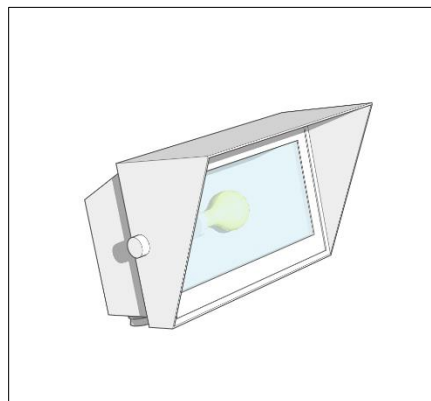


Figure 5109.3: Directionally Shielded Light Fixture

B. Internally Illuminated Signs

- (1) Internally illuminated signs must have an opaque background with translucent text and symbols, or a translucent background that is not white, off-white, or yellow in color.
- (2) All illuminated signage located on the sides of a canopy must be internally illuminated or backlit.
- (3) Electronic display signs must conform to the standards in subsection 7101.1.

C. Height and Location of Light Poles

- (1) Maximum height of lighting fixtures on light poles:
 - (a) No maximum height for lighting fixtures associated with outdoor recreation and sports facilities playing fields and courts.
 - (b) 40 feet as measured from the ground level or the surface on which the light pole is mounted to the bottom of the lighting fixture.
 - (c) 20 feet as measured from the top of the pole to the surface on which the pole is mounted for light poles mounted on the top of parking structures.
- (2) Light poles must be located in accordance with the following:
 - (a) **All Lots**

Unless further restricted elsewhere in these standards:

 1. Parking lot light poles may be located in any yard;
 2. Light poles that do not exceed seven feet in height may be located in any yard;
 3. Light poles greater than seven feet in height are subject to the minimum setback requirements of the zoning district in which located.
 - (b) **Lots with Single-Family Dwellings**

Light poles that exceed seven feet in height are subject to the location regulations of subsection 4102.7.A(6).
- (3) In addition to the above, on lots that abut property that is residentially zoned and developed, vacant, or homeowner's association open space, all outdoor lighting, including light poles located on top of any parking structure, must be either:
 - (a) Mounted at a height measured from grade to the bottom of the lighting fixture, including the height of the parking structure when located on top of a parking structure, equal to or less than the value $3 + (D/3)$, where D is equal to the horizontal distance in feet from the light source to the nearest residential lot line extended vertically; or
 - (b) Equipped with supplemental opaque shielding on the residential property side of the lighting fixture to reduce glare caused by direct light source exposure. (See Figure 5109.4.)

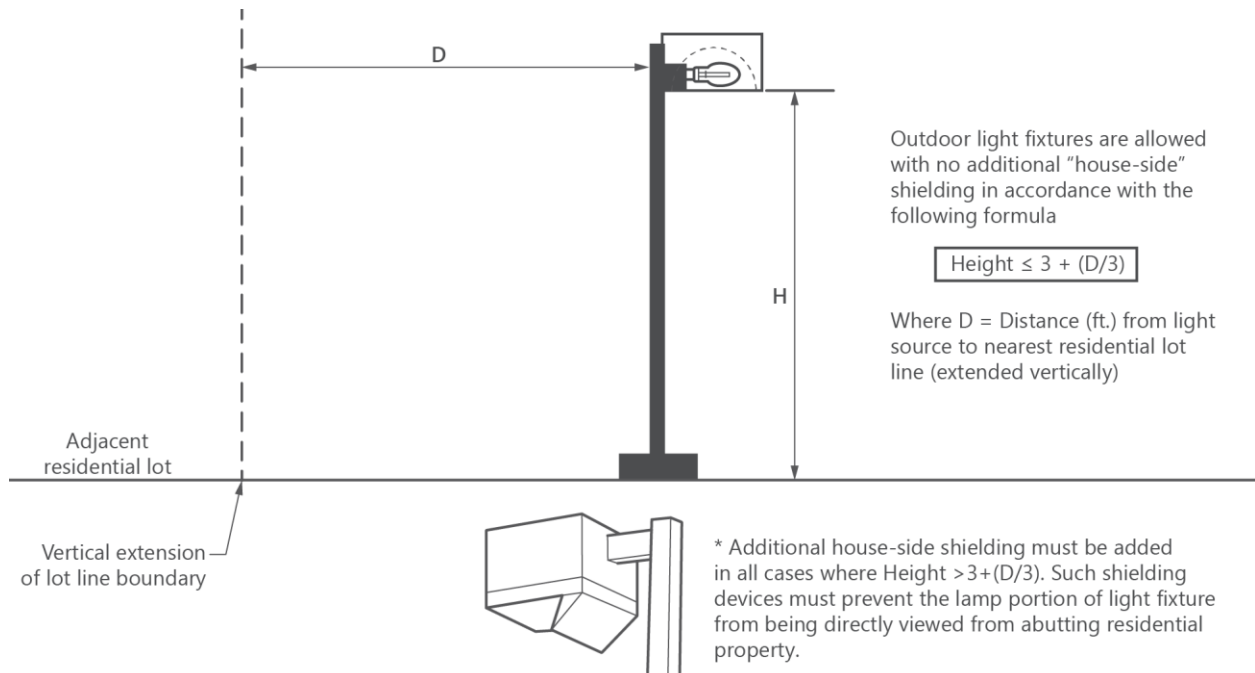


Figure 5109.4: Mounting Height or House-Side Shielding

D. Nonresidential Lots Dimming Requirement

On all nonresidential lots that contain a minimum of four parking lot light poles, parking lot lighting levels for ground surface parking lots and the top levels of parking structures must be reduced by a least 50 percent of full operational levels within 30 minutes after the close of business. This provision does not require parking lot lighting levels to be reduced to less than 0.2 footcandles as measured horizontally at the surface on which the light pole is mounted. This reduced lighting level must be achieved by:

- (1) Extinguishing at least 50 percent of the total number of pole mounted lamps;
- (2) Dimming lighting levels to no more than 50 percent of the levels used during business or activity hours; or
- (3) Some combination of (1) and (2).

E. Construction Sites

Lighting used for construction sites must consist of the following:

- (1) All construction site lighting, with the exception of lighting that is used to illuminate the interiors of buildings under construction, must use full cut-off or directionally shielded fixtures that are aimed and controlled so the directed light is substantially confined to the object intended to be illuminated. Directional control shields must be used where necessary to limit stray light.
- (2) Frosted light bulbs or other translucent covers must be used to light the ten-foot outermost perimeter area of the interiors of any buildings under construction that contain five or more stories. For the purposes of this subsection 5109.3.E, a building is no longer considered under construction once exterior walls and windows are installed

and permanent lighting replaces temporary lighting as the primary source of light for the building.

F. Enforcement

The Zoning Administrator may require evidence that the applicant is able to conform to the standards of this section. The Zoning Administrator may require the applicant to submit, at the expense of the applicant, reports or the certified results of tests with respect to any current or proposed operation of the use that is involved in relation to conformity to such standards, which reports or test must be made by a competent laboratory or other agency.

4. Lighting Standards for Certain Uses

A. Vehicle Fueling Stations and Vehicle Sales, Rental, and Service

Outdoor lighting fixtures associated with vehicle fueling stations and vehicle sales, rental, and service establishments are subject to the following:

- (1) The following must not exceed a maintained lighting level of 30 footcandles as measured horizontally at grade. However, a higher or lower maintained lighting level, not to exceed 50 footcandles, may be specifically approved by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning:
 - (a) Vehicle fueling station canopy lighting; and
 - (b) Outdoor display area lighting used in conjunction with a vehicle sales, rental, and service establishment.
- (2) All underside canopy lighting must consist of full cut-off fixtures.
- (3) For the purposes of this section, outdoor display areas include all display and storage areas for vehicles offered for sale or rent and the associated travel lanes.
- (4) A photometric plan is required for these uses in accordance with one of the following:
 - (a) As part of the submission of a special exception, development plan, or rezoning application, and subject to approval by the Board. The approved photometric plan must be submitted as part of a site plan submission for the use. Upon written request with justification, the Zoning Administrator may modify a submission requirement of subsection (5) below if it is determined that the requirement is not necessary for an adequate review of the photometric plan.
 - (b) As part of a site plan submission, or as a separate submission when site plan approval is not required, and subject to review and approval by the Director. Upon written request with justification, the Director may modify a submission requirement of subsection (5) below if it is determined that the requirement is not necessary for an adequate review of the photometric plan.
- (5) A photometric plan must be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a State licensed professional engineer, architect, landscape architect, or land surveyor and must contain the following:
 - (a) Location and limits of the canopy or outdoor display area at a scale of not less than 1 inch equals fifty feet (1" = 50').

- (b) Location and height of all canopy lighting and all pole, building, or ground-mounted lighting fixtures for an outdoor display area.
 - (c) A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixture facilities.
- (6) If a site plan approval is not required and the plan is submitted as a separate submission, five copies of a photometric plan must be submitted to the Director for review and approval and is subject to a fee as provided for in subsection 8100.7.

B. Outdoor Recreation Lighting Requirements

(1) Applicability

- (a) Illuminated playing fields or courts are subject to the provisions of this subsection if the fields or courts, whether as a principal or accessory use and individually or cumulatively, exceed 10,000 square feet in area, or have associated light poles that exceed 20 feet in height. Playing fields or courts include, but are not limited to, baseball/softball diamonds, soccer, field hockey, football and lacrosse fields, basketball, volleyball or tennis courts, skating rinks, horse riding rings or show areas, running tracks, swimming pools, golf driving ranges, golf courses, miniature golf courses, go-cart tracks, and baseball hitting and archery ranges.
- (b) For the purposes of this subsection, the perimeter area defined in (3)(b) below must be included in the area of the playing field or court. The playing field or court must be located so that the perimeter area is on the property.
- (c) Other components of playing fields or courts, such as parking lots, administrative offices, restrooms, ticket sales, concession stands, and bleachers or other spectator viewing areas, are not subject to this subsection, but must comply with the other requirements of this section.

(2) Sports Illumination Plan

A sports illumination plan is required in accordance with one of the following:

- (a) As part of the submission of a special exception, special permit, development plan, or rezoning application. A sports illumination plan is subject to approval by either the BZA in conjunction with a special permit or the Board in conjunction with a special exception, development plan, or proffered rezoning and a sports illumination plan approved by the BZA or Board must be submitted as part of a site plan submission for the use. Upon a written request with justification, the Zoning Administrator may modify a submission requirement of (3) below if it is determined that the requirement is not necessary for an adequate review of the sports illumination plan.
- (b) For a facility that is permitted by right in the zoning district in which it is located, as part of the site plan submission, or as a separate submission when site plan approval is not required. Upon a written request with justification, the Director may modify a submission requirement of (3) below if it is determined that the requirement is not necessary for an adequate review of the sports illumination plan. Such sports illumination plan is subject to review and approval by the Director.

(3) Submittal Requirements

A sports illumination plan must be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP) or a State licensed professional engineer, architect, landscape architect, or land surveyor and must contain the following:

- (a)** The boundaries, dimensions, and total land area of the property at a designated scale of not less than one-inch equals fifty feet (1" = 50'). For proposed uses on large tracts of land where the lighted playing field or court occupies a small portion of the site, the boundaries, dimensions and total land area of just the lighted playing field or court with perimeter areas, must be provided, at a designated scale of not less than one inch equals fifty feet (1" = 50'), with a graphic that depicts the location of the fields and courts in relation to the perimeter lot lines of the entire property.
- (b)** Location and limits of playing fields and courts, to include a perimeter area which must be located entirely on the same lot. For baseball and softball fields, the perimeter area extends 40 feet in a direction perpendicular to the foul lines and away from the field. The perimeter area for rectangular playing fields, such as soccer, football, lacrosse, and field hockey, extends 20 feet from the side lines and 30 feet from the end lines. The perimeter area for tee boxes on golf courses and golf driving ranges is 30 feet. The perimeter area for all other playing fields and courts extends ten feet beyond the playing field or court boundary.
- (c)** Location, height, and illustration of each style of all pole, building, and ground-mounted lighting fixtures for the playing field or court.
- (d)** A photometric diagram showing predicted maintained lighting levels for the proposed playing field or court and associated perimeter area lighting.

(4) Lighting Standards

- (a)** The lighting for playing fields or courts and associated perimeter areas must comply with the maximum footcandle levels indicated for the specific uses listed in Table 5109.1 below, unless a lesser limit is specifically approved by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning, or by the BZA in conjunction with the approval of a special permit. Footcandle measurements are measured horizontally three feet above grade level and must represent maintained lighting levels. The Zoning Administrator will determine maximum permitted lighting levels for outdoor recreation and sports facilities that are not listed in Table 5109.1.
- (b)** All playing field and court lighting fixtures must use full cut-off or directionally shielded lighting fixtures, aimed toward the playing field or court and shielded in directions away from the playing field or court to minimize glare and light trespass onto adjacent properties.
- (c)** Time limits for lighting of outdoor playing fields or courts that are subject to a sports illumination plan, unless other hours are specifically approved by the BZA in conjunction with the approval of a special permit, or by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning:

1. For properties that are both zoned to a residential district and developed with a single-family residential use, lighting is not allowed between the hours of 10:00 p.m. and 7:00 a.m.; and
 2. For all other properties including but not limited to public athletic field sites, lighting is not allowed between the hours of 11:00 p.m. and 7:00 a.m.
- (d) When site plan approval is not required and the plan is submitted as a separate submission, five copies of the plan must be submitted to the Director for review and approval and is subject to a fee as provided for in subsection 8100.7.

| TABLE 5109.1: Maximum Permitted Levels of Illumination for Outdoor Recreation and Sports Facilities | | |
|---|-----------------------|---|
| Facility or Use | Specific Lighted Area | Maximum Illumination Maintained (footcandles) |
| Archery range | | 10 |
| Baseball and softball | Infield | 60 |
| | Outfield | 40 |
| Baseball (professional) | Infield | 150 |
| | Outfield | 100 |
| Baseball hitting ranges | | 50 |
| Basketball, volleyball | | 30 |
| Field hockey, football, soccer, lacrosse, track & field | | 50 |
| | | |
| Go-cart tracks | | 30 |
| Golf courses | Tee boxes, greens | 5 |
| | Fairways | 3 |
| Golf driving ranges | Tee boxes | 20 |
| | Fairways | 3 |
| | Greens | 5 |
| Golf, miniature | | 20 |
| Horse riding rings and show areas | | 30 |
| Ice skating, ice hockey, and roller-skating rinks | | 50 |
| Swimming pools | Pool surface | 10 |
| | Pool deck | 30 |
| Tennis courts (college and high school) | | 60 |
| Tennis courts (recreational) | | 40 |

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Article 6 - Parking and Loading

6100. Off-Street Parking

1. Applicability

A. Generally

- (1) In any R, C, or I district, all structures built, and all uses established must provide accessory off-street parking in accordance with this Article, unless an alternative is approved for a Commercial Revitalization District under subsection 3102.3.E(2).
- (2) In the PDH, PDC, PRC, PRM, and PCC Districts, the provisions of this Article have general application as determined by the Director.
- (3) In the PTC District, off-street parking must be provided in accordance with Section 6102. The other provisions of this Article have general application as determined by the Director.
- (4) For an existing use located in the Tysons Urban Center but not in the PTC District, a parking reduction is available in accordance with the following:
 - (a) An owner may voluntarily elect to reduce the number of off-street parking spaces required.
 - (b) The reduction must result in a number between what is currently approved for the site and the applicable minimum parking rate specified for the PTC District.
 - (c) This reduction is subject to the approval of a parking redesignation plan in accordance with subsection 6100.2.C(4)(b).
 - (d) This voluntary parking reduction is not available if the currently approved number of parking spaces on the site is specified by a special exception, special permit, or proffered condition.
- (5) For the redevelopment of an existing property that includes the retention of some uses or structures and the elimination of some on-site parking during the redevelopment process, the Board, in conjunction with a rezoning or special exception, or the Director, in conjunction with a site plan, may approve a temporary reduction or relocation of the minimum required off-street parking spaces subject to a time limitation and demonstration by the applicant that adequate measures will be taken to ensure the continuation of safe and adequate use of the property.
- (6) Parking of commercial vehicles in R districts is regulated by subsections 4102.1.B(2) and 4102.1.E(4).

B. Change in Use or Expansion, or Enlargement of an Existing Structure or Use

- (1) Off-street parking for a change in use or an expansion or enlargement of an existing structure or use must comply with the following:
 - (a) For a change in use that results in the same or lesser parking requirement than the previous use, no additional parking is required. For a change in use that results in a greater parking requirement than the previous use, the minimum off-street

parking requirement established in this Article must be provided for the new use, unless a reduction is approved in accordance with 6100.5 or 6100.6.

- (b)** The expansion or enlargement of an existing structure or use must provide the minimum off-street parking requirements established by this Article for the area or capacity of such expansion or enlargement. Compliance with the minimum off-street parking requirements is not required when the expansion or enlargement is to provide an accessibility improvement.
- (2)** For special exception and special permit uses, the approving body may require compliance with this Article for the entire structure or use, as expanded or enlarged.
- (3)** The provisions of this Section 6100 do not apply to motor vehicle storage or display parking areas associated with a vehicle sales, service, and rental establishment.

2. Off-Street Parking Standards, Layout, and Design

A. General Location

- (1)** All required off-street parking spaces must be located on the same lot as the structure or use to which they are accessory, except as allowed by subsections 2.E and 6.C below.
- (2)** Unless otherwise authorized in this Ordinance, parking structures and carports are subject to the minimum setback requirements applicable in the zoning district in which they are located, except parking structures that are completely underground may be located in any required setback, but not closer than one foot to any lot line.
- (3)** Unless otherwise authorized in this Ordinance or modified by the Board or BZA in accordance with 5108.5, off-street parking spaces located on the ground and open to the sky may be located in any required setback but may not be closer than ten feet to any front lot line. The following are exempt from this ten-foot minimum distance requirement:
 - (a)** Parking spaces for single-family attached dwellings in parking bays; and
 - (b)** Parking spaces on the same lot with single-family detached, single-family attached, and stacked townhouse dwellings, provided such spaces do not encroach into any sidewalk or trail.
- (4)** Off-street parking spaces for a structure or use permitted only in a C or I district may not be located in an R district, except with approval as a special exception by the Board as provided below.

B. Parking in Residential Districts

- (1)** The Board may approve a special exception authorizing a property in an R district or a residential area of a P district to be used for off-street parking of motor vehicles, but only in accordance with this Article and the following:
 - (a)** No fee is charged for parking purposes.
 - (b)** No parking of vehicles is allowed closer to any lot line that abuts an R district or a residential area of a P district than a distance equal to the dimension of the corresponding setback of the adjacent R district or P district as required by this Ordinance.

- (2) In the R-1, R-2, R-3, and R-4 Districts, for single-family detached dwellings on lots containing 36,000 square feet or less, all parking for vehicles or trailers in a front setback must be on a surfaced area, except for temporary parking on an unsurfaced area in a front setback for a period not to exceed 48 hours for loading, unloading, cleaning, or repair of vehicles or trailers.
- (3) In the R-1 and R-2 Districts, no more than 25 percent of any front yard and in the R-3 and R-4 Districts, no more than 30 percent of any front yard may be surfaced area for a driveway or vehicle or trailer parking area. On a pipestem lot, the surfaced area within the pipestem driveway is not included in this limitation. In addition, these limitations may be exceeded for a surfaced area that is:
 - (a) Limited to two side-by-side parking spaces if the surfaced area is not more than 25 feet long and 18 feet wide;
 - (b) On a lot that has its primary access from a major thoroughfare and consists of two side-by-side parking spaces and a vehicular turn-around area as long as the surfaced area is not more than 25 feet long and 18 feet wide and the turn-around area does not exceed 150 square feet; or
 - (c) Provided as an accessibility improvement as approved by the Zoning Administrator.

C. Off-Street Parking Design and Layout

(1) Generally

- (a) Required off-street parking spaces and their appurtenant aisles and driveways may not be encroached upon or reduced in any manner except with approval by the Board in accordance with the provisions of this Ordinance, or except with approval by the Director in any of the following circumstances. This provision does not negate pipestem lots otherwise allowed under the provisions of 5100.2.L.
 - 1. The space may be reduced by the amount to which other space, conforming to the provisions of this Ordinance, is provided;
 - 2. The space may be reduced by an amount which is justified by a reduction in the number of required parking spaces;
 - 3. The space may be reduced by reason of the provision of conveniently available parking space in a parking lot established by a public authority for which the developer has made payment in accordance with the provisions of subsection 6100.6.C(3); or
 - 4. The space may be reduced for an existing structure or use to provide an accessibility improvement.
- (b) All off-street parking spaces must be provided with safe and convenient access to a street. If any space is located contiguous to a street, the street side must be curbed, and ingress and egress may be provided only through driveway openings whose dimension, location and construction is approved by the Director in accordance with the provisions of the Public Facilities Manual.

(2) Accessible Parking

- (a)** All accessible off-street parking spaces and related access aisles and accessible routes must comply with the provisions of the USBC and the Public Facilities Manual.
- (b)** The number of accessible parking spaces must be included in the required number of parking spaces.
- (c)** Each accessible parking space must be designated as reserved for persons with disabilities by an above grade sign in conformance with the design and content specifications of the Public Facilities Manual.

(3) Off-Street Parking Surface and Dimensional Standards

- (a)** All off-street parking areas, including aisles and driveways, except those required for single-family detached dwellings, must be constructed and maintained with a dustless surface in accordance with construction standards presented in the Public Facilities Manual. The Director may approve a modification or waiver of the dustless surface requirement in accordance with the Public Facilities Manual.
- (b)** Surfaced area includes asphalt, poured or precast concrete, brick, stone, gravel, or any other impervious surface, or grasscrete or other similar pervious surface.
- (c)** All off-street parking spaces and areas must comply with the geometric design standards presented in the Public Facilities Manual.
- (d)** All required stacking spaces must be a minimum of 18 feet in length. In addition, the geometric design of the stacking aisle(s), including but not limited to the radius and width of the travel aisle, is subject to the approval of the Director.

(4) Off-Street Parking Area Markings**(a) Generally**

All parking spaces, except those provided for and on the same lot with single-family detached, attached, and stacked townhouse dwellings, must be clearly marked in accordance with the design standards set forth in the Public Facilities Manual and are subject to the approval of the Director.

(b) Redesignation Plan

- 1.** Any proposal to redesignate parking space delineations that changes the existing space size, configuration, or number requires approval by the Director subject to the following:
 - a.** The applicant must submit a plan certified by an engineer or land surveyor authorized by the State to practice as such;
 - b.** The plan must show all off-street parking spaces, related driveways, loading spaces and walkways, indicating the type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by the provisions of this Article;
 - c.** A plan will not be approved that reduces the number of parking spaces below the minimum number required by this Article.

- d. These requirements do not apply to public commuter park-and-ride lots that use existing off-street parking spaces accessory to another use.
- 2. A redesignation plan to provide an accessibility improvement does not need to be certified by an engineer or land surveyor and any such plan that reduces the number of parking spaces below the minimum requirements of this Article may be approved.

(5) Compact Car Parking Spaces

The same or fewer number of compact car parking spaces existing as of or grandfathered by the Board on September 19, 1988 may be retained in accordance with the conditions of the compact car approval, provided that the total number of parking spaces on-site is not reduced, except if:

- (a) The reduction is to provide an accessibility improvement; or
- (b) The reduction is a result of a reduction in land area by condemnation or by acquisition for public purposes by any governmental agency.

D. Shared Off-Street Parking

Off-street parking spaces may serve two or more uses when the total number of spaces provided equals the sum of the minimum spaces required for each separate use except as may be permitted under an approved parking reduction under 6100.5 or 6100.6 or a previously approved parking reduction based on a proffered transportation demand management program.

E. Off-Site Parking

Required off-street parking spaces may be located on a lot contiguous to the lot they serve subject to the following standards:

- (1) The lot has the same zoning classification as the lot where the use it serves is established; and
- (2) The lot is either under the same ownership or is subject to agreements or arrangements satisfactory to the Director that will ensure the continuing availability of such spaces sufficient to serve the use.

F. Additional Parking

Additional off-street parking may be added to an existing development that met the parking requirement in effect at the time of its development, but that does not comply with the current requirements, in order to minimize the degree of current noncompliance.

G. Use of Off-Street Parking Areas

- (1) Required off-street parking spaces and their appurtenant aisles and driveways that are not fully used during the weekday may be used for a public commuter park-and-ride lot when established and operated in accordance with a public commuter park-and-ride lot agreement approved by the Board.
- (2) All off-street parking facilities may only be used for the parking of vehicles in operating condition by patrons, occupants, or employees of the use to which such parking is

accessory. No motor vehicle repair work except emergency service is permitted in association with any required off-street parking facilities.

3. Calculation of Off-Street Parking

- A. Where a given use or building contains a combination of uses, parking must be provided on the basis of the sum of the required spaces for each use, except as may be permitted by subsection 4102.1.G for associated service uses.
- B. When the number of spaces calculated results in a number containing a fraction, the required number of spaces will be the next higher whole number.
- C. Where the required number of parking spaces is not identified for a particular use, and where there is no similar general type of use listed, the Zoning Administrator will determine the number of spaces required. When the amount of parking spaces required is uncertain for a proposed use, the maximum requirement for the general type of use that is involved governs.
- D. Gross floor area is determined in accordance with the gross floor area definition, except that:
 - (1) Outdoor display and sales area and areas within a cellar not used exclusively for storage or for mechanical equipment is included as gross floor area; and
 - (2) Mall areas in shopping centers of less than 1,000,000 square feet of gross floor area, calculated as the sum of all floors in the mall, measured from the interior faces of the walls of the mall, are excluded from gross floor area.
- E. Electric vehicle charging spaces in accordance with subsection 4102.7.F are included in the required number of parking spaces.

4. Minimum Required Off-Street Vehicle Parking Spaces

A. Table of Required Parking Spaces

| TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces | |
|--|--|
| Use | Minimum Parking Requirement |
| AGRICULTURAL AND RELATED USES | |
| Agricultural and Related Uses | |
| Agricultural Operation | No minimum requirement |
| Farm Winery, Limited Brewery, or Limited Distillery | When by right: No minimum requirement When by SE: Based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking. |
| Stable, Riding or Boarding | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces to accommodate employees, horse trailers, students, customers, and guests anticipated to be on-site at any one time, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand. |
| RESIDENTIAL USES | |
| Household Living | |
| Dwelling, Multifamily | 1.6 spaces per unit |
| Dwelling, Single-Family Attached | 2.7 spaces per unit where only 1 such space is required to have convenient access to the street |

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|--|---|
| Dwelling, Single-Family Detached and Accessory Living Unit | 2 spaces per unit for lots with frontage on a public street and 3 spaces per unit for lots with frontage on a private street, where only 1 such space is required to have convenient access to a street Accessory living unit (administrative permit): 1 additional space |
| Dwelling, Stacked Townhouse | 2.3 spaces per unit where only 1 such space is required to have convenient access to the street |
| Group Residential Facility | Applicable rate for the dwelling unit type |
| Live-Work Development | Applicable office rate or as reduced by the Board |
| Manufactured Home | 1.5 spaces per unit |
| Group Living | |
| Congregate Living Facility | 1 space per 3 residents, plus 1 additional space for each employee on major shift |
| Group Household | See subsection 4102.3.G |
| Religious Group Living | 1 space per 2 sleeping accommodations based on the occupancy load of the building, plus 1 additional space for each manager or employee on major shift |
| Residence Hall | 1 space per guest accommodation |
| PUBLIC, INSTITUTIONAL, AND COMMUNITY USES | |
| Community, Cultural, and Educational Facilities | |
| Adult Day Support Center | 1 space per 4 adults, based on the maximum number of adults licensed to attend the center, or other amount as the Board may require as part of an approved rezoning or special exception |
| Alternate Use of Public Facility | See most similar use |
| Child Care Center | Maximum daily enrollment of 99 children or less: 0.19 spaces per child Maximum daily enrollment of 100 or more children: 0.16 spaces per child |
| Club, Service Organization, or Community Center | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |
| College or University | Determined by the Director based on 1 space per faculty and staff member and other full-time employee on major shift, plus a sufficient number of spaces to accommodate the anticipated number of students and visitors who will drive to the institution at any one time, including consideration of the occupancy load of all classroom facilities, auditoriums and stadiums, the availability of mass transportation, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand. |
| Community Swim, Tennis, and Recreation Club | Community Pool: 1 space for every 7 persons lawfully permitted in the pool at one time, plus 1 space per employee on major shift. The Director may reduce this standard based on the number of members who are within a reasonable walking distance of the pool. Tennis Club: 4 spaces per court, plus required spaces for affiliated uses, such as restaurants. Recreation Club without swimming or tennis: determined by the Director |
| Convention or Conference Center | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |
| Cultural Facility or Museum | 1 space per 300 square feet of gross floor area |
| Public Use | Determined by the Director based on the number of spaces required to accommodate employees, public use vehicles anticipated to be on-site at any one time, visitor parking, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand. The number of spaces required for government office use may not be less than that required for office. Library: 7 spaces per 1,000 square feet of gross floor area Park: See Quasi-Public Park, Playground, or Athletic Field School: See School, Private |
| Religious Assembly | 1 space per 4 seats in the principal place of worship |

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|--|---|
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | The sum of the parking requirements for each use |
| School, Private | Determined by the Director based on the occupancy load of all classroom facilities, auditoriums and stadiums, proposed special education programs, and student-teacher ratios, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand; but in no instance less than: Elementary or Intermediate: 1 space per faculty and staff member and other full-time employee on major shift, plus 4 spaces for visitors; or High School: 0.3 space per student, based on the maximum number of students attending classes at any one time |
| Specialized Instruction Center | 2 spaces per each 3 employees on major shift, plus a sufficient number of spaces to accommodate all persons anticipated to be on-site at any one time under normal operating conditions. |
| Funeral and Mortuary Services | |
| Cemetery | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces required to accommodate employees and visitor parking. |
| Crematory | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Funeral Home | 1 space per 4 seats in the main chapel or parlor, plus 1 space per 2 employees on major shift, plus 1 space for each vehicle used in connection with the business |
| Health Care | |
| Adult Day Care Center | 1 space per 4 adults, based on the maximum number of adults licensed to attend the center, or other amount as the Board may require as part of an approved rezoning or special exception |
| Continuing Care Facility | 0.75 spaces per separate unit or bed approved on the development plan |
| Independent Living Facility | 1 space per 4 dwelling units, plus 1 space per 1 employee or staff member on major shift, or such greater number as the Board may require |
| Medical Care Facility | Hospital: 2.9 spaces per bed licensed by the State, plus additional or fewer spaces as deemed necessary based on specific analysis for each site. Institution providing intensive special medical or mental care: 1 space per 2 patients, based on the occupancy load, plus 1 space per employee or staff member on major shift Assisted Living or Nursing Facility: 1 space per 3 residents, plus 1 additional space for each employee |
| Transportation | |
| Airport | 1 space per employee on major shift, plus 1 space for each vehicle used in connection with the facility, plus sufficient space to accommodate the largest number of vehicles anticipated to be on-site at any one time |
| Helipad | A minimum of 5 spaces for commercial helistops and a minimum of 2 spaces for non-commercial helistops |
| Transit Facility | No minimum requirement, or as determined by the Board or Director |
| Utilities | |
| Solar Power Facility | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle |
| Utility Facility, Heavy | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle |
| Utility Facility, Light | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle |
| Wireless Facility | No minimum requirement |

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|--|--|
| COMMERCIAL USES | |
| Animal-Related Services | |
| Animal Shelter | <p>5,000 square feet of gross floor area or less: 10 spaces Greater than 5,000 square feet of gross floor area: 10 spaces; plus additional spaces as determined by the Director, based on the number of spaces required to accommodate employees and visitors anticipated to be on-site at any one time. Gross floor area does not include any outdoor exercise or dog run area that is enclosed by a roof or fencing material.</p> |
| Kennel | <p>5,000 square feet of gross floor area or less: 10 spaces Greater than 5,000 square feet of gross floor area: 10 spaces; plus additional spaces as determined by the Director, based on the number of spaces required to accommodate employees and visitors anticipated to be on-site at any one time. Gross floor area does not include any outdoor exercise or dog run area that is enclosed by a roof or fencing material.</p> |
| Pet Grooming Establishment | 1 space per 200 square feet of gross floor area |
| Veterinary Hospital | <p>5,000 square feet of gross floor area or less: 10 spaces Greater than 5,000 square feet of gross floor area: 10 spaces; plus additional spaces as determined by the Director, based on the number of spaces required to accommodate employees and visitors anticipated to be on-site at any one time. Gross floor area does not include any outdoor exercise or dog run area that is enclosed by a roof or fencing material.</p> |
| Food and Lodging | |
| Bed and Breakfast | 2 spaces per single-family dwelling, where only 1 such space is required to have convenient access to a street; plus 1 space per guest room |
| Catering | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Hotel or Motel | 1 space per rental unit, plus 4 spaces per 50 rental units, plus required spaces for restaurants, assembly rooms, and affiliated facilities as determined by the Director. |
| Restaurant | <p>Unless otherwise provided in subsection 6100.4.D: Gross floor area of less than 5,000 square feet: 10 spaces per 1,000 square feet and 10 spaces per 1,000 square feet of outside seating area in excess of 20 outdoor seats. Gross floor area of more than 5,000 square feet: 11 spaces per 1,000 square feet and 11 spaces per 1,000 square feet of outside seating area in excess of 32 outdoor seats. Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.</p> |
| Restaurant, Carryout | <p>Unless otherwise provided in subsection 6100.4.D: 6.5 spaces per 1,000 square feet of gross floor area</p> |
| Restaurant with Drive-Through | <p>Unless otherwise provided in subsection 6100.4.D: Gross floor area of less than 5,000 square feet: 12 spaces per 1,000 square feet, plus 12 spaces per 1,000 square feet of outside seating area in excess of 20 outdoor seats. Gross floor area of more than 5,000 square feet: 12 spaces per 1,000 square feet, plus 12 spaces per 1,000 square feet of outside seating area in excess of 32 outdoor seats.</p> <p>Stacking spaces: 11 for the drive-through window, with a minimum of 5 spaces designated for the ordering station. Such spaces must be designed to not impede pedestrian or vehicular circulation on the site or on any abutting street.</p> <p>Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces.</p> |
| Retreat Center | 1 space per rental unit, plus 4 spaces per 50 rental units, plus required spaces for restaurants, assembly rooms, and affiliated facilities as determined by the Director. |
| Office and Financial Institutions | |
| Alternative Lending Institution | 4 spaces per 1,000 square feet of gross floor area |

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---------------------------------------|---|
| Drive-Through Financial Institution | 4 spaces per 1,000 square feet of gross floor area for customer service, lobby, and teller area, plus additional space as required for any associated offices. Stacking spaces: 8 in front of the first window and 2 in front of each additional window; except that 5 may be permitted in front of each of the first 2 windows, provided that both windows remain open when the drive-through facility is operational. |
| Financial Institution | 4 spaces per 1,000 square feet of gross floor area for customer service, lobby, and teller area, plus required spaces for any associated offices |
| Office | 50,000 square feet of gross floor area or less: 3.6 spaces per 1,000 square feet Greater than 50,000 but less than 125,000 square feet of gross floor area: 3 spaces per 1,000 square feet 125,000 square feet of gross floor area or more: 2.6 spaces per 1,000 square feet The size of the office building is based on the definition of gross floor area as set forth in Article 9. Where more than one office building is located on a lot, gross floor area is based on each individual building and not on the total gross floor area of all buildings on the lot. Gross floor area as qualified in Subsection 6100.3 is used to determine the required number of parking spaces. Buildings connected by structures such as atriums, awnings, breezeways, carports, garages, party walls, or plazas are not considered one building. |
| Office in a Residential District | 3.6 spaces per 1,000 square feet |
| Personal and Business Services | |
| Business Service | 1 space per 300 square feet of gross floor area |
| Household Repair and Rental Service | 1 space per 200 square feet of gross floor area |
| Massage Therapy Establishment | 1 space per 200 square feet of gross floor area |
| Personal Service | 1 space per 200 square feet of gross floor area |
| Recreation and Entertainment | |
| Banquet or Reception Hall | 1 space per 3 persons based on the occupancy load; plus 1 space per employee on major shift |
| Campground | As determined by the Board or BZA |
| Commercial Recreation, Indoor | Generally: 1 space per 3 persons based on the occupancy load; plus 1 space per employee on major shift Bowling Alley: 4 spaces per alley, plus 1 space per employee on major shift, plus such additional spaces as may be required herein for affiliated uses such as restaurants Commercial Swimming Pool: 1 space per 4 persons lawfully permitted in the pool at one time, plus 1 space per employee on major shift Theater: 0.3 space per seat or similar vantage accommodation |
| Commercial Recreation, Outdoor | Generally: 1 space per 3 persons based on the occupancy load plus 1 space per employee on major shift Swimming Pool, Commercial: 1 space per 4 persons lawfully permitted in the pool at one time, plus 1 space per employee on major shift |
| Entertainment, Adult | 0.3 space per seat |
| Entertainment, Public | 1 space per 3 persons based on the occupancy load, plus one space per employee on major shift |
| Golf Course or Country Club | 1 space per 4 members based on maximum anticipated membership |
| Health and Exercise Facility, Large | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |
| Health and Exercise Facility, Small | 1 space per 3 persons based on the occupancy load, plus 1 space per employee on major shift |
| Marina, Commercial | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces required to accommodate employees of the greatest shift, visitor parking, maximum number of members and the number of boat slips. |

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|--|---|
| Marina, Private Noncommercial | As determined by the Director, based on a review of each proposal to include such factors as the number of spaces required to accommodate employees of the greatest shift, visitor parking, maximum number of members and the number of boat slips. |
| Quasi-Public Park, Playground, or Athletic Field | <p style="text-align: center;">Neighborhood Parks: Determined by the Director based on access to the park and the walking distance to the park from the surrounding development; the location of the park and the density of the surrounding development served; and the type and size of the proposed recreation uses or facilities.</p> <p>Urban Parks: No parking is required, provided such parks consist of urban style plazas, miniparks, and greenways, including trails, located within, contiguous to, or immediately across the street from urban, suburban and community business centers as defined in the plan, are oriented to pedestrian or bicycle use by the resident work force and adjacent residents, and provide open space and pedestrian oriented amenities.</p> <p style="text-align: center;">Community, District, Countywide and Regional Parks: As determined by the Director, based on the parking requirements for the most similar type of use or facility set forth herein.</p> |
| Smoking Lounge | 1 space per 3 persons based on the occupancy load; plus 1 space per employee on major shift |
| Stadium or Arena | 0.3 space per seat or similar vantage accommodation |
| Zoo or Aquarium | As determined by the Board or BZA |
| Retail Sales | |
| Convenience Store | 6.5 spaces per 1,000 square feet of gross floor area Spaces designated for curb-side pickup cannot be counted toward the minimum required number of parking spaces |
| Drive-Through, Other | As required for the most similar use, plus 5 stacking spaces in front of each drive-through window |
| Drive-Through Pharmacy | 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet, plus 5 stacking spaces in front of each drive-through window |
| Drug Paraphernalia Establishment | 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet |
| Garden Center | <p>Commercial Districts: 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet</p> <p>Residential Districts: 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet, plus 1 space per 500 square feet of outdoor sales/display area to include greenhouses used for the sales/display of plant materials, plus 1 space per employee on major shift and company/commercial vehicle and sufficient space for the parking of any related equipment for landscape contracting services as an accessory component; or as modified by the Board based on the specific characteristics of the garden center use such as the size, scale, or type of accessory uses, when it is demonstrated that fewer parking spaces would adequately serve the site.</p> |
| Pawnshop | 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet |
| Retail Sales, General | <p>Generally: 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet</p> <p>Furniture or Carpet Store: 1 space per 500 square feet of net floor area, plus 1 space for each employee on major shift</p> |
| Retail Sales, Large | <p>Generally: 1 space per 200 square feet of net floor area for the first 1,000 square feet, plus 6 spaces per each additional 1,000 square feet</p> <p>Furniture or Carpet Store: 1 space per 500 square feet of net floor area, plus 1 space for each employee on major shift</p> |

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|--|--|
| Vehicle-Related Uses | |
| Car Wash | 4 spaces per bay or stall; plus 1 space per employee for a self-service establishment, or 1 space per employee on major shift, plus sufficient area for 10 stacking spaces per bay or stall for an automated establishment |
| Commercial Off-Street Parking | No minimum requirement |
| New Vehicle Storage | No minimum requirement |
| Truck Rental Establishment | 1 space per 500 square feet of enclosed sales and rental floor area, plus 1 space per 2,500 square feet of open sales and rental display lot area, plus 1 space per employee on major shift, but never less than 5 spaces. When the enclosed office, sales, and rental area or employees are shared with another use for which parking has been provided, only the open sales and rental display area is required to be separately parked. |
| Vehicle Fueling Station | 2 spaces per service bay, plus 6.5 spaces per 1,000 square feet of gross floor area devoted to the retail use, but never less than 5 spaces |
| Vehicle Repair and Maintenance, Heavy | 2 spaces per service bay, plus 1 space per employee on major shift |
| Vehicle Repair and Maintenance, Light | 1 space per 200 square feet of net floor area, plus 2 spaces per service bay, plus 1 space per employee on major shift |
| Vehicle Sales, Rental, and Service | 1 space per 500 square feet of enclosed sales and rental floor area, plus 1 space per 2,500 square feet of open sales and rental display lot area, plus 2 spaces per service bay, plus 1 space per employee on major shift, but never less than 5 spaces |
| Vehicle Transportation Service | Based on the size and maximum number of company vehicles stored on-site with a minimum of 1 space per 1 employee on major shift, plus 1 space per company vehicle stored on-site. |
| INDUSTRIAL USES | |
| Freight Movement, Warehousing, and Wholesale Distribution | |
| Data Center | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle |
| Freight Distribution Hub | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Goods Distribution Hub | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Self-Storage | 3.2 spaces per 1,000 square feet of gross floor area of office space associated with the use plus 1 space per employee on major shift, and 2 spaces for a resident manager. The width of travel aisles for vehicular access and loading and unloading are subject to the approval of the Director |
| Warehouse | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Wholesale Facility | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Industrial Services and Extraction of Materials | |
| Building Materials Storage and Sales | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Contractor's Office and Shop | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Extraction Activity | As determined by the BZA |

TABLE 6100.1: Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|--|---|
| Petroleum Products Storage Facility | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | 1 space per 500 square feet of enclosed sales and rental floor area, plus 1 space per 2,500 square feet of open sales and rental display lot area, plus 2 spaces per service bay, plus 1 space per employee on major shift, but never less than 5 spaces |
| Storage Yard | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Vehicle Storage or Impoundment Yard | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Production of Goods | |
| Craft Beverage Production Establishment | 1 space per 4 seats where seating is at tables, plus 1 space per 2 seats where seating is at a counter, plus 1 space per 2 employees. This rate applies to outdoor seating in excess of 20 outdoor seats for an establishment with a gross floor area of less than 5,000 square feet, or to outdoor seating in excess of 32 outdoor seats for an establishment with a gross floor area of 5,000 square feet or more |
| Production or Processing | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Production or Processing, Heavy | 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Small-Scale Production Establishment | C-3, C-4, C-5, C-6, C-7, C-8, PDH, PDC, PRM, and PRC Districts: 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment, but with a minimum of 1 space per 1,000 square feet of gross floor area I-3 District: 1 space per employee on major shift, plus 1 space per company vehicle and piece of mobile equipment |
| Waste and Recycling Facilities | |
| Junkyard | 1 space per 1.5 employees on major shift, plus 1 space per company vehicle, plus sufficient space to accommodate the largest number of visitors anticipated to be on-site at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area |
| Mixed Waste Reclamation Facility | 1 space per 1 employee on major shift, plus 1 space per company vehicle |
| Recycling Center | 1 space per 1 employee on major shift, plus 1 space per company vehicle |
| Solid Waste Disposal Facility | 1 space per 1 employee on major shift, plus 1 space per company vehicle |

B. Shopping Centers

(1) Parking Requirement Calculation

The off-street parking requirement established in Table 6100.2, applies to all uses in a shopping center, except that the following uses must comply with the standards established in Table 6100.1:

- (a) Office uses;
- (b) Any restaurant or restaurant with drive-through establishment that exceeds 5,000 square feet of gross floor area; and
- (c) Hotels.

TABLE 6100.2: Shopping Center Minimum Required Off-Street Vehicle Parking Spaces

| Shopping Center Size [1] | Minimum Parking Requirement |
|--|--|
| ≤100,000 square feet gross floor area | 4.3 spaces per 1,000 square feet of gross floor area [2] |
| >100,000 but ≤400,000 square feet gross floor area | 4 spaces per 1,000 square feet of gross floor area [2] |
| >400,000 but ≤800,000 square feet gross floor area | 4.8 spaces per 1,000 square feet of gross floor area [2] |
| >800,000 square feet gross floor area | 2.5 spaces per 1,000 square feet of gross floor area [3] |

Notes:

- [1] The size of the shopping center is based on the definition of gross floor area as set forth in Article 9, and includes any gross floor area devoted to offices, restaurants, restaurants with drive-through, and hotels. The gross floor area calculation as qualified in Subsection 6100.3 is used to determine the required number of parking spaces.
- [2] Theaters must provide an additional 0.3 spaces for each seat beyond 2,000 seats.
- [3] Theaters must provide an additional 6 spaces for each 100 seats beyond 750 seats.

(2) Outdoor Seating

Parking is not required for outdoor seating that is accessory to a restaurant, restaurant with drive-through, or craft beverage production establishment, up to a maximum of 20 outdoor seats for an establishment with a gross floor area of less than 5,000 square feet, and up to a maximum of 32 outdoor seats for an establishment with a gross floor area of 5,000 square feet or more. Parking is required for outdoor seating that exceeds the number of seats stated above, based on the square footage of the excess seating in accordance with the applicable parking requirements for such uses.

(3) Drive-Through and Curb-Side Pickup

- (a) Stacking spaces must be provided for those uses that have drive-through facilities.
- (b) Spaces designated for curbside pickup cannot be counted toward the minimum required number of parking spaces and cannot be located in any fire lane.

C. Transit Station Areas

For any development within an area designated in the Comprehensive Plan as a Transit Station Area, the following minimum off-street parking spaces are required:

TABLE 6100.3: Transit Station Area Minimum Required Off-Street Vehicle Parking Spaces

| Use | Minimum Parking Requirement |
|---|--|
| Dwelling, Multifamily and Stacked Townhouse | 0 or 1 bedroom: 1.3 spaces per unit 2 bedrooms: 1.5 spaces per unit 3 or more bedrooms: 1.6 spaces per unit |
| Office | 0 to 0.25 miles from a metro station entrance along an accessible route: 2 spaces per 1,000 square feet of gross floor area More than 0.25 miles from a metro station entrance along an accessible route: 2.3 spaces per 1,000 square feet gross floor area |
| All other commercial uses, except restaurants | 80 percent of the parking rate established in Table 6100.1 |
| All other uses | As established in Table 6100.1 |

D. Restaurants

- (1) Where the standards in subsection A above require additional parking for a restaurant, carryout restaurant, or restaurant with drive-through, the following are grandfathered:
 - (a) Special exceptions, rezonings, and parking reductions that were approved before January 24, 2018, when such approvals contain a specific parking rate or minimum number of parking spaces, and any building permits and site plans submitted pursuant to such special exceptions, rezonings, and parking reductions. Amendments to these special exceptions or rezonings may be approved, provided that, if any new uses or expansions increase seating capacity, parking will be calculated for the entire establishment based on the Zoning Ordinance rates in effect at the time of submission unless a parking reduction is approved by the Board.
 - (b) Applications for Building Permits, parking tabulations, and site plans submitted on or before January 24, 2018, provided: (a) the permit is issued, or the tabulation or plan is approved within twelve months of submission or the return of the initial submission to the applicant or agent; (b) the permit, tabulation, or plan remains valid; (c) building permits for the structures shown on the approved plan are issued; and (d) the structures and uses are constructed in accordance with the building permits, tabulations, and plans. Revisions to the permit, tabulation, or plan may be approved provided that, if any new uses or expansions increase seating capacity, parking will be calculated for the entire establishment based on the Zoning Ordinance rates in effect at the time of submission.
 - (c) Eating establishments and fast food restaurants lawfully existing on January 24, 2018, or grandfathered pursuant to subsection (b) above, regardless of changes in ownership or tenant layout; however, any expansion or enlargement of the eating establishment or fast food restaurant that increases seating capacity will require parking to be calculated for the entire establishment at the Zoning Ordinance rates in effect at the time of submission.
- (2) The definitions for restaurant, carryout restaurant, and restaurant with drive-through in this Ordinance will be applied to rezoning, final development plan, and special exception applications approved before January 24, 2018, as follows:
 - (a) If approved for an eating establishment, it will be recognized as a restaurant;
 - (b) If approved for fast food with a drive-through, it will be recognized as a restaurant with drive-through;
 - (c) If approved for fast food without a drive-through and with more than eight seats, it will be recognized as a restaurant; and
 - (d) If approved for fast food without a drive-through and with eight or fewer seats, it will be recognized as a carryout restaurant.

5. Parking Reductions Authorized by the Director

- A. Shared parking reductions authorized by the Director are subject to the following:
 - (1) The Director may, subject to appropriate conditions, reduce by up to 30 percent the total number of parking spaces required by the strict application of this Article when the applicant has demonstrated to the Director's satisfaction that:

- (a) Fewer spaces than those required will adequately serve two or more uses by reason of the sum of the hourly parking demand of such uses; and
 - (b) The reduction will not adversely affect the site or the adjacent area.
 - (2) Reductions may not be approved if:
 - (a) There is a pending rezoning, special exception, or proffered condition amendment application for the site;
 - (b) There is a Residential Permit Parking District within 1,000 feet of the subject site; or
 - (c) The number of parking spaces on the site is specified by an approved proffered condition, special exception, special permit, or a parking reduction approved by the Board, unless the approval allows such administrative reductions.
 - (3) Any reduction not meeting the requirements for approval by the Director under this subsection may be approved by the Board in accordance with subsection 6100.6 below.
- B.** For a use where the minimum number of required parking spaces is provided on-site in accordance with this Article, but additional off-site parking may be desired, the Director may, subject to appropriate conditions, approve the use of a portion of an adjacent site's required parking spaces based on the sum of the hourly parking demand of such uses when the applicant has demonstrated that the use of such spaces will not adversely affect the site or the adjacent area.
- C.** The Director may, subject to appropriate conditions, reduce the total number of parking spaces required by the strict application of this Article for a religious assembly with a private school, specialized instruction center, or child care center if the Director determines that fewer spaces will adequately serve all the uses on-site by reason of the sum of the hourly parking demand for the uses.
- D.** The Director may, subject to appropriate conditions, reduce the total number of parking spaces required by the strict application of this Article for a religious assembly by up to 50 percent when generally located within 500 feet of any public parking lot or any commercial parking lot where sufficient spaces are available by permission of the owner(s) without charge, during the time of services to make up the additional spaces required.

6. Off-Street Parking and Stacking Alternatives Authorized by the Board

A. Shared Parking Reductions

The Board may, subject to appropriate conditions, reduce the total number of parking spaces required when the applicant has demonstrated to the Board's satisfaction that:

- (1) Fewer spaces than those required by this Article will adequately serve two or more uses by reason of the sum of the hourly parking demand of such uses; and
- (2) The reduction will not adversely affect the site or the adjacent area.

B. Transit-Related Parking Reduction

- (1) The Board may reduce the number of required off-street parking spaces, subject to appropriate conditions, when a proposed development is within:

- (a) Reasonable walking distance to a mass transit station that either exists or is programmed for completion within the same time frame as the completion of the subject development;
 - (b) An area designated in the Comprehensive Plan as a Transit Station Area;
 - (c) Reasonable walking distance to an existing transportation facility consisting of a streetcar, bus rapid transit, or express bus service or such a facility that is programmed for completion within the same timeframe as the completion of the subject development and will provide high-frequency service; or
 - (d) Reasonable walking distance to a bus stop(s) when service to this stop(s) consists of more than three routes and at least one route serves a mass transit station or transportation facility and provides high-frequency service.
- (2) A reduction may be approved when the applicant has demonstrated that the spaces proposed to be eliminated are unnecessary based on the projected reduction in the parking demand resulting from its proximity to a mass transit station, transportation facility, or bus service, and the reduction will not adversely affect the site or the adjacent area, including potential impacts on existing overflow parking in nearby neighborhoods.
- (3) For the purposes of this provision, a determination regarding the completion time frame for a mass transit station or transportation facility must include an assessment of the funding status for the transportation project.

C. Off-Site Parking

(1) Generally

The Board, acting upon a specific request, may authorize an alternative off-site parking location if practical difficulties exist or if the public safety or public convenience would be better served, subject to conditions the Board deems appropriate in addition to the following:

- (a) Required spaces will be subject to agreements or arrangements satisfactory to the Board that will ensure the continuing availability of the spaces sufficient to serve the use; and
- (b) The applicant must demonstrate to the Board's satisfaction that the required space is generally located within 500 feet walking distance of a building entrance to the use that the space serves; or
- (c) The spaces will be provided off-site with access via a valet or shuttle service subject to agreements or arrangements approved by the Board that will ensure the operation of such service and that no adverse impacts will result on the site of the parking spaces or the adjacent area; or
- (d) Required spaces will be accommodated in accordance with the provisions of subsection (2) below.

(2) Commercial Revitalization Districts

In a Commercial Revitalization District, the Director may approve an alternative location in accordance with subsection 6.C(1) above and the provisions of the Commercial Revitalization District.

(3) Community Business Centers

Within areas designated as Community Business Centers on the Comprehensive Plan, the Board may waive the requirement that all required off-street parking spaces be located on the same lot or on a contiguous lot, provided the following conditions are met:

- (a) The developer submits an application to the Director stating the circumstances that make it impractical to meet the requirements of this Article;
- (b) The developer agrees to pay to the County a sum for each space so eliminated, such sum to be set by the Board in an annually adopted schedule;
- (c) The County has plans for the erection of a public parking facility in the immediate area of the request; and
- (d) The County has provided for the development of such parking, at a time and in a quantity sufficient to meet the needs of the applicant's proposed use.

D. Stacking Spaces

The Board may reduce the total number of stacking spaces required when it has been conclusively demonstrated that circumstances, site design, or location do not warrant the number of spaces required and that the reduction will not adversely affect pedestrian or vehicular circulation on the site or on any abutting street.

E. Hotel, Conference, or Convention Center in Proximity to an Airport

For a hotel, conference, or convention center in proximity to an airport, the Board may, subject to appropriate conditions, reduce the total number of off-street parking spaces otherwise required when it is warranted by a parking study, submitted by the applicant, that demonstrates that a reduction is justified based on actual parking usages at existing developments which are comparable in use and location.

F. Nonresidential Uses Within the Lake Anne Commercial Revitalization Area

The minimum off-street parking requirements for any nonresidential use within the Lake Anne Commercial Revitalization Area as designated by the Board may be reduced by 20 percent by the Board when that applicant demonstrates and the Board that the reduction is in furtherance of the goals of the Area as set forth in the Comprehensive Plan. Such request may also be considered in conjunction with a rezoning or special exception application. The fee for a parking reduction is not applicable.

G. Other Parking Reductions

For reductions that are not eligible for consideration under other provisions of this Ordinance, the Board may, subject to appropriate, reduce the total number of parking spaces required when the applicant has demonstrated to the Board's satisfaction that, due to the unique characteristics of the proposed use(s), the spaces proposed to be eliminated for the site are unnecessary and such reduction in parking spaces will not adversely affect the site or the adjacent area.

6101. Off-Street Loading

1. Applicability

A. Within the R, C, or I Districts

All structures and uses established after the effective date of this Ordinance must provide accessory off-street loading spaces in accordance with this section.

B. Within the PDH, PDC, PRC, PRM and PCC Districts

The provisions of this section have general application as determined by the Director.

C. Within the PTC District

Off-street loading must be provided in accordance with Section 6102, and the provisions of this section may be used as a guide.

D. Expansion or Enlargement of an Existing Structure or Use

When an existing structure or use is expanded, accessory off-street loading spaces must be provided in accordance with the following minimum requirements for the entire structure or use, as expanded or enlarged.

2. General Provisions

- A. All required off-street loading spaces must be located on the same lot as the use served; however, the Director may waive such location requirement when the required off-street loading spaces are provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Director.
- B. Required off-street loading spaces and their appurtenant aisles and driveways may not be encroached upon or reduced in any manner except with approval by the Director in accordance with the following circumstances:
 - (1) The space may be reduced by the amount to which other space, conforming to the provisions of this Ordinance, is provided for the use that is involved;
 - (2) The space may be reduced in an amount which is justified by a reduction in the need by reason of a reduction in size or change in the nature of the use; or
 - (3) The space may be reduced for an existing structure or use to provide an accessibility improvement.
- C. Loading spaces must be located at least 40 feet from the nearest point of intersection of the edges of the travelway or the curbs of any two streets.
- D. Loading spaces may not be located in a required front setback.
- E. Required off-street loading areas may not be used to satisfy the space requirement for any off-street parking facilities.
- F. Loading areas must not interfere with the free circulation of vehicles in any off-street parking area.

- G. No motor vehicle repair work, except emergency service, is permitted in association with any required off-street loading facility.
- H. All off-street loading spaces must be provided with safe and convenient access to a street. If any such space is located contiguous to a street, the street side must be curbed, and ingress and egress may be provided only through driveway openings whose dimension, location, and construction is approved by the Director in accordance with the provisions of the Public Facilities Manual.
- I. All off-street loading areas, including aisles and driveways, are required to be constructed and maintained with a dustless surface in accordance with construction standards presented in the Public Facilities Manual; however, the Director may approve a modification or waiver of the dustless surface requirement in accordance with the Public Facilities Manual.
- J. All off-street loading areas must comply with the geometric design standards as may be defined by Land Development Services; but the required dimensions may not be less than 15 feet wide, 25 feet long and 15 feet high, except that where one such loading space has been provided, any additional loading space lying alongside, contiguous to, and not separated from such first loading space need not be wider than 12 feet.
- K. Where a given use or building contains a combination of uses, loading facilities must be provided on the basis of the sum of the required spaces for each use.
- L. If there is uncertainty with respect to the amount of loading space required by the provisions of this Ordinance as a result of an indefiniteness as to the proposed use of a building or land, the maximum requirement for the general type of use that is involved governs.
- M. Uses for which off street loading facilities are required by this Article, but which are located in buildings that have a gross floor area that is less than the minimum above which off street loading facilities are required, must be provided with adequate receiving facilities as determined by the Director.
- N. Where the required number of loading spaces is not set forth for a particular use, and where there is no similar type of use listed, the Zoning Administrator will determine the basis of the number of spaces to be provided.

3. Minimum Required Off-Street Loading Spaces

Minimum off-street loading spaces accessory to the listed uses must be provided in accordance with the following Tables; however, in no instance may more than five off-street loading spaces be required for a given use or building except as may be determined by the Director:

TABLE 6101.1: Minimum Required Loading Space Categories

| Standard Categories | Minimum Loading Space Requirement |
|---------------------|---|
| Standard A | 1 space for the first 5,000 square feet of gross floor area, plus 1 space for each additional 30,000 square feet or major fraction thereof |
| Standard B | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 15,000 square feet or major fraction thereof |
| Standard C | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 20,000 square feet or major fraction thereof |
| Standard D | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 25,000 square feet or major fraction thereof |
| Standard E | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 30,000 square feet or major fraction thereof |

TABLE 6101.1: Minimum Required Loading Space Categories

| Standard Categories | Minimum Loading Space Requirement |
|---------------------|--|
| Standard F | 1 space for the first 10,000 square feet of gross floor area, plus 1 space for each additional 100,000 square feet or major fraction thereof |
| Standard G | 1 space for the first 25,000 square feet of gross floor area, plus 1 space for each additional 100,000 square feet or major fraction thereof |

TABLE 6101.2: Minimum Required Loading Spaces

| Use | Minimum Loading Space Requirement |
|--|---|
| Business Service | Standard C |
| College or University | Standard F |
| Commercial Recreation, Indoor | Standard F |
| Congregate Living Facility | Standard F |
| Continuing Care Facility | One space for the first 25,000 square feet of gross floor area plus one space for each additional building consisting of more than 100,000 square feet of gross floor area, except as may be modified by the Director |
| Dwelling, Multifamily | Standard G |
| Financial Institution or Drive-Through Financial Institution | Standard C |
| Funeral Home | Standard F |
| Hotel or Motel | Standard F |
| Household Repair and Rental Service | Standard C |
| Independent Living Facility | Standard F |
| Massage Therapy Establishment | Standard C |
| Medical Care Facility | Standard F |
| Mixed Waste Reclamation Facility | Standard A |
| Office | Standard C |
| Personal Service | Standard B |
| Private School | Standard F |
| Production or Processing | Standard A |
| Restaurant, Restaurant with Drive-Through, Carryout Restaurant | Standard D |
| Retail Sales | Standard B |
| Specialized Equipment and Heavy Vehicle Sale, Rental, or Service | Standard A |
| Vehicle Repair and Maintenance, Light | Standard B |
| Vehicle Repair and Maintenance, Heavy | Standard A |
| Vehicle Sales, Rental, and Service | Standard A |
| Warehouse | Standard A |
| Wholesale Facility | Standard E |

6102. PTC District – Off-Street Parking and Loading

1. Parking Plan

- A.** The number of off-street parking and loading spaces provided for the development in the PTC District must be established with the approval of a parking plan that is accompanied by an application for rezoning to the PTC District.
- B.** At a minimum, the parking plan must identify:
 - (1)** The appropriate parking rates as set forth below;
 - (2)** Include the number and general location of all off-street parking, loading, and stacking spaces;
 - (3)** The general location of all ingress and egress points to all parking facilities;
 - (4)** A statement regarding how the proposed number of loading spaces is adequate to serve the proposed uses within the development;
 - (5)** A justification of shared parking arrangements among uses when a reduction from the minimum parking requirements, if applicable, for such uses is proposed;
 - (6)** A description of any planned valet parking, tandem parking, or shuttle arrangements that will be implemented for the proposed use(s) and how such spaces or shuttles will be managed; and
 - (7)** A statement regarding how the proposed number of parking spaces addresses the goals of the Tysons Urban Center, particularly with regard to achievement of the transportation demand management (TDM) goals set forth in the Comprehensive Plan.
- C.** Where parking is to be provided in phases in accordance with a phased development proposal, the parking plan must provide the information set forth above for each proposed phase.
- D.** A parking plan must be developed in accordance with the following; however, the Board may reduce the minimum off-street parking requirements when the applicant demonstrates and the Board determines that the reduction furthers the goals of the Tysons Urban Center:
 - (1)** The amount of off-street parking for single-family attached, stacked townhouse, multifamily, hotel, motel, and office uses are based on the minimum and maximum spaces per unit or spaces per 1,000 square feet of gross floor area as follows:

| Use | Per unit or 1,000 square feet of gross floor area | Less than 1/8 mile to Metro Station Entrance* (TOD District) | | 1/8 to 1/4 mile to Metro Station Entrance* (TOD District) | | More than 1/4 to 1/2 mile to Metro Station Entrance* (TOD District) | | Non-TOD Districts | |
|------------------------|---|--|------|---|------|---|------|-------------------|------|
| | | Min. | Max. | Min. | Max. | Min. | Max. | Min. | Max. |
| Single-Family Attached | Space(s) per unit | 1.75 | 2.2 | 1.75 | 2.2 | 2.0 | 2.5 | 2.0 | 2.7 |
| Stacked Townhouse | | 1.5 | 1.9 | 1.5 | 1.9 | 1.7 | 2.1 | 1.7 | 2.3 |
| Multifamily | | | | | | | | | |
| 0-1 bedroom | | 1.0 | 1.3 | 1.0 | 1.3 | 1.1 | 1.4 | 1.1 | 1.4 |
| 2 bedrooms | | 1.0 | 1.6 | 1.0 | 1.6 | 1.35 | 1.7 | 1.35 | 1.7 |

| TABLE 6102.1: Minimum and Maximum Required Off-Street Vehicle Parking Spaces | | | | | | | | | |
|--|---|--|-----|---|-----|---|------|-------------------|------|
| Use | Per unit or 1,000 square feet of gross floor area | Less than 1/8 mile to Metro Station Entrance* (TOD District) | | 1/8 to 1/4 mile to Metro Station Entrance* (TOD District) | | More than 1/4 to 1/2 mile to Metro Station Entrance* (TOD District) | | Non-TOD Districts | |
| | | | | | | | | | |
| 3+ bedrooms | | 1.0 | 1.9 | 1.0 | 1.9 | 1.6 | 2.0 | 1.6 | 2.0 |
| Hotel/Motel | Spaces per 1,000 square feet of gross floor area | none | 1.0 | none | 1.0 | none | 1.05 | 0.85 | 1.08 |
| Office | | none | 1.6 | none | 2.0 | none | 2.2 | 2.0 | 2.4 |
| * As set forth in the Comprehensive Plan | | | | | | | | | |

- (2) For uses not specifically listed above, the minimum parking space requirements set forth in Subsection 6100.3.E apply as follows:
 - (a) In the Transit Oriented Development (TOD) Districts, no minimum number of parking spaces is required, and the rates established serve as the maximum number of parking spaces permitted. In a multistory structure, the first 5,000 square feet of gross floor area located on the ground or street level for the following uses are not included in the calculation of required parking: retail, personal service, business service, convenience store, restaurant, carryout restaurant, or restaurant with drive-through.
 - (b) In the Non-TOD Districts, the minimum number of parking spaces required is based on 75 percent of the specified rates established and the maximum number of parking spaces permitted is based on 110 percent of such specified parking rates.
- (3) The applicant must demonstrate to the Board’s satisfaction that the number of off-street parking spaces is not in excess of the TDM goals identified in the Comprehensive Plan and must satisfy such TDM goals in a manner acceptable to the Department of Transportation.
- (4) In a phased development proposal, the Board may approve the provision of parking for later phases of the development in an earlier phase when it is demonstrated that such additional parking in the early phase(s) is necessary due to construction requirements or in furtherance of the objectives of the Comprehensive Plan. Additionally, when an existing use is proposed to be retained as an interim use, the parking accessory to such interim uses must generally conform to the rates set forth above. In all cases set forth above, parking at the build-out phase of the development must conform to the total number of spaces approved for the entire development.
- E. It is intended that a substantial portion of the provided parking and loading spaces should be provided in above or below grade parking structures.
- F. In determining the number of loading spaces provided, the provisions of Subsection 6101.3, may be used as a guide.
- G. Subsequent to an approved parking plan, no additional parking is required for a change in use, provided the mix of uses is in substantial conformance with the approved final development plan.
- H. Parking approved by the Board in accordance with such parking plan may be provided on the lot that contains the use for which the parking is accessory or on a different lot from such use.

When provided on a different lot that is not under the same ownership as the lot that contains the use for which the parking is accessory, the applicant must submit evidence that the right to use or develop such parking has been granted by such owner(s) to ensure the permanent availability of such spaces. Additionally, tandem, valet, and shuttle parking may be permitted as part of an approved parking plan, in accordance with this section.

2. Special Exception for Increase in Parking

- A.** The Board may approve a special exception to allow an increase in parking in the PTC District above the parking maximums set forth above when the applicant has demonstrated to the Board's satisfaction that the proposed uses cannot be adequately served by the combination of allowed parking, transit access, shared parking arrangements and similar factors, but may only be approved in accordance with the following:
- (1)** The increase in the number of parking spaces does not hinder or preclude the achievement of the Transportation Demand Management (TDM) goals for the property or the Tysons Urban Center, as set forth in the Comprehensive Plan; and
 - (2)** The design of a parking structure necessitates the construction of additional parking;
 - (3)** The applicant is proposing a use with unique parking needs to justify an increase in the parking rate;
 - (4)** The need for an increase in parking is the result of a change in previously approved shared parking, valet, or shuttle arrangements;
 - (5)** The applicant proposes a single phase development that will precede the operation of mass transit opportunities, such as metro, circulator bus or other features that are planned to serve the Tysons Urban Center; or
 - (6)** Other circumstances whereby the proposed use(s) cannot be adequately served by the number of parking spaces permitted above.
- B.** All off-street parking approved under this special exception may be administered by an entity established to manage the additional parking, which may include the imposition of parking fees, controlled access to such parking, and any other operational management methods that are necessary to ensure satisfaction of the TDM goals for the property and the Tysons Urban Center. Additionally, the Board may impose any conditions on the approval of a special exception for an increase in parking in the PTC District, which may include the establishment of a requirement that the need for such additional parking will be reevaluated within a specified period of time, based on changes in development patterns, uses, or other factors in and around the application property.

Article 7 - Signs

7100. General Provisions

1. Purpose

The purpose of this Article is to regulate all signs placed for viewing by the public to:

- A. Improve, promote, and protect the public health, safety, convenience, and general welfare;
- B. Protect against danger in travel and transportation by reducing distractions and hazards to pedestrian and automobile traffic;
- C. Ensure that the First Amendment right to free speech is protected;
- D. Protect property values;
- E. Facilitate travel by identifying locations;
- F. Protect and enhance the aesthetic character of the various communities in the County; and
- G. Further the stated purpose and intent of this Ordinance.

2. Applicability

- A. This Article applies to all signs located in Fairfax County and are in addition to any applicable provisions of Chapter 61 of the County Code (Buildings), and Title 33.2, Chapter 7, of the Code of Virginia. These regulations do not apply to property owned by, or those signs required or sponsored by the United States or the State. Furthermore, subsection 7100.4, Minor Signs, does not apply to property owned by Fairfax County, the Fairfax County Park Authority, or Fairfax County Public Schools.
- B. These regulations do not regulate or restrict signs by content. However, some signs, such as off-premise signs and warning signs, have a targeted function that makes their regulation impossible without referring to the function. In these limited instances, the governmental interest is compelling enough to warrant their description and regulation, and whenever a sign is described in a manner that refers to function, this Article is intended to be neutral with respect to the content of the speech appearing on it.
- C. A non-commercial message may be substituted, in whole or in part, for any other message displayed on any sign that conforms to this Article without consideration of message content.
- D. All signs are deemed to be accessory uses as defined in Article 9, and must be associated with a principal use and, unless otherwise stated, located on the same lot as its principal use.
- E. Nothing in this Article excuses any person from compliance with all other applicable regulations, statutes or ordinances.
- F. This Article does not apply to any sign placed in a public right-of-way and does not authorize or prohibit placement of any sign there.
- G. The following signs approved before March 20, 2019, that do not conform to this Ordinance may remain and are subject to the provisions in subsection 7100.6:
 - (1) Permanent building-mounted signs and freestanding signs approved with a building permit and any required, corresponding sign permit; and

- (2) Permanent freestanding signs located on property owned by Fairfax County, the Fairfax County Park Authority, or Fairfax County Public Schools.

3. Administrative Provisions

A. Sign Permit Required

- (1) Except where otherwise noted in this Article, no sign may be constructed, erected, altered, refaced, relocated, or expanded without a sign permit.
- (2) The application for a sign permit must be filed with the Zoning Administrator on a County form, must include all pertinent information required by the Zoning Administrator to ensure compliance with this Ordinance, and must be accompanied by the filing fee set forth in Section 8102.
- (3) All signs must comply with this Article, the structural requirements specified in the USBC, Chapter 61 of the County Code, and all other applicable standards in this Ordinance.
- (4) A sign permit expires if the sign is not erected and all necessary final inspection(s) are not approved within 12 months from the date of issuance.

B. Sign Permit Not Required

- (1) The following are not deemed to be a sign:
 - (a) The changing of the message on an allowed sign that is specifically designed for the use of replaceable copy, to include changeable copy signs and electronic display signs in accordance with subsection 7101.1.A below.
 - (b) Painting, cleaning, and other routine maintenance and repair of a sign or sign structure.
 - (c) Flags, up to a maximum of three per lot.
 - (d) The display of address numbers as required by the County Code, and entrance numbers not exceeding a total of two square feet in area. When displayed on a residential building, any numbering must be mounted flush against the building.
 - (e) Temporary, seasonal decorations.
- (2) The following are deemed to be a sign but are not counted toward maximum allowed sign area:
 - (a) Signs not exceeding a total of four square feet in area warning the public against hunting, fishing, swimming, trespassing, dangerous animals, the location of utilities, or other similar risks, or a warning of prohibited activity such as no parking or loading in a specified area.
 - (b) Signs located on the outer surfaces of a temporary portable storage container.
 - (c) Vehicle signs, when the vehicle is operable and is parked at its associated place of business within a designated parking space.
 - (d) Lettering or numbers permanently attached to or painted on the façade of a building of any school, college, or university; such displays are limited to no more than ten percent of the area of the façade on which they are placed and cannot be illuminated.

- (e) Signs, erected by a public agency or appropriate organization in partnership with the Board, located within or in proximity to the Commercial Revitalization District boundaries or activity centers as shown on the Comprehensive Plan. Such signs are subject to approval by the Board and all applicable outdoor advertising provisions of the Code of Virginia.

C. Sign Condition, Safety, and Abandonment

- (1) All signs and their components must be maintained in good repair and in safe condition.
- (2) The Building Official or designated agent may require or cause the immediate removal or repair, without written notice, of any sign determined to be unsafe or that otherwise poses an immediate threat to the safety of the public. If action by the County is necessary to render a sign safe, the cost of removal or repair will be at the expense of the property owner or lessee as provided in Chapter 61 of the County Code.
- (3) Except as provided in subsections 7100.4 and 7100.6 below, if a property becomes vacant and is unoccupied for a continuous period of two years, any sign on that property is deemed abandoned and must be removed. If the owner fails to remove the sign, the Zoning Administrator may give the owner 15 days written notice to remove it, after which the Zoning Administrator may initiate action to gain compliance.

4. Minor Signs

The following minor signs are allowed but may not be illuminated, and, unless otherwise stated, do not require a sign permit:

- A. Signs posted by or under the direction of any public or court officer in the performance of official duties, or by trustees under deeds of trust, deeds of assignment, or other similar instruments. These signs must be removed no later than ten days after the last day of the period for which they are displayed.
- B. Signs that are displayed on a lot or property that is actively marketed for sale, rent, or lease, as follows:
 - (1) A single building-mounted or freestanding sign is allowed, except that two signs are permitted on a corner lot when each sign faces a different street frontage. Such sign(s) must be removed within seven days of the settlement, rental, or lease of the property.
 - (2) Sign(s) located on a property developed with, or planned for development of, a single-family detached or attached dwelling unit. Such signs may not exceed six square feet in area or a height of six feet.
 - (3) Sign(s) located on a property developed with, or planned for development of, a multiple family dwelling unit. Such signs may not exceed 12 square feet in area or a height of eight feet.
 - (4) Sign(s) located on a property developed with, or planned for development of, any nonresidential use, or on a residential property containing a minimum of 20 acres. Such signs may not exceed 32 square feet in area or a height of eight feet.
- C. Signs during active construction or alterations to residential, commercial, and industrial buildings are permitted, as follows:
 - (1) For a new nonresidential development, or for a new residential development containing a minimum of three dwelling units, one sign is allowed, not to exceed 60 square feet in

area and a height of ten feet. For such new developments located on multiple road frontages, one additional sign per street frontage is allowed, limited to 32 square feet in area and a height of eight feet. No sign may be located closer than five feet to any lot line. All signs must be removed within 14 days following completion of the construction of the development, as determined by the Zoning Administrator, and no sign may be displayed for more than two years from the date of the issuance of the first building permit for the development. If construction has not been completed within this timeframe and building permits are active for the development, a sign permit is required to allow the continued display of any sign.

- (2) For an individual single-family dwelling unit undergoing construction, improvement, or renovation, one sign, not to exceed four square feet in area or a height of four feet is allowed. No sign can be displayed before commencement of the improvement or renovation work, and the sign must be removed within seven days after the improvement or renovation is completed with all necessary inspections approved, or within six months, whichever is less.
- D.** Yard signs on any lot developed with a residential use cannot exceed 12 square feet in total area, with no single sign exceeding four square feet in area or a height of four feet.
- E.** For nonresidential uses, minor signs are permitted as follows:
- (1) For nonresidential uses located on a lot with frontage on a major thoroughfare, building-mounted and freestanding minor signs are allowed, not to exceed 32 square feet in total sign area per lot. If freestanding, no more than two such signs are allowed per lot with a maximum height of four feet.
 - (2) For all other nonresidential uses, building-mounted and freestanding minor signs are allowed, not to exceed 24 square feet in total area per lot. If freestanding, no more than two such signs are allowed per lot with a maximum height of four feet.
- F.** Window signs for any nonresidential use are allowed if the total area of all signs does not cover more than 30 percent of the total area of the window in which the signs are located.
- G.** For nonresidential uses, a single A-frame sign not to exceed 16 square feet in area and four feet in height is allowed. Such sign must be located within 25 feet of a building or designated site entrance that provides access to the use and may not impede pedestrian or vehicular traffic.

5. Prohibited Signs

The following signs are prohibited in all zoning districts and areas of the County.

A. General Prohibitions

- (1) Any sign not expressly permitted in this Article.
- (2) Any sign that violates any provision of any county, state, or federal law or regulation.
- (3) Any sign that violates any provision of Chapter 61 of the County Code and the USBC.

B. Prohibitions Based on Materials or Design

- (1) Any sign that does not meet the performance standards for outdoor lighting set forth in Section 5109.

- (2) A moving or windblown sign, not including changeable copy or electronic display sign, the hands of a clock, or a weather vane.
- (3) Any sign displaying flashing or intermittent lights, or lights of changing degrees of intensity of color, or that is not in accordance with subsection 7101.1.

C. Prohibitions Based on Location

- (1) Any off-premise commercial sign when displayed 12:01 PM Monday through 11:59 AM Friday. At all other times, an off-premise commercial sign is only allowed for display when it conforms to the provisions of subsection 7100.4.E.
- (2) Roof signs, except for signs located on a penthouse or screening wall, as provided for in subsection 7101.3.B below.
- (3) Any sign that obstructs a window, door, fire escape, stairway, ladder, opening, or access intended for light, air, ingress to, or egress from, a building.
- (4) Any sign located on a corner lot that is in violation of subsection 5100.2.D(4).
- (5) Any sign that is found to be in violation of the USBC with respect to minimum clearance.
- (6) Any sign that, due to its location, size, shape, or color, may obstruct, impair, interfere with the view of, or be confused with, any traffic control sign, signal, or device erected by a public authority or where it may interfere with, mislead, or confuse traffic. Such signs are subject to immediate removal and disposal by an authorized County official as a nuisance.

6. Nonconforming Signs

A. Nonconforming Sign Status Determination

- (1) Signs lawfully existing on the effective date of this Ordinance or prior ordinances, that do not conform to this Ordinance, and signs that are accessory to a nonconforming use, are deemed to be nonconforming signs and may remain except as qualified below.
- (2) The property owner bears the burden of establishing the nonconforming status of a sign and of the existing physical characteristics and location of a sign. Upon notice from the Zoning Administrator, a property owner must submit verification that a sign was lawfully existing at the time of erection. Failure to provide verification is cause to remove the sign or bring it into compliance with this Article.
- (3) The ownership of the sign or the property on which the sign is located does not affect the nonconforming status of the sign.

B. Modification of Nonconforming Signs, Generally

- (1) Except as provided for in a Commercial Revitalization District, nonconforming signs cannot be enlarged, extended, or structurally reconstructed or modified in any manner; except that a sign face may be changed if the new face is equal to or reduced in height or sign area from the existing sign.
- (2) Nothing in this subsection prevents keeping a nonconforming sign that is in good repair; however, no nonconforming sign may be repaired, rebuilt, or restored if the Building Official has declared it unsafe, as provided for in subsection 7100.3 above unless the repair, rebuilding, or restoration results in a sign that conforms to this Article.

C. Relocation or Reconstruction of Nonconforming Sign

- (1)** Nonconforming signs may not be moved on the same lot, or to any other lot, unless the change in location results in a sign that conforms to this Article.
- (2)** When a nonconforming sign is removed, any sign erected later must conform to this Article, except as provided for in a Commercial Revitalization District.
- (3)** A nonconforming sign that is destroyed or damaged by any casualty to an extent of 50 percent or less of its appraised value, may be restored within two years after the destruction or damage, but may not be enlarged in any manner. If a sign is destroyed or damaged to an extent more than 50 percent of its appraised value, it cannot be reconstructed unless it results in a sign that conforms to this Article.
- (4)** A nonconforming sign must be removed if the structure to which it is accessory to is demolished or destroyed by more than 50 percent of its appraised value. A nonconforming sign subject to removal under this provision must be removed within 30 days following written notice by the Zoning Administrator to the owner of the property. If the owner fails to comply with this notice the Zoning Administrator may initiate action to gain compliance with this Article.

D. Replacing Nonconforming Sign with Conforming Sign

A nonconforming sign that is changed to or replaced by a conforming sign will no longer be deemed nonconforming, and any new sign must conform to this Article.

E. Abandoned Sign

(1) Determination of Abandonment and Removal

If a nonconforming sign is located on property that becomes vacant and is unoccupied for a period of at least two years, the sign is deemed abandoned and the owner of the property must remove it.

(2) County-Initiated Removal

If the owner fails to remove an abandoned sign, the Zoning Administrator may give the owner 30 days' written notice to remove it, except as otherwise provided in subsection 7100.3 above. If the owner fails to comply with the notice, the Zoning Administrator may enter onto the property and remove the sign. Such removal may be accomplished with the assistance of any agent designated by the Zoning Administrator or hired by the County for such purpose, and, the Zoning Administrator may charge the cost of removal to the property owner.

(3) Other Remedies

The Zoning Administrator may initiate legal action in court for an injunction or other appropriate remedy requiring the owner to remove an abandoned nonconforming sign.

7. Sign Measurement

A. Calculation of Sign Area

(1) When Based on Building Frontage

- (a) Building frontage is the linear width of the wall taken at a height no greater than ten feet above grade.
- (b) On buildings with a single tenant or with multiple tenants that access the building through a common outside entrance, building frontage is the face or wall that is architecturally designed as the front of the building and that contains the main public entrance, as determined by the Zoning Administrator.
- (c) On buildings with more than a single tenant where each tenant has its own outside entrance, building frontage for each tenant is the wall that contains that tenant's main public entrance, as determined by the Zoning Administrator.

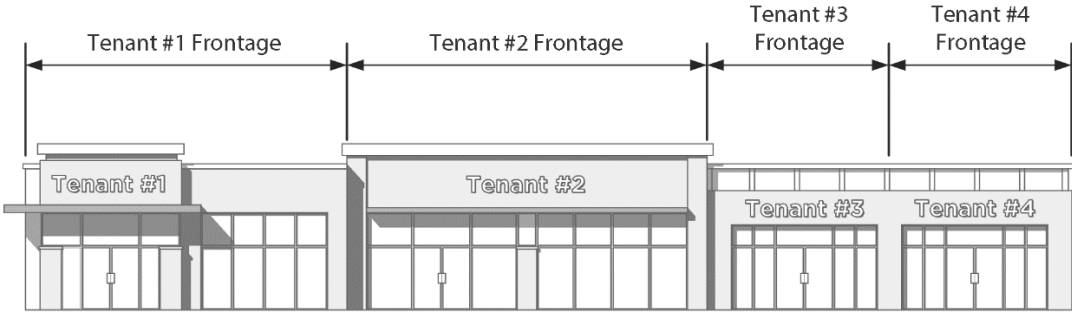


Figure 7100.1: Multi-Tenant Sign Frontages

(2) Building-Mounted Sign Area

- (a) Building-mounted sign area is that area within a single continuous rectilinear perimeter of not more than eight straight lines intersecting at right angles, that encloses the outer limits of all words, representations, symbols, and pictorial elements, together with all material, color, and lighting forming an integral part of the display or used to differentiate the sign from the background against which it is placed.

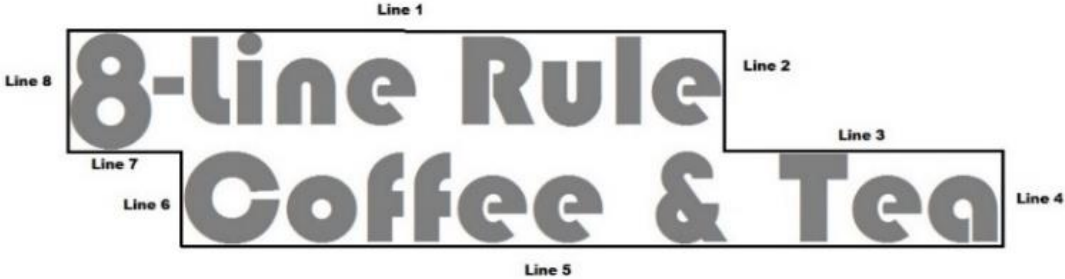


Figure 7100.2: Measuring Building-Mounted Sign Area

- (b) The area of building-mounted signs composed of individual letters or symbols is calculated by using one of the following methods:

1. If the space between the proposed individual letters or symbols is less in dimension than the width of the largest letter or symbol, sign area is calculated in accordance with subsection (2)(a) above.
2. If the space between the proposed individual letters or symbols is greater than the width of the largest letter or symbol, sign area is calculated as the total combined area of rectangular enclosures surrounding each individual letter or symbol.

(3) Freestanding Sign Area

(a) Generally

The supports, uprights, or structure on which any freestanding sign is supported are not included in calculating sign area unless they form an integral background of the display, as determined by the Zoning Administrator; however, when a sign is placed on a fence, wall, or other similar structure that is designed to serve a separate purpose other than to support the sign, the area of such structure is not included in the sign area. In such cases, the sign area is calculated in accordance with subsection (2)(a) above.

(b) Multi-Faced Signs

The area of a freestanding sign designed with more than one sign face is calculated as follows:

1. If the sign faces are separated by an interior angle of 45 degrees or more, all sign faces are calculated in the sign area.
2. If the sign faces are separated by an interior angle that is less than 45 degrees, sign area is calculated based on the area of the largest single face.

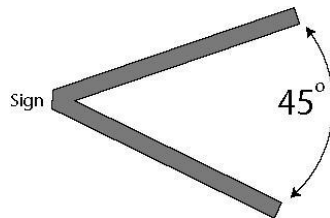


Figure 7100.3: Measuring Multi-faced Sign Angle

3. If the sign faces are parallel to one another, the following applies:
 - a. The area of the largest single face is used when the interior distance between the faces is 18 inches or less.
 - b. The area of the largest single face and the area of the side or interval between faces is used when the interior distance between the faces is greater than 18 inches.

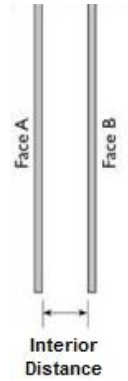


Figure 7100.4: Measuring Parallel Sign Face Area

B. Calculation of Sign Height for Freestanding Signs

The height of a freestanding sign is calculated as the maximum vertical distance from the uppermost extremity of a sign and its support, to the lowest point of the adjacent grade.

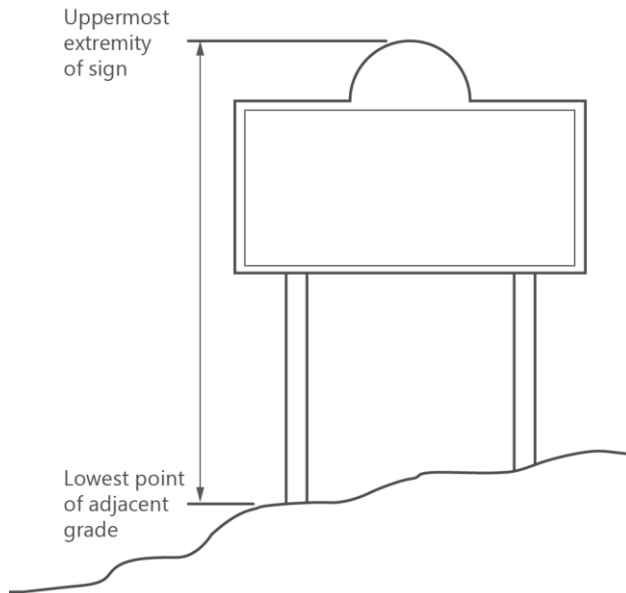


Figure 7100.5: Measuring Height of Freestanding Signs

7101. Sign Regulations by Use and District

1. Standards Applicable to Signs in All Districts

A. Changeable Copy and Electronic Display Signs

Changeable copy and electronic display signs are allowed as part of any freestanding sign, in accordance with the following:

- (1) Only one changeable copy or electronic display sign is allowed per lot. The area of the changeable copy or electronic display may not exceed more than 50 percent of the maximum allowable area of that freestanding sign.

- (2) The message or copy of an electronic display sign may not move or change more frequently than once every eight seconds. The change of message or copy must be instantaneous without rolling, fading, or otherwise giving the illusion of movement, nor flash or vary in brightness.
- (3) The background of the sign face of an electronic display sign may not be white, off-white, gray or yellow in color.
- (4) Electronic display signs must include a photocell to control brightness and automatically dim at sunset to a nighttime level of 40-100 nits.

B. Sign Illumination

Illumination of signs must conform to the performance standards for outdoor lighting as set forth in Section 5109.

C. Associated Service Uses

Each associated service use permitted in accordance with Article 4 of this Ordinance is allowed a single building-mounted sign not to exceed 15 square feet in area, which is calculated as part of the total allowable building-mounted sign area for the building.

2. Signs in Residential Districts

A. Types of Signs and Size Allowed in Residential Districts

The following signs are allowed with approval of a sign permit in a residential district:

- (1) In a single-family residential subdivision or a multifamily development, a freestanding sign is allowed at each major entrance, not to exceed 30 square feet in area or eight feet in height. More than one sign may be placed at each major entrance but the total of all signs at a single entrance cannot exceed 30 square feet in area.
- (2) A rental office for a multifamily development is allowed one building-mounted or freestanding sign not to exceed four square feet in area and a height of four feet.
- (3) Agricultural uses on a lot at least 20 acres in size are allowed a total of 60 square feet of sign area. No single sign can exceed 30 square feet in area or a height of eight feet.
- (4) Hospitals, as follows:
 - (a) A single building-mounted sign for each building entrance, not to exceed 50 square feet in area.
 - (b) A single freestanding sign at each entrance, not to exceed 80 square feet in area or 12 feet in height.
- (5) All other nonresidential uses, including public uses as defined in Article 9, are allowed building-mounted and freestanding signs in accordance with the following:
 - (a) Building-mounted signs may not exceed 50 square feet in total area.
 - (b) A single freestanding sign may not exceed 40 square feet in area or eight feet in height.
- (6) The Board, in approving a rezoning or special exception, or the BZA, in approving a special permit, may further limit any sign for any land use in furtherance of subsection 8100.3.D(2) or subsection 8100.4.D(2), as applicable.

B. Performance Standards for Signs in Residential Districts

(1) Building-Mounted Signs

Building-mounted signs must be installed flush against the wall and may not extend above or beyond the perimeter of the wall or roof of the building to which they are attached.

(2) Freestanding Signs

Freestanding signs may not be located closer than five feet to any property line.

3. Signs in Commercial and Industrial Districts

A. Types of Signs and Size Allowed in Commercial and Industrial Districts

The following signs are allowed with approval of a sign permit within a commercial district, including the commercial area of a P district or nonresidential uses located in a mixed-use building or development; or within an industrial district:

(1) Building-Mounted Signs

- (a) For buildings with a single tenant or with multiple tenants that access the building by one or more common outside entrances, signs are limited to one and one-half square feet of sign area per linear foot of building frontage for each of the first 100 linear feet of building frontage, plus one square foot of sign area for each additional linear foot of building frontage. No single sign may exceed 200 square feet in area.
- (b) For buildings with more than a single tenant where each tenant has its own outside entrance, signs are limited to one and one-half square feet of sign area for each linear foot of building frontage occupied by each tenant, except as provided for in subsection 7102.1 below. The maximum sign area for any single tenant may not exceed 200 square feet.
- (c) A single tenant with building frontage that results in an allowable sign area greater than 200 square feet and that occupies an area with more than one perimeter wall containing a main public entrance may place up to a maximum of 200 square feet of total sign area on each such perimeter wall. The combined sign area on any such wall must not exceed one and one-half times the length of the wall.
- (d) In addition to sign area allowed in accordance with subsections (a), (b), and (c) above, hospitals are allowed a single building-mounted sign for each building entrance. No such sign may exceed 50 square feet in area.

(2) Freestanding Signs

Freestanding signs are allowed as follows, unless limited by subsection (3) below:

- (a) In a commercial district, a use may have one freestanding sign up to 80 square feet in area and 20 feet in height. The use must be located on a lot that has frontage on a primary highway or on a major thoroughfare and not located on the same lot as a shopping center.
- (b) In an industrial district, a single freestanding sign not to exceed 80 square feet in area and 20 feet in height may be erected for each building that has frontage on a

major thoroughfare. If one tenant occupies a group of separate buildings with frontage on a major thoroughfare, then that tenant is allowed only one freestanding sign.

- (c) A hospital is allowed one freestanding sign at each entrance, provided no such sign exceeds 80 square feet in area or 12 feet in height.
- (d) Shopping centers are allowed one freestanding sign, not to exceed 80 square feet in area or 20 feet in height. If a shopping center has frontage on two or more major thoroughfares, then such shopping center may have a maximum of two freestanding signs.
- (e) For office and industrial complexes:
 1. One freestanding sign is allowed at each major entrance to an office or industrial complex that is planned, designed, constructed, and managed on an integrated and coordinated basis, not to exceed 40 square feet in area or a height of 20 feet.
 2. One freestanding sign is allowed for each detached building that houses a principal use within an office or industrial complex, not to exceed 30 square feet or a height of eight feet.

(3) Within a Sign Control Overlay District

The following regulations apply to uses located on commercially and industrially zoned land located within a Sign Control Overlay District; where applicable, these regulations supersede subsection (2) above:

- (a) A single tenant or building on a lot may have one freestanding sign if the lot has frontage on a primary highway or major thoroughfare and the single tenant or building is not located on the same lot as a shopping center. Such sign may not exceed 40 square feet in area or a height of 20 feet.
- (b) A shopping center is allowed one freestanding sign not to exceed 40 square feet in area or a height of 20 feet.

(4) Signs Related to Vehicle Fueling Stations

The following are permitted in addition to the signs allowed in this subsection A:

- (a) Vehicle fueling stations are permitted one additional square foot of sign area to be displayed on each fuel pump.
- (b) Motor vehicle fuel price signs required by Article 4 of Chapter 10 of the Code of Virginia.

B. Performance Standards for Signs in Commercial and Industrial Districts

(1) Building-Mounted Signs

- (a) Building-mounted signs may be located anywhere on the surface of a wall but no part of the sign may extend above or beyond the perimeter of a wall. When the sign is erected at a right angle to the wall, it must not extend into the minimum required yard, and must not be located closer than two feet to any street line.
- (b) A building-mounted sign may be located on the wall of a penthouse or rooftop screening wall, as follows:

1. The sign must be mounted flat against the wall, and no part of the sign can extend above or beyond the perimeter of the wall.
2. The sign cannot be located more than 12 feet above the building roof supporting the penthouse or screening wall.

(2) Freestanding Signs

Freestanding signs may not project beyond any property line or be located within five feet of the curb of a service drive, travel lane, or adjoining street. When located on a corner lot, a freestanding sign is subject to 5100.2.D(4) of this Ordinance.

7102. Administration of Sign Approvals

These sign approval standards are in addition to the General Provisions in Section 7100.

1. Administrative Comprehensive Sign Plan

As an alternative to calculating building frontage in accordance with subsection 7100.7.A(1)(b), the Zoning Administrator may authorize a different allotment of sign area to the various tenants of a building or buildings by approval of an administrative comprehensive sign plan, as follows:

- A. A request for an administrative comprehensive sign plan must include written authorization from the owner of the building(s), or an authorized agent, accompanying graphics showing the proposed size, height, and location of all signs, and the required filing fee as established in Section 8102.
- B. Unless allowed under C below, the total area for all signs may not exceed the maximum allowable sign area for the building as determined in accordance with subsection 7100.7.A(1)(b). The maximum sign area for any single tenant may not exceed 200 square feet.
- C. A single tenant with building frontage that results in an allowable sign area greater than 200 square feet where such tenant occupies an area with more than one perimeter wall containing a main public entrance may place up to a maximum of 200 square feet of total sign area on each such perimeter wall. The combined sign area on any such wall must not exceed one and one-half times the length of the wall.

2. Special Exceptions

- A. In conjunction with the approval of a special exception for a hospital, the Board may approve additional signs for the use in accordance with subsection 4102.4.R(8).
- B. In commercial and industrial districts, the Board may approve, either in conjunction with the approval of a rezoning or as a special exception, a modification or waiver of the sign regulations in accordance with the following:
 - (1) Such waiver may be for an increase in sign area, increase in sign height, or different location of a sign, not otherwise provided by subsection 7102.3. Such waiver may not allow the erection of a freestanding sign or off-site sign not otherwise permitted by this Ordinance, or the establishment of any sign prohibited by Article 7.
 - (2) The Board may approve such waiver only when the applicant demonstrates that there are unusual circumstances or conditions in terms of location, topography, size, or configuration of the lot; access to the lot; unusual size or orientation of the structure on

the lot; or other unique circumstance of the land or structure that impacts the applicant's ability to provide for a reasonable identification of the use.

- (3) The Board determines that such waiver will be in harmony with the policies of the Comprehensive Plan.
- (4) The Board may approve a waiver of the sign provisions only in those locations where, based upon a review of the relationship of the sign to the land, buildings and conforming signs in the neighborhood, it determines that the sign will not have any deleterious effect on the existing or planned development of adjacent properties and that it is consistent with the purpose and intent of Article 7.

3. Special Permits

- A. The BZA may grant a special permit to increase the height of a freestanding sign in a neighborhood or community shopping center when it determines that the application of this Article would cause a hardship due to issues of topography. However, such freestanding sign may not extend to a height greater than 26 feet above the elevation of the center line of the nearest street.
- B. The BZA may grant a special permit to allow additional sign area or height, or a different arrangement of sign area distribution for a regional shopping center, when it determines that the application of this Article would cause a hardship due to issues of topography or location of the regional shopping center. However, the total combined sign area for the regional shopping center may not exceed 125 percent of the sign area otherwise allowed by this Article.
- C. In cases where an individual or grouping of enterprises within a shopping center are located so that the building frontage is not visible from a street, the BZA may grant a special permit to allow building-mounted sign(s) for such enterprises to be erected at the entrances, arcades, or interior malls. However, the total combined sign area for the shopping center may not exceed 125 percent of the sign area otherwise allowed by this Article.

4. Uses in Planned Districts

The provisions of this Article apply to signs within Planned (P) districts. However, in keeping with the intent to allow flexibility in the design of planned developments, the following apply to signs in P districts:

- A. Signs may be permitted in a P district in accordance with a comprehensive sign plan subject to approval by the Planning Commission following a public hearing conducted in accordance with subsection 8100.1.C. The comprehensive sign plan will show the location, size, height, and extent of all proposed signs within the specified area of the P district.
- B. An application for a comprehensive sign plan may be submitted by any property owner, owner of an easement, lessee, contract purchaser, or their agent. The application must be accompanied by a statement establishing the names of the record owners of the properties upon which such signs are proposed to be located, and a fee as established in Section 8102.
- C. Any comprehensive sign plan must be in accordance with the standards for all planned developments as established in Section 2105. All proposed signs must be consistent with the scale and design of the development and so located and sized to ensure convenience to users of the development, while not adding to street clutter or otherwise detracting from architectural and urban design elements of the development.

Article 8 - Administration, Procedures, and Enforcement

8100. Review Procedures

1. General Requirements for All Applications

This section describes the standard procedures and rules that apply to applications, unless otherwise stated in the Ordinance.

A. Application Processing

(1) Filing of Applications and Appeals

- (a) Applications and appeals required under this Ordinance must be filed with the Zoning Administrator or the Zoning Administrator's designated agent.
- (b) The County will not accept an application or appeal unless it complies with this Ordinance. An application or appeal will be officially on file with the County only after it and all required accompanying submissions are submitted to and accepted by the Zoning Administrator or designated agent. Section 8101 specifies the application submission requirements. All applications and appeals provided for in this Ordinance must be submitted on forms prescribed by the responsible official, body, or committee.
- (c) Applications, appeals, and requests for zoning compliance letters must be accompanied by the applicable filing fee specified in Section 8102 unless otherwise waived by the Board for good cause shown. No fee is required where the applicant is the County of Fairfax or any agency, authority, commission, or other body specifically created by the County, State, or Federal Government.
- (d) Upon acceptance, the Zoning Administrator will transmit an application or appeal to the officer, body, or agency having jurisdiction to act on the application.

(2) Scheduling of Applications

Applications and appeals are typically scheduled and considered in the order they are accepted. The clerks of the respective hearing bodies will keep a calendar of cases to be heard.

(3) Amendment of Applications

A request to amend an application must be submitted in writing to the Zoning Administrator. Depending on the nature and extent of the amendment, this request may result in the rescheduling of any required public hearing.

(4) Withdrawing an Unaccepted Application

Withdrawal of an unaccepted application for a rezoning, special exception, special permit, variance, or comprehensive sign plan will be in accordance with the following:

- (a) An applicant or agent may withdraw an application at any time by giving written notice to the Zoning Administrator. If the application has not been accepted, there will be a full refund of the filing fee paid.
- (b) The Zoning Administrator may deem an application administratively withdrawn before acceptance if the applicant refuses or neglects to make a needed correction, addition, or other change after being notified of the need and, after a further 15 days' notice, of the impending administrative withdrawal. This latter notice must be sent by certified mail, return receipt requested, to the applicant's last known address. If an unaccepted application is deemed administratively withdrawn, 90 percent of the filing fee paid will be refunded.

(5) Withdrawing an Accepted Application

Withdrawal of an accepted application for a rezoning, special exception, special permit, variance, or comprehensive sign plan will be in accordance with the following:

- (a) The applicant or agent may withdraw an application at any time by giving written notice to the Zoning Administrator. No fee or partial fee will be refunded for an accepted application withdrawn by the applicant.
- (b) If it is determined that the application was accepted in error, the Zoning Administrator may deem it administratively withdrawn and fully refund the filing fee paid.
- (c) If an applicant refuses or neglects to pursue an accepted application, the Zoning Administrator may declare the application administratively withdrawn, but only after giving at least 15 days' notice of intention to do so. This notice must be sent by certified mail, return receipt requested, to the applicant's last known address. If an accepted application is administratively withdrawn under this provision, there will be no refund of the filing fee.
- (d) If an application for a rezoning is withdrawn, by request or administratively, after the Board or Planning Commission has begun a public hearing, there may be a limitation on rehearing under subsection 8100.1.D.

B. Scheduling and Notice of Public Hearings

(1) Required Notice for Public Hearings

- (a) Public hearings required by this Ordinance will be held only when evidence establishes that the notice requirements in this subsection have been satisfied. All required notices must meet the standards specified in Chapter 22 of Title 15.2 of the Code of Virginia, and, when applicable, Va. Code Sect. 15.2-107.
- (b) The subject of the public hearing is not required to be advertised in full but may be advertised by reference. Every advertisement must contain a descriptive summary of the proposed action and must identify the place(s) within the County where copies of the subject of the public hearing may be examined.

Published Notice

- (c) Public notice of any hearing must be published once a week for two successive weeks in a local newspaper having general circulation in the County. This notice must be published at least six days, but no more than 21 days before the date of

the hearing, and there must be at least six days between the first and second publication.

- (d) The notice must specify the time and place of the hearing and the nature of the matter before the hearing body. The hearing notice for any amendment that imposes or increases levies or fees must also include the information required by Va. Code Sect. 15.2-107. The public notice is the hearing body's responsibility.

Written Notice to Applicant or Appellant

- (e) The hearing body must send written notice of the public hearing to the applicant or appellant when the hearing involves an application for a PRC plan, final development plan, special exception, special permit, variance, appeal, or an amendment to the Zoning Map. That written notice must be sent by first class or certified mail postmarked at least 20 days before the hearing.

Posted Notice

- (f) At least 15 days before the date of the first hearing, the Zoning Administrator must post notice of the application or appeal on the property. This notice must be removed within seven days after the last hearing and within seven weeks from the original posting date.
- (g) Notice must be posted at reasonable intervals as follows:
 1. Along every street abutting the property; or,
 2. If there is no abutting street, then along the exterior boundary lines of the property and within 300 feet along every street providing access to the property.
- (h) The notice must contain the date, location, and time of the public hearing, the nature of the application, the property affected, other information necessary to identify and describe the application, and where further information may be obtained.
- (i) Posted notice is not required when:
 1. The hearing involves an application for more than 25 parcels of land for the following:
 - a. Amendment to the Zoning Map initiated by resolution of the Planning Commission or Board
 - b. Special exception
 - c. Special permit
 - d. Variance
 - e. Appeal
 2. The hearing involves an appeal concerning no specific property; or
 3. The hearing body specifically waives or modifies the requirement.

Written Notice to Property Owners, Adjacent Jurisdictions, Military Installations, and Airports

- (j) An application for a rezoning, a PRC plan, final development plan, special exception, special permit, variance, or appeal requires the following written notice:

- 1.** The applicant must send written notice to the property owner(s) of each parcel involved in the application; and
- 2.** The applicant must send written notice to all owners of property abutting and immediately across the street from the property, including property that lies in an adjoining city or county.
- 3.** For special permits, variances, and appeals, if written notice is not sent to ten different property owners, the applicant must send additional notices so that the owners of at least ten properties in the immediate vicinity are notified.
- 4.** For all other applications, if written notice is not sent to 25 different property owners, then the applicant must send additional notices so that the owners of at least 25 properties in the immediate vicinity are notified.
- 5.** If the application property is an individual condominium or cooperative unit within a condominium or cooperative building, the applicant must send written notice to:
 - a.** The condominium unit owners' association or proprietary lessees' association; and
 - b.** Unit owners immediately abutting the application property or on the same floor of the building as the application unit and those unit owners immediately above and below the application unit.
- 6.** When the application property abuts or is immediately across the street from a condominium or cooperative property, the applicant must send written notice as follows:
 - a.** When the application property abuts or is immediately across the street from open space or common ground of a condominium or cooperative, the applicant must send written notice to the condominium unit owners' association or proprietary lessees' association; and
 - b.** Where individual condominium or cooperative units or lots abut or are immediately across the street from the application property, the applicant must send written notice to the owner of each unit.
- 7.** The hearing body or its representative must also send written notice at least 15 days before the hearing to the chief administrative officer or designee of an adjoining county or municipality if:
 - a.** The application involves a Zoning Map amendment, PRC plan, final development plan, or a special exception or special permit application that proposes a change in use or an increase greater than 50 percent of the bulk or height of an existing or proposed building;
 - b.** The application does not seek to renew a previously approved special exception or special permit; and
 - c.** The application property or a portion of it is located within one-half mile of a boundary of an adjoining county or municipality of the State.
- 8.** If the application seeks to amend a previously approved rezoning, PRC plan, final development plan, special exception, or special permit affecting a portion of a property, the hearing body or its representative must also send written notice at least 15 days before a hearing to all owners of property subject to

approval of an application. However, this notice is not required if the Zoning Administrator determines the proposed change is to a component or lot that does not affect the rest of the development.

9. The hearing body or its representative must also send written notice at least 30 days before a hearing to the commander of a military installation, military airport, or owner of a public use airport. The notice must advise of the opportunity to submit comments or recommendations. For the purposes of this provision, military installations include, but are not limited to military camps, forts, or bases. Public use airports include those licensed airports contained on the list of public use airports that is maintained by the Virginia Department of Aviation. This notice is required if:
 - a. The application involves a rezoning, a development plan, PRC plan, special exception, or special permit; and
 - b. The application property or a portion of it is located within 3,000 feet of a boundary of a military installation, military airport (excluding armories operated by the Virginia National Guard), or licensed public use airport.

10. Content and Mailing of Written Notice

- a. Every required written notice must state the date, time, place, and subject matter of the hearing, and the name of the applicant.
- b. The notice must be sent to the last known address of the owner(s) as shown in the County's current real estate assessment records and, except as specified above or qualified below, must be sent by certified mail, return receipt requested, and postmarked at least 15 days before the hearing.
- c. The hearing body's representative may send notices by first class mail if that representative affirms by affidavit that the mailing has been made.

11. Waiver of Challenge to Validity of Proceedings

A party's actual notice of, or active participation in, the proceedings waives that party's right to challenge the validity of the proceedings due to the failure to receive the required written notice. In addition, any person may waive his or her right to the notice in writing to the Zoning Administrator.

C. Conduct of Public Hearings

All public hearings required by this Ordinance must be conducted in accordance with the following:

- (1) No public hearing may be held unless the required notice has been provided in accordance with subsection 8100.1.B(1).
- (2) All hearings are open to the public. Any person may appear and testify, either in person or by an authorized agent or attorney.
- (3) The hearing body by general rule prescribes procedures for the conduct of hearings.
- (4) Upon a vote of the majority of members present, the hearing may be continued or deferred as follows:

- (a) If a hearing has been opened, public testimony has been received, and there is cause for continuation of the hearing, no formal notice is required if the hearing is continued to a date certain.
 - (b) If a hearing is concluded, but action is deferred until a future date, no formal notice is required before action is taken.
 - (c) If a hearing was deferred before it was opened, written notice to adjacent property owners required by subsection 8100.1.B(1) must be re-mailed. The notice must be mailed at least five days before the public hearing. If the notice is sent by the hearing body's representative, he or she may send written notice by first class mail if that representative affirms by affidavit that the mailing has been made.
- (5) Where deemed necessary, joint public hearings may be conducted after giving public notice required by subsection 8100.1.B. If a joint hearing is held, public notice must be given by only one hearing body. The Board must give public notice when it is one of the hearing bodies.
- (6) An action may be reconsidered only upon motion of a member voting with the prevailing side on the original vote. A motion to reconsider must be made at the same or immediately subsequent regular meeting, and may be seconded by any member. The BZA may not entertain a motion for reconsideration.

D. Limitation on Rehearing

Denied or Withdrawn Applications

If an application for rezoning or proffered condition amendment is denied or withdrawn after the Board has begun a public hearing on it, the Board will not hear a substantially similar application concerning any of the same property within 12 months of the denial or withdrawal, unless this restriction is waived by the Board.

2. Ordinance Text and Zoning Map (Rezoning) Amendments

A. Application Processing

(1) Initiating a Text Amendment or Rezoning

The Board may amend the text of this Ordinance or rezone property (i.e., amend the Zoning Map) if the amendment is initiated in one of these ways:

- (a) A resolution of the Board;
- (b) A motion approved by the Planning Commission; or
- (c) An application by the owners, contract purchasers (with owners' written consent), or agents of the owners of the land proposed to be rezoned. The application must be sworn under oath or affirmation, acknowledged before a notary public, and filed with the Zoning Administrator. The Zoning Administrator will forward the application to the Board.

(2) Amending a Rezoning Application

- (a) Applicants for a rezoning may amend the application by filing a written request for amendment and the required fee with the Zoning Administrator.

- (b) If an amendment involves a change in the zoning district requested, a change in the land area, or other substantial revision the public hearing and decision on the application may be rescheduled. The Board will hear and decide the application within 12 months from the date the request for amendment was filed, unless the applicant and the Board agree to an extension or the applicants refuse or neglect to pursue the application in accordance with this Ordinance.

B. Scheduling and Notice of Public Hearings

- (1) Any amendment to the Zoning Ordinance or the Zoning Map requires a public hearing before the Planning Commission and Board in accordance with Va. Code Sections 15.2-2204, 15.2-2285, and if a fee or increase is involved, Section 15.2-107.
- (2) For Zoning Map amendments, public notice must also include the information required by Va. Code Sect. 15.2-2285.
- (3) An application should be heard and a decision made within 12 months from the date of application acceptance, unless:
 - (a) The application is an amendment subject to subsection 8100.2.A(2);
 - (b) An extended period is requested by the applicant; or
 - (c) The applicant refuses or neglects to prosecute an application in accordance with this Ordinance.

C. Review and Decision

- (1) **Recommendation by Planning Commission**
 - (a) After the Planning Commission's public hearing and deliberations conclude, the Planning Commission must provide its recommendation to the Board.
 - (b) The Planning Commission is not required to confine its recommendation to the proposed amendment as set forth in the application or resolution.
 - (c) If the proposed amendment consists of a change in the text of the Ordinance, the Planning Commission may recommend a revision to the proposal.
 - (d) If the proposed amendment consists of a change in zoning district boundaries, the Planning Commission may:
 - 1. Reduce or enlarge the land area that it recommends be rezoned; or
 - 2. Recommend that the land be rezoned to a different zoning district classification than that requested if that revision is in accordance with sound zoning practice and furthers the purposes of this Ordinance. Before recommending a larger f land area or a rezoning to a less restrictive classification than was set forth in the application, the Planning Commission must hold a further hearing on the matter after providing notice in accordance with subsection 8100.1.B.
- (2) **Decision by Board**

The following decisions will be made after public hearing(s) and deliberations:

- (a) For a Zoning Ordinance amendment, the Board may adopt or reject the amendment. The Board may adopt provisions relating to previous approvals as part of its decision.
- (b) For a Zoning Map amendment, the Board may approve, approve with conditions or modifications, or deny the map amendment.

(3) Effective Date of Amendment

An amendment to the Zoning Ordinance or the Zoning Map becomes effective on the date of Board approval, unless otherwise specified by the Board.

D. Proffered Condition Regulations

(1) Generally

Proffered conditions may include any statement, plan, and other materials that are submitted with a rezoning application and referenced in a written statement signed by the applicant, the owner, and any contract purchaser(s), and accepted by the Board in conjunction with the approval of a rezoning. For condominiums, the written statement of proffers must be signed in accordance with Section 8105. Proffered conditions are subject to the following:

- (a) Once the public hearing has begun, no change or addition to any proffer is allowed without a second public hearing before the Board and, at the option of the Board, a second public hearing before the Planning Commission.
- (b) If an amendment to the Zoning Map is adopted subject to proffered conditions, the property must be annotated as such on the Zoning Map.
- (c) Proffered conditions become a part of the zoning regulations that apply to the rezoned property, unless changed by a later amendment approved by the Board. These proffered conditions supplement the specific regulations for the zoning district in question. Once the Board approves an application with proffered conditions, any site plan, subdivision plat, or development plan submitted for the development of the property must substantially conform with all proffered conditions, and no County official may approve any development without such substantial conformance, except as may be permitted below.

(2) Modifications of Conditions Requiring Amendment

- (a) A request that cannot be accomplished as a minor modification or minor variation requires approval of a proffered condition amendment and, when applicable, an associated development plan amendment, in accordance with the applicable procedures.
- (b) An application for such an amendment may cover all or a portion of the property subject to the proffered conditions, or it may request to add proffered conditions on a parcel not currently the subject of any proffered condition. In its review of a request that does not cover the property subject to proffered conditions, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of:
 1. The approved use;
 2. Fulfillment of proffered conditions;

3. Vehicular and pedestrian circulation, connectivity, landscaping, and streetscape; and
 4. The approved density or intensity.
- (c) After approval of an amendment, all other previously approved proffered conditions remain in full force and effect.
- (d) Any modification to a proffered condition to provide an accessibility improvement or other reasonable accommodation as determined by the Zoning Administrator will be permitted and will not require approval of a proffered condition amendment.
- (3) Enforcement of Proffered Conditions**
- (a) The Zoning Administrator is vested with authority to administer and enforce proffered conditions. This authority includes the ability to remedy, by written order, any noncompliance with a proffered condition and the ability to bring legal action to ensure compliance, as provided for in Section 8106.
- (b) The Zoning Administrator or the Zoning Administrator's designated agent may require:
1. A guarantee, satisfactory to the Board, in an amount sufficient to cover the construction cost of any physical improvements required by the proffered conditions; or
 2. A contract for the construction of such improvements and the contractor's guarantee, in like amount, which may be reduced or released by the Board or agent of the Board, with satisfactory evidence that the improvements have been constructed in whole or in part.
- (c) Failure to meet or comply with any proffered condition is sufficient cause to deny the approval of a subdivision plan or site plan, and the issuance of any permits, including building permits and Residential and Non-Residential Use Permits, as the Zoning Administrator may deem appropriate.
- (d) Any person aggrieved by a decision of the Zoning Administrator regarding any proffered condition may appeal that decision to the Board. The appeal must be filed within 30 days from the date of the decision being appealed by filing with the Zoning Administrator and the Clerk to the Board a notice of appeal specifying the grounds on which aggrieved. The notice of appeal filed with the Zoning Administrator must include a filing fee as provided in Section 8102.

E. Planned Districts, Except PRC District

(1) Conceptual Development Plan Approval

- (a) The applicant must submit materials in accordance with Section 8101.
- (b) After the Zoning Administrator determines that the content of the conceptual development plan is complete, the plan and the application will be submitted for comment and review to appropriate County agencies. Upon completion of the administrative review, the plan and application must be submitted to the Planning Commission.

- (c) The Planning Commission must promptly hold a public hearing and consider the conceptual development plan and the rezoning application in accordance with the applicable zoning district regulations.
- (d) After the public hearing, the Planning Commission will transmit the conceptual development plan and application to the Board, together with its recommendations of approval or denial.
- (e) The Board will consider the conceptual development plan and rezoning application in accordance with the applicable zoning district regulations and must hold a public hearing. The Board must approve, approve with modifications, or deny the conceptual development plan.
- (f) In approving a conceptual development plan, the Board may establish conditions and require modifications to ensure compliance with the zoning district's standards and regulations. The Board may also waive or modify subdivision or site plan requirements that would otherwise apply to the development when a waiver or modification would conform with the zoning district's standards and regulations.
- (g) In approving a conceptual development plan, the Board may modify of the strict application of the standards in Section 2105 for the planned district if:
 - 1. The strict application would hinder the purpose of the zoning district;
 - 2. The modification would promote and comply with the general and design standards in subsection 2105.1; and
 - 3. The modification does not alter the maximum density provisions under the PDH District and the maximum floor area ratio provisions under the PDC, PRM, PTC, and PCC Districts.
- (h) If the Board disapproves the rezoning application, the conceptual development plan is denied.
- (i) If the Board approves the rezoning application, the Board also must approve or approve with modifications or conditions the conceptual development plan.
- (j) Once a conceptual development plan has been approved, all subsequent approvals, uses, and structures must substantially conform with the approved conceptual development plan and any development conditions associated with that approval. Any proposed amendment of the conceptual development plan will be processed as a new submission. An amendment application may cover all or a portion of the property subject to an approved conceptual development plan. In its review of a request that does not cover all of the property subject to an approved conceptual development plan, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of:
 - 1. The approved use;
 - 2. Fulfillment of conditions;
 - 3. Vehicular and pedestrian circulation, connectivity, landscaping and streetscape; and
 - 4. The approved density or intensity.

- (k) Any portion of the conceptual development plan and previously approved conditions that are not subject to the amendment application remain in full force and effect.
- (l) Any development plan approved in conjunction with a PDH or PDC rezoning action before May 19, 1975, is deemed to be an approved conceptual and final development plan.

(2) Final Development Plan Approval

- (a) An applicant may submit a final development plan after the Board grants its rezoning application to a P district and approves its accompanying conceptual development plan.
- (b) Alternatively, a final development plan may be filed with and included in the processing of the rezoning application and conceptual development plan.
- (c) A final development plan must be prepared in accordance with the approved conceptual development plan and any conditions adopted by the Board.
- (d) A final development plan may be prepared and submitted for the entire planned development at one time or for sections of the planned development. Each plan must be submitted to the Zoning Administrator.
- (e) After the Zoning Administrator determines that the content of the final development plan is complete, the plan will be submitted for comment and review to appropriate County agencies. Once that administrative review is complete, the plan will be submitted to the Planning Commission.
- (f) The Planning Commission must hold a public hearing on a stand-alone final development plan application within six months of the date the Zoning Administrator determined that the plan was complete. The Commission must consider the final development plan in accordance with the approved conceptual development plan and determine if the final development plan complies with the applicable zoning district regulations. If the Planning Commission determines the final development plan meets those requirements, it must approve, or approve with modifications, the final development plan. That approval is deemed to be the final approval, subject only to appeal to the Board as provided in subsection (i) below.
- (g) In approving a final development plan, the Planning Commission may establish conditions and require modifications necessary to ensure compliance with the approved conceptual development plan and the zoning district's standards and regulations. Further, the Planning Commission may recommend to the Board the waiver of any zoning and subdivision requirements that would otherwise apply to the development, if it determines that at a waiver would conform with the applicable standards and regulations.
- (h) If the Planning Commission finds that the final development plan is not in accordance with the approved conceptual development plan or does not comply with the applicable zoning district regulations, it must recommend denial of the final development plan and forward its recommendation to the Board. The Board must hold a public hearing on the final development plan and approve, approve with modifications, or deny the final development plan. In approving the final

development plan, the Board may establish conditions and require modifications necessary to ensure compliance with the approved conceptual development plan and the zoning district's standards and regulations. The Board may waive zoning and subdivision requirements that would otherwise apply to the development if it determines that the waiver would conform with the applicable standards and regulations.

- (i) To appeal a Planning Commission's approval or approval with modifications of a final development plan, an aggrieved party must file its appeal with the Board within ten days after the decision of the Commission. The appeal must be by written petition to the Board setting forth the reasons for the appeal.
- (j) Once a final development plan has been approved, all subsequent approvals, uses, and structures must be in substantial conformance with the approved final development plan and any development conditions associated with that approval. Any final development plan amendment application will be processed as follows:
 - 1. If the Zoning Administrator determines that the amendment would result in a final development plan that is still in accordance with the approved conceptual development plan, then the application will be processed in accordance with these provisions.
 - 2. If the Zoning Administrator determines that the amendment would result in the final development plan no longer being in accordance with the approved conceptual development plan, then an amendment to the conceptual development plan is required in accordance with subsection 8100.2.E(1)(j). The final development plan amendment application must also be reviewed by the Planning Commission in accordance with these provisions.
 - 3. A final development plan amendment application may be filed on a portion of the property subject to an approved final development plan, if the Zoning Administrator determines that the amendment:
 - a. Would not adversely affect the use of the property subject to the final development plan and conditions but not incorporated into the amendment application;
 - b. Would not inhibit, adversely affect, or preclude in any manner the fulfillment of the final development plan and conditions applicable to the area not incorporated into the amendment application;
 - c. Would not adversely affect the vehicular and pedestrian circulation, connectivity, landscaping, and streetscape applicable to the area not incorporated into the amendment application; and
 - d. Would not increase the overall approved density or intensity for the development.
 - 4. The portion of the final development plan and previously approved conditions that are not subject to the amendment application remain in full force and effect.
- (k) Any development plan approved in conjunction with a PDH or PDC rezoning action before May 19, 1975, is deemed to be an approved conceptual and final development plan.

(3) Site Plan and Subdivision Plat Preparation, Building Permit, Residential Use Permit and Non-Residential Use Permit

Approval of a final development plan is a prerequisite and authorizes the applicant to submit a site plan or a subdivision plat. Approval of a site plan or subdivision plat and the issuance of a building permit, Residential or Non-Residential Use Permit must be in substantial conformance with the final development plan, in accordance with this Ordinance and Chapter 101 of the County Code, The Subdivision Ordinance, and the following:

- (a)** Separate site plans or subdivision plats must be submitted for each section of the planned development in accordance with the approved final development plan. For development within the PTC District subject to a phasing plan, each site plan or subdivision plat must provide content as required by Section 8101.
- (b)** Except in the PTC District, when a planned development is to be constructed in sections, the developer must provide substantially the same ratio of open space to completed development in each section as it will provide in the entire planned development when complete.
- (c)** Minor deviations from this Ordinance and Chapter 101 of the County Code (the Subdivision Ordinance), may be permitted, but only where the deviations are shown on the approved final development plan.
- (d)** Minor modifications to a final development plan are allowed when the Zoning Administrator determines that they substantially conform to the approved final development plan and do not materially alter the character of the development under subsection 8100.5.
- (e)** When the Board approves a minor variation to a proffered condition, the variation is deemed to apply to any approved final development plan or final development plan condition without the need for a separate amendment to that plan.
- (f)** Any modification to an approved final development plan to provide an accessibility improvement or other reasonable accommodation may be permitted and not require approval of an amendment to the final development plan.

(4) Required Recreational Facilities in PDH, PDC, PRM, and PTC Districts

Required recreational facilities must include either active recreation facilities such as tennis courts, swimming pools, children playgrounds, tot lots, or ballfields, or passive recreation and site amenities such as gazebos, picnic areas, trails, and nature walks, but not including landscape plantings, trails identified on the Comprehensive Plan, or sidewalks required by the Public Facilities Manual.

- (a)** For recreational facilities to be constructed on-site by the developer, the facilities must be shown on the site plan, subdivision plan, or construction plan, as applicable, in substantial conformance with the approved final development plan. The following also apply, unless otherwise modified by the Board at the time of zoning approval:
 - 1.** For single section developments, or multiple section developments where required recreational facilities are to be provided in the first section of the development, facilities must have an executed security package before:
 - a.** Final subdivision plat approval for single-family dwelling developments; or

use the facilities. The timing of the off-site construction must be proposed by the applicant and approved by the Board at the time of zoning approval.

3. If the applicant will satisfy the recreational facilities requirement by making a cash contribution, the applicant must:
 - a. Provide a cash contribution equal to the approved per dwelling unit expenditure to the County, the Fairfax County Park Authority, or to an adjacent homeowners' association, as applicable, for the express purpose of providing additional recreational facilities, or renovating or increasing the user capacity of existing facilities. At the time of zoning approval, the applicant must have established that the County, the Fairfax County Park Authority, or the homeowners' association, as applicable, has agreed to and has the right to receive the cash contribution and, if the cash contribution is to be made to an adjacent homeowners' association, the proposed use of the cash contribution must be specified.
 - b. Make the cash contribution equivalent to the approved per dwelling unit expenditure before a Residential Use Permit is issued for each dwelling unit in the proposed development.

F. PRC District

(1) Comprehensive Plan Approval

(a) General Requirements

1. A PRC District may only be established in an area designated as a planned residential community on the Comprehensive Plan. Before the initial establishment of a PRC District, the applicant must propose an amendment to the Comprehensive Plan to permit a planned residential community, which must contain at least 750 contiguous acres owned or controlled by a single individual or entity.
2. That Comprehensive Plan amendment must be presented in at least the same level of detail as the Comprehensive Plan for the area under consideration.
3. In conjunction with the submission of a proposed Comprehensive Plan amendment, the applicant must submit a general development schedule showing the approximate time frame of the development.
4. Ten copies of the proposed Comprehensive Plan amendment and development schedule must be submitted to the Director of the Department of Planning and Development (DPD) along with a written request for the consideration of the amendment.

(b) Director Review and Analysis

1. Upon receipt, the Director of DPD, in accordance with adopted procedures for consideration of Comprehensive Plan amendments, will ensure a thorough review of the proposed amendment by all appropriate agencies. The Director of DPD may ask the applicant to provide additional information if it is needed to complete the review.

2. As part of the review, the Director of DPD will analyze the proposed development schedule and the impact of the development on all public facilities and utilities.
3. After the Director completes the review, the plan amendment will be submitted to the Planning Commission.

(c) Review and Approval by the Planning Commission and Board

1. The Planning Commission must hold a public hearing to consider the Comprehensive Plan amendment and must forward to the Board its recommendation for approval, approval with modifications, or denial.
2. The Board must hold a public hearing and must approve, approve with modifications, or deny the proposed amendment.
3. If approved by the Board, the Comprehensive Plan amendment for a planned residential community will become part of the Comprehensive Plan, which is subject to review and revision. Any revision to the Comprehensive Plan initiated by an applicant, other than the Planning Commission or the Board, is subject to the same procedures as the original amendment.
4. Additional adjacent land may be added to a planned residential community if it represents a logical extension of the planned residential community under the Comprehensive Plan. An addition of adjacent land is subject to the same requirements and procedures as the original amendment except that the minimum of 750 acres owned or controlled by a single individual or entity is not required.

(2) Rezoning to a PRC District

(a) General Requirements

1. Following Board approval of the Comprehensive Plan for a planned residential community, the Board may approve an application for rezoning to a PRC District subject to these provisions and provisions for a rezoning. The initial rezoning to establish a PRC District must contain a minimum land area of 750 contiguous acres owned or controlled by a single individual or entity.
2. The rezoning application and development plan must be filed with the Zoning Administrator.
3. The applicant must submit materials required by Section 8101.
4. The rezoning application and development plan must be in accordance with the Comprehensive Plan, the standards in subsection 2105.1, and the PRC District regulations and objectives.

(b) Staff Review and Recommendation

After the Zoning Administrator determines that the rezoning application and the development plan are complete, the Zoning Administrator will provide the application and plan to appropriate County agencies for review and comment. Once that administrative review is complete, the application and plan will be submitted to the Planning Commission.

(c) Review and Approval by the Planning Commission and Board

1. The Planning Commission must hold a public hearing to consider whether the rezoning application and development plan are in accordance with the Comprehensive Plan, the standards in subsection 2105.1, and the PRC District regulations and objectives. After the public hearing, the Commission must transmit the rezoning application and development plan to the Board with its recommendation to approve, approve with modifications, or deny.
2. If the Board approves the rezoning application, the Board must also approve or approve with modifications or conditions the development plan. Such conditions or modifications may be established by the Board to ensure compliance with the standards in subsection 2105.1 and the district regulations. Further, the Board may waive or modify zoning and subdivision requirements that would otherwise apply to the development when a waiver or modification would conform with the standards and regulations.
3. If the Board disapproves the rezoning application, the development plan is deemed to also be denied.

(d) Following Approval

1. Once a development plan has been approved, all subsequent approvals, uses, and structures must be in substantial conformance with the approved development plan and any development conditions associated with that approval. Any subsequent amendment to the development plan will be processed as a new submission. A development plan amendment may cover all or a portion of the property subject to an approved development plan. In its review of a request that does not cover all of the property subject to an approved development plan, the Board should consider whether the request would have an adverse impact on the remainder of the property in terms of:
 - a. The approved use;
 - b. Fulfillment of conditions;
 - c. Vehicular and pedestrian circulation, connectivity, landscaping, and streetscape; and
 - d. The approved density or intensity.
2. Any portion of the development plan and previously approved conditions that are not subject to an amendment will remain in full force and effect.
3. Additional adjacent land may be added to a PRC District by a rezoning application if the land is included within the planned residential community area shown on the Comprehensive Plan and if it represents a logical extension of the area zoned PRC. Any addition of adjacent land to the PRC District is subject to the same requirements and procedures as the original application except that the minimum of 750 acres owned or controlled by a single individual or entity is not required.

(3) PRC Plan Approval

- (a) After the approval of a rezoning application, a PRC plan is required for those uses set forth in subsection (c) below. The Board may approve a PRC plan subject to

these and other applicable standards. The Board may not approve a PRC plan until after the rezoning application and development plan have been approved. However, a PRC plan may be filed concurrent with and included in the processing of the rezoning application and development plan.

- (b)** All PRC plans must be in accordance with the approved rezoning and development plan, any conditions or modifications that may have been approved by the Board, the submission requirements, the standards in subsection 2105.1, and the applicable objectives and regulations of the PRC District.
- (c)** A PRC plan is required for all uses, except the following:

 - 1.** Single-family detached dwellings if the general street and lot layout are shown on the approved development plan.
 - 2.** Additions to existing single-family attached or detached dwellings or accessory structures related to existing single-family dwellings.
 - 3.** Additions to existing buildings or uses other than single-family dwellings when the additions do not exceed 2,000 square feet or ten percent of the gross floor area of the existing building or use, whichever is less.
 - 4.** Additions or changes to non-structural site elements such as transitional screening and parking and loading when the area of the addition or change does not exceed ten percent of the existing area occupied by the site element. Parking redesignation plans and parking tabulation revisions are also exempt from the requirement for a PRC plan regardless of the area of the change.
 - 5.** Minor accessory structures in open space areas such as benches, gazebos, playground equipment, and bus shelters.
 - 6.** Those special exception and special permit uses that do not require a site plan.
 - 7.** Any permitted use on a temporary basis for a period not to exceed one year.
 - 8.** Additions and alterations to provide an accessibility improvement or other reasonable accommodation.
- (d)** A PRC plan may be prepared and submitted for the entire planned development at one time or for development sections.
- (e)** After the Zoning Administrator determines that the content of the PRC plan is complete, the plan will be accepted and submitted to appropriate County agencies for review and comment. Once the administrative review is complete, the plan will be submitted to the Planning Commission.
- (f)** The Planning Commission will hold a public hearing to consider whether the PRC plan is in accordance with the applicable standards. If the PRC plan is not filed with and included in the processing of the rezoning application, the Planning Commission will hold a public hearing no later than six months from the date the plan has been accepted. After the public hearing, the Commission will transmit the PRC plan to the Board with its recommendation to approve, approve with modifications, or deny.
- (g)** The Board will hold a public hearing to consider the PRC plan in accordance with the applicable standards. The Board may approve, approve with modifications, or deny the PRC plan.

- (h) Once the PRC plan has been approved, all subsequent approvals, uses, and structures must be in substantial conformance with the approved PRC plan and any development conditions associated with that approval.
 - (i) Minor modifications to an approved rezoning and development plan may be permitted in a PRC plan, in accordance with subsection 8100.5, when the Zoning Administrator determines that they substantially conform to the approved rezoning and development plan and do not materially alter the character of the development.
 - (j) When the Board approves a minor variation to a proffered condition, the variation is deemed to apply to any approved development plan or PRC plan without the need for a separate amendment.
 - (k) Any modification to provide an accessibility improvement or other reasonable accommodation does not require a development plan amendment.
 - (l) Once a PRC plan has been approved, any proposed amendment is subject to Board approval in accordance with these provisions.
 - (m) The following are deemed to be approved PRC plans:
 - 1. Preliminary site plans approved before December 6, 1994; and
 - 2. Preliminary site plans approved under the grandfather provisions for Zoning Ordinance Amendment #94-263.
 - (n) Additionally, PRC plans processed and approved before March 27, 2007 were valid for three years from the date of approval. If a site plan for all or a portion of the area was approved during that period, the approved PRC plan for the corresponding area will remain valid for the life of the site plan.
- (4) Site Plan and Subdivision Plat Preparation**
- (a) Site plan or subdivision plat approval is required after approval of the rezoning and development plan and a PRC plan, if required above.
 - (b) Site plans or subdivision plats, the issuance of building permits, Residential or Non-Residential Use Permits must be in substantial conformance with the approved rezoning and development plan and the PRC plan, if applicable, the standards in subsection 2105.1, the applicable objectives and regulations of the PRC District, and the provisions of this Ordinance and Chapter 101 of the County Code (the Subdivision Ordinance).
 - (c) Minor modifications to the approved development plan or approved PRC plan may be permitted in a site plan or subdivision plat in accordance with subsection 8100.5. If the Zoning Administrator determines that a modification is not in substantial conformance with the approved development plan or approved PRC plan, the modification requires the resubmission and amendment of the development plan or PRC plan or, when applicable, both.

3. Special Exceptions

A. Types of Special Exceptions

In addition to the special exceptions identified in the Use Tables in Section 4101, the following table summarizes the types of non-use related special exceptions allowed under this Ordinance and the location of the related provisions.

TABLE 8100.1: Summary of Special Exceptions

| Special Exception Type | Section/ Subsection |
|---|---------------------|
| Approval of Nonconforming Condominium and Cooperative Conversions | 8105.2.B |
| Cluster Subdivisions | 5100.2.O |
| Commercial Revitalization Districts – Uses, Modifications, and Waivers | 3102.3.B |
| Density Credit for Major Utility Easements | 5100.2.E(3) |
| Driveways for Uses in a C or I District | 5100.2.N |
| Enlargement of Certain Nonconforming Uses | 8104.2 |
| Increase in Building Height | 5100.2.C(8) |
| Increase in FAR | 5100.2.E(4) |
| Increase in FAR in the PTC District | 2105.6.B(2) |
| Increase in Fence or Wall Height | 4102.7.A(7)(c) |
| Increase in Height for Containment Structures | 4102.5.S(13) |
| Increase in Parking in the PTC District | 6102.2 |
| Minor Modifications to a Nonconformity | 8104.4 |
| Modification of Grade for Single-Family Detached Dwellings | 5105.4.C |
| Modification or Waiver of Setbacks or Privacy Yard for Single-Family Attached Dwellings | 5100.2.D(1)(e) |
| Modification of Minimum Setback Requirements for Certain Existing Structures and Uses | 5100.2.D(1)(f) |
| Modification of Shape Factor | 5100.2.H(3) |
| Outdoor Storage in Association with Warehousing Establishments in the Sully Historic Overlay District | 3101.18.B(2) |
| Parking in R Districts | 6100.2.B |
| Reduction of Setback Requirements for the Reconstruction of Certain Single-Family Detached Dwellings that are Destroyed by Casualty | 5100.2.D(5)(d) |
| Uses in a Floodplain | 5105.4 |
| Waiver of Certain Sign Regulations | 7102.2 |
| Waiver of Minimum Lot Size Requirements | 5100.2.A(3) |
| Waiver of Open Space Requirements | 5100.3.B |
| Waiving Minimum Setbacks, and Privacy Yard Requirements for Single-Family Attached Dwelling Units | 5100.2.D(1)(e) |

B. Authority

- (1) The Board may approve special exception uses that are listed in a zoning district in the Use Tables in Section 4101 and those special exceptions listed in the table above.
- (2) No use existing before the effective date of this Ordinance which is allowed within a zoning district only by special exception, may be replaced or enlarged except in accordance with subsection 8104.3.
- (3) An existing, valid special exception for a use located on a split-zoned lot will remain in effect for the entire property, even if an Ordinance amendment permits the use in one of the zoning districts, unless the Board approves an amendment to remove the land area from the special exception approval.

C. Application Processing

- (1) The applicant must submit materials in accordance with Section 8101.
- (2) Any of the following may apply for a special exception:
 - (a) Any property owner;

- (b) An owner of an easement;
- (c) A possessor of the right of entry under the power of eminent domain;
- (d) A lessee;
- (e) A contract purchaser;
- (f) An official, department, board, or bureau of any government or their agent; or
- (g) A condominium in accordance with the provisions of Section 8105.

D. Review and Decision

(1) Review and Approval by Planning Commission and Board

The Zoning Administrator will transmit a copy of every special exception application to the Planning Commission. The Planning Commission will hold a public hearing and make recommendations including any conditions or restrictions for consideration by the Board at its public hearing.

(2) Conditions and Restrictions

The Board may impose conditions and restrictions it deems necessary in the public interest to ensure compliance with this Ordinance and to implement the Comprehensive Plan.

(3) Time Limitations, Extensions, Renewals

(a) Time limits are specified in Article 4 for certain special exception uses. In addition, the Board may impose a condition with a time limit on a special exception approval that specifies whether it may be extended for a designated period by the Zoning Administrator in accordance with subsection (b) below or periodically renewed by the Board following the procedures for amendment of a special exception in subsection (5) below. Unless otherwise established by the Board, a specified time period begins on the date of approval.

(b) Extensions by the Zoning Administrator

1. A request to extend a special exception must be filed in writing with the Zoning Administrator a minimum of 30 days before the special exception expires unless the Zoning Administrator approves a lesser time for good cause shown. The special exception remains valid until the Zoning Administrator acts on the extension request. The special exception will expire as scheduled unless a timely extension request is filed.
2. The Zoning Administrator must review the applicant's record of compliance with the previously imposed conditions and restrictions and determine whether the special exception use still satisfies this Ordinance. The Zoning Administrator may also inspect the special exception use.
3. Upon a favorable finding, the Zoning Administrator may approve an extension for the time period specified for a particular use or that may have been specified by the Board.
4. If the Zoning Administrator determines that the use does not comply with all conditions and restrictions previously imposed by the Board, the Zoning Administrator must deny the request for extension or require the remedy of

any violation within a specified time, depending on the nature of the noncompliance. If the request for extension is denied or the applicant fails to correct the violation within the time specified, the special exception expires. The approval of a new special exception is required before any subsequent reinstatement of the use.

5. If the Zoning Administrator determines that the use is no longer allowed as a special exception use in the zoning district in which located, the Zoning Administrator must deny the request, and the special exception expires.
6. If the Zoning Administrator determines that the use does not comply with any other applicable provisions of this Ordinance, the Zoning Administrator must deny the request and notify the applicant by certified mail, return receipt requested. Within 30 days of receipt, the applicant must file an amendment application for renewal to continue the use. The special exception will expire if an amendment application is not timely filed.

(4) Status of Special Exception Uses

- (a) A special exception use may be established only in accordance with the special exception approval. Any site plan, subdivision plat, building permit, Residential or Non-Residential Use Permit submitted for the development or use of the property must be in substantial conformance with the approved special exception.
- (b) Once established, the use must be in substantial conformance with the special exception, any conditions or restrictions imposed by the Board, and all other requirements of this Ordinance. Except as permitted by subsections (c) and (d) below, no use may be enlarged, expanded, increased in intensity, or relocated. No condition of the special exception may be amended unless an application for an amendment or a new special exception is approved.
- (c) Any modification to a valid special exception to provide an accessibility improvement or other reasonable accommodation does not require approval of an amendment or a new special exception.
- (d) Minor modifications to special exceptions are allowed under subsection 8100.5 when the Zoning Administrator determines that they substantially conform to the approved special exception and do not materially alter the character of the development.

(5) Amendment of a Special Exception

- (a) Except as provided for in subsections (4)(c) and (d) above, an amendment is a request for any enlargement, expansion, increase in intensity, relocation, reduction in land area, modification of any condition of a previously approved and currently valid special exception use, or renewal of a currently valid special exception for a new period of time.
- (b) An amendment application may be filed on a portion of the property subject to a currently valid special exception, if the Zoning Administrator determines that the amendment:
 1. Would not adversely affect the use of the property subject to the special exception but not incorporated into the amendment application;

2. Would not inhibit, adversely affect, or preclude in any manner the fulfillment of the special exception conditions applicable to the area not incorporated into the amendment application; and
 3. Would not increase the overall approved density or intensity for the development.
- (c) Previously approved special exception conditions that are not subject to the amendment request remain in full force and effect.
 - (d) Except as qualified below, the procedure to amend a special exception is the same as specified for approval of the original special exception, including the imposition of conditions and restrictions.
 - (e) If an applicant files an application to renew a special exception use for a new time period before the existing special exception expires, the special exception will remain valid until the Board acts on the application. However, the Board may not approve a renewal application for a use that is no longer allowed as a special exception use in the zoning district in which located. The special exception will expire without notice on the expiration date if a renewal application is not timely filed.
 - (f) In reviewing a renewal application, the Board must review the applicant's record of compliance with the previously imposed conditions and restrictions and determine whether the use still satisfies this Ordinance. Upon a favorable finding, the Board may approve the application. If the Board determines that the use does not satisfy all applicable provisions of this Ordinance, the Board may deny the application. For an application solely requesting a new time period, the Board may impose conditions and restrictions to ensure that the use will be consistent with and will not adversely affect the use or development of neighboring properties.
 - (g) The Board may not require the alteration of a structure if the structure conformed with this Ordinance, the USBC, and other applicable regulations at the time the special exception was first approved, unless the Board finds the alteration is necessary to protect the public health, safety, or welfare.
 - (h) The Board may approve an amendment to a valid special exception use, which is no longer allowed by special exception in the zoning district in which located, if the proposed amendment does not permit the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any time limitation specified in the existing exception.
- (6) Expiration of a Special Exception**
- (a) Unless the Board approves additional time, an approved special exception use must be established or any approved construction must be commenced and diligently pursued within the time specified by the approval, or, if no time was specified, then within 30 months from the approval date of the special exception. Otherwise, the special exception will automatically expire without notice, unless additional time is approved by the Board.
 - (b) The Board may approve a request for additional time to establish the use or commence and diligently pursue construction if the Board determines that:

1. A request was filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for, and the amount of additional time requested and must explain why the use has not been established or construction commenced and diligently pursued within the specified time; and
 2. The use complies with the Zoning Ordinance, unless the Board determines that a Zoning Ordinance amendment adopted after the approval of the special exception is not applicable to the request for additional time, and that approval of additional time is consistent with the public interest.
- (c) If a request is timely filed, the special exception remains valid until the Board acts on the request; however, the use may not be established nor may construction commence while the request is pending.
- (d) If a request is not timely filed, the special exception automatically expires without notice.
- (e) If the Board denies the request for additional time, the special exception expires on the date of the Board's action, or if the specified time has not yet run, on the original expiration date.

(7) Termination or Revocation of a Special Exception

- (a) Unless a time limit is specified for a special exception, the special exception is valid for an indefinite period of time. However, if the use or activity ceases for a continuous period of two years or more, the special exception automatically terminates without notice. The approval of a new special exception would then be required before the use may be reinstated.
- (b) The Board may revoke a special exception at any time due to the owner's or operator's failure to comply with the terms or conditions of the special exception.
- (c) Before revoking a special exception, the Board must conduct a public hearing and provide notice in accordance with subsection 8100.1.B(1). The Board or its agent must give the special exception holder at least 20 days written notice of the hearing date by certified mail, return receipt requested, or by hand delivery. The notice must contain:
1. The grounds for the proposed revocation; and
 2. The date, time, and place of the public hearing.
- (d) The provisions above continue to apply to a use covered by a special exception that has been reclassified to a special permit use, until a special permit is approved for the use due to an enlargement, expansion, increase in intensity, relocation, or modification of a special exception condition and then the revocation provisions for special permits in subsection 8100.4.D(7) will apply.
- (e) The provisions above do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of this Ordinance.

4. Special Permits

A. Types of Special Permits

In addition to the special permits identified in the Use Tables in 4101, the following table summarizes the types of non-use related special permits allowed under this Ordinance and the location of the related provisions.

TABLE 8100.2: Summary of Special Permits

| Special Permit Type | Section/ Subsection |
|---|---------------------|
| Certain Additions to an Existing Single-Family Detached Dwelling | 8104.3 |
| Increase in Fence or Wall Height | 4102.7.A(7)(c) |
| Increase in Sign Area or Height | 7102.3 |
| Increase in the Height of a Freestanding Accessory Structure | 4102.7.A(6)(c) |
| Increase in the Cumulative Square Footage of Freestanding Accessory Structures | 4102.7.A(6)(d) |
| Increase in the Percentage of Rear Setback Coverage | 4102.7.A(5)(e) |
| Modification of Grade for Single-Family Detached Dwellings | 5105.4.C |
| Modification of Minimum Setback Requirements for Certain Existing Structures and Uses | 5100.2.D(1)(f) |
| Reduction of Required Setbacks | 5100.2.D(11)(e) |
| Reduction of Setback Requirements - Error in Building Location | 5100.2.D(11)(d) |

B. Authority

(1) General Authority

- (a) The BZA may approve an application for a use that is listed in a zoning district in the Use Tables in Section 4101 and any of the special permit uses listed in the table above.
- (b) Any special permit use located within a floodplain must also be approved by the Board as a special exception in accordance with subsection 5105.2.B.
- (c) No use existing before the effective date of this Ordinance which is allowed within a particular zoning district only by special permit, may be replaced or enlarged except in accordance with the provisions of subsection 8104.3.
- (d) An existing, valid special permit for a use located on a split-zoned lot will remain in effect for the entire property, even if an Ordinance amendment permits the use in one of the zoning districts, unless the BZA approves an amendment to remove the land area from the special permit approval.

(2) Limits on Authority

- (a) Unless specifically provided, the BZA is not authorized to vary, modify, or waive any of the standards for any use for which a special permit is required.
- (b) The BZA is authorized to determine whether a special permit application conforms to the provisions of this Ordinance. Upon a determination of conformity, the BZA may approve the special permit subject to the conditions and restrictions it deems necessary.
- (c) The above provisions do not preclude a concurrent but separate variance application.

C. Application Processing

- (1) The applicant must submit materials in accordance with Section 8101.
- (2) Any of the following may apply for a special permit:
 - (a) A property owner;
 - (b) A lessee;
 - (c) A contract purchaser;
 - (d) An official, department, board, or bureau of any government or their agent; or
 - (e) A condominium.
- (3) The Zoning Administrator will forward the application to the BZA. Upon receipt, the Clerk of the BZA will forward a copy of the application to the Planning Commission in accordance with subsection 8103.3.G.

D. Review and Decision

(1) Review and Approval by BZA

- (a) The concurring vote of four BZA members is required to approve a special permit. The BZA should make a decision within 90 days after application acceptance unless:
 1. The applicant and the BZA agree to an extended period; or
 2. An applicant refuses or neglects to prosecute an application.

(2) Conditions and Restrictions

The BZA may impose conditions and restrictions it deems necessary in the public interest to ensure compliance with this Ordinance and to implement the Comprehensive Plan.

(3) Time Limitations, Extensions, Renewals

- (a) Time limits are specified in Article 4 for certain special permit uses. In addition, the BZA may impose a condition with a time limit on a special permit approval that specifies whether it may be extended for a designated period by the Zoning Administrator in accordance with subsection (b) below or periodically renewed by the BZA following the procedures for amendment of a special permit in subsection (5) below. Unless otherwise established by the BZA, a specified time period begins on the date of approval.

(b) Extensions by the Zoning Administrator

1. A request to extend a special permit must be filed in writing with the Zoning Administrator a minimum of 30 days before the special permit expires unless the Zoning Administrator approves a lesser time for good cause shown. The special permit remains valid until the Zoning Administrator acts on the extension request. The special permit will expire as scheduled unless a timely extension request is filed.
2. The Zoning Administrator must review the applicant's record of compliance with the previously imposed conditions and restrictions and determine

whether the special permit use still satisfies this Ordinance. The Zoning Administrator may also inspect the special permit use.

3. Upon a favorable finding, the Zoning Administrator may approve an extension for the time period specified for a particular use or that may have been specified by the BZA.
4. If the Zoning Administrator determines that the use does not comply with all conditions and restrictions previously imposed by the Board, the Zoning Administrator must deny the request for extension or require the remedy of any violation within a specified time, depending on the nature of the noncompliance. If the request for extension is denied or the applicant fails to correct the violation within the time specified, the special permit expires. The approval of a new special permit is required before any subsequent reinstatement of the use.
5. If the Zoning Administrator determines that the use is no longer allowed as a special permit use in the zoning district in which located, the Zoning Administrator must deny the request, and the special permit expires.
6. If the Zoning Administrator determines that the use does not comply with any other applicable provisions of this Ordinance, the Zoning Administrator must deny the request and notify the applicant by certified mail, return receipt requested. Within 30 days of receipt, the applicant must file an amendment application for renewal to continue the use. The special permit will expire if an amendment application is not timely filed.

(4) Status of Special Permit Uses

- (a) A special permit use may be established only in accordance with special permit approval. Any site plan, subdivision plat, building permit, Residential or Non-Residential Use Permit submitted for the development or use of the property in accordance with the special permit must be in substantial conformance with the approved special permit, and no development or use may be approved in the absence of such conformance.
- (b) Once established, the use must be in substantial conformance with the approved special permit, any conditions or restrictions imposed by the BZA and all other requirements of this Ordinance. Except as permitted by subsections (c) and (d) below, no use may be enlarged, expanded, increased in intensity, or relocated and no condition of the special permit may be amended unless the special permit is amended or a new special permit is approved.
- (c) Any modification to an approved and currently valid special permit to provide an accessibility improvement or other reasonable accommodation does not require a special permit amendment or a new special permit.
- (d) Minor modifications to special permits are allowed under subsection when the Zoning Administrator determines that they substantially conform to the approved special permit and do not materially alter the character of the development.

(5) Amendment of a Special Permit

- (a) Except as provided for in subsection 8100.4.D(4), an amendment is a request for any enlargement, expansion, increase in intensity, relocation, reduction in land

area, modification of any condition of a previously approved and currently valid special permit use, or renewal of a currently valid special permit for a new time period.

- (b) An amendment application may be filed on a portion of the property subject to a currently valid special permit, if the Zoning Administrator determines that the amendment:
 - 1. Would not adversely affect the use of the property subject to the special permit but not incorporated into the amendment application;
 - 2. Would not inhibit, adversely affect, or preclude in any manner the fulfillment of the special permit conditions that apply to the area not incorporated into the amendment application; and
 - 3. Would not increase the overall approved density or intensity for the development.
 - (c) Previously approved special permit conditions that are not subject to the amendment request remain in full force and effect.
 - (d) Except as qualified below, the procedure to amend a special permit is the same as the procedures for approval of the original permit. An amendment is also subject to the imposition of conditions and restrictions.
 - (e) An application to renew a special permit use for a new time period must be filed before the existing permit expires. The approved special permit remains valid until the BZA acts on the renewal application. However, the BZA may not approve a renewal application for a use that is no longer allowed as a special permit use in the zoning district in which located. The special permit will expire if a renewal application is not timely filed.
 - (f) In reviewing a renewal application, the BZA will review the applicant's record of compliance with the previously imposed conditions and restrictions and determine whether the use still satisfies this Ordinance. Upon a favorable finding, the BZA may approve the application. If the BZA determines that the use is not in accordance with all applicable provisions of this Ordinance, the BZA may, depending on the nature of the noncompliance, deny the application.
 - (g) For an application solely requesting a new time period, the BZA may impose conditions and restrictions to ensure that the use will be consistent with and will not adversely affect the use or development of neighboring properties.
 - (h) The BZA may not require the alteration of a structure, if the structure conformed with this Ordinance, the USBC and other applicable regulations at the time the special permit was first approved, unless the BZA finds the alteration is necessary to protect the public health, safety, or welfare.
 - (i) The BZA may amend a valid special permit use is no longer allowed by special permit in the zoning district in which located, if the amendment does not permit the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any time limitation specified in the existing permit.
- (6) Expiration of a Special Permit**
- (a) An special permit use approved by the BZA must be commenced and diligently pursued within the specified time, or, if no time was specified, then within 30

months from the approval date of the permit, unless additional time is approved by the BZA to establish the use and commence construction. Otherwise, the special permit will automatically expire without notice, unless a request for additional time is filed.

- (b) The BZA may approve a request for additional time to establish the use or commence and diligently pursue construction if the BZA determines that:
 - 1. A request was filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for, and the amount of additional time requested and must explain why the use has not been established or construction commenced and diligently pursued within the specified time; and
 - 2. The use complies with the Zoning Ordinance, unless the Board determines that a Zoning Ordinance amendment adopted after the approval of the special permit is not applicable to the request for additional time, and that approval of additional time is consistent with the public interest.
- (c) If a request is timely filed, the special permit remains valid until the BZA acts on the request; however, the use may not be established, nor may construction commence while the request is pending.
- (d) If a request is not timely filed, the special permit automatically expires without notice.
- (e) If the BZA denies the request for additional time, the special permit expires on the date of the BZA's action, or if the specified time has not yet run, on the original expiration date.

(7) Termination or Revocation of a Special Permit

- (a) Unless a time limit is specified for a special permit, the permit is valid for an indefinite period of time. However, if the use or activity ceases for any reason for a continuous period of two years or more, the special permit automatically terminates without notice. The approval of a new special permit would then be required before the use may be reinstated.
- (b) The BZA may revoke a special permit at any time due to the owner's or operator's failure to comply with the terms or conditions of the special permit.
- (c) Before revoking a special permit, the BZA must conduct a public hearing and provide notice in accordance with subsection 8100.1.B(1). The BZA or its agent must give the permittee at least 20 days written notice of the hearing date either by certified mail, return receipt requested, or by hand delivery. The notice must contain:
 - 1. The grounds for the proposed revocation; and
 - 2. The date, time and place of the public hearing.
- (d) The provisions above continue to apply to a special permit use that has been reclassified to a special exception use, until a special exception is approved due to an enlargement, expansion, increase in intensity, relocation, or modification of a special permit condition and then the revocation provisions of subsection 8100.3.D(7) apply.

- (e) The provisions in this subsection do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of this Ordinance.

5. Minor Modifications and Variations

A. Minor Modification or Variation to Existing Approval

(1) Minor Modifications Approved by the Zoning Administrator

- (a) The Zoning Administrator may approve minor modifications to proffered conditions, final development plans, PRC plans, special exceptions, and special permits when the Zoning Administrator determines that they substantially conform to the approved application and do not materially alter the character of the development. In making this determination, the Zoning Administrator may consider factors such as topography, engineering, and design. Minor modifications may not:
 1. Remove any land from or add any land to the area subject to the application;
 2. Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
 3. Result in an increased parking requirement, except for any additional parking required for building additions or modifications permitted under subsections 4 and 11 below;
 4. Permit a more intensive use than that approved; however, a religious assembly or religious assembly with private school, specialized instruction center, or child care center, may increase the number of seats, parking spaces, or students up to ten percent of the approved amount, if not expressly prohibited by the conditions;
 5. Permit uses other than those approved, except that accessory uses may be permitted;
 6. Reduce the effectiveness of approved transitional screening, buffering, landscaping, or open space;
 7. Permit changes to bulk, mass, orientation, or location that adversely impact the relationship of the development to adjacent property, except that:
 - a. Modifications that reduce yards up to ten percent may be considered, if they do not adversely impact adjacent property; and
 - b. Increases in building height up to ten feet and increases in percentages of rooftop coverage may be permitted to exempt solar collection systems and other energy and environmental innovative technologies.
 8. Increase the amount of clearing or grading for a stormwater management facility, including any clearing or grading associated with spillways, inlets, outfall pipes, or maintenance roads that reduces non-stormwater management open space, tree save area, or landscaping area on the lot;
 9. Expand hours of operation;
 10. Expand the area or type of signage approved, although changes to color and typeface may be considered;

- 11.** Include the addition of or to any building, except that accessory structures clearly subordinate to the principal use and minor building additions, including those for cellar space, may be permitted, if the total of all such structures or additions does not exceed the following:
 - a.** 500 square feet or five percent of the approved gross floor area up to 2,500 square feet, whichever is greater, when the total gross floor area approved does not exceed 250,000 square feet.
 - b.** One percent of the approved gross floor area when the total gross floor area approved exceeds 250,000 square feet.
 - c.** 250 square feet of the gross floor area of freestanding accessory structures when the total gross floor area approved is 10,000 square feet or less.
 - d.** The maximum allowable density or FAR in the zoning district, however, any increase in gross floor area resulting from replacing the materials of an existing building façade is not included in the calculation of FAR.
- (b)** Anyone requesting a minor modification for a building addition must send written notice in accordance with subsection (3) below.
- (c)** When the Zoning Administrator determines that a modification is not in substantial conformance with the approved application, the modification requires the approval of an amendment to the application, a new application, or a minor variation if it meets the Ordinance requirements.

(2) Minor Variations Approved by the Board without a Public Hearing

The Board may approve certain requests for minor variations to proffered conditions and the associated PRC development plan, generalized development plan, conceptual development plan, and final development plan, including any approved conditions of such plans, without a public hearing in accordance with the following:

- (a)** Requests cannot materially affect proffered conditions of use, density, or intensity, and are permissible only in one or more of the following circumstances:
 - 1.** To add or modify a use, if the proffered conditions do not specifically preclude the use, and the applicant demonstrates that the new use would have no materially greater land use impacts than the approved uses would, based on factors such as parking, trip generation, vehicular circulation, or hours of operation.
 - 2.** To increase permitted building height if the resultant height increase does not:
 - a.** Exceed 15 feet or 15 percent of the approved building height, whichever is less;
 - b.** Cause the building to exceed the maximum height of the zoning district; and
 - c.** Have a materially adverse impact on adjacent properties.
 - 3.** To modify minimum setback dimensions, building setbacks, or distances from peripheral lot lines shown on an approved development plan, but only if the modified dimensions would not have a materially adverse impact on adjacent properties or other proffered conditions.

4. To add, modify, or delete active or passive recreation uses at the request of the property owner or the owners' association, if the request:
 - a. Is consistent with the objectives of the original zoning approval;
 - b. Does not reduce the recreational uses or open space below the minimum required for the zoning district or otherwise required by the Zoning Ordinance; and
 - c. Does not delete an approved but unbuilt facility.
 5. To modify proffer commitments related to technologies (such as computer business centers) or services (such as transportation shuttles) that are underutilized or have become ineffective or obsolete as circumstances have changed.
 6. To modify architectural design, character, color, features, or materials for buildings and signs if the modifications are of equivalent quality and do not have a materially adverse impact on adjacent properties.
- (b) When the Board approves a minor variation that affects an approved development plan, the variation is deemed to apply to the development plan and not require a separate development plan amendment.
- (c) Anyone making a minor variation request to the Board must send written notice in accordance with the Zoning Map amendment requirements of subsection 8100.2.B and Va. Code Sect. 15.2-2204(B).
- (d) The Board at its discretion may elect not to waive a public hearing under this section, in which case the application may be processed under subsection 8100.2.D(2), including submission of an affidavit in accordance with subsection 8101.2.A(5).
- (3) Notice Requirements**
- (a) Anyone requesting a minor modification for a building addition must send notice of the request to the owners of all property abutting and across the street from the site, or portion thereof.
- (b) The notice must be delivered by hand or sent by certified mail, return receipt requested, and include the letter of request submitted to the Zoning Administrator with all attachments, a statement that the request has been submitted, and where to call for additional information.
- (c) The Zoning Administrator will not consider any request for an addition that does not include an affidavit from the requester affirming:
1. That the required notice has been provided;
 2. The date the notice was delivered or sent;
 3. The names and addresses of all persons notified; and
 4. The Tax Map references for all parcels notified.

6. Variances

A. Application Processing

- (1) The applicant must submit materials in accordance with Section 8101.

- (2) A property owner, tenant, government official, department, board, bureau, or condominium may apply to the BZA for a variance from the strict application of the terms of this Ordinance.

B. Review and Decision

(1) Approval of a Variance

- (a) In accordance with the standards below, the BZA may grant in specific cases a variance from the strict application of a provision of this Ordinance except as qualified in subsection (4) below. This authorization does not grant the BZA the power to rezone property.
- (b) Before granting a variance, a public hearing must be held in accordance with subsection 8100.1.C.
- (c) The concurring vote of four BZA members of the is required to grant a variance.
- (d) The BZA should make a decision within 90 days after application acceptance, unless:
 - 1. The applicant and the BZA agree to an extended period; or
 - 2. An applicant refuses or neglects to prosecute an application.

(2) Required Standards for Variances

In accordance with Va. Code Sect. 15.2-2309, to grant a variance, the BZA must determine from the evidence that (a) the strict application of the terms of this Ordinance would unreasonably restrict the utilization of the property, (b) that granting the variance would alleviate a hardship due to a physical condition relating to the property or its improvements, or (c) that granting a variance would alleviate a hardship by granting a reasonable modification to property or improvements requested by a person with a disability, and that the request satisfies the following requirements:

- (a) The property was acquired in good faith, and the applicant did not create any hardship for which relief is sought;
- (b) The variance would not result in a substantial detriment to adjacent property or nearby properties in the proximity of that geographical area;
- (c) The condition or situation of the property or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board as an amendment to the Zoning Ordinance;
- (d) The granting of the variance would not result an unpermitted use or a change in the zoning classification;
- (e) The relief or remedy sought by the variance application is not available through a special exception or special permit; and
- (f) That the variance would conform with the purposes of this Ordinance and not be contrary to the public interest.

(3) Conditions

After determining that the applicant has satisfied the requirements for a variance set forth above, the BZA must also determine the minimum variance that would afford

relief. In granting a variance, the BZA may impose conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest. It may also require a guarantee or bond to ensure that the conditions imposed will be met.

(4) Unauthorized Variances

No variance may be granted that would:

- (a)** Modify any definition set forth in Article 9.
- (b)** Permit the establishment of any use not otherwise permitted in the zoning district under the specific provisions of this Ordinance.
- (c)** Result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- (d)** Relate to nonconforming land uses.
- (e)** Reduce the amount of off-street parking space required by Article 6.
- (f)** Relate to signs.
- (g)** Result in cases where the applicant, after the effective date of this Ordinance, has purchased a portion of a larger parcel that:
 - 1.** Has an area or width less than this Ordinance requires for a lot at the time of the purchase; or
 - 2.** Has unusual physical characteristics (that are set forth as the basis for the application for a variance), which would not exist if the portion had not been detached by the purchase from the larger parcel.
- (h)** Permit the establishment of any use not otherwise permitted in a floodplain.
- (i)** Modify the minimum district size, lot area, lot width, or open space requirements of a cluster subdivision in:
 - 1.** The R-2 District; or
 - 2.** A cluster subdivision in a R-3 or R-4 District that has a minimum district size of three and one-half acres or greater.

(5) Expiration of a Variance

- (a)** The activity approved by the variance must be established or any construction approved must be commenced and diligently pursued within the time specified by the BZA, or, if no time was specified, then within 30 months from the granting date of the variance, unless additional time is approved by the BZA in accordance with the provisions below.
- (b)** The BZA may approve a request for additional time to establish the use or commence and diligently pursue construction if the BZA determines that:
 - 1.** A request was filed in writing with the Zoning Administrator before the expiration date. The request must specify the basis for, and the amount of additional time requested and must explain why the use has not been established or construction commenced and diligently pursued within the specified time; and
 - 2.** The use complies with the required standards for variances, and that approval of additional time is consistent with the public interest.

- (c) If a request is timely filed, the variance remains valid until the BZA acts on the request; however, the use may not be established, nor may construction commence while the request is pending.
- (d) If a request is not timely filed, the variance automatically expires without notice.
- (e) If the BZA denies the request for additional time, the variance expires on the date of the BZA's action, or if the specified time has not yet run, on the original expiration date.
- (f) A variance granted to provide a reasonable modification to property or improvements at the request of a person with a disability will expire when the person who benefited is no longer in need of the modification, subject to state and federal fair housing laws.

7. Site Plans and Minor Site Plans

This section is intended to assist County agencies in the review of certain uses which may require building permits, and to assure compliance with all applicable requirements of this Ordinance, other Chapters of the County Code, and the Public Facilities Manual.

A. Administration of Site Plans and Minor Site Plans

- (1) The Director is responsible for administering site plans and minor site plans and may be assisted by the Zoning Administrator and other County officials.
- (2) A property owner, a designated agent, or a condominium may submit a site plan in accordance with Section 8105. A property owner or an agent of the property owner may submit a minor site plan.
- (3) The submission of a site plan or minor site plan does not relieve the applicant from any other applicable requirements of other County agencies, such as the Fire Marshal and the Water Authority.
- (4) Once a site plan or minor site plan is approved, any building permit, Residential or Non-Residential Use Permit, or other permits may be issued only in accordance with the approved plan. Once the uses or structures approved by a site plan or minor site plan are established, the uses and structures continue to be subject to the approval requirements, and any modifications or alterations to the site and any additional uses and structures may be permitted only in accordance with this Article.

B. Uses Requiring a Site Plan or a Minor Site Plan

- (1) Before construction or establishment, the following uses, including modifications or alterations to existing uses, require site plan or minor site plan approval unless exempt under subsection D below:
 - (a) All permitted uses in the R, C, I, and P districts.
 - (b) Special exception and special permit uses that are subject to a site plan.
- (2) However, the Director may approve a building permit for part of a commercial project, such as footing and foundation permits, before site plan or minor site plan approval in accordance with the USBC. That approval does not guarantee the approval of a site plan or subsequent building permits.

C. Uses and Activities Eligible for Minor Site Plans

- (1) A minor site plan may be submitted in lieu of a site plan for a use listed below when the Director determines that the use will not require the improvements set forth in subsection 8101.4.A, that the improvements already exist, that the improvements may be made without a formal site plan, or that the improvements are not required in accordance with the Commercial Revitalization District provisions.
 - (a) Additions to existing buildings or uses when the addition does not exceed 2,000 square feet or one-third of the gross floor area of existing buildings, whichever is greater.
 - (b) Any permitted use on a temporary basis for a period not to exceed two years from the date of approval; however, the Director may extend the approval for one additional two-year period.
 - (c) Additions and alterations to provide an accessibility improvement or other reasonable accommodation not otherwise exempt under subsection D.
 - (d) Uses that do not involve construction of gross floor area, such as tennis courts or storage yards, or modifications to existing uses that do not involve construction of gross floor area such as changes to walkways, parking lots, or landscape plans.
- (2) In addition, the Director may approve the submission of a minor site plan for uses or modifications that are not in accordance with those listed above, when the Director determines that the approval will not adversely affect compliance with all other applicable requirements or the provision of any required improvements.

D. Uses Exempt from a Site Plan or a Minor Site Plan

Unless otherwise required by proffered conditions or development conditions of an approved rezoning, special exception, special permit, or variance, the following uses are not subject to the requirement for a site plan or a minor site plan. Such uses, however, are still subject to all other applicable provisions of this Ordinance, the Public Facilities Manual, and the County Code.

- (1) Single-family detached dwellings and their related accessory uses and structures.
- (2) Additions to single-family attached dwellings and mobile homes, and related accessory uses and structures.
- (3) Installation of new mobile homes on existing pads within an existing mobile home park.
- (4) Agricultural operations.
- (5) Accessory uses and structures such as statues, flagpoles, fences, and walls; additions of ornamental features such as bay windows, chimneys, awnings, canopies, or other facade improvements; and accessory structures for recycling or waste disposal.
- (6) In existing open space areas or public parkland, recreational amenities that do not exceed a total of 2,500 square feet of disturbed area, such as gazebos, benches, and playground equipment; but not features such as swimming pools, paved tennis, or play courts.
- (7) Associated service uses, except in accordance with (9) below.
- (8) A change in use to a use that has the same or lesser parking requirement than the previous use.

- (9) A change to a use with a greater parking requirement than the previous use require submission and approval of a parking tabulation to demonstrate that the number of existing parking spaces on-site meets the minimum off-street parking requirements for all uses. Parking tabulations must be submitted on forms provided by the Director, certified by an engineer or land surveyor authorized by the State, and include the written consent of the property owner. For condominiums, written consent must be provided in accordance with Section 8105.
- (10) Parking redesignation plans prepared in accordance with Article 6.
- (11) Signs.
- (12) Home-based business uses in accordance with subsection 4102.7.I.
- (13) Bus shelters.
- (14) Public commuter park-and-ride lots that use existing off-street parking spaces accessory to another use.
- (15) Temporary public uses not to exceed 875 square feet of gross floor area for a maximum time period of two continuous years, and quasi-public park, playground, or athletic fields in the C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8 and I-2, I-3, I-4, I-5, and I-6 Districts as an interim use.
- (16) Temporary uses and structures such as stands for retail sales of seasonal items and tents for temporary events in accordance with the standards for special events in accordance with subsection 4102.8.I.
- (17) Antennas and satellite earth stations; accessory outdoor storage and display; and additions and alterations to existing uses and site modifications which may include, but are not limited to, changes or additions to decks, patios, concrete slabs, vestibules, loading docks, mechanical equipment, storage structures, generators, walkways, landscaping, paving, electric vehicle charging stations, and light poles or lighting fixtures. All such uses or activities must not:
 - (a) Exceed 500 square feet of gross floor area or 2,500 square feet of disturbed land area as defined in Chapter 104 of the County Code;
 - (b) Exceed 750 square feet of gross floor area or 2,500 square feet of disturbed land area as defined in Chapter 104 of the County Code for additions and alterations to provide an accessibility improvement or other reasonable accommodation;
 - (c) Exceed the maximum floor area ratio of the district in which located or the maximum floor area ratio permitted by any proffered or development conditions;
 - (d) Reduce required landscaping, open space, parking, travel aisles, or driveways, and transitional screening or barriers; and
 - (e) Necessitate the installation or relocation of storm sewer, public water, or public sewer.

E. Required Improvements

To ensure the public safety and general welfare and except as provided for in the Commercial Revitalization District provisions, the Director may not approve a site plan or minor site plan unless certain improvements exist or will be made, or the Director has established that the requirement for the improvements may be modified or waived. The Director may modify or waive requirements if he or she determines, based on information provided by the applicant,

that the improvements are unnecessary and the modification or waiver will not adversely affect other required improvements and compliance with all other applicable requirements. The Director may condition the modification or waiver to ensure that the results of the modification or waiver will conform with the purpose and intent of this subsection. In accordance with the foregoing, the following improvements are required unless modified or waived by the Director:

- (1)** Pedestrian walkways must be constructed so that occupants and patrons may walk between buildings or stores within the site and to adjacent sites. Wherever possible, connection must be made to walkways in adjacent developments.
- (2)** Trails or walkways must be constructed in accordance with the general location shown on the Comprehensive Plan and construction of other connecting trails or walkways within the limits of the site plan. When those trails or walkways are to be constructed, fee title or easements must be conveyed to the Board, Fairfax County Park Authority, or Northern Virginia Regional Park Authority. The Director will determine the final location and design of trails or walkways after review by the Fairfax County Department of Planning and Development, the Fairfax County Park Authority, the Northern Virginia Regional Park Authority, or the Fairfax County Department of Transportation.
- (3)** Vehicular travel lanes, service drives, driveways, or other access connections, which will permit vehicular travel on the site and to and from adjacent properties, must be constructed in accordance with the following:
 - (a)** Adjacent to and generally parallel with any primary highway, a service drive must be constructed, and wherever possible, it must connect with a service drive on adjacent properties. The service drive must be designed to be dedicated to the Virginia Department of Transportation, must be dedicated for public use as a public road, and the underlying land must be conveyed to the Board.
 - (b)** Adjacent to any minor arterial or collector street, a travel lane not less than 22 feet in width must be constructed to afford access to adjoining properties.
 - (c)** Service drives are not required adjacent to any street designated as a Virginia by-way by the Commonwealth of Virginia Transportation Board or adjacent to the Dulles Toll Road (Route 267). In addition, Board may waive the service drive requirement in conjunction with proffered condition, development plan, or special exception approval when it can be demonstrated that the provisions in subsections (d)1 and (d)2, or (d)1 and (d)3 below can be satisfied.
 - (d)** The Director may waive the requirement for constructing a travel lane as set forth above when:
 - 1.** There is no existing or proposed vehicular travel lane abutting the property on either side, and
 - 2.** The adjoining property(s) is used or zoned for single-family detached dwellings, or
 - 3.** The adjoining property(s) is occupied by a given use, which by its nature suggests that there will be a limited desire for travel between that use and the one proposed.
- (4)** Dedication and construction of widening for existing roads, existing roads on new alignments, and proposed roads, all as indicated on the Comprehensive Plan or as may be required by the Director for a specified purpose; however, proposed roads shown on

the Comprehensive Plan as freeways or expressways do not need be constructed. In addition, dedication and construction of sufficient vehicular and pedestrian access is required to provide for safe and convenient ingress and egress.

- (5)** Curb and gutter must be constructed around all medians that separate travel lanes and service drives from existing streets and that separate off-street parking areas from streets, service drives, and travel lanes; however, the Director may waive the construction of an inside curb and gutter on a travel lane where it would be in keeping with the existing or proposed design of the travel lane or parking aisle on adjacent properties so that adequate and safe traffic circulation between sites can be obtained without that curb and gutter.
- (6)** Easements or rights-of-way must be dedicated for all facilities to be publicly maintained. The easement or right-of-way must be clearly defined for the purposes intended.
- (7)** Adequate signs along travel lanes or service drives must be installed to prohibit parking. Signs must be located on each curbed side, no more than 50 feet apart.
- (8)** An adequate drainage system for the disposition of storm and natural water must be installed in accordance with Chapter 124 of the County Code and the Public Facilities Manual. Appeals of decisions made under Chapter 124 of the County Code which are appealable must be processed in accordance with Article 7 of Chapter 124.
- (9)** Adequate temporary and permanent erosion and sedimentation control measures must be installed in accordance with Chapter 104 of the County Code and the Public Facilities Manual.
- (10)** All utilities provided by the developer must be installed underground in accordance with County standards and Chapter 63 of the County Code. All other utilities must be installed underground in accordance with standards of utility practice for underground construction, which must be furnished to the County by the utility company, and in accordance with standards furnished to and regulations issued by the applicable regulatory authority, except that:
 - (a)** Equipment such as the electric distribution transformers, switchgear, meter pedestals, and telephone pedestals, which are normally installed above ground, may continue to be installed in accordance with accepted utility practices for underground distribution;
 - (b)** Meters, service connections, and similar equipment normally attached to the outside wall of the premises they serve may be so installed;
 - (c)** Temporary overhead facilities required for construction purposes are permitted;
 - (d)** Utilities to be installed by someone other than the developer or his contractor are not required to be shown on plats, plans, or profiles, as a prerequisite to the approval of such plats, plans, or profiles.
- (11)** Vegetation must be removed and replaced in compliance with the requirements of subsection 8100.7.E(9) and the Public Facilities Manual.
- (12)** All other improvements required by this Ordinance and proffered conditions, including, but not limited to, off-street parking and loading facilities, driveways, and private streets as required by Article 6, and landscaping and screening as required by Section 5108.
- (13)** All other improvements as are required by other ordinances of the County or as may be required by the Virginia Department of Transportation.

- (14) Installation of streetlights in accordance with the Public Facilities Manual.

F. Staff Review and Action

(1) Minor Site Plan Review and Approval

- (a) The Director will check the minor site plan for completeness and compliance with administrative requirements. The Director will ensure that all administrative reviews are completed on time and that action is taken by the approving authority on the minor site plan within 60 days from receipt of a complete submission, except under abnormal circumstances.
- (b) The Director will, as part of a preliminary plan review, or as part of a plan review if no preliminary plan review has been conducted: (i) review the dam break inundation zone map on file with the County for the affected impounding structure; (ii) notify the dam owner; and (iii) within ten days forward a request to the Department of Conservation and Recreation (DCR) determine the potential impacts of the proposed development on the spillway design flood standards required of the dam. DCR must notify the dam owner and the County of its determination within 45 days of the receipt of the request. Upon receipt of DCR's determination, the County will complete its review of the plan. If the Director has not received a determination within 45 days of DCR's receipt of the request, DCR will be deemed to have no comments, and the County will complete its review.
- (c) Subsection 8100.7.F(2)(b) applies to minor site plans. In addition to other conditions that the Director may impose as necessary to ensure the public interest and the purpose and intent of this Ordinance, the Director may require, as a condition of any approval of a minor site plan, the dedication or construction of improvements, or agreement to dedicate or construct in accordance with subsection 8100.7.F(5), as may be necessary to adequately provide for such improvements.
- (d) If a minor site plan is disapproved, the reasons for such disapproval must be shown on the plan or in a separate document. The reasons for disapproval must identify all deficiencies in the plan related to the disapproval by reference to specific ordinances, regulations, or policies, and must identify modifications or corrections that would result in approval of the plan.

(2) Site Plan Review and Approval

- (a) The Director will check the site plan for completeness and compliance with established administrative requirements. The Director will ensure that all administrative reviews are completed on time and that action is taken by the approving authority on the site plan within 60 days from receipt of a complete submission, except under abnormal circumstances. Site plans proposing the development or construction of affordable dwelling units under Section 5101 must be processed within 280 days from the receipt of the complete application, provided the plan substantially complies with all ordinance requirements when it is submitted. The calculation of the review period only includes the time the site plan is in for County review and does not include such time as may be required by the applicant for revisions or modifications in response to comments from the County to comply with the Ordinance. The Director will, as part of a preliminary plan

review, or as part of a plan review if no preliminary plan review was conducted: (i) review the dam break inundation zone map on file with the County for the affected impounding structure; (ii) notify the dam owner; and (iii) within ten days forward a request to the Department of Conservation and Recreation (DCR) to determine the potential impacts of the proposed development on the spillway design flood standards required of the dam. DCR must notify the dam owner and the County of its determination within 45 days of the receipt of the request. Upon receipt of the DCR's determination, the County will complete its review of the plan. If the Director has not received a determination within 45 days of DCR's receipt of the request, DCR will be deemed to have no comments, and the County will complete its review.

- (b)** All site plans that are appropriately submitted and conform to standards and requirements must be approved by the Director after having been reviewed and recommended for approval by the appropriate departments of the County relative to items such as:
- 1.** Location and design of vehicular and pedestrian access points and proposed road improvements, to include concurrence from the Virginia Department of Transportation.
 - 2.** Location and adequacy of parking areas.
 - 3.** Design of traffic circulation and control within the site and with adjoining properties.
 - 4.** Compliance with applicable requirements of this Ordinance, proffered conditions, or development conditions of an approved rezoning, special exception, special permit, or variance.
 - 5.** Adequacy of drainage, water supply, fire protection, and sanitary sewer facilities.
 - 6.** Compliance with applicable established design criteria, construction standards, and specifications for all improvements as set forth in the Public Facilities Manual.
 - 7.** Provision of adequate erosion and sediment control measures of both a temporary and permanent nature.
 - 8.** Compliance with Chapter 118 of the County Code. Appeals of decisions made under Chapter 118 of the County Code that are appealable must be processed in accordance with Article 8 of Chapter 118.
 - 9.** Adequate analysis and measures to address problem soils where required by Chapter 107 of the County Code or the Public Facilities Manual. Review and approval of plans, specifications, and reports by the County, with or without recommendations of the Geotechnical Review Board, do not relieve the developer of the responsibility for the design, construction, and performance of the structures, pavement, and slopes on the project and damage to surrounding properties.
 - 10.** When a mapped dam break inundation zone of a state-regulated impounding structure on file with the County is present on the site, the following requirements must be met:

- a.** If DCR determines that the spillway design flood of an existing impounding structure would change based on the proposed development, the developer must: (i) revise the plan of development so it does not alter the spillway design flood standard of the impounding structure, or (ii) make a payment towards the necessary upgrades to the affected impounding structure. The developer must pay one-half of the estimated construction costs of the upgrade plus administrative fees not to exceed one percent of the total amount of payment required or \$1,000, whichever is less. Payment will be made to the Dam Safety, Flood Prevention and Protection Assistance Fund under Va. Code Sect. 10.1-603.19:1.
 - b.** If the developer does not revise the plan of development, he must submit an engineering study that conforms with the Virginia Dam Safety Act (§ 10.1-604 et seq.) and the Virginia Impounding Structure Regulations (4VAC 50-20) to DCR and the Director to determine the necessary upgrades to the affected impounding structure. The study must include a contract-ready cost estimate for upgrading the impounding structure. The cost estimate does not include maintenance, repairs or upgrades to the impounding structure not made necessary by the proposed subdivision. DCR will verify that the study conforms to state requirements. Following receipt of a study, DCR has 15 days to determine whether the study is complete. DCR must notify the developer of any specific deficiencies that cause the study to be determined to be incomplete. Once DCR determines that a submission is complete, DCR should notify the developer of its approval or denial within 45 days. Any decision must be communicated in writing and state the reasons for the disapproval.
 - c.** Following completion of the development, the developer must provide the dam owner and the Director with the information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone.
 - d.** The above requirements do not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County when the plan is submitted.
- (c)** If a site plan is disapproved, the reasons for the disapproval must be shown on the plan or in a separate document. The reasons for disapproval must identify all deficiencies in the plan that cause the disapproval by reference to specific ordinances, regulations, or policies, and must identify modifications or needed for approval of the plan.
 - (d)** Any approved site plan may be revised, before bond or security release, in the same manner as originally approved and in accordance with the Public Facilities Manual. Approval of a revision does not alter the expiration date of the site plan as established in subsection subsection 8100.7.F(3) and subsection 8100.7.F(4). After release of the owner's or developer's agreement package provided in accordance with subsection 8100.7.F(5), any proposed change is subject to the standards applicable to site plans.

(3) Validity of Approved Site Plans and Minor Site Plans

- (a)** Under Va. Code Sect. 15.2-2261, approved site plans valid on January 1, 1992 or site plans and minor site plans approved after that date are valid for five years from the date of approval or for such longer period as the Director may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan is deemed approved when the only requirements remaining to be satisfied to obtain a building permit are the execution of any agreements and posting of any securities and escrows. A minor site plan is deemed to be approved on the date of approval by the Director. When a building permit has been issued for construction in accordance with an approved site plan or minor site plan, that plan approval is extended for the life of the building permit.
- (b)** While the site plan or minor site plan remains valid, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy, or plan adopted after the date of approval of the plan will adversely affect the right of the developer or its successor -in -interest to commence and complete the approved development, unless the change or amendment is required to comply with state law or there has been a mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare. This subsection does not alter or affect the application of any local ordinance adopted under the Chesapeake Bay Preservation Act, the federal Clean Water Act, Sect. 402 (p.) of the Stormwater Program and associated regulations promulgated by the Environmental Protection Agency to individual parcels of land subject to final site plans or minor site plans.
- (c)** Residential site plans approved before 12:01 AM, June 18, 1991, for which a building permit for a residential structure shown on the approved site plan has been issued and that structure is built in accordance with the building permit, remains valid until completion of all structures shown on such site plan, if:

 - 1.** The site plan is also an approved construction plan under the Subdivision Ordinance and the construction plan contained the required information for a site plan, including the location of all structures and minimum setbacks and yards;
 - 2.** Bonded improvements shown on the approved construction plan have been built or are subject to a valid improvement bond;
 - 3.** A subdivision plat was recoded after the construction plan was approved within the specified time frames set forth in the Subdivision Ordinance; and
 - 4.** Construction of the recorded subdivision has been diligently pursued.
- (d)** Subsections (a) and (b) above do not apply to approved minor site plans for those temporary uses permitted by subsection 8100.7.C(1)(b).

(4) Site Plan and Minor Site Plan Extensions

- (a)** The Director may extend site plan or minor site plan approval, except for temporary uses as set forth in subsection 8100.7.C(1)(b), for one or more periods. These extensions may be for the amount of time the Director determines to be reasonable, taking into consideration this subsection and the size and phasing of the proposed development.

- (b) An applicant must file a request for an extension in writing with the Director at least 45 days before the approved site plan or minor site plan expires. The site plan or minor site plan will expire without notice on the original expiration date if a request for an extension is not timely filed. If the request is timely filed, the plan will remain valid until the request for an extension is acted upon by the Director. After the initial plan or extension expiration date, no building permit may be approved until the Director acts on the request for an extension.
- (c) The Director may approve an extension request upon determining that:
 1. The bonded improvements shown on the approved plan have been built or are subject to a current agreement or extension;
 2. The approved plan complies with all current provisions of this Ordinance, Public Facilities Manual, Subdivision Ordinance, and other applicable ordinances; unless the Board specifies that an amendment adopted after the approval of the site plan or minor site plan does not apply to site plan or minor site plan extensions.

(5) Agreements and Security

- (a) Except as provided below, the owner or developer must execute an agreement to construct or demolish the physical improvements shown on the plan (“development agreement”) and must submit an agreement for a construction permit with the application before a construction permit will be issued for:
 1. Clearing and grading;
 2. The installation of the physical improvements and facilities; or
 3. For the decommissioning of solar power facilities and associated equipment or devices subject to Va. Code Sect. 15.2232 shown on an approved site plan or minor site plan.
- (b) The development agreement must be accompanied by a fee in accordance with Section 8102 and a security package acceptable to the County in the amount of the estimated cost of construction or removal of those physical improvements that are:
 1. Located within public rights-of-way or easements and the construction of which is not otherwise secured in its entirety with the Virginia Department of Transportation;
 2. For vehicular ingress and egress, for public access streets, for structures necessary to ensure stability of critical slopes and for storm water management facilities;
 3. Required by a proffered condition or required to be bonded by a development condition of an approved special exception, special permit, or variance. Agreements and security packages for such plans for which approvals are conditions of record plat approvals are required under Chapter 101 of the County Code, The Subdivision Ordinance; or
 4. Solar power facilities and associated equipment or devices subject to Va. Code Sect. 15.2232 to be decommissioned and required to be bonded under Va. Code Sect. 15.2-2241.2.

- (c) The development agreement and security package must be provided to guarantee completion of all covered work within the time allowed by the Director. The Board may extend the time for completion upon the owner or developer submitting a written extension application, signed by all parties to the original agreement, and paying the extension fee.
- (d) The Board or a County official, designated by resolution of the Board, must determine the adequacy and acceptability of any security package.
- (e) When a County official has rejected an agreement or security package, the owner or developer may appeal that determination to the Board if the owner or developer has paid the required fees for site plan or minor site plan review and inspection of all required improvements shown on the plan.
- (f) Periodic partial and final release of any security must be in accordance with Section 5101 and the Public Facilities Manual.
- (g) An owner of a condominium must include on the development agreement or security package a declarant, unit owners' association, or unit owner, as provided for in Section 8105.

(6) Construction Standards, Inspection, and Supervision

- (a) Unless otherwise specifically provided in this Ordinance, the construction standards for all on-site and off-site improvements required must conform to the Public Facilities Manual. The Director must approve the plans and specifications for all required improvements.
- (b) The Director must inspect the installation of the required on-site and off-site improvements to certify compliance with the approved site plan and applicable County standards.
- (c) The owner must notify the Director in writing three days before the beginning of any street or storm sewer work shown to be constructed on the site plan. The submission of cut-sheets will serve to accomplish this requirement.
- (d) The owner must provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one set of approved plans, profiles, and specifications available at the site whenever when work is being performed.
- (e) The installation of required improvements do not bind the County to accept those improvements for the maintenance, repair, or operation. Each type of improvement must satisfy the applicable regulations for acceptance.

(7) As-Built Site Plans

- (a) Upon satisfactory completion, an as-built site plan and the corresponding filing fee must be submitted to the Director for review and approval for conformance with the approved site plan. The Director will determine the number of copies that must be submitted. The Director may require the submission of the plan electronically in lieu of prints. The plan must be prepared in accordance with the Public Facilities Manual.

- (b) As-built site plans may be submitted and approved for any satisfactorily completed part of the total area of an approved site plan, with such part to be known as a 'section.'

G. Notice Requirements

- (1) Except as qualified below, any person who submits a site plan or a site plan revision must submit written proof of notification to all owners of property wholly or partially within 500 feet of the property and to at least one homeowners' or civic association within the immediate vicinity, as approved by the Director. The notice must include notice to owners of properties wholly or partially within 500 feet of the property that lie in an adjoining county or municipality. If there are fewer than 25 different owners of property wholly or partially within 500 feet of the property, then additional notices must be sent to other property owners in the immediate vicinity so that notices are sent to not less than 25 different property owners.
- (2) Notice must be sent to the last known address of the owner(s) as shown in the current real estate assessment records and must be sent by certified mail, return receipt requested. Notice to homeowners' or civic associations must be sent to the address kept on file by the County's Office of Public Affairs, or if none is on file, to the registered address kept on file with the State Corporation Commission. The required written notice must include the following:
 - (a) Tax map reference number and street address;
 - (b) Plan name;
 - (c) Site plan number;
 - (d) Address and telephone number of the County office where the site plan may be reviewed or to which questions may be directed;
 - (e) Description of the proposed development including the type of use, number of dwelling units, gross floor area, and floor area ratio for non-residential uses, area in acres, density for residential uses and the amount of open space provided;
 - (f) Description of the location of the proposed development including the name of the nearest road, the side of the road on which the project is located, identification of the nearest existing road intersection, and the estimated distance from that intersection;
 - (g) A statement that the proposed construction may alter storm drainage from the site;
 - (h) Name, address, and telephone number of a representative of the applicant; and
 - (i) A reduction of the plan or plat showing the proposed development at a scale of 1"=500', or larger on 8 ½" x 11" sheet(s).
- (3) The notice must state that:
 - (a) Changes and corrections to the site plan may occur before approval;
 - (b) Any person wishing to comment on the plan should submit comments to the County office identified in the notice;
 - (c) Any person wishing to be notified of the plan approval should submit a written request to that effect to the County office identified in the notice; and

- (d) The site plan is subject to approval 30 days after the postmark date of the notice, unless releases are executed by all property owners required to be notified, in which case the plan may be approved sooner than 30 days after the postmark date.
- (4) A copy of the notice must also be sent by the Director to the Board Member in whose district the property is located at the time of the plan submission.
- (5) No minor site plan, site plan, or site plan revision may be approved within 30 days after the postmark date on the white receipts for the certified mailings, unless releases are executed by all property owners required to be notified, in which case the plan may be approved sooner than 30 days after the postmark date on the white receipts for the certified mailings. The original executed releases must be submitted to the Director on standard forms available from the Director.
- (6) Any person who submits a minor site plan, site plan, or site plan revision that proposes land disturbing activities within an off-site utility easement must send a written notice to the owner of the property containing the easement. The notice must contain the information required by subsections (1) through (5) above and subsection (9) below, and must also state the nature of the land disturbing activity proposed within the easement.
- (7) Any person who submits a minor site plan, site plan, or site plan revision that proposes land disturbing activities within 50 feet of or within a major underground utility easement located on the property must also send a written notice and a copy of the plan to the owner of the major underground utility easement. The plan and notice must be sent by certified mail, return receipt requested, postmarked no later than five days after the initial submission of the plan to the Director, to the owner's current registered agent on file with the State Corporation Commission. The notice must contain the information required by subsections (1) through (5) above, and subsection (9) below, except that the notice must state that the plan is subject to approval 45 days after the postmark date of the notice, unless releases are executed by all major underground utility easement owners required to be notified, in which case the plan may be approved sooner than 45 days after the postmark date. A copy of the notice and plan with the corresponding postmarked white receipt must be submitted to the Director. No plan subject to this subsection may be approved within 45 days following the postmark date on the white receipt for the certified mailing, unless releases are executed by all major underground utility easement owners required to be notified, in which case the plan may be approved sooner than 45 days after the postmark date. The original executed releases must be submitted to the Director on standard forms available from the Director.
- (8) For site plan revisions, the written notice requirements do not need to be met when the Director determines that the revision:
 - (a) Is a minor correction or adjustment to a feature shown on the previously approved plan;
 - (b) Does not reduce the effectiveness of approved transitional screening, landscaping, or open space; and
 - (c) Does not permit changes to the bulk, mass, orientation, or location that adversely impacts the relationship of the development to adjacent properties.

- (9) Notice must be posted on the site by the Director within 44 days from receipt of a site plan, and no site plan may be approved within 14 days of such posting. The notification must present the following information:
- (a) Notice that a site plan has been submitted for approval;
 - (b) Address and telephone number of the County office where a copy of the site plan may be reviewed;
 - (c) Site plan number;
 - (d) Type of use;
 - (e) Tax map reference number; street address or location of property;
 - (f) Date submitted;
 - (g) Date posted; and
 - (h) Date site plan is subject to approval.

8. Building Permits

A. Zoning Review of Building Permits

The Zoning Administrator must give zoning approval before a building permit can be issued. Without that approval, no building or structure may be constructed, modified, added to, or demolished if Chapter 61 of the County Code requires a building permit.

B. Limitations on Approval of Building Permits

- (1) A building permit will not be issued for any building, structure, addition, or modification on that lot if there is an existing violation or if the issuance of a building permit would cause a violation of Chapter 101, Chapter 116, or Chapter 118 of the County Code, this Ordinance, any other applicable laws and ordinances, any proffered conditions, or any development conditions of any approved rezoning, special exception, special permit, or variance. Appeals of decisions made under Chapter 118 of the County Code must be processed in accordance with Article 8 of Chapter 118.
- (2) If required by Chapter 104 of the County Code, a building permit will not be issued for any structure until a conservation plan has been approved by the Director in accordance with Chapter 104 and the Public Facilities Manual.
- (3) A building permit will not be issued for any building or structure subject to site plan approval as required by subsection 8100.7 except in strict conformance with that approved site plan and approval of any required agreements under subsection 8100.7.F(5). However, buildings or structures exempt from site plan approval must be approved in accordance with subsection 8100.7.D, and building permits must be approved in accordance with the USBC.
- (4) A building permit approval does not guarantee the approval of a site plan or subsequent building permits, Residential Use Permits, or Non-Residential Use Permits.
- (5) Approval of any building permit does not approve construction within any recorded easement to which the Board or the County of Fairfax is a party.
- (6) A building permit will be issued for a building or structure within any major underground utility easement only if it complies with subsection 5100.2.Q.

9. Residential and Non-Residential Use Permits

A. Permit Required for Occupancy or Use

- (1) Occupancy, use of a structure or premises, or a change in use are not permitted until a Residential or Non-Residential Use Permit has been approved in accordance with this section. A Residential or Non-Residential Use Permit is required to approve both the initial and continued occupancy and use of the structure or land to which it applies.
- (2) A Residential or Non-Residential Use Permit, whichever applies, must be obtained from the Zoning Administrator before any person may:
 - (a) Occupy or use, or permit to be occupied or used, any building, other than accessory structures as permitted by subsection 4102.7, and additions to existing structures that do not require site plan approval;
 - (b) Change the use, or permit a change in the use, of land or a building;
 - (c) Occupy or use any vacant land except for an agricultural use;
 - (d) Make any change in the use of a nonconforming use;
 - (e) Enlarge any use in a manner that triggers an increase in the amount of required off-street parking; or
 - (f) Continue any use after a change in the owner or operator of the use, except residential dwellings or an agricultural use.
- (3) Written application for a Residential or Non-Residential Use Permit for any building must be made after the completion of the work covered by the building permit and before occupancy.
- (4) After written application for a Residential or Non-Residential Use Permit is submitted to the Zoning Administrator, the permit will be issued if it conforms with this Ordinance, all other applicable laws and ordinances, proffered conditions, and conditions of special exceptions, special permits, or variances, as certified to the Zoning Administrator by the officers, bodies, or agencies responsible for the administration of such laws and ordinances, and the requirements of subsection 8100.9.B.

B. Minimum Requirements

The following minimum requirements must be met before a Residential or Non-Residential Use Permit will be issued:

- (1) The structure must have passed all applicable final inspections such as building, electrical, plumbing, mechanical, Fire Marshal, and Health Department inspections.
- (2) The lot must be final graded, and sodded or seeded. The Director may grant an exception in the winter when seeding, sodding, or final grading is not possible, or when extraordinarily sustained inclement weather conditions have occurred. In that case, the lot must be rough graded and completely mulched where disturbed.
- (3) When exceptions for final grading, sodding, or seeding are granted during the winter, the lot must be brought into full conformance no later than the first day of the succeeding month of May, or as determined by the Director.
- (4) The landscaping and screening requirements of Section 5108 or of any approved proffered condition, special exception, special permit, or variance must be completed;

however, the Director may approve a delay in completion of the requirements upon satisfactory justification. Justification must include an agreement and bond with surety satisfactory to the Director to ensure performance in accordance with a firm schedule for timely completion.

- (5)** Fire hydrants serving the structure must be operative.
- (6)** All walks adjacent to the street and between the driveway or parking lot and the structure must be complete. In cases of inclement weather, a substitute, impervious, or all-weather surface sidewalk may be provided; however, all such sidewalks must fully conform with applicable requirements no later than the first day of the succeeding month of May. For the purpose of this provision, an all-weather surface is defined as four inches of crushed stone, properly compacted and maintained.
- (7)** All streets and driveways necessary to provide access from the structure to a public street, and all parking areas in residential developments, must be complete except for a final surface. Streets must have a minimum of a two shot bituminous surface treatment, as required in applicable specifications. When bituminous concrete is required as pavement, the base asphalt courses must be placed. The surface layer may be applied after a Residential Use Permit is issued.
- (8)** With respect to Residential Use Permits issued between November 1 and April 30, when applicable specifications preclude the use of bituminous concrete or asphalt, an all-weather surface is acceptable. All-weather surface is defined as six inches of crushed stone, properly compacted and maintained. Manholes will be graded so as not to be a hazard to private vehicles and emergency equipment, and to preclude infiltration of surface water. The use of an all-weather surface is considered temporary in nature and should be brought to a properly paved condition as required above as soon as applicable specifications may be met.
- (9)** During May 1 through October 31, a properly paved surface is required before issuance of a Residential Use Permit. In instances where the builder cannot meet the requirements for a properly paved street for reasons beyond its control, the Director may extend this requirement for a period not to exceed 45 days.
- (10)** All storm and sanitary sewers serving the lots for which a Residential Use Permit is requested must be completed and approved.
- (11)** Curb and gutter in front of the structure must be complete and in place.
- (12)** All trails and walkways required by the provisions of subsection 8100.7.E must be clearly delineated by stakes, and the minimum of a gravel surface must be in place.
- (13)** Street name signs must be installed and official building numbers (street addresses) posted.
- (14)** The performance standards must be satisfied under Sections 5102 and 5109 before a Non-Residential Use Permit will be issued.
- (15)** If the property is subject to a Pro Rata Road Reimbursement District established under Article 3, Chapter 101 of the County Code, the reimbursement payment requirements of Section 101-3-11 must be satisfied.
- (16)** If the property is in a floodplain, the provisions of subsection 5105.6.I must be satisfied.

C. Permit Does Not Validate Any Violation

A Residential or Non-Residential Use Permit does not validate any violation of any law or ordinance.

D. Revocation of Permit

The Zoning Administrator may revoke an approved Residential or Non-Residential Use Permit when the Zoning Administrator determines that the approval was based on a false statement or misrepresentation of fact by the applicant, or as provided for in Section 8106.

10. Appeals

A. Appeal Processing

(1) Initiation

- (a) The applicant must submit materials in accordance with Section 8101.
- (b) An appeal to the BZA may be taken by any person aggrieved or by any officer, department, board, commission, or authority of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this Ordinance. An appeal that relates to a proffered condition, however, must be taken to the Board as provided for in subsection 8100.2.D(3)(d).

(2) Time Limit on Filing

- (a) Except as set forth below, all appeals must be filed within 30 days from the date of the decision appealed from by filing an appeal application with the Zoning Administrator and the BZA.
- (b) Appeals from notices of violation involving the following violations must be filed within ten days from the date of the notice by filing an appeal application with the Zoning Administrator and the BZA:
 - 1. Occupancy of a dwelling unit in violation of subsection 4102.3.A.
 - 2. Parking a commercial vehicle in an R district or a residential area of a P district in violation of subsections 4102.1.B(2) and 4102.1.E(4)
 - 3. Parking of vehicles on an unsurfaced area in the front yard of a single-family detached dwelling in the R-1, R-2, R-3, or R-4 Districts in violation of subsection 6100.2.A(3).
 - 4. Installation of prohibited signs on private property in violation of subsection 7100.5.B and subsections 7100.5.C(1) and 7100.5.C(5).
 - 5. Installation, alteration, refacing, or relocation of a sign on private property in violation of subsection 7100.3.A(1).
 - 6. Other short-term, recurring violations similar to those listed above.
- (c) All appeal applications must specify the grounds for the appeal.

(3) Stay of Proceedings

An appeal will stay all proceedings related to the action appealed unless the Zoning Administrator certifies to the BZA, after the notice of appeal has been filed, that by

reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In that case, the proceedings will not be stayed unless the BZA or a court of record issues a restraining order, on application and on notice to the Zoning Administrator and for good cause shown.

(4) Withdrawal of Application for Appeal

An application for appeal may be withdrawn at any time by the appellant or the appellant's agent by giving written notice to the Zoning Administrator. No fee or partial fee will be refunded for a withdrawn application.

B. Review and Decision

(1) Authorization

The BZA hears and decides all appeals as set forth in this section. The BZA also hears and decides applications for interpretation of any district boundary if uncertainty remains after the Zoning Administrator applies the rules specified in subsection 2100.4.

(2) Processing

- (a)** Before the public hearing, the Zoning Administrator will forward to the BZA the records that form the basis for the decision being appealed.
- (b)** The BZA will process all applications for appeal in accordance with the provisions of subsection 8100.10.

(3) Decision on Appeals

- (a)** The BZA may affirm or reverse, wholly or partly, or may modify the order, requirement, decision, or determination appealed from.
- (b)** The concurring vote of four members of the BZA is required to reverse any order, requirement, decision, or determination of the Zoning Administrator or any other administrative officer under this Ordinance.
- (c)** The BZA will make a decision within 90 days after acceptance of the application, unless an extended period is mutually agreed to by the appellant and the BZA.

8101. Submission Requirements

1. General Requirements for All Applications

- A.** Submission requirements for appeals and applications in Section 8100 are included in this section. Submission requirements are generally divided into three categories: (i) administrative and property documentation; (ii) plan or plat requirements; and (iii) supporting reports and studies.
- B.** Regardless of the number of copies specified below, if the application is submitted electronically, only one copy of each submission requirement is needed, unless otherwise determined by the Zoning Administrator or Director. Staff may request one or more paper copies of any of the materials at any point in the process.
- C.** All applications, except for Minor Site Plans and Site Plans, must include a complete application signed by the applicant on forms provided by the County.

- D. All applications must include the applicable fee in accordance with Section 8102 or Appendix Q of the County Code.
- E. Submission requirements, except for the application form, legal description, affidavit, and application fee, if applicable, may be modified or waived by the Zoning Administrator or Director when one of them has determined that the requirement is not necessary for review of the application.
- F. All statements, plans, profiles, elevations, and other submitted become part of the record of the hearing on an application.
- G. Stormwater Management Plan:
For all generalized development plans, final development plans, PRC development plans, PRC plans, and, except where noted, for special exception and special permit plats, the following stormwater management information must be included on the plan or plat:
 - (1) The approximate location, size of the footprint in acres, and type of all proposed stormwater management facilities, including the full extent of side slopes, embankments, spillways, dams, and approximate water surface elevation for design storms, if applicable.
 - (2) A preliminary stormwater management plan with information about the adequacy of downstream drainage, including the capacity of any storm drainage pipes and other conveyances where the stormwater runoff from the site will be conveyed.
 - (3) In addition to the above, when there is 2,500 square feet or more of land disturbing activity occurs on the entire application property, the preliminary stormwater management plan must contain the following:
 - (a) **A graphic depicting:**
 - 1. The approximate footprint of the stormwater management facility and, where applicable, the height of the dam embankment and the location of the emergency spillway outlet for each stormwater management facility.
 - 2. The approximate on-site and off-site areas to be served by each stormwater management facility, along with the acreage draining to each facility.
 - 3. A preliminary layout of all on-site drainage channels, outfalls and pipes, including inlet and outlet pipes within the stormwater management facility.
 - 4. The approximate location or alternative locations, if any, of any maintenance access road or other means of access to the stormwater management facility, and the identification of the types of surfaces to be used for any such road.
 - 5. Proposed landscaping and tree preservation areas in and near the stormwater management facility.
 - 6. The approximate limits of clearing and grading on-site and off-site for the stormwater management facility, storm drainage pipes, spillways, access roads and outfalls, including energy dissipation, storm drain outlet protection or stream bank stabilization measures.
 - (b) **A preliminary stormwater management narrative setting forth the following:**
 - 1. Descriptions of how the water quantity, water quality, and adequate outfall requirements of the Stormwater Management Ordinance and Public Facilities Manual will be met.

2. The estimated area and volume of storage of the stormwater management facilities proposed to meet water quantity, water quality, and adequate outfall requirements.
3. For each watercourse into which drainage from the property is discharged, a description of the existing outfall conditions, including any existing ponds or structures in the outfall area. The outfall area must include all land located between the point of discharge from the property that is located farthest upstream, down to the point where the drainage area of the receiving watercourse exceeds 100 times the area of that portion of the property that drains to it or to a floodplain that drains an area of at least one square mile, whichever comes first.

2. Zoning Map Amendments (Rezoning)

A. Administrative and Property Documentation

The following information is required for any rezoning application submitted by property owners, contract purchasers, or a condominium, or their agents:

- (1) Four copies of a certified plat of the property with the following information:
 - (a) Boundaries of the property, with bearings and distances of: (i) the perimeter property lines, and (ii) each existing and proposed zoning district;
 - (b) Total area of the property and each existing and proposed zoning districted in square feet or acres;
 - (c) Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat;
 - (d) Location of all existing building and structures;
 - (e) Names and route number of all boundary roads or streets, and width of existing rights-of-way; and
 - (f) Seal and signature of person preparing the plat.
- (2) Four copies of a legal description of the property, including metes and bounds of each zoning district proposed.
- (3) One copy of the portion of the current Fairfax County Zoning Map showing the boundaries of the subject site clearly outlined, covering the area generally within a 500-foot radius of the proposed use.
- (4) An application filed by an agent, contract purchaser, or lessee, must include a notarized statement, signed by the property owner, indicating endorsement of the application. For a condominium, a notarized written statement by the property owner must be provided in accordance with Section 8105.
- (5) An affidavit is required for all applications for map amendments and when a final development plan is not submitted in conjunction with a conceptual development plan, except: a) an application constituting a comprehensive zoning plan; b) an ordinance applicable throughout the County; or c) an application initiated by the Board that involves more than ten parcels that are owned by different individuals, trusts, corporations, or other entities. The affidavit must:

- (a) Be completed on the affidavit form approved by the Board and provided by the County;
 - (b) Be signed by the applicant or the applicant's authorized agent and notarized;
 - (c) Include a statement whether a member of the Board or Planning Commission, or any member of the member's immediate household owns or has any financial interest in the subject land either individually, by ownership in stock in a corporation, or through an interest in a partnership;
 - (d) Include a certified statement showing the agent's authorization to act on behalf of the applicant if the applicant's agent completes the application or affidavit; and
 - (e) Be reaffirmed before each public hearing on the application in accordance with the reaffirmation procedure outlined on the affidavit form.
 - 1. For an affordable dwelling unit development, include for each parcel of the site or portions thereof at one location, as defined in subsection 5101.2.A: the names of the owners; and the Fairfax County Property Identification Map Number, parcel size, and zoning district classification.
- (6) For a PRC Plan, an applicant must provide a boundary survey of the property with an error of closure within the limit of one in 20,000 related to true meridian and showing the location and type of boundary evidence. The survey may be related to the U.S.C. & G.S., State grid north, if the coordinates of two adjacent corners are shown. This information may be obtained from recorded plats in the case of lots and subdivisions recorded subsequent to September 1, 1947.

B. Plan Requirements for Residential, Commercial, and Industrial Districts

Twenty-three copies of a Generalized Development Plan (GDP) must be submitted. The GDP and any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The GDP must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted. The GDP must include the following:

- (1) Scale of not less than 1" = 100';
- (2) North arrow, with north, to the extent feasible, oriented to the top of the plan;
- (3) Except for single-family detached dwellings, the approximate location and dimensions of all proposed structures and uses, to include the maximum height in feet of all structures and penthouses;
- (4) The proposed traffic circulation plan, including major streets and pedestrian, bike or bridle paths, and the location of all trails required by the Comprehensive Plan;
- (5) Proposed major open space areas, including the percent of site area, and community and public facilities;
- (6) Proposed plan for major sanitary sewer improvements;
- (7) A stormwater management plan in accordance with subsection 8101.1.G;
- (8) Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities.;

- (9)** The number of required and provided parking spaces;
- (10)** Existing topography with a maximum contour interval of two feet and a statement indicating whether it is air survey or field run;
- (11)** A delineation of scenic areas or natural features deserving of protection or preservation, and a statement of how it will be accomplished;
- (12)** A statement or visual presentation of how adjacent and neighboring properties will be protected from adverse effects from the proposed development, to include vehicular access plans and dimensions of all peripheral yards;
- (13)** A delineation of all existing structures, their date of construction, if known, and whether they will be retained or demolished;
- (14)** The proposed maximum gross floor area and FAR for all uses other than residential;
- (15)** The proposed maximum number of dwelling units, and the density and open space calculations in accordance with subsections 5100.2.E and 5100.3;
- (16)** A statement of the proposed special amenities;
- (17)** A statement of the public improvements, both on and off-site, that are proposed for dedication or construction, and an estimate of the timing for the improvements;
- (18)** The approximate development schedule;
- (19)** Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;
- (20)** Any proposed improvements to the public right(s)-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way;
- (21)** A plan showing existing vegetation, including the limits of clearing and vegetation to be preserved, and proposed landscaping and screening in accordance with the provisions of Section 5108, and an existing vegetation map when there is 2,500 square feet or more of land disturbing activity;
- (22)** Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site.
- (23)** A statement that confirms the ownership of the property, and describes the applicant's interest; and
- (24)** A delineation of any existing dam break inundation zone and, when a state regulated impoundment is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone.

C. Plan Requirements for Planned Districts Except the PRC District

- (1) Twenty-three copies of a **Conceptual Development Plan** (CDP) must be submitted. A CDP is subject to the same requirements as a Generalized Development Plan above, except as modified below:

Rezoning to the PDH, PDC, PRM, or PCC District

- (a) Additional or revised requirements for a rezoning to the PDH, PDC, PRM, or PCC District:
1. A vicinity map at a scale of not less than 1" = 2,000';
 2. A statement or visual presentation of how adjacent and neighboring properties will be protected from any adverse effects prompted by the proposed development, to include vehicular access plans, proposed measures of screening, and dimensions of all peripheral yards;
 3. Instead of the stormwater management plan in subsection B(7), the CDP must indicate the approximate location and estimated size of all proposed stormwater management facilities, and a statement as to the type of facility proposed;
 4. The existing topography as required by subsection B(10) may have a maximum contour interval of five feet instead of two feet; and
 5. The density calculations in subsection B(15) must also specify those units obtained by the bonus provisions, and a breakdown of the approximate number of units by type and the range of approximate lot sizes for single-family detached dwellings.
- (b) The following do not need to be provided for a rezoning to the PDH, PDC, PRM, or PCC District:
1. The proposed plan for major sanitary sewer improvements in subsection B(6);
 2. The distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor in subsection B(19); and
 3. The proposed landscaping and screening in accordance with the provisions of Section 5108 in subsection B(21).

Rezoning to the PTC District:

- (c) Additional or revised requirements for a rezoning to the PTC District:
1. A vicinity map at a scale of not less than 1" = 2,000';
 2. Existing topography as required by subsection B(10) must be shown with a maximum contour interval of two feet, and a statement indicating whether it is an air survey or field run. Where existing ground is on a slope of less than two percent, either one foot contours or spot elevations must be provided where necessary, but not more than 50 feet apart in both directions;
 3. The approximate location and arrangement of all proposed structures and uses, including the proposed build-to lines, the distances of all structures from the development boundaries and streets, the streetscape and landscape treatments to be provided, and the maximum height in feet of all structures and penthouses;

4. The on-site vehicular and pedestrian circulation system, including the location and width of all streets, driveways, entrances to parking areas, parking structures and loading areas, walkways, bicycle paths, and all trails required by the Comprehensive Plan. Connections with off-site streets and trails that are existing or are required by the Comprehensive Plan, including the grid of streets and streetscape;
 5. Instead of the stormwater management plan required by subsection B(7), the CDP must indicate the approximate location and estimated size of all proposed stormwater management facilities, and a statement as to the type of facility proposed;
 6. In subsection B(14), a statement setting forth the maximum gross floor area and FAR proposed for all uses, including the amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application;
 7. The density calculations in subsection B(15) must also specify those units obtained by the bonus provisions, and a breakdown of the approximate number of units by type and the range of approximate lot sizes for single-family detached dwellings; and
 8. The open space calculations in subsection B(15) must also include off-site open space and the area in developed recreational open space in accordance with the Comprehensive Plan and generally based on the provisions of subsection 5100.3.
- (d) The following do not need to be provided for a rezoning to the PTC District:
1. The proposed plan for major sanitary sewer improvements in subsection B(6); and
 2. In subsection B(21), the limits of clearing and the proposed landscaping and screening in accordance with the provisions of Section 5108.
- (2) Twenty-three copies of a **Final Development Plan** (FDP) must be submitted. The FDP, any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The FDP must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted. The FDP must include the following:
- (a) Scale of not less than 1" = 100';
 - (b) North arrow, with north, to the extent feasible, oriented to the top of the plan;
 - (c) A vicinity map at a scale of not less than 1" = 2,000';
 - (d) Bearings and distances of the perimeter property lines;
 - (e) Total area of the property in square feet or acres;
 - (f) Names and route numbers of boundary streets and the width of existing right(s)-of-way;
 - (g) Any proposed improvements to the public right(s)-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from

the existing centerline to the edge of the pavement and to the edge of the right-of-way;

- (h) Existing topography and a statement indicating whether it is air survey or field run, with a maximum contour interval of two feet. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations must be provided where necessary, but not more than 50 feet apart in both directions;
- (i) The location and arrangement of all proposed uses and structures, including a preliminary subdivision layout, if subdivision is proposed;
- (j) The approximate maximum height in feet, to include penthouses, of all buildings, and the number of floors both above and below or partially below finished grade;
- (k) The distances of all structures from the development boundaries and streets.
- (l) The vehicular and pedestrian circulation system, including the location and width of all streets, driveways, entrances to parking areas, parking structures and loading areas, walkways, bicycle and bridle paths, and all trails required by the Comprehensive Plan;
- (m) Off-street parking and loading areas and structures;
- (n) Open space areas, specifying the percent of the site, their proposed treatment or improvement and delineating the areas proposed for specific types of recreational facilities;
- (o) A plan showing existing vegetation, including the limits of clearing and vegetation to be preserved, and proposed landscaping and screening in accordance with the provisions of Section 5108, and an existing vegetation map when there is 2,500 square feet or more of land disturbing activity;
- (p) Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site;
- (q) A plan or statement showing how public utilities are, or will be, provided;
- (r) A stormwater management plan in accordance with subsection 8101.1;
- (s) Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities;
- (t) Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;
- (u) When the development is to be constructed in sections, a final sequence of development schedule showing the order and an approximate completion date for each section; and
- (v) The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam

break inundation zone map is not on file with the County as of the time of submission of the plan. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone must be provided.

- (w) In the PDH, PDC, PRM, and PCC Districts, a table with the following data, when applicable to a given development plan:
 1. Total number of dwelling units by type.
 2. Residential density in units per acre.
 3. Total floor area and floor area ratio for each type of use, except residential uses.
 4. Total area in open space.
 5. Total area in developed recreational open space.
 6. Total number of off-street parking and loading spaces provided and the number required by Article 6.
 7. Amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application.
- (x) In the PDH, PDC, PRM, and PCC Districts, architectural sketches of typical proposed structures, including lighting fixtures and signs.
- (3) An FDP in the PTC District is subject to the same requirements as an FDP above, except as modified below:
 - (a) In addition to the circulation system in subsection B(4), connections with off-site streets and trails that are existing or are required by the Comprehensive Plan, including the grid of streets and streetscape must be included;
 - (b) The open space areas in subsection B(15) also includes any off-site open space;
 - (c) Detailed building design plans must be provided to include architectural sketches or elevations of structures; information on the type, location and height of all rooftop structures and features and the percent of roof area covered by such structures; information on building materials and signs; and
 - (d) A statement and graphic depiction must be provided of the types, sizes and locations of the urban design amenities proposed within the PTC District including pedestrian linkages, plazas, courtyards, bicycle trails, outdoor recreation facilities, ponds, fountains, public parks and any seating, lighting, or special paving.

D. Plan Requirements for the PRC District:

- (1) **Comprehensive Plan Amendment**
 - (a) The submission of a proposed amendment to the Comprehensive Plan of the County to establish a planned residential community (PRC District) must include the items listed below.
 1. A list of the tax map reference numbers;
 2. A statement explaining the relationship of the proposed PRC District to the Comprehensive Plan;

3. The proposed densities of population and the proposed number of dwelling units in low-density, medium-density, and high-density residential areas;
 4. The general location and intensity of proposed neighborhood convenience centers, village centers, town centers, and convention and conference centers;
 5. The general location of proposed major open space and recreation areas, including the nature of proposed recreational facilities and parks;
 6. The general location of public or community uses including schools and religious assembly;
 7. The general location and character of the proposed major roads, public transportation, trails, public utility, and storm drainage systems;
 8. The proposed general development schedule;
 9. A statement of the public facilities, roadway improvements, and public utilities that will be required to serve the PRC District; And
 10. Any additional information as deemed necessary by the Director of DPD.
- (b) Once the PRC District is established, any amendment to the Comprehensive Plan initiated by an applicant, other than the Planning Commission or Board, will require submission of those items deemed necessary for the review by the Director of DPD.
- (2) Twenty-three copies of a **PRC Development Plan** must be submitted. A PRC Development Plan is subject to the same requirements as a Generalized Development Plan in subsection 8101.2.B above, except as modified below:
- (a) A vicinity map at a scale of not less than 1" = 2,000' must be included;
 - (b) The maximum building height must be shown, except for a development plan for the initial establishment of a PRC District, building height is optional.
 - (c) A delineation of any Resource Protection Area and Resource Management Area must be included;
 - (d) Instead of subsection B(3), the following must be shown: the general location of all proposed land uses, including neighborhood convenience, village, convention, and conference and town centers;
 - (e) The traffic circulation plan required in subsection B(4) may be modified for a development plan for the initial establishment of a PRC District to show the approximate location of the required features;
 - (f) For subsection B(9), the parking schedule is optional for a development plan for the initial establishment of a PRC District;
 - (g) The maximum gross floor area and FAR for all uses other than residential as required by subsection B(14) may be modified for a development plan for the initial establishment of a PRC District to indicate the approximate gross floor area and FAR;
 - (h) Instead of subsection B(15), the following must be included: a tabular statement with the maximum number of dwelling units proposed by type, the corresponding population totals based on the computation factors of subsection 2105.3.B(4), the maximum density calculation based on subsection 5100.2.E, and the range of approximate lot sizes for single-family detached dwellings. However, for a

development plan for the initial establishment of a PRC District, the applicant may choose to include only the approximate number, type, and density of dwelling units in the residential areas;

- (i) For subsection B(21) , only an existing vegetation map when there is 2,500 square feet or more of land disturbing activity must be included;
 - (j) The following subsections are not required: B(6), B(12), B(13), B(17), B(19), and B(20).
- (3) 23 copies of a **PRC Plan** must be submitted. The PRC Plan, any resubmissions and supporting graphics, must be certified by a professional engineer, architect, landscape architect, or land surveyor authorized to practice as such by the State. The plan must be on a maximum sheet size of 24" x 36", and if presented on more than one sheet, match lines must indicate where the several sheets join. In addition, one 8.5" x 11" reduction of the plan, and resubmissions and supporting graphics must be submitted. The PRC Plan must include the following:
- (a) Scale of not less than 1" = 100';
 - (b) North arrow, with north, to the extent feasible, oriented to the top of the plan;
 - (c) A vicinity map at a scale of not less than 1" = 2,000';
 - (d) Total area of the property in square feet or acres;
 - (e) Existing topography and a statement indicating whether it is air survey or field run, with a maximum contour interval of two feet;
 - (f) The general location and arrangement of all existing and proposed uses and structures, and, if known, on adjacent properties;
 - (g) The approximate maximum height in feet, to include penthouses, and the number of floors both above and below or partially below finished grade of all buildings on the site and, if known, on adjacent properties;
 - (h) The distances of all structures from the development boundaries and streets;
 - (i) The vehicular and pedestrian circulation system, including the location and width of all existing, platted, and proposed streets and easements, including names and route numbers, the approximate width and typical cross sections, including acceleration, deceleration, and turn lanes, service drives, entrances to parking areas and parking structures, the location and width of walkways, bicycle and bridle paths, and all trails required by the Comprehensive Plan;
 - (j) Off-street parking and loading areas and structures with typical space and aisle dimensions;
 - (k) Open space areas, specifying their proposed treatment or improvement and delineating the areas proposed for specific types of recreational facilities;
 - (l) Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site;
 - (m) A plan or statement showing how public utilities are, or will be, provided. In addition, the approximate location of existing and proposed storm and sanitary sewer lines;
 - (n) A stormwater management plan in accordance with subsection 8101.1;

- (o) Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities;
- (p) Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;
- (q) When the development is to be constructed in sections, a proposed sequence of development schedule showing the order and an approximate completion date for each section; and
- (r) The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone must be provided.

E. Supporting Reports and Studies

The following additional information must be submitted:

- (1) A map identifying the classification of soil types at a scale not less than 1" = 500', based upon the County of Fairfax Soils Identification Maps.
- (2) A statement of justification, dated and signed.
- (3) A statement explaining the compliance of the development with the criteria of the Comprehensive Plan.
- (4) A statement that the proposed development conforms to all applicable ordinances, regulations, and adopted standards. Any waiver, exception, or variance must be noted with the justification for the modification.
- (5) If the proposal includes a request for a waiver of the setbacks abutting certain principal arterial highways and railroad tracks, it must include a study showing the projected noise impacts, proposed mitigation measures, and their effectiveness.
- (6) A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations Parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, used, stored, treated, or disposed of on-site and the size and contents of any existing or proposed storage tanks or containers.
- (7) An Archaeological Survey Data Form and a Phase I Archaeological Survey (if required) to the Fairfax County Park Authority for applications resulting in 2,500 square feet or more of land disturbing activity located wholly or partially within or contiguous to a Historic Overlay District, as required by subsection 3101.6.F.

- (8)** Any additional information that the applicant may desire to proffer in the consideration of the application.
- (9)** PRC Plan submissions require the following additional information :
 - (a)** A table with the following data, where applicable:
 - 1.** Total number of dwelling units by type to include the corresponding population totals and density type based on the computation factors in subsection 2105.3.B(4) and the maximum density provisions of subsection 5100.2.E.
 - 2.** Total floor area and floor area ratio for each type of use, except residential uses.
 - 3.** Total area in open space.
 - 4.** Total number of off-street parking and loading spaces provided and the number required by Article 6.
 - 5.** Amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application.
 - (b)** A statement of the architectural concepts and typical bulk of the proposed structures, and schematic architectural sketches.
 - (c)** A statement indicating the landscaping concepts, proposed screening measures and compliance with the tree conservation provisions of the Public Facilities Manual.
 - (d)** Identification of the need for floodplain studies, drainage studies, soil reports, and for easements or letters of permission for off-site construction.
- (10)** Rezoning to the PTC District require the following additional information:
 - (a)** A statement as to whether any of the development is located within the TOD and/or Non-TOD Districts, and if within the TOD Districts, the delineation of the one-eighth (1/8), one-quarter (1/4), one-third (1/3) and one-half (1/2) mile distance from the Metro Station entrance, as applicable, as set forth in the Comprehensive Plan.
 - (b)** The phasing plan, if applicable, that identifies each phase. Such plan must at a minimum specify for each phase of the development: (i) the location and the mix of uses, including interim uses; (ii) the streetscape and landscape treatments to be provided; (iii) the amount and location of all parking, stacking and loading spaces; (iv) the anticipated phasing for construction; and (v) a statement as to how each phase of development will provide the necessary infrastructure and on and off-site public improvements, including, but not limited to parking, grid of streets and public facilities necessary to achieve the redevelopment option set forth in the Comprehensive Plan.
 - (c)** A parking plan as set forth in subsection 2105.6.C(2).
 - (d)** A shadow analysis demonstrating how projected shadows from the proposed development will affect adjacent buildings and properties in terms of the loss of received sunlight.

- (e) Graphics or photo simulations that depict the proposed structures as viewed from adjacent sidewalks, streets, properties and other sensitive viewing areas.
- (11) Final development applications in the PTC District require the following additional information:
- (a) A final statement in tabular form which sets forth the following data, where applicable:
 1. Total number of dwelling units by type.
 2. Total floor area and floor area ratio for each type of use.
 3. Total area in open space, including off-site open space.
 4. Total area in developed recreational open space.
 5. Total number of off-street parking and loading spaces provided and the number required by subsection 2105.6.C(2).
 6. Amount of density or floor area applied for under the bonus provisions, and the calculations supporting the specific development provisions giving rise to such bonus application.
 7. Amount of gross floor area, FAR, or number of dwelling units approved for the land area subject to the rezoning to the PTC District and the amount of gross floor area, FAR, or number of dwelling units constructed as of the date of the submission of the FDP application.
 - (b) Detailed building design plans, including: (i) architectural sketches or elevations of structures; (ii) information on the type, location, and height of all rooftop structures and features and the percent of roof area covered by the structures; and (iii) information on building materials and signs.
 - (c) A statement and graphic depiction of the types, sizes, and location of the urban design amenities to be provided, including pedestrian linkages, plazas, courtyards, bicycle trails, outdoor recreation facilities, ponds, fountains, public parks, and any seating, lighting, or special paving.
 - (d) Detailed streetscape and landscape plans in accordance with the urban design guidelines of the Comprehensive Plan.

3. Special Exceptions, Special Permits, and Variances

A. Administrative and Property Documentation

All special exception, special permit, and variance applications require the following:

- (1) One copy of the portion of the current Fairfax County Zoning Map showing the boundaries of the property clearly outlined, covering the area generally within a 500-foot radius of the proposed use.
- (2) A statement that confirms the ownership of the property. If the applicant is not the owner of the property, evidence must be submitted showing that the applicant has the right to use the property as proposed.
- (3) An affidavit on the affidavit form approved by the Board and provided by the County which:
 - (a) Is signed by the applicant or the applicant's authorized agent and is notarized;

- (b) Includes a statement whether a member of the Board, Planning Commission, BZA, or any member of the member's immediate household owns or has any financial interest in the property either individually, by ownership in stock in a corporation, or through an interest in a partnership;
 - (c) Includes a certified statement showing the agent's authorization to act in such capacity if the applicant's agent completes the application or affidavit; and
 - (d) Is reaffirmed before each public hearing on the application in accordance with the reaffirmation procedure outlined on the affidavit form.
 - (e) For an affordable dwelling unit development, includes for each parcel of the site or portions thereof at one location, as defined in subsection 5101.2.A(1): (i) the names of the owners; and (ii) the Fairfax County Property Identification Map Number, parcel size, and zoning district classification.
- (4) Photographs of the property and abutting properties showing existing structures, terrain, and vegetation as viewed from all lot lines and street lines of the application property. All photographs must be clearly dated and labeled with the location and direction from which they were taken. Digital photographs are preferred.

B. Plat Requirements

Twenty-three copies of a special exception plat, and ten copies of a special permit or variance plat, including any resubmissions of the plat and supporting graphics, must be submitted and be:

- (1) Drawn to a designated scale of not less than 1" = 50'; but if the proposal cannot be accommodated at a scale of 1' = 50', a scale of not less than 1' = 100' may be used;
- (2) Signed, sealed, and certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State;
- (3) On a maximum sheet size of 24" x 36." One 8 ½" x 11" reduction must also be provided; and
- (4) If presented on more than one sheet, match lines must clearly indicate where the several sheets join.

Unless modified below by specific application requirements, the plat must contain the following information:

- (5) Boundaries of the entire property, with bearings and distances of the perimeter property lines and of each zoning district;
- (6) Total area of the property and of each zoning district in square feet or acres;
- (7) Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat on all supporting graphics;
- (8) Location, dimensions, and maximum height in feet of all existing and proposed structures, including penthouses, and if known, the construction date(s) of all existing structures and an indication whether they will be retained or demolished;
- (9) All required minimum setbacks to include front, side, and rear; distances from all existing and proposed structures to lot lines; and if applicable, transitional screening yards;

- (10)** Public right-of-way, indicating name, route numbers, width, any required or proposed improvements to public right-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way;
- (11)** Proposed means of ingress and egress to the property from a public street;
- (12)** Location of existing and proposed parking spaces, indicating the minimum distance from the nearest property line(s), and the number of required and provided parking spaces;
- (13)** Location of well and septic, or indication that the property is served by public water and sewer. Where applicable, a statement from the Fairfax County Health Department that available facilities are adequate for the proposed use;
- (14)** Location and width of all existing utility easements and the preliminary location(s) of new or relocated utilities; and;
- (15)** Approximate delineation of any grave, object, or structure marking a place of known burials, and a statement indicating how the proposed development will impact the burial site.

The following additional plat requirements apply to special exception and special permit applications:

- (16)** A stormwater management plan in accordance with subsection 8101.1;
- (17)** A statement setting forth the maximum gross floor area and FAR proposed for all uses other than residential, and the maximum density of dwelling units, if applicable;
- (18)** Existing topography with a maximum contour interval of two feet, and a statement indicating whether it is an air survey or field run;
- (19)** A plan showing existing vegetation, including the limits of clearing and vegetation to be preserved, and proposed landscaping and screening in accordance with the provisions of Section 5108, and an existing vegetation map when there is 2,500 square feet or more of land disturbing activity;
- (20)** Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County; delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor;
- (21)** Where applicable, seating capacity, usable outdoor recreation area, emergency access, bicycle parking, fencing, outdoor lighting, and loudspeakers;
- (22)** Location of all trails required by the Comprehensive Plan; and
- (23)** The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan. When a state-regulated impounding structure is proposed to be constructed or altered, an approximate delineation of the future dam break inundation zone must be provided.

C. Supporting Reports and Studies

The following additional information must be submitted:

- (1) For all special exception applications proposing residential development, a map identifying classification of soil types at a scale not less than 1" = 500', based upon the County of Fairfax Soils Identification Maps.
- (2) For all special exception and special permit applications, a written statement provided by the applicant describing the proposed use, giving all pertinent information, specifically including:
 - (a) Type of operation;
 - (b) Hours of operation;
 - (c) Estimated number of patrons/clients/patients/pupils/etc.;
 - (d) Proposed number of employees/attendants/teachers/etc.;
 - (e) Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of these trips by mode and time of day;
 - (f) Vicinity or general area to be served by the use;
 - (g) Description of building façade and architecture of any proposed new building or additions;
 - (h) A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations, Parts 116.4, 302.4, and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, stored, treated, or disposed of on-site and the size and contents of any existing or proposed storage containers; and
 - (i) A statement that the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards, and any applicable conditions. If any waiver, exception, or variance is sought by the applicant from these ordinances, regulations, standards, and conditions, it must be specifically noted with the justification for any modification.
- (3) For all variance applications, a written statement provided by the applicant including:
 - (a) The specific provision from which a variance is sought and the nature and extent of the variance sought.
 - (b) How the application complies with the required standards in subsection 8100.6.B(2).
- (4) An Archaeological Survey Data Form and a Phase I Archaeological Survey (if required) to the Fairfax County Park Authority for applications resulting in 2,500 square feet or more of land disturbing activity located wholly or partially within or contiguous to a Historic Overlay District, as required by subsections 3101.6.D and 3101.6.F.

D. Additional or Modified Submission Requirements for Specific Special Exception Applications

The following are additional or modified submission requirements for special exception applications for:

(1) Light Utility Facility, Heavy Utility Facility, and Wireless Facility

- (a)** Four copies of a map showing the utility system of which the proposed use will be an integral part, together with a written statement outlining the functional relationship of the proposed use to the utility system.
- (b)** A statement, prepared by a certified engineer, describing in detail the technical reasons for selecting the property as the location for the proposed facility and certifying that the proposed use will meet the performance standards of the district in which located.
- (c)** In complying with subsections (a) and (b) above, the applicant is not required to provide any proprietary, confidential, or other business information to justify the need for the project.
- (d)** An application for a landfill must also include a list of the types of debris and materials proposed to be deposited on the site.

(2) Farm Winery, Limited Brewery, or Limited Distillery

- (a)** A copy of the license issued or pending issuance by the Virginia Alcoholic Beverage Control Board.
- (b)** For any new or expanded buildings or structures that will be accessed by the public, a copy of plans certified by a structural engineer. The structural integrity of the building must be certified by the structural engineer once construction is complete. These plans must be made available for review upon request.

(3) Adult Day Support Center

An estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the center.

(4) Child Care Center, Private School, and Specialized Instruction Center

- (a)** In addition to the plat requirements required by subsection 8101.3.C(2), any outdoor recreation area must be delineated on the plat.
- (b)** An estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the center.

(5) Adult Day Care Center

- (a)** An estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the center.
- (b)** Identification of a safe, appropriately sized, and conveniently located outdoor area used by persons receiving adult day care services.

(6) Independent Living Facility

In addition to the plat requirements required by subsection 8101.3.C(2), the plat must include the total gross floor area (including the dwelling unit area and all non-dwelling unit areas), the floor area ratio, and the number of dwelling units.

(7) Residence Hall

In addition to the special exception requirements for a statement of justification, the applicant must also include information on the following:

- (a) Parking and loading;
- (b) Trash removal and clean-up;
- (c) Exterior lighting and sound;
- (d) Meetings and social functions;
- (e) Number of occupants;
- (f) Number of students and non-student employees to serve as counselors or advisors; and
- (g) Any other use or activity that may impact the surrounding properties and the neighborhood.

(8) Alternate Use of Public Facility

- (a) A copy of the law, ordinance, resolution or other official act adopted by the governmental body proposing the use, authorizing the establishment of the proposed use at the proposed location.
- (b) A statement by an official or officer of the governmental body must be presented giving the exact reasons for selecting the site as the location for the proposed facility.

(9) Airport, Helipad, and Transit Facility

- (a) All such uses proposed by a public authority must include a copy of the law, ordinance, resolution, or other official act adopted by the governmental body proposing the use, authorizing the establishment of the proposed use at the proposed location.
- (b) All applications must include evidence that the proposed facility will meet the standards and requirements imposed by such agencies as the Federal Aviation Administration and all other federal, State, or local statutes, ordinances, rules or applicable regulations.
- (c) A statement must be provided detailing all noise abatement procedures, methods, and devices that will be employed in the operation of the facility, and sufficient analysis must be presented to indicate what adjoining lands will be affected by the anticipated noise.
- (d) In the case of airports, a map must be presented showing the landing and take-off corridors as projected, such map to cover an area within at least a 5,000-foot radius of the boundaries of the proposed facility.

(10) Heavy Production or Processing

An evaluation of the use by a qualified person or firm, indicating how the use can comply with the earthborn vibration standards of Section 5102 and the outdoor lighting standards of Section 5109, if applicable.

(11) Cluster Subdivision

In addition to the special exception plat requirements required by subsection 8101.3.C(2), the special exception plat for a cluster subdivision must contain the following information:

- (a) Area of open space in square feet or acres and percent of total area that is open space.
- (b) Type of open space, whether common open space or dedicated open space, and the proposed uses.
- (c) Maximum number of dwelling units proposed, and the density and open space calculations in accordance with subsections 5100.2.E and 5100.3.
- (d) Proposed layout of lots, streets, and open space.
- (e) Location, where applicable, of recreation areas, parks, schools, and other public or community uses.
- (f) Indication that the property is served by public water and sewer or private water and septic field.
- (g) Designation of minimum lot areas and yards that will be provided on lots adjacent to major thoroughfares and adjacent to the peripheral lot lines of the subdivision.

(12) Interim Off-Street Parking in Metro Station Area

In addition to the special exception plat requirements required by subsection 8101.3.C(2), a special exception plat for interim off-street parking in Metro station area must include grading plans and plans for drainage facilities.

(13) Modifications, Waivers, Increases, and Uses in a Commercial Revitalization District

In addition to the special exception plat requirements required by subsection 8101.3.C(2), the special exception plat for modifications, waivers, increases, and uses in a Commercial Revitalization District must contain the following information:

- (a) A statement of the architectural concepts, building materials, and color of any proposed structures, and schematic architectural sketches, if available.
- (b) The location, dimensions, style, and lighting of all signs.
- (c) The distances of all existing structures that are proposed to remain and all proposed structures from the lot boundaries and abutting streets.
- (d) Location of all existing and proposed parking spaces, indicating minimum distance from the nearest property line(s), and a schedule showing the number of parking spaces provided and the number required by the provisions of the Commercial Revitalization District. If parking spaces are to be located off-site, the location, number and access to such spaces.
- (e) A plan showing the open space areas and how the development meets any applicable streetscape and urban design guidelines set forth in the Comprehensive Plan, with a statement of the percent of open space required and percent of open space provided. The plan must also include the limits of clearing, existing vegetation, and when there is 2,500 square feet or more of land disturbing activity, an existing vegetation map; proposed landscaping in accordance with the Commercial Revitalization District regulations to include interior and peripheral parking lot landscaping and screening and barrier measures.
- (f) Where applicable, seating capacity, useable outdoor recreation area, emergency access, bicycle parking, fencing, outside lighting, and loudspeakers.

- (g) In addition, an application must include a statement and any supporting materials detailing any requested modification, waiver, increase and the justification for same.

(14) Increase in Fence or Wall Height

Architectural depictions supporting the need for the height increase and identifying the location(s) where relief is requested, including the height, location, color, and materials, and any associated berm or landscaping in order to show the visual impact on nearby properties.

(15) Containment Structure

- (a) Detailed information relating to the anticipated trajectory of balls or other sports equipment and the need for a containment structure to keep this equipment on the property.
- (b) The height, location, color, and materials of the proposed containment structure, including the size of mesh for any netting.

E. Additional or Modified Submission Requirements for Specific Special Permit Applications

The following are additional or modified submission requirements for special permit applications for:

(1) Extraction Activity

- (a) Instead of the plat information required by subsection 8101.3.C(2), the plat, prepared by an engineer or surveyor licensed by the State, at a scale of 1" = 100' requires the following information:
 1. The boundary of the entire tract with bearings and distances;
 2. Limits and current field topography, including locations of water courses, the part of the tract that is proposed to be used for the operations, and the contiguous area within 250 feet of the limits. A distance greater than 250 feet may be specified by the Director;
 3. Average thickness of overburden within the limits; and
 4. Means of vehicular access, indicating the proposed type of surface treatment.
- (b) One aerial photograph, certified as flown within six months of the application submission, including:
 1. All land included in the application;
 2. All contiguous land which is or has been used by the applicant for this use or a related use;
 3. All public roads providing access to the property; and
 4. All residentially zoned land within 500 feet of the property.
- (c) A report that describes the use and includes the following:
 1. A detailed list of the type and quantity of equipment to be used, including bulldozers, cranes, washers, crushing equipment, trucks, and all other mechanical equipment

2. An estimate of the number of trucks proposed to enter and leave the property per day
 3. The proposed hours of operation each day, and the proposed days of operation during the week
 4. The proposed period of time necessary to complete the use proposed, and the time schedule for a restoration program. This must include the time when the applicant believes that all uses under the application should be completed and all restoration complete.
- (d) A plan for operation of the extraction activity, prepared by an engineer or surveyor licensed by the State, covering the same area as the vertical aerial photograph above. All of the following applicable items must be delineated, including the location, limits, and title of each of the items, and the area in square feet of each provided on a one-page supplemental report:
1. Area of any previous, currently active, and proposed excavation.
 2. Area of active settling ponds and washing facilities.
 3. Areas of existing and proposed crushing or treatment facilities.
 4. Areas of existing and proposed storage of extracted material.
 5. Areas of existing and proposed production facilities or resource related uses.
 6. Location and type of any existing and proposed erosion control facilities.
- (e) A plan for the restoration of the site, prepared by an engineer or surveyor licensed by the State, covering the same area as the vertical aerial photograph above. All of the following applicable items must be delineated, including the location, limits, and title of each of the items, and the area in square feet of each provided on a one-page supplemental report:
1. The area proposed to be restored
 2. The area of any current restoration now in progress
 3. The area of any previous restoration
 4. The area currently used for topsoil and overburden storage
- (f) A final grading plan for the site, prepared by an engineer or surveyor licensed by the State, covering the same area as the vertical aerial photograph above. All of the following applicable items must be delineated:
1. Final proposed topography of the site after completion of all proposed restoration
 2. Proposed depth of topsoil and location of any planting restoration, including type of plant material
 3. The direction of all drainage, shown by arrows, after restoration
 4. Any roadways and driveways which are not proposed to be removed during restoration, and their surfacing material
- (g) A letter signed by the applicant and by the owner of the property granting the right of entry upon the property to the Director, law enforcement agents, and County inspectors for the purpose of inspecting, and bringing law enforcement to the property, during the term of any permit which may be issued.

- (h) A soils analysis of the property, including test borings as required by the Director, and a written report setting forth the effects, if any, of the proposed operation upon the stability of soils, the water table, wells and septic fields within the area, and other soil factors which may have an effect upon nearby properties.

(2) Home Day Care Facility

- (a) The plat information required by subsections 8101.3.B(1) through 8101.3.B(9), 8101.3.B(11), 8101.3.B(13), and 8101.3.B(14), and the dimensions, size, and location of all outdoor recreation space in relation to all lot lines.
- (b) A dimensioned floor plan identifying all rooms or facilities to be used by the home day care, including gross floor area and points of ingress and egress from the dwelling.
- (c) Digital photographs of the rooms and facilities used by the home day care, which are clearly dated and labeled.

(3) Caretaker Quarters

Documentation verifying the occupants of the caretaker quarters, their work responsibilities, and the hours worked and a copy of the recorded covenant.

(4) Campground

Evidence that the proposed development meets all requirements of the Fairfax County Health Department.

(5) Home-Based Business

- (a) A dimensioned floor plan depicting the internal layout of the residence, including identification and gross floor area of all rooms or facilities to be used by the home-based business, as well as ingress and egress from the dwelling.
- (b) Digital photographs of the rooms and facilities used by the home-based business, which are clearly dated and labeled.

(6) Reduction of Setbacks for an Error in Building Location

- (a) The plat information required by 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), and the following:
 1. For nonresidential uses, the location of parking spaces, indicating the minimum distance from the nearest property line; and
 2. A calculation on the plat showing the percentage of the required rear setback that is covered with any accessory use and structure in accordance with subsection 4102.7.A(5).
- (b) A statement of justification explaining how the error in building location occurred and any supportive material, such as aerial photographs, building permit applications, County assessment records, a copy of the contract to build the structure that is in error, or a statement from a previous owner indicating how the error in building location occurred.

(7) Keeping of Animals

Instead of the plat information required by subsection 8101.3, the following information is required on a plat for the keeping of animals that may be prepared by the applicant:

- (a) The dimensions and boundary lines of the lot or parcel, and the area of land;
- (b) The dimensions, height, and distance to all lot lines of any existing or proposed building, structure, or addition where animals are to be kept;
- (c) The delineation of any Resource Protection Area and Resource Management Area; and
- (d) The signature and certification number, if applicable, or the person preparing the plat.

(8) Accessory Living Unit

- (a) The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13) and B(14).
- (b) A dimensioned floor plan depicting the internal layout and gross floor area of both the principal and accessory living unit, with the use of each room and points of egress to the dwelling clearly labeled.
- (c) Digital photographs of the rooms and area used by the accessory living unit, which are clearly dated and labeled.
- (d) If one of the residents is 55 years in age or older, proof of identity certifying the persons date of birth must be provided.
- (e) If one of the residents is a person with a disability, documentation from the Social Security Administration, the Veterans Administration, or similar agency, or a certification from a licensed medical doctor that confirms the resident meets the definition of a person with a disability as defined in the Fair Housing Amendments Act of 1988, as amended, must be provided.

(9) Noise Barrier

A noise impact study that demonstrates the need for the barrier and the level of mitigation to be achieved. The study must include the barrier height, proposed location on the property, acoustical design and structure features, and type of building materials used in construction. The study must also include the proposed measures to mitigate any visual impacts of the barrier on adjacent properties, including the location and design of the barrier, and the use of berms and landscaping.

(10) Containment Structure

- (a) Detailed information relating to the anticipated trajectory of balls or other sports equipment and the need for a containment structure to keep this equipment on the property.
- (b) The height, location, color, and materials of the proposed containment structure, including the size of mesh for any netting.

(11) Reduction of Setback Requirements

- (a) The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the following:
 1. For nonresidential uses, the location of parking spaces, indicating the minimum distance from the nearest property line;
 2. The location, type, and height of any existing and proposed landscaping and screening; and

3. A calculation on the plat showing the percentage of the required rear setback that is covered with any accessory use and structure in accordance with subsection 4102.7.A(5).

(b) Architectural depictions of the proposed structure as viewed from all lot lines and street lines that includes building materials, roof type, window treatment, and any associated landscaping and screening.

(12) Increase in Fence Height

(a) The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the following:

1. For nonresidential uses, the location of parking spaces, indicating the minimum distance from the nearest property line; and
2. The location, type, and height of any existing and proposed landscaping and screening.

(b) Architectural depictions supporting the need for the height increase and identifying the location(s) where relief is requested, including the height, location, color, and materials, and any associated berming or landscaping in order to show the visual impact on nearby properties.

(13) Certain Additions to an Existing Single-Family Detached Dwelling

The plat information required by 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the location, type, and height of any existing and proposed landscaping and screening.

(14) Increase in Minimum Rear Setback Coverage

The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13), B(14), B(17), B(20), and the following:

- (a) Location, type, and height of any existing and proposed landscaping and screening; and
- (b) A calculation on the plat showing the percentage of the required rear setback that is covered with any accessory use and structure in accordance with subsection 4102.7.A(5).

F. Additional Submission Requirements for Specific Variance Applications

The following are additional or modified submission requirements for variance applications for:

(1) Minimum Yards for Dwellings

The plat information required by subsections 8101.3 B(1) through B(9), B(11), B(13) and B(14).

(2) Minimum Lot Width

The plat information required by subsections 8101.3 B(1) through B(15) and the following:

- (a) Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or Fairfax County;

delineation of any Resource Protection Area and Resource Management Area; the approximate delineation of any environmental quality corridor as defined in the Comprehensive Plan; and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor; and

- (b) An existing vegetation map when there is 2,500 square feet or more of land disturbing activity.

4. Site Plans and Minor Site Plans

Site plans and minor site plans must be prepared in accordance with the provisions of the Public Facilities Manual, unless otherwise approved by the Director.

A. Minor Site Plans

Minor site plans must include the following:

- (1) Name of applicant/firm and address; relationship of applicant to property owner;
- (2) Name of current and previous property owner;
- (3) Tax map number, street address and magisterial district of the site;
- (4) Existing, previous, and proposed uses and improvements;
- (5) All proffered conditions and all development conditions of an approved rezoning, special exception, special permit, or variance;
- (6) Sufficient information to verify compliance with applicable provisions of this Ordinance and Public Facilities Manual, such as the zoning district of the property, the existing and proposed floor area ratio, and any existing, proposed, and required parking, landscaping, and transitional screening;
- (7) Type, number, date of approval, date of expiration, and conditions, including a narrative on how the conditions are addressed, of any requested and approved modifications or waivers of required improvements on the property;
- (8) Location of any street lights, trails, walkways, service drives, or travel lanes on or adjacent to the property;
- (9) Delineation of any Resource Protection Area and Resource Management Area, buildable areas on each lot, description of existing or proposed outfall system and how stormwater quality, quantity, and detention will be accommodated in accordance with the Public Facilities Manual, Chapter 118 and Chapter 124 of the County Code;
- (10) The location of any water, storm, and sanitary sewer easements and all conveyances and easements dedicated or to be dedicated to Fairfax County, the State of Virginia and the Virginia Department of Transportation;
- (11) Existing and proposed topography must be shown except where proposed improvements do not change existing topography, as determined by the Director. The maximum contour interval is two feet, except for sites where the ground has a slope of less than two percent, in which case either one-foot contour intervals must be used or supplemental spot elevations must be provided with a maximum of 50 feet in any horizontal direction between elevations.

- (12) The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan;
- (13) Minor site plans or any portion of such plan involving engineering, architecture, landscape architecture, or land surveying must be respectively certified by an engineer, architect, landscape architect, or land surveyor authorized by the State to practice as such; and
- (14) Any other information as may be required by the Director to evaluate the plan.

B. Site Plans

Site plans must include the following:

- (1) A cover sheet as prescribed by the Director;
- (2) Site plans or any portion of such plan involving engineering, architecture, landscape architecture, or land surveying must be respectively certified by an engineer, architect, landscape architect, or land surveyor authorized by the State to practice as such. Site plans or any portion of a site plan submitted under the County's Plans Examiner Program in accordance with Chapter 117 of the County Code, Expedited Land Development Review, must include a statement that certifies that the plan or portion of the plan has been reviewed and recommended for submittal by a Designated Plans Examiner;
- (3) Site plans must be prepared to a scale of 1" = 50' or larger and all lettering must be at least 1/10" in height. The sheet(s) must be 24" by 36" and, if prepared on more than one sheet, match lines must clearly indicate where the sheets adjoin;
- (4) Location of the site shown on a vicinity map at a scale of not less than 1" = 2,000' and such information as the names and numbers of adjoining streets, streams and bodies of water, railroads, subdivisions, and towns or other landmarks sufficient to clearly identify the location of the property;
- (5) Every site plan must show the name and address of the owner and developer, north arrow (with source of meridian), date and scale of drawing, sheet numbers, and total number of sheets;
- (6) A boundary survey of the entire site, with a maximum permissible error of closure within the limit of one in 20,000, related to the Virginia Coordinate System of 1983 (VCS 83, with appropriate reference frames and necessary velocities) North Zones. Two adjacent corners or two points on every plan sheet must be referenced to the VCS 83 with coordinate values shown in feet. Plans referenced to VCS 83 must be annotated as follows:
 - (a) "The site shown hereon is referenced to the Virginia Coordinate System of 1983 as computed from a field run boundary, and horizontal and vertical control survey that ties this boundary to the Fairfax County Survey Monument (insert number and name of monument and show the combined scale (grid factor multiplied by the elevation factor) or NOAA/NGS Survey Monument (insert Parcel Identification Number and designation) with the combined scale factor (grid factor multiplied by the elevation factor)."

- (b)** If using a GPS Static, Virtual, or Continuously Operating Reference System for deriving horizontal and/or vertical control, coordinates must be stated in VCS 83 (with appropriate reference frames and necessary velocities), North Zone, U.S. Survey Foot units, with NGVD 1929 vertical datum and so stated in above format.
 - (c)** The entire site should be shown with boundary annotated. If a conversion from meters to feet is necessary, the foot definition used for conversion is the U.S. Survey Foot of one ft. = 1200/3937 E+00 meters. Plans may be related to true north or meridian of record for properties located more than 1.24 miles (2.0 kilometers) from one or both of the nearest VCS 83 monuments, with distance measured along a straight line from each monument to the closest point on the property boundary.
- (7)** Certificate signed by the surveyor or engineer setting forth the source of title of the owner of the site and the place of record of the last instrument in the chain of title;
- (8)** A map identifying classification of soil types at a scale of not less than 1" = 500', based on the County of Fairfax Soils Identification Maps or, if not mapped, based on soils identified by a professional authorized by the State to provide such information;
- (9)** Horizontal dimensions shown on the site plan must be shown in feet and decimal fractions of a foot accurate to the closet one-hundredth of a foot (.00). All bearings in degrees, minutes, and seconds must be shown to a minimum accuracy of ten seconds;
- (10)** Existing and proposed topography must be shown except where proposed improvements do not change existing topography, as determined by the Director. The maximum contour interval is two feet, except for sites where the ground has a slope of less than two percent, in which case either one-foot contour intervals must be used or supplemental spot elevations must be provided with a maximum of 50 feet in any horizontal direction between elevations;
- (11)** Proposed finished grading by contours, supplemented by spot elevations where necessary, including at those locations along lot lines where building height is measured;
- (12)** All existing and proposed streets and easements, their names, widths, and street route numbers; existing and proposed utilities; watercourses and their names; owners, zoning and present use of all adjoining properties;
- (13)** The proposed location, general use, number of floors, and the net and gross floor area for each building, to include outside display and storage areas; the proposed floor area ratio; the number, size, and type of dwelling units; and the amount of required and provided open space;
- (14)** The height of each building and the ground elevations required by the provisions of the Zoning District in which located;
- (15)** Location, type, size, and height of any fencing and retaining walls;
- (16)** All off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces required by Article 6, or an approved development plan, as applicable, for each use and the total number of spaces provided;
- (17)** Horizontal location of all proposed trails and vertical location of any trail that is proposed to exceed an eight percent grade;

- (18)** Location of solid waste and recycling storage containers in accordance with Chapter 109.1 of the County Code and the Public Facilities Manual. In addition, a solid waste and recycling system plan statement must be included on the cover sheet of all site plans;
- (19)** Sufficient information to show how the physical improvements associated with the proposed development interrelate with existing or proposed development of record on adjacent properties;
- (20)** Existing and proposed street light pole locations, including distances from face of pole to face of curb, bracket length and luminaire size, in accordance with the Public Facilities Manual;
- (21)** Location and height of all light poles, including parking lot and walkway light poles, illustrations of each style of freestanding lighting fixture that demonstrate that such fixture is either a full cut-off or directionally shielded lighting fixture, as required by Section 5109 and a statement by the owner or developer certifying that all outdoor lighting provisions of Section 5109 will be met.
- (22)** For outdoor recreation, sports facility, and playing fields and courts, a sports illumination plan must be submitted as required by Section 5109, and for vehicle fueling stations and vehicle sales, rental, and service establishments, a photometric plan must be submitted as required by Section 5109. For those facilities that had a sports illumination plan or photometric plan approved by the BZA in conjunction with the approval of a special permit or by the Board in conjunction with the approval of a special exception, development plan, or proffered rezoning, the approved plan must be included in the site plan;
- (23)** Any plan incorporating private streets must contain the statement “privately owned, privately maintained” to advise that the streets will not be maintained by either the State or the County. If the private streets are to be constructed to Virginia Department of Transportation standards, the plan must contain the following statement:

“The private streets in this development are not intended for inclusion in the system of state highways and will not be maintained by the Virginia Department of Transportation or Fairfax County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.”

Any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways must be privately maintained and are not eligible for acceptance into the system of state highways unless improved to current Virginia Department of Transportation standards with funds other than those appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board. If the private streets are not to be constructed to Virginia Department of Transportation standards, the plan must contain the following statement:

“The private streets in this development do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Virginia Department of Transportation or Fairfax County, and are not eligible for rural addition funds or any other funds appropriated by the General Assembly of Virginia and allocated by the Commonwealth Transportation Board.”

- (24)** Identification of any grave, object, or structure marking a place of burial on the site and if none, a statement to that effect;
- (25)** Provisions for elements required to provide an accessibility improvement or other reasonable accommodation;
- (26)** Land within an adopted Pro Rata Road Reimbursement District must be designated, with the pro rata road reimbursement payment calculations for each proposed use and the sum total of payments to be reimbursed;
- (27)** A statement by the owner or developer certifying that all wetlands permits required by law will be obtained before commencing land disturbing activities in any areas requiring such permits;
- (28)** The plan must include all proffered conditions and all development conditions of an approved rezoning, special exception, special permit, or variance. A narrative indicating how these conditions are addressed by the plan must be submitted separately as required by the Director;
- (29)** A tree conservation plan that addresses the tree conservation and vegetation preservation requirements of Chapters 104 and 122 of the County Code and the policies and requirements of the Public Facilities Manual;
- (30)** A landscape plan as specified in the Public Facilities Manual, drawn to scale, showing existing vegetation to be preserved and any of the following proposed landscape materials required to be installed:
 - (a)** Parking lot landscaping, transitional screening, and tree conservation as required by the provisions of Section 5108, to include the location, type, and height of barriers.
 - (b)** Replacement vegetation in accordance with the policies and requirements of the Public Facilities Manual.
 - (c)** Plantings required by a proffered condition or development condition of an approved rezoning, special exception, special permit, or variance.
- (31)** All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types, and grades and where connection is to be made to the County or to another utility system;
- (32)** Provisions for the adequate disposition of natural and stormwater in accordance with Chapter 124 of the County Code and the Public Facilities Manual, indicating the location, size, type, and grade of ditches, catch basins, and pipes and connections to existing drainage systems, existing and proposed storm drainage easements, and on-site stormwater detention and water quality control facilities where deemed appropriate and necessary by the Director;
- (33)** Provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction as required by the Public Facilities Manual;
- (34)** A soils report or geotechnical requirements in accordance with Chapter 107 of the County Code and the Public Facilities Manual;
- (35)** Delineation of Resource Protection Areas and Resource Management Areas, buildable areas on each lot, site specific determination of water bodies with perennial flow, and a

Water Quality Impact Assessment and required measures in accordance with Chapter 118 of the County Code and the Public Facilities Manual;

- (36) The location of any stream valleys and floodplains;
- (37) The location of all existing transmission pipelines and their respective easements in accordance with the Public Facilities Manual;
- (38) Provisions for common or shared utility easements in accordance with Va. Code Sect. 15.2-2241(6) and the Public Facilities Manual. In addition, a note must be included on all plans stating that any future easement or authorization for electric, cable, telephone, or gas services to be furnished to the property must comply with the provisions of Va. Code Sect. 15.2-2241(6);
- (39) Such additional information as required by other County agencies, such as the Fire Marshal and the Water Authority;
- (40) The extent of any dam break inundation zone of a state-regulated impounding structure must be identified and labeled with the name of the impoundment and the date of the study that established the inundation zone. This requirement does not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the County as of the time of submission of the plan;
- (41) Identification that the development is subject to the Affordable Dwelling Unit Program provisions of Section 5101, with the specific lots or dwelling units that are affordable dwelling units designated on the site plan. However, in the case of a multiple family development which is under single ownership and is a rental project, the affordable dwelling units need not be specifically identified; instead, the number of affordable dwelling units by bedroom count and the number of market -rate dwelling units by bedroom count must be noted on the site plan. For multiple section developments where not all the required affordable dwellings units are to be provided in the first section of the development, the site plan for the first section and all subsequent sections must contain a notation identifying in which section(s) the affordable dwelling units will be or have been provided and a total of all affordable dwelling units for which such site plan(s) have been approved. Additionally, at the time of site plan submission, the owner or applicant must submit an affidavit that includes:
 - (a) The names of the owners of each parcel of the sites or portions of sites, as defined in subsection 5101.2.A(1); and
 - (b) The Fairfax County Property Identification Map Number, parcel size, and zoning district classification for each parcel that is part of the site or portion thereof.
- (42) Any other information as may be required by this Ordinance, the County Code, or the PFM.

5. Building Permits

A. Plan Requirements

- (1) An approved site plan, when the building or structure is required to be shown on a site plan that has been approved under the provisions of subsection 8100.7, and an approved agreement and security package required under subsection 8100.7.F(5) to ensure completion of the physical improvements as shown on the approved site plan,

including any revisions, or those plans and agreements as may be required by the Director for the approval of a building permit in accordance with the USBC; or

- (2)** When the building or structure does not require site plan approval but will require approval of a site-related plan (e.g., grading plan or conservation plan) in accordance with subsections 5104.1.A and 5104.1.B, a plan, certified by a land surveyor, engineer, landscape architect, or architect authorized by the State to practice as such, must be submitted that includes siltation and erosion control measures in conformance with Chapter 104 of the Code, and contains the information listed in subsection (3) below. The required number of copies of the form and plan will be determined by the Director; or
- (3)** When the building or structure does not require site plan approval, and does not require approval of a site-related plan, provide a plat certified by a land surveyor, engineer, landscape architect, or architect authorized by the State to practice as such in a format approved by the Director. Plats submitted for additions to an existing single-family dwelling or related accessory structures may be hand drawn or otherwise added to an existing plat that meets the certification requirements. Each plat must indicate the following:

 - (a)** The dimensions of the lot or parcel, the lot lines, and the area of land contained on the subject site.
 - (b)** Delineation of any major underground utility easements and the location of any water, storm, and sanitary sewer easements and all conveyances and easements dedicated or to be dedicated to Fairfax County, the State, and the Virginia Department of Transportation.
 - (c)** The location, dimensions, and height of any building, structure, or addition, whether existing or proposed. In addition, for decks, the height of the finished floor above finished ground level and for accessory structures, the height of the highest point of the structure from finished ground level.
 - (d)** The distance from all property lines and any floodplain to the proposed building, structure or addition, including any extensions from the vertical plane of the proposed building, structure, or addition, shown to the nearest one-tenth of a foot. For features that extend into the minimum required setbacks in accordance with subsection 5100.2.D(5), in addition to showing the distance of the feature to all lot lines, the plat must also include the specific dimensions that qualify the feature for the permitted extension.
 - (e)** The proposed elevation of the first-floor level and of the lowest floor level of any proposed new building. These elevations are not required for additions unless the proposed elevation of the lowest floor level of that addition is below the lowest floor elevation of the structure to which it is added or is required to demonstrate compliance with the floodplain regulations set forth in Section 5105.
 - (f)** The existing and intended use of each building or structure or part of a building or structure, including the number of dwelling units within a dwelling.
 - (g)** The location and configuration of any existing or proposed off-street parking space(s), the number of spaces proposed to be provided, and the proposed surfacing of such areas.

- (h) The signature and certification number, if applicable, of the person preparing the plat.
- (i) Delineation of any Resource Protection Area and Resource Management Area.
- (j) Delineation of any mapped floodplain and floodplain easement.
- (k) Delineation of any access easement to contiguous properties.
- (l) Delineation of any conservation, restrictive planting, or vegetative buffer easement.
- (m) Other information, which may include photographs of the lot, existing and proposed buildings, existing and proposed uses on the site, and any other information regarding contiguous lots as necessary for proper review of the application.
- (n) When the building permit application is for a new single-family detached dwelling, a statement, where applicable, that the lot is subject to the affordable dwelling unit development zoning district regulations.

6. Residential Use Permits

A. Plan Requirements

For single-family detached dwelling units, five copies of an as-built house location survey plat must be submitted to the Zoning Administrator for review and approval within 30 days of the issuance of the Residential Use Permit. Such plat must be presented on a sheet drawn to a designated scale of not less than 1" = 50' or larger, unless a smaller scale is required to accommodate the development, with the scale clearly indicated. Such plat, regardless of the area of the lot, must be prepared in accordance with the Virginia Administration Code, 18VAC10-20-380, and must also show the following:

- (1) The distance from all structures including any extensions from the vertical plane of the building, structure, or addition shown to the nearest one-tenth of a foot to all lot lines and any floodplain. For features that extend into the minimum required setbacks in accordance with subsection 5100.2.D(5), in addition to showing the distance of the feature to all lot lines, the plat must also include the specific dimensions which qualify the feature for the permitted extension;
- (2) For pipestem lots and lots abutting a pipestem driveway, the location of the pipestem driveway;
- (3) The deed book and page number(s) for the easements and conveyances shown on the plat;
- (4) Delineation of any mapped floodplain;
- (5) Delineation of any Resource Protection Area and Resource Management Area;
- (6) Delineation of any access easement to contiguous properties;
- (7) Delineation of any conservation, restrictive planting or vegetative buffer easement; and
- (8) Delineation of any major underground utility easements and the location of any water, storm and sanitary sewer easements, and all conveyances and easements dedicated to Fairfax County, the State of Virginia and the Virginia Department of Transportation.

7. Administrative Permits

The Zoning Administrator may require any information found to be necessary for the review and administration of the standards in Article 4, such as a floor plan, photographs, site layout, or architectural renderings.

8. Appeals

A. Supporting Reports and Studies

Appeals filed of an order, requirement, decision, or determination require the following:

- (1) A statement signed by the appellant with the following information:
 - (a) A copy of the order, requirement, decision, or determination that is the subject of the appeal;
 - (b) The date when the decision was made; and
 - (c) The appellant’s grounds for the appeal and the reasons for the appeal. If the appellant is a County officer, department, board, or bureau, the statement must specify how the appellant is affected; otherwise, the statement must specify how the appellant is an aggrieved person.
- (2) Any other supportive data as the appellant may desire in the record, including plats, plans, drawings, charts, or related material.
- (3) An appellant must also simultaneously submit one copy of the submission requirements to the BZA.

8102. Fee Schedule

1. Fee Schedule

All applications and appeals provided for in this Ordinance and requests for zoning compliance letters must be accompanied by the filing fee set forth in the following table unless otherwise waived by the Board for good cause shown; except that no fee is required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees must be made payable to the County of Fairfax. Receipts for fees paid will be issued in duplicate, and one of the duplicates will be maintained on file with the Department of Planning and Development.

| TABLE 8102.1: FEE SCHEDULE | |
|---|---------|
| This table includes standard fees related to approvals under the Zoning Ordinance. Additional fees may apply related to review or approval by other County departments or governmental or quasi-governmental agencies, or in accordance with Appendix Q of the County Code. | |
| APPLICATION TYPE | FEE [1] |
| MISCELLANEOUS PERMITS AND APPROVALS | |
| General | |
| Interpretation of Approved Zoning Application or Minor Variation to Proffered Conditions | \$520 |
| Modification to the Affordable Dwelling Unit Program | \$2,755 |
| Non-Residential Use Permit (Non-RUP) | \$70 |

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| Zoning Compliance Letter | Dwelling, Single-Family, Per Lot | \$115 |
| | All Other Uses, Per Lot | \$320 |
| General Public Facilities | 2232 Review with Public Hearing | \$1,500 |
| | 2232 Review without Public Hearing | \$750 |
| Signs | | |
| Sign Permits and Administrative Comprehensive Sign Plans | | \$95 |
| Comprehensive Sign Plans in Planned Districts | | \$8,260 |
| Amendments to Comprehensive Sign Plan in Planned Districts | | \$4,130 |
| Waiver of Certain Sign Regulations Special Exception | | \$8,260 <i>[advertised range of \$8,260 - \$16,375]</i> |
| Wireless Telecommunications | | |
| Wireless Reviews to Determine Compliance with Sect. 6409 of the Spectrum Act | | \$500 |
| Wireless Facilities | Standard Process Project | \$6,200 |
| Variance [2] | | |
| Increase in Maximum Fence or Wall Height | Residential District | \$435 |
| | Commercial or Industrial District | \$2,500 |
| Modification of Residential Setback | | \$910 |
| Modification of Residential Accessory Structure Use or Location Standards per subsection 4102.7 | | \$910 |
| Modification of Grade for Single-Family Detached Dwelling | | \$910 |
| All Other Variances | | \$8,180 |
| Appeal | | |
| Appeal to BZA | | \$600 |
| Appeal to Board | | \$600 |
| ADMINISTRATIVE PERMITS | | |
| General Fee Unless Otherwise Listed | | \$205 |
| Accessory Uses | | |
| Accessory Living Unit | Permit | \$200 <i>[advertised range of \$0 - \$435]</i> |
| | Renewal Fee | \$70 <i>[advertised range of \$0 - \$70]</i> |
| Family Health Care Structure | | \$100 |
| Home-Based Business | | \$100 <i>[advertised range of \$50 - \$200]</i> |
| Limited Riding or Boarding Stable | | \$50 |
| Short-Term Lodging | Two Year Permit | \$200 |
| Temporary Uses | | |
| Community Garden | Permit | \$205 |
| | Two Year Renewal Fee | \$50 |
| Farmer's Market | Permit | \$205 |
| | Two Year Renewal Fee | \$50 |
| Food Truck | One Year Operation Permit | \$100 |

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| | Location Permit | \$100 |
| Portable Storage Container | | \$0 |
| SPECIAL PERMITS [2] | | |
| Standard fees for special permit approvals are listed below. | | |
| General Fee Unless Otherwise Listed | | \$16,375 |
| Principal Uses | | |
| Community Swim, Tennis and Recreation Club | | \$4,085 |
| Group Household or Religious Group Living | | \$1,100 |
| Marina, Private Noncommercial | | \$4,085 |
| Religious Assembly | | \$1,100 |
| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | Private School, Specialized Instruction Center, or Child Care Center with fewer than 100 children | \$1,100 |
| | Private School, Specialized Instruction Center, or Child Care Center with 100 children or more | \$11,025 |
| Stable, Riding or Boarding | | \$8,180 |
| Accessory and Temporary Uses | | |
| Accessory Living Unit | Special Permit | \$435 |
| | Renewal Fee | \$70 <i>[advertised range of \$0 - \$70]</i> |
| Caretaker Quarters | | \$435 |
| Community Garden | | \$435 |
| Home Day Care Facility | | \$435 |
| Home-Based Business | | \$435 <i>[advertised range of \$435 - \$910]</i> |
| Other Special Permits | | |
| Increase in Wall or Fence Height | Dwelling, Single-Family | \$435 |
| | All Other Uses | \$2,500 |
| Increase in Percentage of Rear Setback Coverage | | \$910 |
| Installation or Modification of a Noise Barrier on a Single Residential Lot | | \$910 |
| Modification of Grade for Single-Family Detached Dwelling | | \$910 |
| Modification of Limits to Keeping of Animals | | \$435 |
| Modification of Minimum Setback Requirements | Error in Building Location | \$910 |
| | Certain Existing Structures and Uses | \$910 |
| | Certain Additions to Existing Single-Family Detached Dwelling | \$910 |
| | All Other Uses | \$8,180 |
| SPECIAL EXCEPTIONS [2] | | |
| Standard fees for special exception approvals are listed below. | | |
| General Fee Unless Otherwise Listed | | \$16,375 |
| Principal Uses | | |
| Adult Day Care Center | Fewer Than 100 Adults | \$1,100 |
| | 100 of More Adults | \$11,025 |

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| Adult Day Support Center | Fewer Than 100 Adults | \$1,100 | |
| | 100 of More Adults | \$11,025 | |
| Alternative Use of Historic Building | | \$8,180 [advertised range of \$8,180 - \$16,375] | |
| Bed and Breakfast | | \$8,180 | |
| Child Care Center | Fewer Than 100 Children | \$1,100 | |
| | 100 or More Children | \$11,025 | |
| Club, Service Organization, or Community Center | | \$4,085 | |
| Congregate Living Facility | | \$8,180 [advertised range of \$4,085 - \$16,375] | |
| Farm Winery, Limited Brewery, or Limited Distillery | R-C District: Development of a new use or expansion of an existing use for any agricultural building or structure: | That does not permit access by any member of the public, whether a customer, guest, or attendee at a public or private event or activity | \$1,000 |
| | | With no construction of buildings or structures over 400 SF in GFA or no land disturbance over 2,500 SF | \$4,090 |
| | R-C District: Establishment of a new use or expansion of an existing use with construction of buildings or structures over 400 SF in GFA or land disturbance over 2,500 SF | | \$8,180 |
| | R-A, R-C, R-E, And R-1 District: Modification of the number of attendees, frequency and/or duration of events or activities | | \$4,090 |
| Group Household or Religious Group Living | | \$1,100 | |
| Independent Living Facilities for Low Income Tenants per Subsection 4102.4.P(1)(c) [3] | | \$1,100 | |
| Marina, Private Noncommercial | | \$4,085 | |
| Quasi-Public Park, Playground, or Athletic Field | | \$8,180 [advertised range of \$8,180 - \$16,375] | |
| Religious Assembly | | \$1,100 | |
| | Private School, Specialized Instruction Center, or Child Care | \$1,100 | |

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| Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center | Center with fewer than 100 children | |
| | Private School, Specialized Instruction Center, or Child Care Center with 100 children or more | \$11,025 |
| School, Private | Fewer than 100 students | \$1,100 |
| | 100 of more students | \$11,025 |
| Specialized Instruction Center | Fewer than 100 students | \$1,100 |
| | 100 or more students | \$11,025 |
| Stable, Riding or Boarding | | \$8,180 |
| Other Special Exceptions | | |
| Modification of Shape Factor | | \$8,180 |
| Modification of Grade for Single-Family Detached Dwellings | | \$910 |
| Modification of Minimum Setback Requirements per Sect. 5100.2.D(1)(g) | Certain Existing Structures and Use | \$910 |
| | Reconstruction of Certain Single-Family Detached Dwellings that are Destroyed by Casualty | \$0 |
| Waiver of Minimum Lot Size Requirements | | \$8,180 |
| Addition to or Replacement of a Single-Family Detached Dwelling Existing as of <i>[insert effective date of this Ordinance]</i> in a Floodplain | | \$8,180 [advertised range of \$8,180 - \$16,375] |
| ZONING MAP AMENDMENTS [5] | | |
| District Requested | | |
| Residential District | | \$27,280 plus \$570 per acre |
| Commercial, Industrial, or Overlay District | | \$27,280 plus \$910 per acre |
| PRC District | Rezoning with Concurrent Development Plan | \$27,280 plus \$910 per acre |
| | Rezoning with Concurrent Development Plan and PRC Plan | \$27,280 plus \$1345 per acre |
| | PRC Plan | \$13,640 plus \$435 per acre |
| | PRC Plan with Concurrent DPA, PCA, Special Exception, or Special Permit | \$16,375 plus \$435 per acre |
| PDH, PDC, PRM, PTC and PCC Districts | Rezoning with Concurrent Conceptual Development Plan | \$27,280 plus \$910 per acre |
| | Rezoning with Concurrent Conceptual and Final Development Plans | \$27,280 plus \$1,345 per acre |
| | Final Development Plan after Prior Approval of Rezoning and Conceptual Development Plan | \$13,640 plus \$435 per acre |
| AMENDMENTS TO PENDING APPLICATIONS AND EXTENSIONS OF TIME [4][5] | | |
| Applications for Variances or AP, SP, or SE Approvals | | |
| Extension of Time for a Special Permit or Special Exception Per Subsection 8100.3.D(3) or 8100.4.D(3) | | 1/8 of Application Fee |
| Amendment to a Pending Application for a Variance, Special Permit, or Special Exception | | 1/10 of Application Fee |
| | Change of Permittee Only | \$500 or 1/2 of Application Fee, Whichever is Less |

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| Amendment to a Previously Approved and Currently Valid Special Permit | With No New Construction | 1/2 of New Application Fee |
| | With New Construction | New Application Fee |
| Applications for Zoning Map and Related Plan Approvals | | |
| Amendment to a Pending Amendment to Zoning Map in all Districts | | \$4,545 plus applicable per acre fee for acreage affected by the amendment |
| Pending Application for a Final Development Plan or Development Plan Amendment or PRC Plan | | \$4,130 |
| Amendments to a Previously Approved Proffered Condition and/or Development Plan, Final Development Plan, Conceptual Development Plan, PRC Plan or Concurrent Conceptual/Final Development Plan for: | Increase in Fence or Wall Height on a Single-Family Lot | \$435 |
| | Increase in Fence or Wall Height on All Other Uses | \$2,500 |
| | Reduction of Certain Setback Requirements on a Single-Family Lot | \$910 |
| | Reduction of Certain Yard Requirements on All Other Uses | \$8,180 |
| | Increase in Coverage Limitation for Minimum Required Rear Setbacks | \$910 |
| | The Addition of or Modification to an Independent Living Facility for low Income Tenants | \$1,100 |
| | All Other Uses With New Construction | 1/2 of prevailing fee plus applicable per acre fee for acreage affected by the amendment |
| | All Other Uses Without New Construction | 1/2 of prevailing fee |
| | Deletion of Land Area Only | 1/4 of prevailing fee <i>[advertised range of ¼ to ½]</i> |
| Deferrals of Public Hearings | | |
| Before the Planning Commission or Board of Supervisors | After Public Notice Has Been Given and that are Related Solely to Affidavit Errors | \$260 plus actual costs of advertising, up to a maximum of \$1,000 |

Notes:

- [1] In calculating fees that based on acreage, any portion of an acre will count as a full acre.
- [2] When one application is filed by one applicant for (1) two or more Variances on the same lot, or (2) two or more Special Permit uses on the same lot, or (3) two or more Special Exception uses on the same lot, or (4) a combination of two or more Variances or Special Permits on the same lot, only one filing fee will be required, and that fee will be the highest of the fees required for the individual uses included in the application.
- [3] Applies to a new application or an amendment to a previously approved and currently valid application, with or without new construction.
- [4] The fee for an amendment to a pending application is only applicable when the amendment request results in a substantial revision, as determined by the Zoning Administrator.
- [5] For purposes of computing acreage fees, any portion of an acre is counted as an acre.

8103. Review and Decision-Making Bodies

1. Board of Supervisors

The Fairfax County Board of Supervisors (the “Board”) is the legislative body for the County. It has the powers and duties under this Ordinance and other actions the Board deems desirable and necessary to implement the provisions of this Ordinance and Virginia Law.

2. Planning Commission

A. Purpose

The Fairfax County Planning Commission (“Planning Commission”) will advise the Board on all matters related to the orderly growth and development of Fairfax County. More specifically, the Planning Commission, with the advice and assistance of the County staff, will:

- (1) Review and recommend a Comprehensive Plan for the physical development of the County and review the plan at least once every five years.
- (2) Review and recommend amendments to the Zoning Ordinance.
- (3) Review and recommend amendments to the Subdivision Ordinance.
- (4) Review and recommend amendments to a Capital Improvement Program.
- (5) Review and make recommendations on all amendments to the Zoning Map.
- (6) Review and make recommendations on applications for special exceptions filed with the Board, and when deemed necessary on appeals and applications for special permits filed with the BZA.
- (7) Approve final development plans in accordance with the provisions of subsection 8100.2.E(2).
- (8) Approve or disapprove the general or approximate location, character, and extent of all public facilities in the County, including streets, parks, or other public areas, public buildings, public structures, public utilities, or public service corporations other than railroads, whether publicly or privately owned.

B. Authority and Establishment

The Planning Commission was established in conformance with a resolution adopted by the Board on July 6, 1938 under the provisions of Va. Code Sect. 15.2-2303.

C. Powers and Duties

The Planning Commission has the following powers and duties:

- (1) The election of officers from its own membership.
- (2) The general supervision of, and the making of regulations for, the administration of its affairs.
- (3) The adoption of its own bylaws and procedures, consistent with the ordinances of the County and the general laws of the State.
- (4) The employment or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services within the limits of funds appropriated by the Board.

- (5) The supervision of its fiscal affairs and responsibilities, under rules and regulations as prescribed by the Board.
- (6) The preparation and submittal of an annual budget in the manner prescribed by the Board.
- (7) The conduct of public hearings on specific items.
- (8) The hearing and decision on all matters referred to and upon which it is required to pass by this Ordinance and the Code of Virginia.
- (9) The performance of those activities established in subsection 8103.2.A above.
- (10) The preparation, publication and distribution of reports, ordinances, and other material relating to its activities.
- (11) The preparation and presentation to the Board of an annual report concerning the operation of the Commission and the status of planning within the County.
- (12) The preparation and presentation to the Board of a report, at intervals of not greater than five years, on whether a general revision of this Ordinance should be undertaken. If the Commission should recommend such a revision, it must describe the conditions necessitating such revisions, outlining in general the areas in which the Ordinance can be improved. Further, it must indicate the scope of the revisions that it believes to be necessary.
- (13) The establishment of advisory committees when deemed advisable.

D. Membership

- (1) The Planning Commission will consist of not less than five nor more than 15 members, appointed by the Board, all of whom are residents of the County, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the appointed members must be Fairfax County landowners, and there must be one member from each District.
- (2) Members will be appointed for four years and terms of appointment will be staggered. Members of the Commission may receive compensation as may be approved by the Board.
- (3) Any vacancy in membership must be filled by appointment by the Board. It must be for an unexpired term only.
- (4) Any appointed member may be removed by the Board for malfeasance in office.

E. Officers

- (1) The officers of the Planning Commission consist of a Chairman, a Vice-Chairman, a Secretary, and a Parliamentarian.
- (2) The officers of the Planning Commission must be elected from the members for a one-year term by the Commission at the third meeting of the calendar year. If an appointment to the membership by the Board is pending, the election will be held at the first meeting following the appointment.
- (3) A candidate receiving a majority vote of the entire membership of the Commission will be declared elected. The officer will take office immediately and serve for one year or until a successor takes office.

- (4) Vacancies in office must be filled immediately by regular election procedures.

F. Meetings

- (1) Regular meetings of the Planning Commission are held weekly, or as the work of the Commission may require, at a time and place to be designated by the Commission.
- (2) All regular meetings and adjourned meetings are open to the public except as provided for in the Virginia Freedom of Information Act.
- (3) Special meetings of the Commission may be called by the Chairman or by two members upon written request to the Secretary.
 - (a) The Secretary will cause to be mailed to all members, at least five days in advance of a special meeting, a written notice fixing the time and place and purpose of the meeting.
 - (b) Written notice of a special meeting is not required if the time of the special meeting has been fixed at a previous regular meeting or if all members are present at the special meeting, or if they filed a written waiver of the required notice.
 - (c) Special meetings may be either open to the public or may be closed, but no official action on any matter may be taken by the Commission at any closed meeting.
- (4) All public hearings conducted by the Planning Commission must be in accordance with the provisions of subsection 8100.1.C.
- (5) A majority of the membership of the Commission constitutes a quorum.
- (6) No action of the Commission is valid unless approved by a majority vote of those present and voting.

G. Records

The Planning Commission must keep minutes of all its proceedings, showing information presented, the names and addresses of all witnesses giving testimony, findings of fact by the Commission, and the vote of each member upon each question, or if absent or failing to vote, such fact. These minutes are part of the public record.

3. Board of Zoning Appeals

A. Purpose

Recognizing that many of the provisions of this Ordinance are nonspecific and general, and may require interpretation, the Fairfax County Board of Zoning Appeals (the “BZA”) is established to vary specific terms of the Ordinance in order to achieve the intent of the provisions, but only in a manner that maintains and upholds the spirit of the Ordinance. In addition, the BZA is established to perform those duties as set forth in Va. Code Sect. 15.2-2303 and those duties as set forth in this Ordinance.

B. Authority and Establishment

The BZA was established in accordance with the provisions of Va. Code Sect. 15.2-2303.

C. Powers and Duties

The BZA has the following powers and duties:

- (1) To hear and decide appeals from any order, requirement, decision, interpretation or determination made by the Zoning Administrator or any other administrative officer in the administration or enforcement of this Ordinance.
- (2) To approve upon application in specific cases a variance as defined in Va. Code Sect. 15.2-2201 from the terms of this Ordinance that is not contrary to the public interest, when due to special conditions, a literal enforcement of the provisions will unreasonably restrict the utilization of the property; provided that the purpose of the Ordinance will be observed.
- (3) To hear and decide applications for such special permits as authorized under this Ordinance.
- (4) To hear and decide applications for the interpretation of the Zoning Map where there is uncertainty as to the location of a zoning district boundary. After notice to the owners of the property affected by any such interpretation, and after a public hearing, the BZA will interpret the Map in such a way as to carry out the purpose and intent of this Ordinance for the particular district in question. The BZA does not have the power, however, to rezone property or to change substantially the location of zoning district boundaries as established by this Ordinance.
- (5) To make, alter, and rescind rules and forms for its procedures, consistent with the ordinances of the County and the general laws of the State.
- (6) To prescribe procedures for the conduct of public hearings that it is required to hold.
- (7) To perform those additional activities set forth in this subsection 8103.3.
- (8) To employ or contract for, within the limits of funds appropriated by the Board, legal counsel, consultants, and other technical and clerical services.

D. Membership

- (1) The BZA consists of seven members appointed by the Circuit Court of Fairfax County, Virginia, and the members may receive compensation as may be approved by the Board. All members must be residents of the County.
- (2) The term of the membership must be for five years, except that the original appointment of the first five members must be made so that the term of one member expires each year. The original appointment of the additional two members must be for terms of one member for two years and one member for three years.
- (3) The Clerk of the BZA must notify the Circuit Court and the Board at least 60 days in advance of the expiration of any term of office and must also notify the Court and Board promptly of any vacancy. Appointments to fill such vacancies may only be for the unexpired portion of the term. Members may be reappointed to succeed themselves.
- (4) A member whose term expires will continue to serve until his successor is appointed and qualifies.
- (5) Members of the BZA may not hold any other public office in the County, except that one member may be a member of the Planning Commission.

- (6) Any BZA member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause by the Court which appointed the member, after a hearing is held with at least 15 days prior notice to the member sought to be removed.

E. Officers

At its first meeting in January of each year, the BZA must elect a Chairman and a Vice-Chairman by a majority vote of the entire membership, and must appoint a Clerk, whose compensation will be fixed by the Board.

F. Meetings

- (1) Before the start of each year, the BZA must adopt a meeting schedule by resolution, identifying the time and place of all meetings for the following year.
- (2) Four members of the BZA constitutes a quorum but a lesser number may meet and adjourn.
- (3) Special meetings may be called by the Chairperson so long as at least five days' notice of such hearing is given to each member in writing.
- (4) The BZA may adjourn a regular meeting if all applications or appeals cannot be disposed of that day and no further public notice is necessary for such a meeting. Adjournment is mandatory ten hours after the start of a meeting.
- (5) All public hearings conducted by the BZA must be in accordance with the provisions of subsection 8100.1.C. All hearings are open to the public, and any person may appear and testify at such hearing, either in person or by an authorized agent or attorney.

G. Referral to Planning Commission

- (1) The Clerk of the BZA will transmit to the Planning Commission a copy of every appeal or application made to the BZA and must also notify the Commission of the date of the hearing for such appeal or application.
- (2) If, before the time of the hearing, the Planning Commission submits to the BZA a recommendation that an application for a special permit be denied, that specified conditions be prescribed in connection with a particular special permit, or that specified conditions be prescribed in connection with a particular variance, the BZA may not act contrary to such recommendation except by a majority vote of all the members of the BZA.

H. Records

- (1) The BZA must keep records of all its proceedings, showing evidence presented, findings of fact by the BZA, and the vote of each member upon each question, or if absent or failing to vote, such fact.
- (2) Unless otherwise specifically provided in this Ordinance, every decision of the BZA must be made by resolution setting forth the circumstances of the application and the findings on which the decision is based, and must be adopted by a majority of all of the members present.

I. Periodic Report

The BZA must report to the Board once a year, summarizing all appeals, applications, and decisions made since its previous report. Copies of the report must be filed at the same time with the County Executive, Planning Commission, County Attorney, and Director.

J. Limitations

All provisions of this Ordinance relating to the BZA are strictly construed. The BZA, as a body of limited jurisdiction, must act in full conformity with this Ordinance. Any action taken by the BZA beyond the authority specifically conferred by this Ordinance are deemed to be of no force and effect.

K. Decisions Subject to Judicial Review

All decisions and findings of the BZA that resolve the merits of an appeal or application before the BZA, or that dismiss such a filing with prejudice on a procedural basis, are final decisions, and are, in all instances, subject only to judicial review in the manner provided by Va. Code Sect. 15.2-2303.

4. Architectural Review Board

A. Purpose

The purpose of the Architectural Review Board is to administer the provisions of Section 3101 and to advise and assist the Board in its efforts to preserve and protect historic, cultural, architectural, and archaeological resources in the County.

B. Authority and Establishment

The Fairfax County Architectural Review Board ("ARB") is established in accordance with this section.

C. Powers and Duties

The ARB has the following powers and duties:

- (1) In a Historic Overlay District, to hear and decide applications for building permits and sign permits.
- (2) To review and make recommendations on all applications for rezoning, special exception, special permit, and variance, and any site plan, subdivision plat, grading plan, and sports illumination plan in Historic Overlay Districts.
- (3) To propose, as deemed appropriate, the establishment of additional Historic Overlay Districts and revisions to existing Historic Overlay Districts.
- (4) To assist and advise the Board, the Planning Commission, and other County departments and agencies in matters involving historically, architecturally, culturally, or archaeologically significant sites and buildings such as appropriate land usage, parking facilities, and signs.
- (5) To assist the Zoning Administrator in reviewing of applications for new utility distribution or transmission poles 50-feet or lower in height proposed to be constructed

within the right-of-way of a Virginia Byway, or on property that is both adjacent to a Virginia Byway and listed on the County Inventory of Historic Sites. To assist the Zoning Administrator, the ARB may provide application specific recommendations or formulate general recommended criteria or design guidelines for the installation of such poles in these areas.

- (6) To advise owners of historic buildings or structures on problems of preservation.
- (7) To formulate recommendations concerning the establishment of an appropriate system of markers for Historic Overlay Districts and selected historic sites and buildings, including proposals for the installation and care of such markers.
- (8) To advise the Board of Supervisors in the preservation, restoration, and conservation of historic, cultural, or archaeological buildings, sites, or areas in the County by cooperating with and enlisting assistance from the Fairfax County History Commission, the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties, both public and private.
- (9) To make available to the Fairfax County Library, on request, copies of reports, maps, drawings, and other documents bearing on the historical significance and architectural history of landmarks considered by or brought to the attention of the ARB, and permit copies to be made for permanent keeping in the library's historical collection.
- (10) To employ secretarial assistance and pay salaries, wages, and other incurred necessary expenses, in accordance with appropriations by the Board.

D. Membership

- (1) The ARB is composed of 11 voting members who must be residents of the County. The members appointed by the Board must include:
 - (a) Two licensed architects, at least one of whom must meet the Secretary of the Interior's Professional Qualification Standards for Historic Architecture as published in 36 CFR Part 61.
 - (b) One licensed landscape architect.
 - (c) One lawyer who is an active member in good standing with the Virginia State Bar.
 - (d) One archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology as published in 36 CFR Part 61.
 - (e) One historian who meets the Secretary of the Interior's Professional Qualification Standards for History as published in 36 CFR Part 61 or one architectural historian who meets the Secretary of the Interior's Professional Qualification Standards for Architectural History as published in 36 CFR Part 61.
 - (f) One member must be an ex-officio member from the Fairfax County History Commission, who will be drawn from the ranks of related professional groups or who meets the Secretary of the Interior's Professional Qualification Standards for one of the disciplines cited above in (a), (d), or (e).
 - (g) The other members appointed by the Board will be drawn from the ranks of related professional groups such as historians, architectural historians, architects, landscape architects, archaeologists, engineers, land-use planners, lawyers, and real estate brokers.

- (2) Members other than the member from the History Commission, who is chosen by the History Commission, must be appointed to serve for a term of three years or until their successor has been appointed. Terms will be staggered with three members appointed every year except that four members will be appointed every third year. An appointment to fill a vacancy may only be for the unexpired portion of the term. Members may be reappointed to succeed themselves.
- (3) Members must exempt themselves from voting on any action in which their financial interests or those of their immediate family or employer are directly involved.
- (4) Members must possess a demonstrated interest, competence, and knowledge of historic preservation.

E. Officers

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

F. Meetings

- (1) Meetings of the ARB will be scheduled as needed. Meetings must be held at a time and place to be designated by the Chairperson, and all members will be notified of such at least five days in advance of the meeting.
- (2) A quorum of six members present is required for consideration of any matter, and any action taken requires the affirmative vote of a majority of the voting membership present.

G. Records

The ARB must keep records of all its proceedings and the records will be made available on request for public inspection.

5. Affordable Dwelling Unit Advisory Board

A. Powers and Duties

- (1) The Affordable Dwelling Unit (ADU) Advisory Board advises the County Executive respecting the setting of the amount and terms of all sales and rental prices of affordable dwelling units.
- (2) The ADU Advisory Board is authorized to hear and make final determinations or grant requests for modifications of the requirements of the Affordable Dwelling Unit Program, except that the ADU Advisory Board does not have the authority to:
 - (a) Modify or reduce the Affordable Dwelling Unit Adjuster required in accordance with subsection 5101.4 above;
 - (b) Modify the unit specifications established by the Authority in accordance with 5101.5.E(1) above;
 - (c) Modify the eligibility requirements for participation in the ADU Program;
 - (d) Modify any proffered condition, development condition or special exception condition specifically regarding ADUs;
 - (e) Modify the zoning district regulations applicable to ADU developments;

- (f) Hear appeals or requests for modifications of affordable dwelling unit sales or rental prices;
- (g) Modify the provisions of subsection 5101.4 above regarding the percentage of affordable dwelling units required or to allow the construction of affordable dwelling units which are of a different dwelling unit type from the market rate units on the site; or
- (h) Modify the provisions of subsection 5101.7.B(4) or 5101.7.B(5) above regarding the conversion of rental developments to condominium and the establishment of new condominium developments.

B. Membership

- (1) The ADU Advisory Board consists of nine members appointed by the Board. Members must be qualified as follows:
 - (a) Two members must be either civil engineers or architects, each of whom must be registered or certified with the relevant agency of the State, or planners, all of whom must have extensive experience in practice in Fairfax County.
 - (b) One member must be a representative of a lending institution which finances residential development in Fairfax County.
 - (c) Four members must consist of:
 - 1. A representative from the Fairfax County Department of Housing and Community Development.
 - 2. A residential builder with extensive experience in producing single-family detached and attached dwelling units.
 - 3. A residential builder with extensive experience in producing multifamily dwelling units.
 - 4. A representative from either the Fairfax County Department of Land Development Services or the Department of Planning and Development.
 - (d) One member must be a representative of a nonprofit housing group which provides services in Fairfax County.
 - (e) One member must be a citizen of Fairfax County.
 - (f) At least four members must be employed in the private sector.
- (2) Each member of the ADU Advisory Board are appointed to serve a four-year term. Terms are staggered such that the initially constituted Board consists of four members appointed to four-year terms; three members appointed to three-year terms; and two members appointed to two-year terms.

C. Officers, Rules, Regulations, and Procedures

- (1) The ADU Advisory Board elects its Chairperson and may adopt rules and regulations regarding its formulation of a recommendation regarding the amounts and terms of sales and rental prices of affordable dwelling units and the procedures to be followed by an applicant seeking a modification of the requirements of the Affordable Dwelling Unit Program.

- (2) Any determination by the ADU Advisory Board requires the affirmative vote of a majority of those present. A quorum consists of no less than five members. All determinations and recommendations must be rendered within 90 days of receipt of a complete application.

6. Health Care Advisory Board

A. Purpose

The Health Care Advisory Board was created to be a citizen group to develop expertise in all phases of health care and use that expertise to advise and otherwise assist the Board in the development and implementation of a comprehensive plan of health programs and facilities.

B. Authority and Establishment

The Health Care Advisory Board was established in conformance with a resolution adopted by the Board on July 11, 1973.

C. Powers and Duties

The powers and duties of the Health Care Advisory Board apply only to the extent that they do not contradict specifically outlined duties of the Fairfax-Falls Church Community Services Board, and include, but are not limited to, the following:

- (1) Participation in the periodic review of a comprehensive health plan for the County, to include recommendations for the provision of health care facilities, as well as an evaluation of current health resources and an assessment of future program needs.
- (2) Initiation of an on-going health care information process in coordination with local, regional, state, and federal agencies.
- (3) Annual review of the County Executive's budget priorities for physical health-related County and contributory agencies.
- (4) Review of proposed medical care facilities, continuing care facilities, and adult day care centers in accordance with other provisions of this Ordinance.
- (5) Evaluation of the specifications and methodology of proposed County third party contracts for health service studies and programs.
- (6) Review of materials provided the County by the Inova Health System pertaining to certain provisions of the Fairfax County and Inova Health System Agreement and requiring the review or approval of the Board.
- (7) The undertaking of other appropriate related to the evolving character of health care delivery.

D. Membership

The Health Care Advisory Board must consist of 11 members serving four-year terms with at least two physicians or other health care provider appointed at large by the Chairman of the Board of Supervisors and the other nine members appointed one from each District.

E. Officers

The Health Care Advisory Board will establish rules of procedure as it sees fit and elect such officers as it deems necessary to the fulfillment of its duties.

F. Meetings

The Health Care Advisory Board will hold such meetings as it deems necessary to the fulfillment of its duties.

G. Records

The Health Care Advisory Board is directly responsible to the Board. Records of its actions are maintained by the Health Department.

8104. Nonconformities

This section establishes the regulations for development, redevelopment, and continued existence of uses or structures, lawfully existing on the effective date of this Ordinance or prior ordinances, but that do not conform to the requirements of this Ordinance.

1. Regulations Controlling Nonconformities, Generally

A. General Standards

- (1)** Any nonconforming use, other than those specified in subsection 8104.2 below, or any nonconforming structure may be continued but may not be enlarged, intensified, extended, or structurally altered, except for as may be permitted by the following:
 - (a)** The Board in accordance with Section 8104.4; or
 - (b)** Where the modification provides an accessibility improvement or other reasonable accommodation as determined by the Zoning Administrator.
- (2)** Any nonconforming use may be extended to occupy any part of a building that was lawfully and clearly arranged or designed for the use at the time of the effective date of this Ordinance, but may not be extended to occupy any land or building area greater than was occupied by the use before the effective date of this Ordinance, except as provided in subsection 8104.2 below.
- (3)** The rights that apply to a nonconforming use or building do so without regard to the ownership of the land or building or the nature of the occupancy of the building where such nonconforming use is conducted.
- (4)** Provisions relating to nonconforming uses and buildings apply to all nonconforming uses and buildings existing on the effective date of this Ordinance and to all uses and buildings that become nonconforming by reason of any amendment to this Ordinance. The provisions do not apply to any use established or building erected in violation of the law, regardless of when the use was established or building erected.

B. Repair and Maintenance of Nonconforming Use or Structure

Nothing in this section prevents keeping in good repair a nonconforming building or a building in which a nonconforming use is conducted. However, a nonconforming building may not be

restored, repaired, or rebuilt once it has been declared by any authorized County official to be so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely or has occurred.

C. Removing or Relocating a Nonconforming Use or Structure

- (1)** If a building in which a nonconforming use is conducted is moved or relocated for any reason, then any future use of such building must conform with this Ordinance for the zoning district in which the subject building is located.
- (2)** If a building in which a nonconforming use is conducted is removed or demolished, the subsequent use of land or of any building subsequently located on that land must conform with this Ordinance for the zoning district where the land is located.

D. Destroyed or Damaged Nonconformities

- (1)** In accordance with Va. Code Sect. 15.2-2307, a nonconforming building that is destroyed or damaged by natural disaster may be repaired, rebuilt, or replaced to its original nonconformity or to a reduced nonconforming condition within two years of the date of the natural disaster. However, if the nonconforming building is located in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the building may be restored to its original nonconforming condition or to a reduced nonconforming condition within four years of such disaster. A natural disaster includes a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, or fire caused by lightning or wildfire. Owners of property damaged by a fire have the same rights to rebuild such property as if it were damaged by a natural disaster, except if the owner commits arson.
- (2)** A nonconforming building that is destroyed or damaged by any casualty other than a natural disaster as defined above or a building in which a nonconforming use is conducted that is destroyed or damaged by any casualty to an extent not exceeding 50 percent of its current assessed value according to the records of the Department of Tax Administration, exclusive of foundations, may be restored within two years after such destruction or damage but may not be enlarged except as provided in subsection 8104.2 below. If any such building is destroyed or damaged to an extent exceeding 50 percent of its value, it may not be reconstructed except:
 - (a)** To contain a conforming use;
 - (b)** If the building is used for agricultural purposes and the floors and foundation walls are of concrete or other masonry;
 - (c)** If the nonconforming location is necessary to meet any requirement or regulation of the Health Department; or
 - (d)** If the nonconforming building is a single-family detached dwelling, it may be reconstructed within two years from the date of destruction or damage to occupy all or a portion of the same space that it occupied before such destruction or damage.

E. Nonconformities Created by Zoning Ordinance Amendment #89-185

- (1)** If a building or use was made nonconforming solely based on the condition that:
 - (a)** The building is nonconforming based on floor area ratio; or
 - (b)** The use is an office in a C-5, C-6, C-7, or C-8 District and fails to comply with the use standards for office uses in subsection 4102.5.M; then,
- (2)** The building or use may be reconstructed provided that the construction commences and is diligently pursued within four years after the destruction or damage. This period may be extended by the Zoning Administrator if the Zoning Administrator determines that the owner has made a good faith attempt to commence construction within four years after the destruction or damage. The building height and floor area ratio of the reconstructed use may not exceed that which existed at the time of destruction or damage.
- (3)** The reconstruction as described in subsection (2) above applies to the following:
 - (a)** A building or use in the C-5, C-6, C-7, or C-8 District that was a conforming use immediately before December 12, 1989, the effective date of Zoning Ordinance Amendment #89-185; or
 - (b)** A building or use that was constructed in accordance with an approved special exception special permit, building permit, or site plan grandfathered from Zoning Ordinance Amendment #89-185.

F. Abandoned or Terminated Nonconforming Uses

- (1)** If any nonconforming use ceases for any reason for a continuous period of two years or more, except for provisions of subsection 8104.1.D(2) above, or is changed to or replaced by a conforming use, the land and building devoted to such nonconforming use is subject to the regulations for the zoning district in which such land and building are located.
- (2)** A use that is accessory to a principal nonconforming use may not continue after such principal use ceases.

2. Continuation and Expansion of Specific Nonconforming Uses or Structures

- A.** The following nonconforming uses or structures may be continued, and after approval of a special exception from the Board in accordance with subsection 8100.3, the use may be enlarged subject to the conditions set forth in subsections B through D below:
 - (1)** Single-family detached dwelling in a C or I district or an R district where such a dwelling is not permitted by this Ordinance.
 - (2)** A commercial use, allowed as a permitted, special exception, or special permit use in a C district of one class under the provisions of this Ordinance, but located in a C district of another class where such use is not allowed.
- B.** Enlargement(s) in accordance with subsection A above may not exceed:
 - (1)** A cumulative total of 25 percent of the land area occupied by such nonconforming use or structure;

- (2) A cumulative total of 25 percent of the gross floor area of the building in which such nonconforming use is conducted; and
 - (3) The maximum floor area ratio for the zoning district in which located.
- C. Structural alterations may be made in a building containing a nonconforming use set forth in subsection A above, but the value of those alterations may not exceed a total of 50 percent of the building's current assessed value according to the records of the Department of Tax Administration.
 - D. A single-family detached dwelling that is remodeled or enlarged in accordance with the provisions of this subsection, may not be used to accommodate a greater number of dwelling or lodging units than was accommodated before the remodeling or enlargement.
 - E. Any modification to an existing nonconforming building or use to provide an accessibility improvement or other reasonable accommodation is permitted and does not require approval of a special exception.

3. Exceptions to Nonconforming Status

A. Generally

A structure or use is considered noncompliant rather than nonconforming if it was a conforming structure or use before the effective date of this Ordinance and would otherwise meet the provisions of this Ordinance, but does not meet the minimum district size, lot size, setback, shape factor, or building height requirements of the zoning district in which located. Additionally, if the minimum parking requirements are not met but were met at the time of development, it is considered noncompliant rather than nonconforming. A noncompliant structure or use may be continued. A noncompliant structure or use may be enlarged if the enlargement complies with the regulations of the current zoning district except for the lot size or shape factor requirements and if the enlargement meets the minimum parking requirements in Article 6.

B. Reconstruction of Damaged Single-Family Detached Dwellings

If a noncompliant single-family detached dwelling in accordance with subsection 3A is destroyed or damaged by any casualty that is not intentionally caused by the owner or owner's agents, it may be reconstructed if:

- (1) The dwelling is reconstructed in accordance with a building permit that is approved within two years after the damage or destruction;
- (2) No additional stories are allowed for any portion of the reconstructed dwelling that did not previously comply with the minimum setback requirements of the district in which the dwelling was located at the time of the casualty; and
- (3) A dwelling reconstructed under this section may not result in any setback that is less than the required setback in existence immediately before the casualty or that complies with the current minimum required setbacks, whichever is applicable. The Board may approve a special exception in accordance with subsection 5100.2.D(5)(d) to allow an extension into the minimum required setback for single-family detached dwellings that are destroyed by casualty.

C. Special Exception and Special Permit Uses

(1) Generally

- (a) Any use or structure existing before the effective date of this Ordinance and currently allowed within a zoning district as a special exception or a special permit use by this Ordinance, is a noncompliant use or structure in that district and may continue. However, except as qualified below, any subsequent replacement or enlargement of the use or of any structure in which the use is conducted or construction of any additional structure for the use beyond the extent which existed before the effective date of this Ordinance, requires special exception or special permit approval in accordance with this Ordinance.
- (b) If the noncompliant use or activity ceases for any reason for a continuous period of two years or more, special exception or special permit approval would be required to re-establish the use.

(2) Minor Modifications for Noncompliant Religious Assembly Uses

Minor modifications, including the expansion of an existing building or the addition of a new building or accessory structure, may be permitted without the requirement for approval of a special permit or special exception in subsection (1) above for a religious assembly use or a religious assembly with private school, specialized instruction center, or child care center when:

- (a) The Zoning Administrator determines that the modifications do not:
 - 1. Permit an increase in the number of seats, parking spaces, or students, if applicable, by more than ten percent of the existing amount;
 - 2. Reduce the effectiveness of existing transitional screening, buffering, landscaping, or open space;
 - 3. Permit changes to bulk, mass, orientation, or location of the buildings or uses in a way that would adversely impact adjacent property;
 - 4. Exceed a total of 500 square feet of gross floor area, or five percent of the existing gross floor area up to a maximum of 2,500 square feet of gross floor area; or
 - 5. Exceed the maximum permitted FAR for the zoning district.
- (b) A request for approval of a minor modification in accordance with this subsection (2) requires written notice by the requester in accordance with the following:
 - 1. The notice must include the letter of request with all attachments as submitted to the Zoning Administrator, a statement that the request has been submitted, and where to call for additional information; and
 - 2. The notice must be sent to the last known address of the owners, as shown in the real estate assessment records of the Department of Tax Administration, of all property abutting and across the street from the site, or portion of the site subject to the request, and must be delivered by hand or sent by certified mail, return receipt requested.
- (c) The request submitted to the Zoning Administrator must include:
 - 1. An affidavit from the requester affirming that the required notice has been provided in accordance with subsection (b) above;

2. The date that the notice was delivered or sent;
 3. The names and addresses of all persons notified; and
 4. The Tax Map references for all parcels notified.
- (d) The Zoning Administrator will not consider a request unless the affidavit has been provided in accordance with subsection (c) above.
- (e) When the Zoning Administrator determines that a modification is not allowed under the above provisions, the modification can then only be obtained by submission and approval of a special exception or special permit application.
- (f) Modifications to an existing structure or use to provide an accessibility improvement or other reasonable accommodation are permitted and do not require approval of a special exception or special permit.

D. Noncompliance Resulting from Government Acquisition

If a governmental acquisition of land for a public purpose results in a structure or land no longer complying with the Zoning Ordinance, that structure or use is considered noncompliant and can remain. Any enlargement or replacement of the use, however, must meet the current Zoning Ordinance provisions.

4. Modifications to a Nonconformity

- A.** The Board may approve a special exception to allow a structural alteration to any nonconforming building or to a building in which a nonconforming use is conducted subject to the following:
- (1) It is determined that the alteration is necessary as a result of a condemnation or other acquisition by any government agency for a public improvement.
 - (2) It is determined that the allowance of such alteration provides more of a public benefit than not allowing the alteration, even if the use may not be in harmony with the Comprehensive Plan or the standards of subsection 4102.1.F.
 - (3) A plan must be submitted depicting the proposed alteration and the overall impact or effect of the alteration to the structure. The alteration may not result in an increase in building square footage, an increase in the area of the building occupied by the nonconforming use, or in the relocation of the building on the site.
 - (4) The special exception may permit the existing nonconformity and any additional nonconformity that may be created by the public improvement to continue as nonconformities.
- B.** Upon approving a special exception, the Board may impose such conditions as deemed necessary to address any impacts of the nonconformity or proposed modification.

8105. Condominiums, and Condominium and Cooperative Conversions

1. Authority

- A.** As long as the declarant has the right to create additional units or to complete the common elements and is not the owner of the land, the declarant has the authority to execute, file, and process any site plan, parking tabulations, application for special exception, special permit, variance, or rezoning, including a development plan, conceptual development plan, final development plan, generalized development plan, or proffered conditions, with respect to the common elements or a plan or application affecting more than one unit. However, if such plan or application creates an affirmative obligation on the unit owners' association, then the consent of such association is required.
- B.** Once the declarant no longer has the authority referenced in subsection A above, in accordance with Va. Code subsection B of Sec. 55-79.80, and if the unit owners' association is not the owner of the land, the executive organ of the unit owners' association if one exists, and if not, then a representative appointed by the unit owners' association, has the authority to execute, file, and process any site plan, parking tabulation, special exception, special permit, variance, or rezoning, including a development plan, conceptual development plan, final development plan, generalized development plan or proffered condition, with respect to the common elements or a plan or application affecting more than one unit. However, if such plan or application creates an affirmative obligation on the declarant, then the consent of the declarant is required. Such plan or application may not adversely affect the rights of the declarant to develop additional land.
- C.** A site plan, special exception, special permit, variance, or proffered condition amendment affecting only one unit may be filed by the unit owner.
- D.** For purposes of obtaining Building, Residential or Non-Residential Use Permits, and sign permits, the unit owner, including the declarant if the declarant is the unit owner, must apply for permits for the unit, and the unit owners' association must apply for permits for the common elements, except that the declarant must apply for permits for convertible land. For the purposes of this Section, condominium, declarant, common elements, unit, unit owners' association, and convertible land are defined in the Va. Code, Title 55, Chapter 4.2, The Condominium Act.

2. Condominium or Cooperative Standards

- A.** In addition to the specific minimum lot size and setback requirements specified for a given zoning district, a single-family detached or attached dwelling condominium development may be permitted under the Va. Code, Title 55, Chapter 4.2, The Condominium Act, subject to the following provisions:
 - (1)** Single-family detached dwelling developments are subject to the following requirements:
 - (a)** The minimum lot size and setback requirements of the zoning district in which located must be met as if lot lines existed; and
 - (b)** All dwelling units are subject to the same requirement to have access to a dedicated public street as single-family dwelling units located on lots that result

from a subdivision of land, except as provided for by the provisions of Section 5107 and Chapter 101 of the County Code, The Subdivision Ordinance.

- (2) In a single-family attached or stacked townhouse dwelling development, the minimum lot size and setback requirements of the zoning district in which located must be met as if lot lines existed.
 - (3) The location of any community structure, such as a clubhouse or swimming pool, is governed by the setback requirements for all other structures in the zoning district in which located.
 - (4) Accessory structures are permitted as determined by the Zoning Administrator.
 - (5) Such developments must comply with the maximum density and other provisions of the zoning district in which it is located.
- B.** Any existing structures and its related lot may be converted to a condominium or cooperative, provided the development conforms to the applicable Zoning Ordinance provisions, to include, if applicable, an approved site plan. Proposed condominium and cooperative conversions that are nonconforming are subject to the approval of a special exception in accordance with the provisions of subsection 8100.3.

8106. Enforcement, Violations, and Penalties

1. Types of Violations

The following are violations of this Ordinance, unlawful, and subject to enforcement and penalties as expressed in this Ordinance and the County Code:

- A.** Any building erected or improvements constructed contrary to any of the provisions of this Ordinance;
- B.** Any use of any building or land which is conducted, operated, or maintained contrary to any of the provisions of this Ordinance or contrary to any detailed statement or plan approved under the provisions of this Ordinance; and
- C.** When a building permit is required, demolishing, razing, or moving a building or structure located in a Historic Overlay District without the prior approval of the Architectural Review Board or the Board of Supervisors.

2. Enforcement

A. Enforcement of Ordinance

- (1) Unless otherwise specifically qualified, this Ordinance will be enforced by the Zoning Administrator in accordance with Section 1108.
- (2) No officer, board, agency, or employee of the County may issue, grant, or approve any permit, license, certificate, or other authorization for the construction of any building or for any use of any land or building that would not be in full compliance with this Ordinance. Any permit, license, certificate, or other authorization issued, granted, or approved in violation of this Ordinance is deemed null and void and of no effect without the necessity of any proceedings for revocation or nullification, and any work undertaken or use established pursuant to any permit, license, certificate, or

authorization is deemed unlawful. No action may be taken by any officer, board, agency, or employee of the County, purporting to validate any such violation.

B. Applicability

Any person, whether owner, lessee, principal, agent, employee, tenant, occupant, or otherwise, who violates any of the provisions of this Ordinance, permits any such violation, fails to comply with any of the requirements of this Ordinance, or who erects any building or uses any building or land in violation of the provisions of this Ordinance is subject to these enforcement provisions.

C. Enforcement Procedures

(1) Issuing Notice

Upon becoming aware of any violation of any provisions of this Ordinance, the Zoning Administrator may serve a notice of violation on the person committing or permitting the violation. This notice will require the violation to cease within a specified time. The notice of violation may also include a warning that any previously issued use permit will be revoked upon expiration of the appeal period, unless an appeal has been filed or the violation has ceased.

(2) Failure to Comply with Notice

After such notice is sent, if the violation has not been abated within the specified timeframe, the Zoning Administrator may proceed to remedy the violation as provided in subsection 8106.3, unless an appeal has been timely filed. Except as provided in subsection 8100.10.A(3), if a permit revocation is timely appealed, it does not take effect until the appeal has been withdrawn by the appellant or decided by the BZA.

(3) Right to Appeal

Any written notice of a zoning violation or a written order of the Zoning Administrator must include a statement informing the recipient of a right to appeal the notice of a zoning violation or written order within 30 days in accordance with Va. Code Sect. 15.2-2311 and Sec. 8100.10, except that a written notice of violation or a written order of the Zoning Administrator involving the violations set forth in subsection 8100.10.A(2)(b) must include a statement informing the recipient that the recipient has a right to appeal the notice of violation or written order within ten days. The decision, determination, or order specified in the notice of violation or written order and the permit revocation, if applicable, will be final and unappealable if not appealed within the specified timeframes set forth in the notice or written order. The appeal period does not commence until such statement is given and the Zoning Administrator's written order is sent by registered or certified mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There will be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission.

D. Other Enforcement Remedies

The Zoning Administrator or designated agent may seek the issuance of an inspection warrant, initiate an injunction, mandamus, or any other appropriate action to prevent, enjoin, abate, or remove such structure or use in violation of any provision of this Ordinance. Nothing in this Ordinance may be construed to authorize an unconstitutional inspection or search. All searches or inspections authorized by this Ordinance require a warrant, court order, consent, or another exception to the warrant requirement.

3. Penalties

A. Infractions and Civil Penalties

- (1) A violation of this Ordinance, except for the posting of signs on public property or public rights-of-way, is deemed an infraction and is punishable by a civil penalty of \$200 for the first violation. Subsequent violations arising from the same set of operative facts are punishable by a civil penalty of \$500 for each separate offense.
- (2) Each day during which any violation of the provisions in (1) above is found to have existed constitutes a separate offense. However, in no event will any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor will a series of such violations arising from the same set of operative facts result in civil penalties that exceed a total of \$5,000.
- (3) The designation of a violation of this Ordinance as an infraction in accordance with (1) above is in lieu of criminal sanctions, and such designation precludes the prosecution of a violation as a criminal misdemeanor unless such violation results in injury to any person or persons or the civil penalties under (1) above total \$5,000 or more for such violation. If the civil penalties for a violation under (1) above total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
- (4) After having served a notice of violation on any person committing or permitting a violation of the Ordinance provisions under (1) above and if such violation has not ceased within the timeframe specified in such notice, then, upon the approval of the County Attorney, the Zoning Administrator will cause a summons to be served upon such person.
- (5) Such summons must contain the following information:
 - (a) The name and address of the person charged.
 - (b) The nature of the infraction and the Ordinance provision(s) being violated.
 - (c) The location, date, and time that the infraction occurred or was observed.
 - (d) The amount of the civil penalty assessed for the infraction.
 - (e) The manner, location, and time in which the civil penalty may be paid to the County.
 - (f) The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.
- (6) The summons must provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the Department of Finance at least 72 hours before the time and date fixed for trial and, by such appearance, may waive of trial, admit liability, and pay the civil penalty established

for the offense charged. Such summons must provide that a signature to an admission of liability has the same force and effect as a judgment of court, however, an admission is not deemed a criminal conviction for any purpose.

- (7) If a person charged with a violation does not elect to waive trial and admit liability, the violation must be tried in the General District Court in the same manner and with the same right of appeal as provided by law. A finding of liability is not deemed a criminal conviction for any purpose.
- (8) The remedies provided for in this section are cumulative and not exclusive and are in addition to any other remedies provided by law.

B. Civil Penalty for Demolishing, Razing, or Moving Buildings in Historic Overlay Districts

- (1) When a building permit is required, demolishing, razing, or moving a building or structure located in a Historic Overlay District without the prior approval of the Architectural Review Board or the Board of Supervisors as provided in subsection 3101.6.C is punishable by a civil penalty.
- (2) Such civil penalty may not exceed the market value of the property as determined by the assessed value of the property at the time of destruction or removal of the building or structure, and must include the value of any structure and the value of the real property upon which any such structure was located.
- (3) Enforcement under this section requires bringing an action in the name of the County in Circuit Court by the County Attorney, upon request of the Zoning Administrator, and such action must be brought against the party or parties deemed responsible for such violation. It is the burden of the County to show liability of the violator by a preponderance of the evidence.
- (4) The remedies provided for in this section are not exclusive and are in addition to any other remedies provided by law.

C. Affordable Dwelling Unit Program Violations

In addition to the provisions set forth in this Section 8106, the following apply whenever any person, whether owner, lessee, principal, agent, employee or otherwise, violates any provision of Section 5101, or permits any such violation, or fails to comply with any of the requirements of Section 5101:

- (1) Owners of affordable dwelling units who fail to submit executed affidavits or certifications as required by this section will be fined 50 dollars per day per unit until such affidavit or certificate is filed, but only after written notice and a reasonable time to comply is provided. Fines levied in accordance with this subsection will become liens upon the real property and will accumulate interest at the judgment rate of interest.
- (2) Renters of affordable dwelling units who fail to submit executed affidavits or certifications as required by this Part, are subject to lease termination and eviction procedures as provided in subsection 5101.8.D.
- (3) Owners and renters of affordable dwelling units who falsely swear or who execute an affidavit or certification required by this section knowing the statements contained in

that affidavit or certification to be false are guilty of a misdemeanor and will be fined \$1,000.00.

- (a) Fines levied against owners under this subsection 5101.8.D(3) will become liens upon the real property and will accumulate interest at the judgment rate of interest.
 - (b) Renters of affordable dwelling units who falsely swear or who execute an affidavit or certification required by this section knowing the statements contained in that affidavit or certification to be false are also subject to lease termination and eviction procedures as provided in subsection 5101.8.D.
- (4) Owners of individual affordable dwelling units who falsely swear that they continue to occupy their affordable dwelling unit as their domicile are subject to mandamus or other suit, action or proceeding to require such owner to either sell the unit to someone who meets the eligibility requirements established under this section or to occupy such affordable dwelling unit as a domicile.

D. Criminal Violations and Penalties

- (1) Except as otherwise provided by law, any violation of this Ordinance is deemed a misdemeanor and, upon conviction of such violation, is punishable by a fine of not more than \$1,000.
- (2) Failure to remove or abate a zoning violation within the timeframe established by the Court constitutes a separate misdemeanor offense punishable by a fine of not more than \$1,000; any such failure during a succeeding ten-day period constitutes a separate misdemeanor offense punishable by a fine of not more than \$1,500; and any such failure during any succeeding ten-day period constitutes a separate misdemeanor offense for each ten-day period punishable by a fine of not more than \$2,000.
- (3) The remedy provided for in this section is in addition to any other remedies provided by law; however, the designation of a particular violation of this Ordinance as an infraction in accordance with subsection A(1) above will preclude criminal prosecution or sanctions, except for any infraction also resulting in injury to any person or persons or civil penalties that total \$5,000 or more.

Article 9 - Definitions and Ordinance Interpretation

9100. Interpretations

Words and terms used in this Ordinance are to be interpreted as follows:

1. Words used in the present tense include the future tense; words in the singular include the plural; and words in the plural include the singular, unless the obvious construction indicates otherwise.
2. The words 'must' and 'shall' are mandatory.
3. Unless otherwise specified, all distances must be measured horizontally and at right angles to the line in relation to which the distance is specified.
4. Unless otherwise specified, the term 'day' means a calendar day.
5. The word 'building' includes the word 'structure,' and the word 'structure' includes the word 'building'; the word 'lot' includes the word 'plot'; the word 'used' also includes 'designed,' 'intended,' or 'arranged to be used.'
6. The word 'structure' also includes 'or parts thereof.'
7. The terms 'land use' and 'use of land' include the terms 'building use' and 'use of building.'
8. The word 'adjacent' means nearby and not necessarily contiguous; the words 'contiguous,' 'abut,' and 'abutting' mean touching and sharing a common point or line.
9. The word 'State' means the Commonwealth of Virginia. The word 'County' means the County of Fairfax, Virginia; and the term 'County boundary' means any exterior boundary of the County and any boundary of unincorporated territory within the County.
10. The terms 'Board of Supervisors,' 'Planning Commission,' 'Board of Zoning Appeals,' 'County Executive,' 'Director of Land Development Services,' 'Zoning Administrator,' 'Health Officer,' and other similar offices or officials includes their duly authorized agents.
11. The term 'R district' means any residential district and where appropriate, the residential areas in a P district; the term 'C district' means any commercial district; the term 'I district' means any industrial district; and the term 'P district' means any planned development district.
12. The term 'rezoning' means an amendment to the Zoning Map and any related amendment.
13. The terms 'architect,' 'engineer,' 'landscape architect,' and 'land surveyor' refer to those professionals who are registered with the Virginia Department of Professional and Occupational Regulation to practice those professions.

9101. List of Abbreviations

Abbreviations used in this Ordinance are listed below with the term they abbreviate.

1. ac – acre
2. ARB – Architectural Review Board

3. Board – Board of Supervisors
4. BZA – Board of Zoning Appeals
5. Director – Director of Land Development Services or duly authorized agent
6. du – dwelling unit
7. FAR – Floor Area Ratio
8. max – maximum
9. min – minimum
10. n/a – not applicable
11. PC – Planning Commission
12. Sect. – Section
13. sf – square feet
14. County Code – the Code the County of Fairfax, Virginia 1976
15. Va. Code – the Code of Virginia
16. USBC – Uniform Statewide Building Code
17. WMATA – Washington Metropolitan Area Transit Authority
18. ZA – Zoning Administrator

9102. General Terms

Accessibility Improvement

The provision of ramps and other facilities or equipment, such as elevator shafts and bathroom fixtures, or accessible parking spaces, related access aisles and accessible routes for persons with disabilities in accordance with the design specifications set forth in the USBC and the Public Facilities Manual whether such improvement is mandated by Federal or State law or is provided voluntarily.

Affordable Dwelling Unit

An affordable dwelling unit is a rental or for-sale dwelling unit for which the rental or sales price is controlled in accordance with the provisions of this Ordinance.

Alley

A narrow strip of land intended for vehicular traffic that has a minimum width of 20 feet and is designed to give access to the side or rear of properties with principal frontage on another street.

Architect

A professional who is registered with the State Department of Professional and Occupational Registration as an architect.

Basement

A portion of a building partly underground but having less than one-half ($\frac{1}{2}$) its clear height below the grade plane. For purposes of administering the floodplain regulations contained in Section 5105, a basement is defined in Section 9104.

Building

Any structure used or intended for supporting or sheltering any use or occupancy.

Building Group

A group of two or more main buildings and any accessory uses that have any yard in common and occupy a lot in one ownership.

Building, Principal

A building in which the primary use of the lot is conducted.

Bulk Regulations

Regulations controlling the size of structures and the relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include provisions controlling (a) maximum building height, (b) maximum floor area ratio, and (c) setback requirements .

Carport

Any space outside and attached to a building, wholly or partly covered by a roof, used to shelter parked motor vehicles. An existing carport as of *[insert effective date of this Ordinance]* that extends into the minimum side setback may not have any enclosure that is more than 18 inches in height, other than the minimum required supports for its roof, and the side of the building to which the carport is attached.

Cellar

The portion of a building partly underground, having at least one-half (½) of its clear height below the grade plane. For purposes of administering the floodplain regulations contained in Section 5105, a basement will include cellar as defined in subsection 5105.7.

Center Line

A line lying midway between the side lines of a street or alley right-of-way.

Commercial Vehicle

A vehicles which bears or displays indicators that the vehicle is designed or used for commercial purposes, including but not limited to box trucks, step vans, or vehicles specifically designed to carry tools or specialized equipment, regardless of capacity, or which is licensed as a 'for hire' vehicle. For the purpose of this Ordinance, commercial vehicles do not include: (1) vehicles operated by a public agency except those vehicles set forth in; (2) farm vehicles or equipment located on property used for agricultural purposes; (3) motor homes, camping trailers, boats, boat trailers, horse trailers, or similar recreational equipment recognized as personal property and not for hire; (4) vehicles actively providing delivery, repair, or moving services; (5) public or private vehicles used exclusively for the transportation of persons to and from a school, religious assembly, or related activities; (6) and vehicles primarily used for the non-commercial transport of passengers which may display Virginia Department of Motor Vehicles issued transportation network company identifications or other small emblems and do not include any other commercial indicators.

Comprehensive Plan

The official document adopted by the Board intended to guide the physical development of the County or portions of it. This plan, including maps, plats, charts, policy statements, or descriptive material, must be adopted in accordance with Va. Code Sect. 15.2-2226.

Condominium

Ownership of any real property that includes fee simple title to a residence or place of business and undivided ownership, in common with other purchasers, of the common elements in one of more structures, including the land and its appurtenances.

Condominium Conversion

A subdivision of one or more existing buildings and its related lots to a condominium in accordance with Va. Code Title 55.1, Chapter 19, Virginia Condominium Act.

Construction Permit

A permit that allows construction of physical improvements as shown on an approved plan.

Contributing Property

A property located within a Historic Overlay District that adds to or supports the historic, architectural, or archaeological significance of the district as determined through the establishment of a Historic Overlay District.

Cooperative

An association that holds real estate so that each of its members is entitled to exclusive possession of a unit by virtue of their ownership interest in the association.

Curb line

The face of a curb along private streets, travelways, service drives, and parking bays and lots.

Deck

Any balcony, terrace, porch, portico, or similar projection from an outer wall of a building, other than a carport. A deck includes any associated stairs. An open deck is any deck that is unroofed, and a roofed deck is any deck that is either completely or partially roofed, even by open beams or lattice work, except as allowed by subsection 5100.2.D(5)(c). An at-grade patio or paved area is not a deck.

Density

The number of dwelling units per acre, except in the PRC District where it means both the number of dwelling units per acre and the number of persons per acre.

Developer

The legal or beneficial owner or owners of the land proposed to be included in a development, or the authorized agent of the land. In addition, the holder of an option or contract to purchase, a lessee having a remaining term of not less than 30 years, or other persons having an enforceable proprietary interest in that land is a developer for the purpose of this Ordinance.

Development Plan

A required submission for a rezoning that generally characterizes the planned development of the subject lot. A development plan must be prepared and approved in accordance with the provisions of Article 8. The specific types of development plans are defined below.

Development Plan, Conceptual

A required submission at the time of filing for an amendment to the Zoning Map for a P district other than the PRC District that generally characterizes the planned development of the subject lot. A conceptual development plan must be prepared and approved in accordance with the provisions of subsection 8100.2.E(1).

Development Plan, Final

A required submission following the approval of a conceptual development plan and rezoning application for a P district other than a PRC District that generally characterizes the planned development of the subject lot. A final development plan must be prepared and approved in accordance with the provisions of subsection 8100.2.E(2). For the purpose of this Ordinance, a final development plan is not to be construed as a site plan as required by subsection 8100.7.

Development Plan, Generalized

A required submission at the time of filing for an amendment to the Zoning Map for all districts other than a P district that generally characterizes the planned development of the subject lot. A generalized development plan must be prepared and approved in accordance with subsection 8100.7.

Development Plan, PRC

A required submission for a PRC District that generally characterizes the planned development of the subject lot. A PRC development plan must be prepared and approved in accordance with the provisions of subsection 8100.2.F(2).

Driveway

That space or area of a lot that is specifically designated and reserved for the movement of motor vehicles within the lot or from the lot to a public street.

Dwelling or Dwelling Unit

A residential building or portion of a building that is arranged, designed, used, or intended for residential occupancy with provisions for living, sleeping, eating, cooking, and sanitation. These terms do not include a unit in a continuing care facility, a hotel or motel, residence hall, hospital, or other accommodation used for more or less transient occupancy, except a dwelling may be used for short-term lodging.

Easement

A grant by a property owner of the use of their land by another party for a specific purpose.

Eligible Lender

An institutional lender holding a first priority purchase money deed of trust on a rental project or on an individual for sale affordable dwelling unit or a refinancing of such institutionally financed purchase money deed of trust by an institutional lender, provided that such refinancing does not exceed the outstanding principal balance of the existing purchase money first trust indebtedness on the unit at the time of refinancing.

Engineer

A professional who is registered with the State Department of Professional and Occupational Registration as a professional engineer.

Existing Vegetation Map

A depiction of the location of the existing vegetation cover types, as defined in the Public Facilities Manual, with statements regarding amount of acreage, existing tree species, successional stage, health and condition, and a list of prominent non-native invasive species present in any cover type.

Fence

A freestanding structure of metal, masonry, wood, composite material, or any combination of these materials resting on or partially buried in the ground, rising above ground level, and used for confinement, screening, or partition purposes.

Floodplain

See “floodplain” in Section 9104.

Floor Area, Gross

The sum of the total horizontal areas of each floor of all buildings on a lot, measured from the interior faces of exterior walls. Gross floor area includes:

1. Basements;
2. Elevator shafts and stairwells on each floor;
3. Floor space used for mechanical equipment with structural headroom of six feet, six inches or more;
4. Penthouses, except as qualified below;
5. Attic space providing structural headroom of six feet, six inches or more, whether or not a floor has actually been laid;
6. Interior balconies; and
7. Mezzanines.

Gross floor area does not include:

1. Cellars;
2. Outside balconies that do not exceed a projection of six feet beyond the exterior walls of the building;
3. Above or below grade parking structures;
4. Rooftop mechanical equipment;
5. Penthouses enclosing only mechanical equipment;
6. Enclosed or structural walkways designed and used exclusively for pedestrian access between buildings or parking structures; and
7. Floor space created incidental to the replacement of an existing building façade.

Floor Area, Net

The sum of the total horizontal areas of each floor of all buildings on a lot, measured from the interior faces of exterior walls and from the center line of walls separating two or more buildings. The term 'net floor area' will include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products. Net floor area does not include areas designed for permanent uses such as toilets, utility closets, malls (whether or not they are enclosed), truck tunnels, enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where the headroom in 50 percent of that area is less than six feet, six inches. For purposes of determining off-street parking requirements, the term 'net floor area' includes cellars used exclusively for storage.

Floor Area Ratio

Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Footcandle

A measure of light falling on a surface. One footcandle equals the amount of light generated by one candle shining on one square foot surface located one foot away. Footcandle measurements must be made with a photometric light meter.

Glare

The sensation produced by a bright light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss in visual performance. Disability glare is the effect of stray light in the eye where visibility and visual performance are reduced.

Grade

A reference plane representing the average ground level. For the purposes of this Ordinance, grade for the following structures is determined as follows:

1. For a single-family detached dwelling, grade is the average ground level adjoining a building at all exterior walls. The building height measurements for the dwelling and any additions to the dwelling must use the lower average ground level of either the pre-existing or finished grade elevation that exists or is proposed at the time the building permit is issued for the dwelling.
2. For any other principal structures, grade is the average finished ground level adjoining a building at all exterior walls.
3. For an accessory structure, grade is the lowest point of finished ground level adjacent to the structure.
4. Finished grades that are established by a retaining wall must extend:
 - a) Ten feet from the principal structure in order to include the higher grade elevation toward the average grade calculation; and
 - b) Five feet from an accessory structure in order to be considered the adjacent finished ground level.

Grades established by a retaining wall that extend less than ten feet from a principal structure and less than five feet from an accessory structure are measured at the base of the retaining wall. For the purpose of determining the height of a fence or wall, the higher grade elevation established by a retaining wall is considered the finished ground level.

For the purpose of administering the floodplain regulations, grade is determined based on the basement definition contained Section 9104.

Ground Truthing

The excavation of a small hole to determine the nature of the material detected through remote sensing and to determine whether it is a cultural resource.

Height, Building

The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs measured from the curb level if the building is not more than ten feet from the front lot line, or from the grade in all other cases.

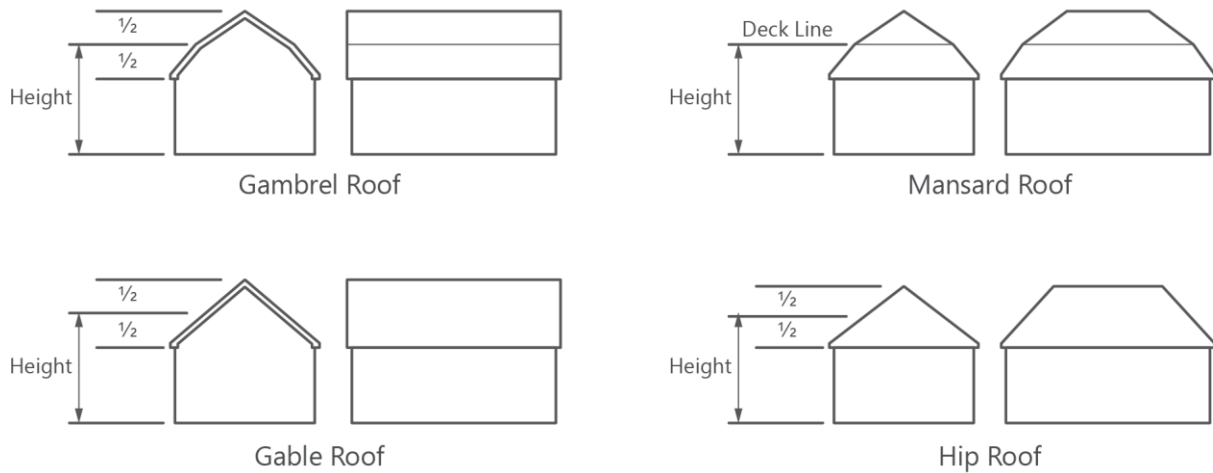


Figure 9102.1: Height Measurement by Roof Type

Historic Property

A property that has been determined through the establishment of a Historic Overlay District to be key or pivotal to the historic, architectural, or archaeological significance of a Historic Overlay District. For the purpose of applying the floodplain regulations contained in Section 5105, an 'Historic Property' must be based on the 'Historic Structure' definition contained in subsection 5105.7.

Infraction

Any violation of this Ordinance that has been declared an infraction under subsection 8106.3.A(1). For the purpose of this Ordinance, an infraction is a civil offense. An admission or finding of guilt is not a criminal conviction and does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

Interpretation of Approved Zoning Applications

A determination made by the Zoning Administrator or agent that a proposed minor modification to a zoning application approved by the Board, the Planning Commission, or the BZA is in substantial conformance with the approved zoning. This determination is typically made in the form of a letter and may include interpretations of proffers, development conditions, development plans, and plats.

Kinship Care

The raising of children by one or more grandparents or other extended family members, which need not include legal guardianship.

Land Disturbance Permit

A permit that allows land disturbing activity in accordance with Chapter 104 of the Code.

Landscape Architect

A professional who is registered with the State Department of Professional and Occupational Registration as a certified landscape architect.

Landscaping

The improvement of a lot with grass, shrubs, trees, other vegetation, and ornamental features.

Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statues, trellises, and other similar natural and artificial features.

Light Pole

A freestanding vertical support used for the purpose of elevating a light source.

Lighting Fixture

A complete lighting unit consisting of the lamp, lens, optical reflector, housing, and any electrical components necessary for ignition and control of the lamp, which may include a ballast, starter, and photo control. A **full cut-off** lighting fixture emits no light output at or above a horizontal plane drawn through the bottom of the lighting fixture. A **directionally shielded** lighting fixture contain visors, louvers, and other types of shields or lenses designed to direct light onto a targeted area and to minimize stray light.

Loading Space

Off-street space for the loading or unloading of goods designed in accordance with the provisions of Section 6101.

Lot

A parcel of land that is designated at the time of application for a special permit, a special exception, building permit, residential use permit, or non-residential use permit, as a tract all of which is to be used, developed, or built on as a unit under one ownership. A parcel of land will be deemed to be a lot, regardless of whether its boundaries coincide with the boundaries of lots or parcels shown on any map of record.

Lot Area

The total horizontal area included within the lot lines of a lot.

Lot, Corner

A lot at the junction of and abutting on two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees. However, when one of the intersecting streets is an interstate highway, the resultant lot is deemed not to be a corner lot.

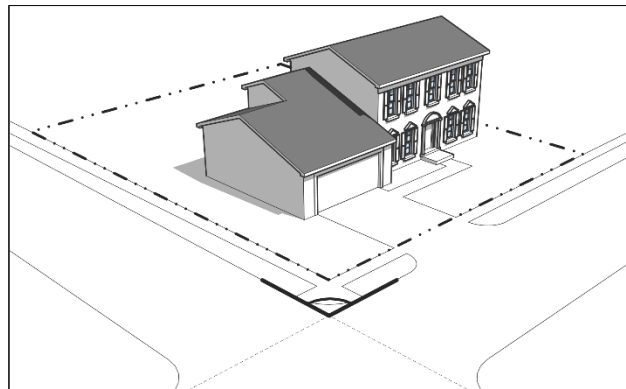


Figure 9102.2: Interior Angle of Intersection

Lot Coverage

Determined by dividing that area of a lot that is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

Lot, Interior

Any lot, including a through lot, other than a corner lot.

Lot Line

Any boundary line of a lot. Where applicable, a lot line will coincide with a street line.

Lot Line, Front

A street line that forms the boundary of a lot; or, in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line that faces the principal entrance of the main building. Each lot has only one front lot line. (See Figure 9102.3) On a corner lot, the shorter street line is the front lot line, regardless of the location of the principal entrance or approach to the main building. (See Figure 9102.3)

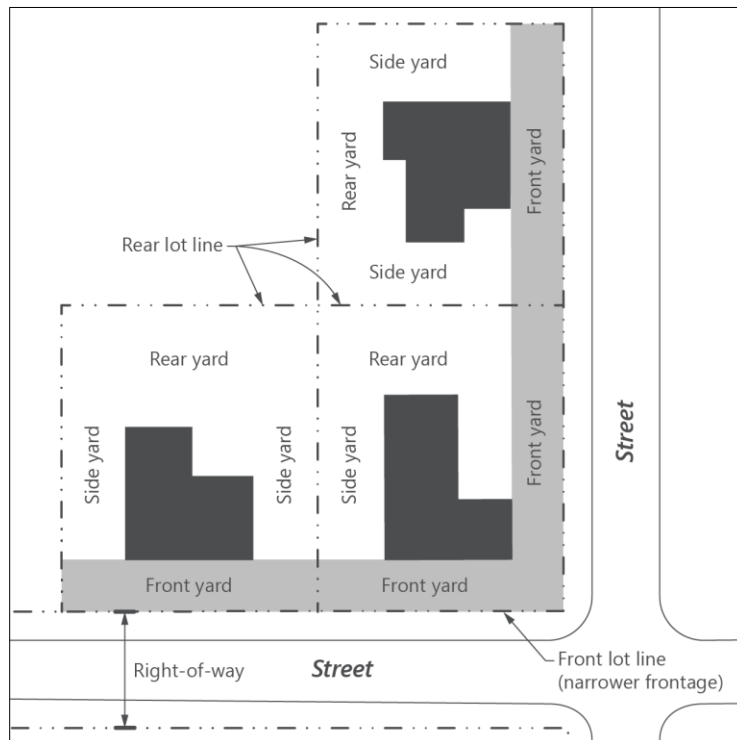


Figure 9102.3: Lot Lines and Yards

Lot Line, Rear

That lot line that is most distant from, and is most nearly parallel with, the front lot line. Each lot has only one rear lot line. If a rear lot line is less than ten feet in length, or if the lot comes to a point at the rear, the rear lot line is a ten foot line parallel to the front lot line, lying wholly within the lot for the purpose of establishing the required minimum rear setback. (See Figure 9102.3)

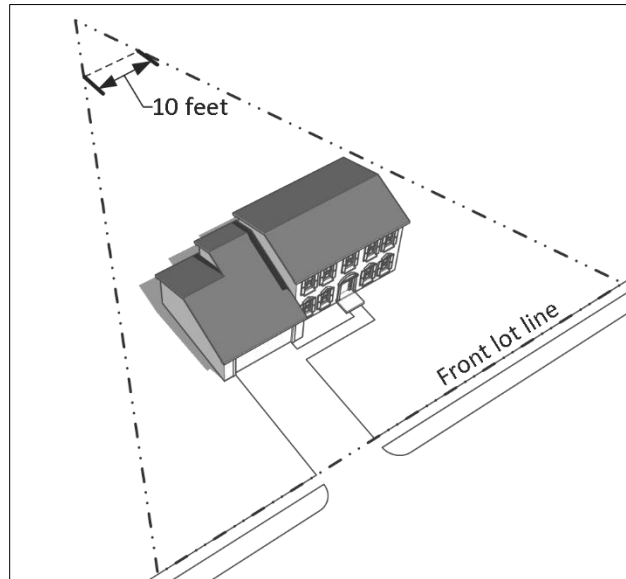


Figure 9102.4: Lot that Comes to a Point

Lot Line, Side

All lot lines that are neither a front lot line nor a rear lot line. (See Figure 9102.3)

Lot, Outlot

Any lot, except as provided for under subsection 5100.2.J, that does not comply with (1) the current minimum lot width, lot area, or shape factor requirements of the district in which located, or (2) the frontage provisions of Chapter 101 of the County Code (Subdivision Ordinance).

Lot, Pipestem

A lot approved in accordance with subsection 5100.2.L that does not abut a public street other than by its driveway that affords access to the lot.

Lot, Reverse Frontage

A residential through or corner lot designed so the front lot line faces a local street rather than facing a parallel major thoroughfare.

Lot Size Requirements

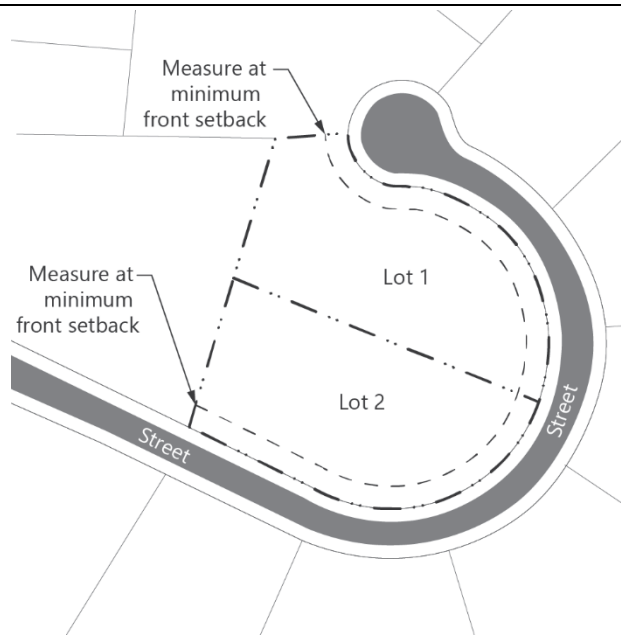
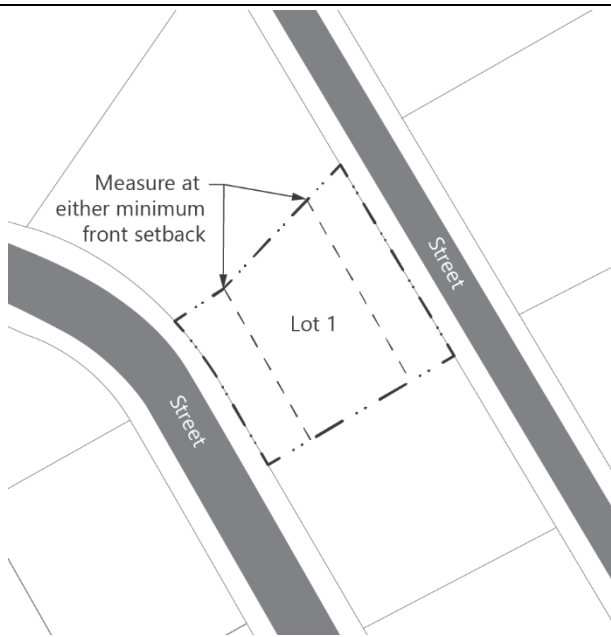
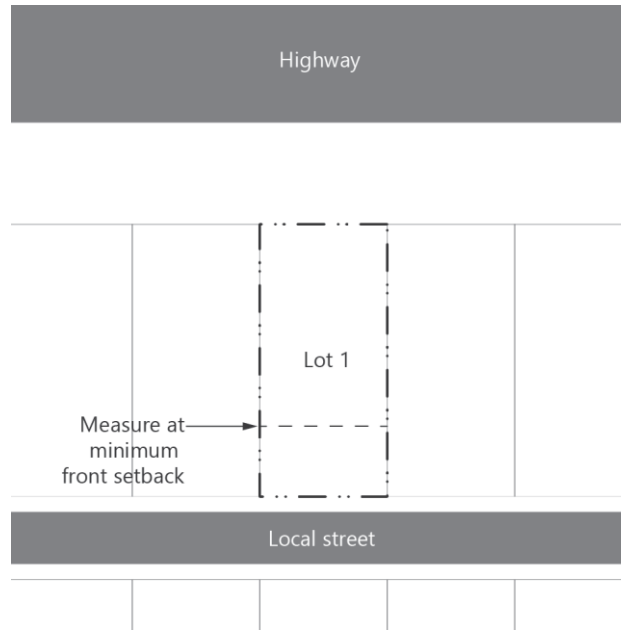
Restrictions on the dimensions of a lot, to include a specified zoning district size, lot area, and lot width, all established to limit the minimum size and dimension of a lot in a given zoning district.

Lot, Through

An interior lot, but not a corner lot, abutting on two or more public streets, but not including an alley. A through lot is subject to the regulations of an interior lot.

Lot Width

The length of a line parallel to the front street line and lying within the lot at a distance from the street line equal to the required minimum front setback on the lot. In the case of a lot that has an area in excess of five acres, the width may be measured at any point where the minimum lot width is at least 200 feet if the point is also where the front setback is established by the location of the principal structure. On reverse frontage lots, lot width is measured in the yard facing the local street. On through lots, lot width may be measured from any street line.



Lumen

A quantitative unit measuring the amount of light emitted from a light source. When a light fixture contains two or more light bulbs, the lumen output measurement represents the cumulative total of all light emitted from the fixture.

Maintained Lighting Level

A level of illumination that results when the initial output of a lamp is reduced by certain light loss factors. Light loss factors typically include lamp depreciation and dirt accumulation on lenses and other lighting fixture components. For the purposes of this Ordinance, the maintained lighting level represents

an average footcandle value measured over a specified area and is determined by multiplying the initial raw lamp output specified by the manufacturer by a light loss factor of not less than 0.72 for high intensity discharge (HID) lamps or 0.85 for light emitting diode (LED).

Manufactured Home Park

A parcel of land designed for use by one or more manufactured homes that provides the infrastructure and utilities necessary for single-family occupancy of those homes. This term does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purposes of inspection and sale.

Manufactured Home Lot

A space within a manufactured home park designated for the placement of one manufactured home.

Modular Dwelling Unit

A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location on a permanent foundation. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements incorporated into a structure at the site. For the purpose of this Ordinance, a modular unit is deemed a single-family dwelling and is not deemed a manufactured home.

Natural Resources

Any material naturally occurring beneath the surface of the land which may be removed for the purpose of sale. Natural resources include but are not be limited to soapstone, granite, sandstone, asbestos, oil, copper, gold, iron, sand, and gravel.

Noncompliant

A noncompliant structure or use is a structure or use that lawfully existed on the effective date of this Ordinance or prior ordinances, that does not conform with the regulations of the zoning district in which it is located in terms of lot size, setback, shape factor, building height, or parking. For the purposes of the nonconformities provisions in Section 8104, a noncompliant structure or use is not considered nonconforming.

Nonconforming Building or Use

A building or use, lawfully existing on the effective date of this Ordinance or prior ordinances, that does not conform with the regulations of the zoning district in which it is located, except as may be qualified by Section 8104 of this Ordinance.

One Ownership

Possession of land under single or unified control, whether by sole, joint, common, or other ownership, or by a lessee having a term of not less than 30 years.

On-Site

That area which is within the boundary of a lot.

Open Space

The area of a lot intended to provide light and air, and is designed for natural or recreational purposes. Open space must, in general, be available and accessible by the residents or occupants of the development. Open space may include features such as lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, undisturbed natural areas, community gardens, wooded areas, water bodies, and those areas where landscaping and screening are

required by the provisions of Section 5108. Open space does not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small as to have no substantial value for the purposes stated in this definition. Within a residential subdivision, open space is composed of only those areas not contained in individually owned lots. Open space includes landscaped open space, common open space, dedicated open space, and usable open space, all as defined in this Ordinance.

Open Space, Common

Open space that is designed and set aside for use and enjoyment by residents of a development. Common open space includes open space not dedicated as public lands that remains in the ownership of a homeowners association or of a condominium in accordance with Section 5106.

Open Space, Dedicated

Open space that is to be dedicated or conveyed to the County or an appropriate public agency, board, or body for public use as open space.

Open Space, Landscaped

Open space that is designed to enhance the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include lawns, decorative plantings, flower beds, sidewalks/walkways, ornamental features such as fountains, statues, and other similar natural or artificial features, wooded areas, and water courses. Landscaped open space may be either common open space or dedicated open space as defined in this Ordinance.

Open Space, Usable

Open space that is designed for recreation. Examples include athletic fields and courts, swimming pools, golf courses, playgrounds, and boating docks. This may also include natural areas with walking/hiking, bicycle, and bridle trails.

Outstanding First Trust Debt

Outstanding indebtedness on an affordable dwelling unit owed to the Eligible Lender including principal, interest, and fees that together in the aggregate do not exceed the amount of the owner's purchase price, and other reasonable and customary costs and expenses. See subsection 5101.8.C(8)(b)9.

Owner

Any person who has legal title to the land real property, or the lessee of the real property having a remaining term of not less than 30 years.

Parking Lot

An area not within a building where motor vehicles may be stored for temporary, daily, or overnight off-street parking. For the purpose of Section 6100, a parking lot consists of the entire surface of the parking lot, vehicular access to the parking lot, loading spaces, drive-through spaces, and the exposed surfaces of parking decks. The term parking lot includes vehicle display lots, vehicle storage lots, and commercial parking lots.

Parking, Off-Street

Any space, whether or not required by the provisions of this Ordinance, specifically allotted to the parking of motor vehicles as an accessory use. The space may not be in a dedicated right-of-way, a travel lane, a service drive, or any easement for public ingress or egress.

Patio

An at-grade paved outdoor area without any walls or roof that is accessory to a principal use or structure.

Person

A public or private individual, group, company, firm, corporation, partnership, association, society, joint stock company, or any other combination of individuals.

Person with a Disability

An individual who has a mental, physical, or developmental impairment that substantially limits one or more of the person’s major life activities. This term includes a person who is handicapped, as defined in the Fair Housing Amendments Act of 1988, as amended.

Phase I Archaeological Survey

An archaeological investigation conducted by a qualified archaeological consultant to (1) locate and identify archaeological sites in a survey area; (2) estimate site size and boundaries of the archaeological site; (3) provide an explanation as to how the estimate was made; and (4) make recommendations for additional archaeological work or a recommendation that no further work is required. The archaeological consultant must meet the Professional Qualification Standards established by the Secretary of the Interior.

Photometric Diagram

A diagram depicting the location of all light poles and building mounted lighting fixtures in a specified area and a numerical grid of the maintained lighting levels that the fixtures will produce in that specified area.

Pipestem Driveway

A driveway or means of access to a lot or several lots that do not abut a street other than by the pipestem driveway that is a part of the lot(s).

Planned Development

Any lot under one ownership intended to be developed as a single entity and classified as a Planned (P) district.

PRC Plan

A required submission, following the approval of a development plan for a PRC District, 8100.2.F(3) that further details the planned development of the subject lot. A PRC Plan must be prepared and approved in accordance with the requirements of subsection 8100.2.F(3). For the purpose of this Ordinance, a PRC plan is not to be construed as a site plan as required by the provisions of subsection 8100.2.F(4).

Principal Use

The main use of land or structures as distinguished from a secondary, accessory, or temporary use.

Pro Rata Share

The payment by a subdivider or developer for their share of the cost of providing reasonable and necessary drainage facilities located outside the property limits of their land, when the facilities are necessitated or required, at least in part, by the construction or improvement of the subdivision or development.

Public Facility

Any use, facility, or other feature that is subject to Planning Commission review under Va. Code Sect. 15.2-2232.

Recreational Vehicle or Travel Trailer

A vehicle that is built on a chassis and designed to be self-propelled or permanently towable, for use as temporary living quarters for travel, camping, recreational, or vacation use. This term does not include a manufactured home or any unit that requires a special permit for long, wide, or heavy loads to be moved on public highways.

Remote Sensing

A group of techniques that permit the detection of underground phenomena unobserved by the human eye. Remote sensing employs devices that can obtain readings from materials buried beneath the ground. Examples of remote sensing devices include proton magnetometers, electronic resistivity meters, ground-penetrating radar, metal detectors and other radar based testing equipment. When remote sensing gives a positive reading that something is present beneath the soil, ground truthing is conducted.

Resource Management Area (RMA)

As established in accordance with Chapter 118 of the County Code, that component of the Chesapeake Bay Preservation Area comprised of lands that have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area if improperly used or developed.

Resource Protection Area (RPA):

As established in accordance with Chapter 118 of the County Code, that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction, or assimilation of sediments, nutrients, and potentially harmful or toxic substances from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.

Right to Cure

A right to cure any delinquency or default provided by an Eligible Lender with respect to an individual for sale affordable dwelling unit in accordance with subsection 5101.8.C(8)(b)7.

Right to Acquire

A right to acquire an individual for sale affordable dwelling unit, subject to foreclosure notice, provided by an Eligible Lender with respect to an individual for sale affordable dwelling unit in accordance with subsection 5101.8.C(8)(b)7.

Setback

The minimum distance a building or structure must be separated from the lot lines and public streets. Setbacks are specified as front, side, and rear, and are located within the corresponding yards.

Shape Factor

A shape factor is designed to prevent the creation of irregularly shaped lots by providing a measurement to evaluate the compactness and degree of regularity of the shape of a lot. Shape factor (SF) is the non-dimensional ratio of the lot perimeter (P) squared, divided by the lot area (A), where P and A are derived

from the same unit of measurement. Typically, the measurement will be provided in feet. The mathematical formula to determine the shape factor of a lot is $SF = (P^2/A)$.

Shopping Center

Any group of two or more commercial uses which (1) are designed as a single commercial group, whether or not located on the same lot; (2) are under common ownership or are subject to reciprocal parking and ingress and egress agreements or easements; (3) are connected by party walls, partitions, canopies or other structural members to form one continuous structure, or if located in separate buildings, are interconnected by common parking areas, travel lanes, walkways or accessways designed to facilitate customer interchange between the uses on-site; (4) share common points of vehicular access; and (e) otherwise present the appearance of one continuous commercial area. For the purpose of this Ordinance, a grouping of predominantly office uses which meet these characteristics are not be deemed to be a shopping center.

Shovel Testing

Small test excavations, referred to as shovel test pits, measuring approximately 18 inches in width and excavated to soil levels that have not been disturbed by human activity. Shovel test pits are systematically excavated on a grid system across a site to determine the presence or absence of archaeological resources and are dug according to natural strata.

Shrub

A woody plant that usually remains low and produces shoots or trunks from the base. It is usually tree-like or single-stemmed.

Sign

Any device or structure, or part of such device or structure that is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images, that is visible from any public or private street. For nonresidential developments, this definition is not intended to include private streets or other privately maintained access ways that do not directly connect to a public street.

A-Frame Sign

A minor freestanding sign constructed to form a two-faced sign with supports that are connected at the top and separated at the base, forming an "A" shape.

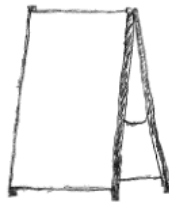


Figure 9102.5: A-Frame Sign

Building-Mounted Sign

Any sign attached to and supported by a building, awning, canopy, marquee, or similar architectural feature, or permanently attached, etched, or painted onto a window or door. For purposes of Article 7, temporary window signs are not considered building-mounted signs.



Figure 9102.6: Building-Mounted Sign

Changeable Copy Sign

A sign designed to accommodate manual changes in messages.

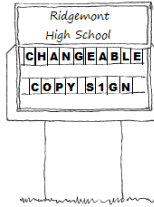


Figure 9102.7: Changeable Copy Sign

Electronic Display Sign

Any sign that contains light emitting diodes (LEDs), fiber optics, light bulbs, plasma display screens, or other illumination methods, that are electronically controlled and that contain a fixed or changeable copy or a change to the intensity of light or colors displayed.

Flag

A single piece of cloth or similar material shaped like a pennant, rectangle, or square, attachable by one straight edge to a pole or attached at the top of a pole and draped. For purposes of this Ordinance, a minor sign is not a flag.

Freestanding Sign

Any sign other than a building-mounted sign, that is permanently supported by a fence, retaining wall, entrance feature, or by upright structural members or braces on or in the ground, such as a pole, pylon, or monument style structure.



Figure 9102.8: Freestanding Sign

Frontage

A use is deemed to have frontage on a street if the use is clearly visible from the street and is located on a lot that is contiguous to and has a lot width of 50 feet at the public street right-of-way. The use is deemed to have frontage even if there is no direct access between the

use and the street, or the principal entrance(s) to the building(s) associated with the use does not face the street.

Minor Sign

Any sign that is designed to be easily moved, typically not permanently attached to a structure or the ground and is not illuminated. Such signs include, but are not limited to, A-frame signs, banners, posters, window signs, yard signs, or other moveable signs. For purposes of Article 7, flags and vehicle signs are not considered minor signs.

Monument Sign

A freestanding sign, typically no more than eight feet in height, that is supported primarily by an internal structural framework or that is integrated into landscaping or solid structural features other than support poles.

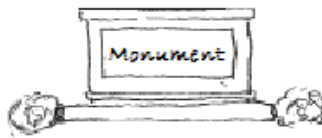


Figure 9102.9: Monument Sign

Moving or Windblown Sign

Any sign of which all or any part is in motion by natural or artificial means (including fluttering, rotating, undulating, swinging, oscillating) or by movement of the atmosphere. For purposes of Article 7, a flag is not a moving or windblown sign.

Off-Premise Sign

A sign that directs attention to a product, service, attraction, event, or the like that is being offered at a location other than the premises on which the sign is located.

Roof Sign

Any sign or portion of a sign affixed to a building that extends above the lowest point of the roof level of the building, including signs painted onto a roof structure, or that is located on a chimney or other similar rooftop. For purposes of Article 7, a roof sign does not include a sign attached to the penthouse of a building.

Sign Face

The part of a sign that is or can be used for visual representation or communication, including any background or surrounding material, panel, trim or ornamentation, color, and illumination that differentiates the sign from the building, structure, backdrop surface, or object upon or against which the sign is placed. The term does not include any portion of the sign's support structure if no representation or message is placed or displayed on, or designed as part of, the support structure.

Tenant

An individual, entity, partnership, or corporation renting, leasing, or owning nonresidential space.

Vehicle Sign

Any sign that is painted, mounted, adhered, magnetically attached, or otherwise permanently affixed to or incorporated into a vehicle or trailer, except for any signs not exceeding a total of eight square feet for the entire vehicle or trailer and bumper stickers.



Figure 9102.10: Vehicle Sign

Window Sign

A minor sign that is attached to the glass area of a window or placed behind the glass of a window and is easily read from outside the building.

Yard Sign

A minor sign associated with a residential use, that is attached to a structure or placed upon or supported by the ground independently of any other structure.

Significant Archaeological Resources

Cultural resources that may be eligible for listing in the National Register of Historic Places or considered to have public significance as defined by the County's Heritage Resource Management Plan.

Site Plan

A required submission contains detailed engineering drawings of the proposed uses and improvements required in the development of a given lot and is prepared and approved in accordance with Article 8 which. In this Ordinance, where the term site plan is used, it also includes the term minor site plan, except where it is used in subsections 8100.7 and 8101.4, or where otherwise specifically noted. A site plan is not a development plan as required by this Ordinance. Parking tabulations and redesignations are considered types of site plan applications.

Soil

The surface, or surface covering of the land, not including the minerals beneath it or the vegetation upon it.

Solid Waste

Any material defined as 'solid waste' in Chapter 109.1 of the County Code (Solid Waste Management).

State-Regulated Impounding Structure (Dam)

A man-made structure, whether a dam across a watercourse or structure outside a watercourse, used or to be used to retain or store waters or other materials that is subject to the requirements of the Virginia Dam Safety Act (§ 10.1-604 et seq.) and the Virginia Dam Safety Regulations (4 VAC 50-20).

State-Regulated Impoundment

A body of water or other materials retained or stored by a state-regulated impounding structure.

Story

That part of a building between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, than that part of the building between the level of the

highest finished floor and the top of the roof beams. A basement is a story only if the ceiling is more than six feet above the level from which the height of the building is measured or if it is used for business purposes other than storage or for dwelling purposes.

Street

A strip of land intended primarily for vehicular traffic and providing the principal means of access to property, including but not limited to road, lane, drive, avenue, highway, boulevard, or any other thoroughfare.

Street, Collector

A street that provides for principal internal movements at moderate operating speeds within residential developments, neighborhoods, and Commercial or Industrial Districts. It also provides the primary means of circulation between adjacent neighborhoods and can serve as a local bus route. A collector street functions to distribute trips from arterials to local and other collector streets. Conversely, it collects traffic from local streets and channels it into the arterial system. The collector street provides for the dual purpose of land access and local traffic movement. In line with its dual function, there must be continuity in the pattern of these streets.

Street, Local

A street which primarily provides direct access to residential, commercial, industrial, or other abutting property. The local street system includes all facilities not classified as a principal arterial, minor arterial, or collector street. A local street offers the lowest level of mobility and usually does not serve a bus route. Overall operating speeds are low in order to permit frequent stops or turning movements to be made with maximum safety. Service to through traffic movement is deliberately discouraged.

Street, Major Thoroughfare

A public street including a minor arterial, principal arterial, or primary highway, all as defined, or those roads, or portions of them, as set forth in the Roadway System Functional Classification in the Comprehensive Plan's Policy Plan.

Street, Minor Arterial

The minor arterial street interconnects and augments the principal arterial street system and provides service to trips of moderate length at a somewhat lower level of travel mobility than a principal arterial. Such a street also serves intra-urban trips between smaller geographic areas than those associated with the higher system and may carry local bus routes providing intra-community continuity. It may also function as a principal arterial street when sufficient capacity is not provided on the principal arterial system. Ideally, a minor arterial street does not penetrate identifiable neighborhoods, and the facility is designed with a greater emphasis on traffic movement or services than on providing access to abutting land. Either a minor arterial or a principal arterial may be referred to as an arterial street.

Street, Primary Highway

Any street classified as a Primary Highway by the Virginia Department of Transportation and bears a route number less than 600. Primary highways do not include interstate highways.

Street, Principal Arterial

A street that carries the major portion of the trips entering and leaving an urban area, as well as the majority of through movements to bypass a central city. Significant intra-area travel and important intra-urban and intercity bus services are served by this class of street. Because of the nature of travel served by a principal arterial street, almost all fully and partially controlled access streets are a part of this functional class, including freeways and expressways. On a principal arterial street, the concept of

service to the abutting land is subordinate to the provision of travel service to major traffic movements. Either a minor arterial or a principal arterial may be referred to as an arterial street.

Street, Private

A local or collector street that is guaranteed to be maintained by a private corporation and is not a component of the State primary or secondary system. A private street is subject to the provisions of Section 5107.

Street, Public

A platted street that is dedicated as a component of the State system for the use of the general public and is graded and paved in order that every person has the right to pass and to use it at all times, for all purposes of travel, transportation, or parking to which it is adapted and devoted.

Street, Secondary Highway

Any street classified as a Secondary Highway by the Virginia Department of Transportation and bears a route number of 600 or greater.

Street, Service Drive

A public street that is parallel and contiguous to a major thoroughfare and is designed primarily to promote safety by providing free access to adjoining property and limited access to major thoroughfares. All points of ingress and egress are subject to approval by the appropriate County authorities and the Virginia Department of Transportation.

Street, Travel Lane

A right-of-way, commonly but not always located on the front of a lot, that provides access from one lot to another and serves the same function as a service drive, although not necessarily a public street.

Street Line

The dividing line between a street and a lot; same as a right-of-way line of a public street, or the curb line of a parking bay, travel lane or private street (See Figure 9102.3).

Structural Alteration

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

Structure

That which is built or constructed. For purposes of applying the floodplain regulations in Section 5105, a structure is based on the definition contained in Section 9104.

Subdivider

Any person who subdivides land in accordance with Chapter 101 of the County Code, The Subdivision Ordinance.

Subdivision

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

Subdivision, Cluster

An alternate means of subdividing a lot in the R-C, R-E, R-1, R-2, R-3, and R-4 Districts based on the concept of reducing lot size requirements in order to provide common open space within the development, in accordance with the provisions of subsection 5100.2.O.

Subdivision, Conventional

The subdivision of a lot in the R-E, R-1, R-2, R-3, and R-4 Districts in accordance with the lot size requirements and bulk regulations specified in the district regulations.

Substantial Conformance

Substantial conformance is as determined by the Zoning Administrator upon consideration of the record and means that conformance that leaves a reasonable margin for minor modification provided that the modification is:

1. Consistent with and does not materially alter the character of the approved development including the uses, layout and relationship to adjacent properties depicted on the approved special permit plat, special exception plat, conceptual development plan, final development plan, development plan, or proffered generalized development plan;
2. Consistent with any proffered or imposed conditions that govern development of the site; and,
3. In accordance with the requirements of this Ordinance.

The County Code

The Code of Ordinances of Fairfax County, Virginia.

Tiny House

A small structure constructed on a frame and capable of being transported on its own wheels. For the purposes of this Ordinance, if a tiny house includes a permanent foundation and is intended for continuous occupancy, it is considered a single-family detached dwelling and must meet the USBC. Otherwise, a tiny house is considered to be a recreational vehicle or travel trailer.

Transient Occupancy

Use of a dwelling or manufactured home, or part thereof, for sleeping or lodging purposes for fewer than 30 consecutive nights.

Transmission Pipeline

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

Tree

Any self-supporting woody plant that visually produces one main trunk, and a distinct and elevated head with many branches that typically reach at least 15 feet in maturity.

Tree Conservation

Tree preservation and tree planting efforts as required by Chapter 122 of the County Code and the Public Facilities Manual.

Use

Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in or on a structure or on a tract of land.

Vibration

A reciprocating movement transmitted through the earth, both in horizontal and vertical planes. The following terms are defined as they relate to the provisions of Section 5102:

Acceleration

The rate of change of particle velocity.

Amplitude

The maximum displacement of the earth from the normal rest position. Amplitude is usually reported as inches or millimeters.

Displacement

The amount of motion involved in earthborn vibration. It is referred to the normal rest position of the earth and is, therefore, one-half of the total excursion for a steady state vibration. Displacement is usually reported in inches or decimal fractions of an inch.

Frequency

The number of times that a displacement completely repeats itself in one second of time. Frequency is designated in hertz (Hz).

Impact

An earthborn vibration generally produced by two or more objects striking each other causing separate and distinct pulses.

Particle Velocity

A characteristic of vibration that depends on both displacement and frequency. If not directly measured, it can be computed by multiplying the frequency by the amplitude times the factor of 6.28. The particle velocity will be reported in inches per second, when the frequency is expressed in cycles per second and the amplitude in inches.

Seismograph

An instrument that measures vibration characteristics simultaneously in three mutually perpendicular planes. The seismograph may measure amplitude and frequency, particle velocity, or acceleration.

Steady State

A vibration that is continuous, as from a fan, compressor, or motor.

Yard

Any open space on a lot lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in that open space by this Ordinance.

Yard, Front

A yard extending across the full width of a lot and lying between the front lot line and the principal building. (See Figure 9102.3)

Yard, Privacy

A small area contiguous to a building.

Yard, Rear

The yard extending across the full width of the lot and lying between the rear lot line and the principal building group. On a corner lot, the rear yard will be on the opposite side of the building from the front lot line (which is the shorter street line), and extends from the front yard line on the one side to the opposite side lot line. (See Figure 9102.3)

Yard, Side

The yard between the side lot line of the lot and the principal building and extending from the front yard to the rear yard, or, in the absence of either a front or rear yard, to the front or rear lot lines. (See Figure 9102.3)

Zoning Compliance Letter

A letter by the Zoning Administrator or agent that provides the applicable zoning of a lot, to include: (1) any approved proffered conditions, development conditions, or other zoning approvals; (2) whether any existing development on a lot is in accordance with the Zoning Ordinance; and (3) whether there are any pending zoning applications or zoning violations on a lot. For the purpose of this Ordinance, a request for a determination under subsection 5100.2.J or for a Residential or Non-Residential Use Permit is not deemed a zoning compliance letter.

9103. Uses

1. Purpose

This section is intended to provide a systematic framework for identifying, describing, categorizing, consolidating, and distinguishing land uses in a way that makes it easier to determine whether a particular use, activity, or combination of activities should be considered an allowable use in the use tables in Section 4101, or is subject to other use-specific provisions in this Ordinance. This subsection is also intended to guide interpretations of how to categorize a particular unlisted use and to address future additions to the use table.

2. Agricultural and Related Uses

A. Agricultural and Related Uses

The Agricultural and Related Uses category is characterized by activities related to the bona fide production of plants or animals for food and other comparable activities, including agritourism and other similar use types. This category also includes riding or boarding stables.

Agricultural Operation

Any commercial operation, including related structures, on a minimum of five acres of land that is devoted to the bona fide production, harvesting, and sale of agricultural products, including livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silviculture, and other agricultural products. An agricultural operation does not include a garden center, commercial stockyard/feed lot, landscape contracting services, on-site processing of agricultural products, or the above ground application or storage of sewage sludge. An agricultural operation must specifically qualify under all state and local laws in order to use any exemptions or special provisions afforded to such uses by the Code of Virginia.

Farm Winery, Limited Brewery, or Limited Distillery

An establishment located on a property used for an agricultural operation where agricultural products are grown, processed, and containerized on the premises, as specifically regulated and licensed by the Virginia Alcoholic Beverage Control Board. This use is more specifically identified as:

Farm winery

A farm winery must include a producing vineyard, orchard, or similar growing area and facilities for fermenting and containerizing wine or cider on the premises.

Limited brewery

A limited brewery must include a growing area for barley, hops, other grains, or fruit and facilities to produce and containerize beer on the premises.

Limited distillery

A limited distillery must include a growing area for agricultural products used in the production of spirits and facilities to produce and containerize alcoholic beverages other than wine, cider, or beer on the premises.

Stable, Riding or Boarding

An establishment where horses or ponies, not including horses or ponies owned by a resident of the property, are kept, maintained, or boarded, or where riding lessons are made available to the general public or members of a private club. These services may be offered for a fee or free of charge. This use may include the hosting of events, competitions, exhibitions, or other displays of equestrian skills. The keeping of horses or ponies as an accessory use in accordance with subsection 4102.7.K and subsection 4102.7.L is not considered a riding or boarding stable.

3. Residential Uses

A. Household Living

The Household Living category includes uses characterized by the residential occupancy of a dwelling unit that functions as a single household (see subsection 4102.3.A).

Affordable Dwelling Unit Development

Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program set forth in Section 5101.

Dwelling, Multifamily

A residential building, other than a single-family attached dwelling or stacked townhouse dwelling, containing individual dwelling units located on a single lot or parcel of ground. A multifamily dwelling, which can include rental or condominium ownership, generally has one or more common outside entrance(s) for all the dwelling units, and the units may be located side-by-side, stacked vertically, or both.

Dwelling, Single-Family Attached

A single-family dwelling unit that is in a single structure with other single-family dwelling units. Each dwelling unit must:

1. Be separated from the others by a fire-rated vertical common party wall running from the foundation to the roof of the building; and
2. Have its own individual entry to an outdoor sidewalk or walkway without the need to pass through a lobby or shared use area of the structure.

This definition includes dwellings commonly referred to as rowhouses, “side-by-side” townhouses, and duplexes. The dwelling units may be located on a single parcel or on adjoining lots.

Dwelling, Single-Family Detached

A single-family residential building, other than a single-family attached dwelling or manufactured home, containing only one principal dwelling unit on a single lot.

Dwelling, Stacked Townhouse

A residential building in which dwelling units are arranged in vertical stacks of two units, with each vertical stack separated from other stacks by a fire-rated vertical common party wall running from the foundation to the roof of the building. This definition includes dwellings commonly referred to as “piggyback” townhouses and “two-over-two” townhouses.

Group Residential Facility

A residential facility, with one or more resident or nonresident staff persons, in which no more than: (a) eight mentally ill, intellectually disabled, or developmentally disabled persons reside, and the facility is licensed by the Virginia Department of Behavioral Health and Developmental Services; or (b) eight persons who are aged, infirm, or disabled reside and the facility is licensed by the Virginia Department of Social Services; or (c) eight persons with disabilities reside. The terms mentally ill, intellectually disabled, developmentally disabled, or persons with disabilities do not include current illegal use or addiction to a controlled substance as defined in Va. Code Sect. 54.1-3401 or as defined in Sect. 102 of the Controlled Substance Act (21 U.S.C. 802). A group residential facility is considered residential occupancy by a single household under this Ordinance in accordance with Va. Code Sect. 15.2-2291. A group residential facility does not include a group housekeeping unit, an assisted living facility, a dwelling unit, or a facility for more than four persons who do not meet the criteria set forth above or for more than eight disabled, mentally ill, intellectually disabled, or developmentally disabled persons is deemed a congregate living facility.

Live-Work Development

A structure or part of a structure with areas specifically designed for occupancy by a single owner, tenant, or user to accommodate a residential dwelling unit and a flexible work space. This use does not include a home-based business that would be permitted in a single-family detached dwelling.

Manufactured Home

A transportable residential dwelling that was: (a) fabricated at an off-site manufacturing facility on a permanent chassis, and (b) designed to be transported after fabrication on its own wheels, on detachable wheels, or on a flat bed or other trailer. For purposes of administering the floodplain regulations contained in Section 5105, the definition of ‘manufactured home’ in subsection 5105.7 applies. This use does not include a modular dwelling or a recreational vehicle.

B. Group Living

The Group Living category includes uses characterized by residential occupancy by a group of persons who do not constitute a household (see subsection 4102.3.A). Group living structures

typically have a common eating area for residents, and individual living units often consist of a single room or group of rooms that may include cooking and eating facilities. Residents may receive care, training, or treatment, and caregivers may also reside on-site. This use category does not include uses where persons generally occupy living units for periods of less than 30 days, such as a hotel or motel, which are categorized in the Food and Lodging use category, or uses where residents or inpatients are routinely provided healthcare services, such as assisted living and nursing facilities, which are categorized in the Health Care use category. This use category does not include group residential facilities, which are considered residential occupancy of a dwelling unit as required by Va. Code Sect. 15.2-2291.

Congregate Living Facility

A facility that provides housing and general care on a permanent or temporary basis, including the provision of on-site supportive services, such as special care and treatment, in a supervised setting with on-site counselors or other staff. This use includes facilities providing in-patient alcohol and addiction treatment and services and facilities for the care of more than eight persons with disabilities. This term does not include a group household unit, group residential facility, assisted living facility, specialized instruction center, or any facility providing services or treatment to nonresidents of the facility.

Group Household

A dwelling unit that does not meet the occupancy limitations for a household (see subsection 4102.3, Residential Uses), which contains: (a) five to ten persons not related by blood or marriage, or (b) a family and more than two roomers or boarders. This definition does not include a group residential facility, congregate living facility, religious group living, residence hall, assisted living facility, continuing care facility, or independent living facility.

Religious Group Living

A residence for persons under religious vows, such as a convent or monastery.

Residence Hall

A place of residence that is occupied by and maintained for persons associated with an educational or a religious institution. This definition includes dormitories and fraternity and sorority houses. This definition does not include a bed and breakfast, group household, hotel or motel, or other accommodations used for occupancy that is typically more transient in nature.

4. Public, Institutional, and Community Uses

A. Community, Cultural, and Educational Facilities

The Community, Cultural, and Educational Facilities category includes uses that provide a local service (e.g., cultural, educational, recreational, counseling, training, religious) directly to people of the community. These uses are generally of a public, quasi-public, nonprofit, or charitable nature. This category does not include commercial health clubs or recreational facilities (categorized in the Recreation and Entertainment use category), or counseling in an office setting (categorized in the Office use category).

Adult Day Support Center

A nonresidential facility offering structured activities, training programs, and supportive services (including task learning, social, behavioral, and pre-vocational skills), and personal care during part of a 24-hour day to adults who have intellectual or developmental disabilities. This use does not include an adult day care center or any facility that provides for the primary diagnosis or treatment of a medical or mental health condition.

Alternate Use of Public Facility

A use conducted in a facility held or controlled by the Fairfax County Government under the direct authority of the Board of Supervisors, the Fairfax County School Board, or the Fairfax County Park Authority, that is otherwise allowed as a special exception or special permit use in the district where the facility is located.

Child Care Center

A facility where a person or organization supervises, protects, and is responsible for the well-being of at least one child in the general absence of a parent or guardian for less than a 24-hour period. This use does not include a home day care facility.

Club, Service Organization, or Community Center

A facility operated by a nonprofit corporation, fraternal organization, association, or group of people for social, educational, recreational, or service-oriented activities. This use may include meeting rooms, game rooms, clubhouses, swimming pools, courts, exercise equipment, snack bars, kitchens, and similar facilities. This use does not include standalone community swim, tennis, and recreation clubs, which are a different use in this category, or commercial indoor or outdoor recreation facilities, which are in the Recreation and Entertainment category.

College or University

An institution that is certified to operate as a college or university by the State Council of Higher Education for Virginia, that offers a program of post-secondary education and instruction leading to degrees or certificates. This use does not include instructional programs that are intended solely for recreation, enjoyment, or personal interest.

Community Swim, Tennis, and Recreation Club

An outdoor facility not operated for profit providing primarily recreation facilities with membership limited to residents of nearby residential areas. This use must be under the control and direction of a board of managers that includes residents of the area served by the facility.

Convention or Conference Center

A building or buildings containing exposition halls, exhibit halls, and facilities to house cultural or civic events, conferences, or conventions of political, industrial, fraternal, commercial, trade, or other similar associations.

Cultural Facility or Museum

A building or area operated to present cultural, historic, heritage, scientific, or academic material, or to provide access to a location having particular historic significance. The facility or museum may include curated exhibits, interactive or experiential exhibits or events, live theater and dance performances, musical concerts, cinema, or lectures; or an institution for

the acquisition, preservation, study, and exhibition of works of artistic, historical, or scientific value. Accessory uses may include offices, meeting rooms, gift shops, restaurants or snack bars, and gardens.

Public Use

Any land, building, or structure held, used, or controlled primarily for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia, or the Fairfax County government under the direct authority of the Board, the Fairfax County School Board, or the Fairfax County Park Authority, regardless of the land, building, or structure's ownership. For the purpose of this Ordinance, any use that is (a) sponsored or operated by another county, city, or town within or outside of the Commonwealth of Virginia or an agency such as the Fairfax County Water Authority, Social Services Board, Redevelopment and Housing Authority, Economic Development Authority, Juvenile Court, or Fairfax-Falls Church Community Services Board, and (b) not under the direct authority of the Board, is not considered a public use and is subject to the applicable Zoning Ordinance provisions for the proposed use.

Religious Assembly

A structure or place for worship or ceremonies, rituals, and education, together with its accessory buildings and uses (including buildings used for educational, social, and recreational activities), operated, maintained, and controlled under the direction of a religious group. Examples include churches, mosques, synagogues, and temples. This use includes those activities and functions sponsored and administered directly by the religious group in furtherance of its religion.

School, Private

Any school offering a curriculum for the elementary school or secondary school level leading to a high school diploma, that is not a public use. A private school includes a public school operated by other counties, cities, or towns within or outside of the State.

Specialized Instruction Center

A center primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, scientific, or other special subjects. This use does not include a child care center, home day care facility, health and exercise facility, or riding school.

B. Funeral and Mortuary Services

The Funeral and Mortuary Services category consists of establishments that provide services related to the death of a human being or an animal.

Cemetery

A place where lots or niches are sold for the burial of human or animal remains, which may include columbaria and mausoleums but not crematories.

Crematory

A place where human or animal bodies are incinerated and the ashes are collected for permanent burial, scattering, or storage in urns.

Funeral Home

A building or part of a building used for funeral services. The building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; or (d) the storage of funeral vehicles. This use does not include a crematory.

C. Health Care

The Health Care category includes uses providing a variety of health care and supportive services, including surgical or other intensive care and treatment, various types of medical treatment, and nursing care. Care may be provided in a protective setting during part of the day, or on an inpatient, overnight, or outpatient basis. Although a continuing care facility includes household living uses and health care uses (e.g., nursing facilities), it is categorized as a Health Care use because of its focus on the present or future provision of health and personal care. This category does not include professional offices for physicians, dentists, or similar occupations.

Adult Day Care Center

A facility licensed by the State that provides health monitoring, therapeutic, and other supportive services in a protective setting during part of a 24-hour day to four or more adults who are aged, infirm, or who have cognitive or physical disabilities and who reside elsewhere. This use does not include any licensed facility that provides for the primary diagnosis or treatment of a medical or mental health condition. This use also does not include a medical care facility, group residential facility, congregate living facility, or adult day support center.

Continuing Care Facility

A development under unified operation that provides a variety of accommodation options offering a continuum of care and services. A continuing care facility must be developed as an integrated continuum of accommodation types and service features that allows for the ability to move between levels of support as an individual's care needs change. At a minimum, a continuing care facility must offer or provide care and services to include the on-site provision of meals, general housekeeping, facilitation of transportation, recreation, health- or hygiene-related care, assistance with activities of daily living, and other services integral to the personal, health, and therapeutic care of persons.

Independent Living Facility

A residential development that is primarily limited to occupancy by persons who qualify for the age-related exemptions of the Federal Fair Housing Amendments Act of 1988 (FFHA) or persons with disabilities. Such a facility must include: (a) dwelling units with complete kitchen facilities; and (b) adequate and appropriate supportive services, which could include a meal program, in-unit personal emergency response systems, recreation and transportation services, or other individually or communally used features, amenities, or services for residents of the facility; and (c) universal design features in common areas and individual units, which may include features such as wider doorways and hallways, accessible-ready bathrooms, door levers and lower light switches, or any other feature that would facilitate the use of the units by the intended residents; and (d) on-site staff. This use does not include a

continuing care facility or any development providing only age-restricted housing with no on-site meal service, supportive services, or staff.

Medical Care Facility

Any institution, place, building, or agency that offers or provides health services and medical, psychiatric, or surgical care to two or more persons, primarily as inpatients, suffering from a health condition, illness, disease, injury, deformity, or other physical or mental condition, including but not limited to persons with disabilities. This use includes facilities that offer or provide acute, chronic, convalescent, aged, nursing, or mental/intellectual/physically disability services and includes facilities offering or providing these services. For the purposes of this Ordinance, this term includes a hospital, assisted living facility, nursing facility, and other facilities that may be described as a sanatorium/sanitarium, mental hospital, intermediate/extended care facility, medical school, and other similar institutions or facilities. This term does not include a congregate living facility, continuing care facility, group residential facility, independent living facility, physician's office, first aid station for emergency medical or surgical treatment, medical laboratory, or medical office providing out-patient services.

Assisted Living Facility

A licensed facility for persons who are unable to live independently that provides all of the following: (a) private or semi-private accommodations, which include a sleeping area, access to an accessible bathroom, and may include limited food and drink preparation facilities (excluding an oven and cooktop), (b) supervision and general care, including but not limited to the provision of daily meals, general housekeeping, health- or hygiene-related care, and (c) assistance with activities of daily living. For the purpose of this Ordinance, an assisted living facility includes facilities for memory care.

Hospital

Any institution receiving in-patients and rendering medical, surgical, or obstetrical care, to include general hospitals and specialized institutions in which care is oriented to a specific medical specialty such as cardiac, eye, ear, nose, throat, pediatric, orthopedic, skin, cancer and obstetric cases, or other similar specialty.

Nursing Facility

A licensed facility containing beds for two or more patients, established for the purpose of providing domiciliary or nursing care for chronic or convalescent patients on a temporary or permanent basis. Such facility is not for the primary care of a person with a drug or alcohol addiction, or mental or developmental disability, when that person does not also require nursing care. This use includes facilities that may otherwise be referred to as a nursing home, extended care home, rehabilitation center, skilled nursing facility, rest home, or convalescent home.

D. Transportation

The Transportation category includes uses associated with the operation of airplanes, trains, buses, and other vehicles designed and used for the transport of people or goods.

Airport

A place where aircraft, including airplanes and helicopters, may take off or land, discharge or receive cargo or passengers, be repaired or serviced, take on fuel, or be stored. This definition includes any landing areas, runways, and other facilities designed, used, or intended to be used for the landing or taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces, as well as terminals, parking facilities, and passenger loading and unloading areas.

Helipad

A designated takeoff and landing area for helicopters. A helipad includes only tie down space and additional facilities required by law, ordinance, or regulation.

Regional Rail Transit Facility

A transit facility associated with a rapid rail transit system that serves only the Washington metropolitan region or parts thereof, including but not limited to WMATA Metrorail facilities.

Transit Facility

A stations and its associated pedestrian connections, bus bays, parking areas, service yards, and inspection yards associated with rail or non-rail transit systems, including but not limited to WMATA Metrorail and Virginia Railway Express (VRE) facilities. A transit facility does not include a facility containing only administrative offices operated by a transit facility authority or entity.

E. Utilities

The Utilities category includes both heavy utilities, which are infrastructure services that provide regional or community-wide service, and light utilities, which are infrastructure services that need to be located in or near where the service is provided. Solar power facilities and wireless facilities are included in this category. Services may be publicly or privately provided and may include on-site personnel. Accessory uses may include offices, monitoring, and storage areas.

Solar Power Facility

A facility that is the principal use of a lot, consisting of a system of components that produces heat or electricity, or both, from sunlight.

Utility Facility, Heavy

A major component of an infrastructure system. Examples of heavy utility facilities include potable water treatment plants, wastewater treatment plants, solid waste facilities, gas compressor stations, and electricity generating plants and facilities, other than solar power facilities. This use does not include a petroleum products storage facility.

Utility Facility, Light

A structure or facility generally related to the distribution or collection of utility products or services, rather than the production of those products or services, that needs to be in or near the neighborhood or near utility consumers. Examples of light utility facilities include water and sewage pump stations, telephone local exchanges, water storage facilities, and electrical substations including distribution centers and transformer substations. This use does not

include (1) ordinary distribution facilities for delivery of utilities to customers that are in the public right-of-way or in easements or strips of property owned in fee simple not more than 25 feet in width; or (2) transmission lines approved by the State Corporation Commission in accordance with Va. Code Sect. 56-46.1, as amended.

Wireless Facility

As defined by Va. Code Sect. 15.2-2316.3, a wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (1) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (2) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

The following terms are defined in Va. Code Sect. 15.2-2316.3: administrative review-eligible project, standard process project, co-locate, existing structure, new structure, project, small cell facility, wireless facility, wireless infrastructure provider, wireless services provider, and wireless support structure; however, the term small cell facility as used in this Ordinance is expanded to include the placement of such facilities on utility poles or transmission poles.

Associated Support Structure

Includes wireless support structures, existing structures, new structures, and administrative review-eligible project structures; however, the term does not include any monopoles that exceed 50 feet in height.

Base Station

A structure or equipment at a fixed location that enables Federal Communications Commission-licensed or authorized wireless communications between user equipment and a communications network. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

Eligible Facilities Request

Any request for a modification of an existing tower or base station that involves: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

Standard Process Projects

Wireless facilities and their associated support structures that do not meet the provisions of subsections 4102.4.X(3), (4), (5), and (7), are standard process projects under Va. Code Sect. 15.2-2316.3.

Utility Distribution or Transmission Pole

A utility distribution or transmission pole is a ground-mounted self-supporting vertical structure made of fabricated metal, treated wood or concrete used to elevate electrical

and communication distribution lines, antennas, wireless facilities, small cell facilities, and related facilities and equipment to a suitable height, whose primary function is the support of wires, conductors, and associated apparatus used for the distribution of electrical energy, communication signals, or other similar utilities.

Wireless Telecommunication Hub (Site)

An equipment cabinet or structure that serves a wireless facility system when there are no antennas located on the same lot as the equipment cabinet or structure.

5. Commercial Uses

A. Animal-Related Services

The Animal-Related Services use category is characterized by uses related to the provision of medical services, general care, and boarding services for household pets and domestic animals.

Animal Shelter

A place designated to provide for the temporary accommodation of five or more animals that are stray or abandoned by their owner. This definition does not include a kennel, a veterinary hospital, or a zoo.

Kennel

An establishment primarily engaged in boarding, keeping, training, breeding, or handling dogs, cats, birds, or other small domestic animals for a fee.

Pet Grooming Establishment

An establishment, other than a kennel or veterinary hospital, for cleaning and maintaining the appearance of dogs, cats, birds, or other small domestic animals.

Veterinary Hospital

A building or structure for the diagnosis and medical or surgical care of animals, including facilities for the temporary housing of those animals.

B. Food and Lodging

The Food and Lodging use category consists of establishments primarily engaged in the preparation and serving of food or beverages for on or off premises consumption, and establishments providing lodging units or rooms for transient stays of fewer than 30 consecutive nights for rent, lease, or interval occupancy. This use category does not include residence halls, which are generally occupied for tenancies of a month or longer; or short-term lodging accessory to an owner- or tenant-occupied dwelling.

Bed and Breakfast

An establishment located in an owner- or manager-occupied dwelling unit which rents five or fewer guest rooms without cooking facilities to transient visitors for fewer than 30 consecutive nights.

Catering

An establishment whose primary business is to prepare food on-site, then to transport and serve the food off-site. Catering may include retail sale of food or beverages for consumption on the premises as an ancillary use.

Hotel or Motel

Any part of a building or group of buildings that provide sleeping accommodations in six or more separate units or rooms for transient visitors on a daily, weekly, or similar short-term basis. This use includes establishments designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, tourist home, or other similar designations. A hotel or motel also includes any establishment that provides residential living accommodations for transient visitors on a short-term basis, such as an apartment hotel. A hotel or motel may include accessory restaurants, meeting rooms, and conference facilities.

Restaurant

An establishment whose primary business is to prepare and sell food or beverages in a ready-to-consume state for consumption on or off the premises. A restaurant with drive-through, carryout restaurant, convenience store, or craft beverage production establishment as defined herein, is not considered a restaurant.

This use does not include a snack bar or refreshment stand at a public or non-private recreational facility that is operated solely by the agency or group operating the recreational facility as an accessory use for the convenience of the patrons of the facility. Entertainment that is provided for the enjoyment of the patrons and is incidental to the principal dining function may be considered accessory to a restaurant. This entertainment may include dancing by patrons, subject to the licensing requirements of Chapter 27 of the County Code.

Restaurant, Carryout

Any establishment whose primary business is to prepare and sell ready-to-consume food or beverages, primarily for consumption off-site. Up to eight seats may be provided for on-site consumption or customer waiting. A restaurant with more than eight seats is considered a restaurant. A carryout restaurant does not include a restaurant with drive-through facilities, convenience store, or craft beverage production establishment.

Restaurant with Drive-Through

Any establishment with a drive-through whose primary business is to prepare and sell ready-to-consume food or beverages for consumption on or off the premises. A food truck that does not comply with the provisions set forth in subsection 4102.8.E is considered a restaurant with drive-through.

Retreat Center

A facility used for professional, educational, or religious meetings, conferences, or seminars, which may provide meals, housing, and recreation only for participants during the period of the retreat program. This use does not include a hotel or motel or a restaurant.

C. Office and Financial Institutions

The Office and Financial Institutions use category includes buildings housing activities conducted in an office setting, generally focusing on professional services (e.g., lawyers,

accountants, engineers, architects), financial services (e.g., banks, lenders, brokerage houses, tax preparers), and medical and dental services. Office uses may also include research and experimentation, including the prototype production, computer software production, demographic and market research, technical or academic consulting services, data processing, wet labs, research and experimentation in a laboratory, and similar activities.

Alternative Lending Institution

An establishment providing short-term loans to individuals, which may include short-term loans offered online if associated appraisal, application, or other services are provided in-person at the establishment, including short-term loans as regulated by Chapter 18, Title 6.2, Code of Virginia and motor vehicle title loans as regulated by Chapter 22, Title 6.2, Code of Virginia. For purposes of this Ordinance, an alternative lending institution does not include an office, pawnshop, drive-in financial institution, financial institution or any other state or federally chartered bank, savings and loan institution, or credit union.

Drive-Through Financial Institution

Any financial institution that offers its services to persons within motor vehicles.

Financial Institution

Any establishment where the primary occupation is State regulated businesses such as banking, savings and loans, loan companies and investment companies; however, for the purpose of this Ordinance, any financial institution having a drive-through window or drive-through automated teller machine will be deemed to be a drive-through financial institution.

Office

A building or portion of a building used for the professional, executive, management, financial, research, or administrative business of commercial entities. An office may also include an artist's studio, research and experimentation in a laboratory, and medical or dental services.

D. Personal and Business Services

The Personal and Business Services use category includes businesses that primarily provide routine business support functions for the day-to-day operations of other businesses or frequent or recurrent needed services of a personal nature to individuals.

Business Service

An establishment primarily engaged in rendering services on a fee or contract basis to the business, commercial, industrial, or institutional community. Examples of this use include packing and shipping services and printing services. This definition does not include any use listed separately in this Ordinance.

Household Repair and Rental Service

Any establishment primarily engaged in the repair, general service, or rental of common home goods and appliances such as photocopiers, televisions and radios, washing machines, dryers, vacuum cleaners, power tools, refrigerators, ovens, lawnmowers, sewing machines, or musical instruments.

Massage Therapy Establishment

Any fixed place of business that provides treatment of soft tissues for therapeutic purposes by the application of massage and bodywork techniques based on the manipulation or application of pressure to the muscular structure or soft tissues of the human body.

Personal Service

An establishment primarily engaged in rendering frequent or recurrent services of a personal nature to individuals. Examples of this use include barber shops and beauty salons, tattoo parlors, laundromats, limited-scale laundry and dry-cleaning sites, tailors, shoe cleaning or repair shops, and other similar places of business. This definition does not include any use listed separately in this Zoning Ordinance.

E. Recreation and Entertainment

The Recreation and Entertainment use category includes uses providing indoor or outdoor facilities for recreation or entertainment-oriented activities by patrons or members. It does not include public uses or facilities that are reserved for use by a particular residential development's residents and their guests.

Banquet or Reception Hall

Any establishment operated for profit where the facilities are leased on an event-specific basis for private wedding receptions, meetings, banquets, and other similar events. This use may include facilities for preparing food and areas for dancing, dining, and other entertainment activities typically found in association with banquets or receptions.

Campground

An establishment renting space to transient visitors for the occupancy of camping trailers, self-propelled campers, tents, or lodges.

Commercial Recreation, Indoor

An establishment providing recreational activities predominantly indoors. Examples of this use include movie theaters, music venues, bowling alleys, indoor skating facilities, amusement arcades, indoor shooting and archery ranges, tennis and similar courts, recreational crafting activities, and similar establishments where the predominant recreation or entertainment activity takes place inside a building. Consumption of food and beverages may occur but is not the primary activity. This use does not include any use meeting the definition of a golf course or country club; quasi-public park, playground, or athletic field; restaurant; or public entertainment.

Commercial Recreation, Outdoor

A commercial facility devoted to passive or active recreation where activities predominately take place outdoors. Examples of this use include outdoor swimming pools, outdoor athletic fields or courts, outdoor shooting ranges, and similar facilities where the predominant recreation activity takes place outside of a building. This use does not include any use meeting the definition of a golf course or country club or quasi-public parks, playgrounds, and athletic fields.

Entertainment, Adult

Any establishment that the public may enter, with or without an admission charge, where nudity is exhibited by employees, entertainers, or other persons. For the purpose of this Ordinance, "nudity" means any exposure to public view of the human male or female genitals, pubic area, buttocks or any portion of the female breast below the top of the areola, with less than a fully opaque covering. This use also includes the showing of films, motion pictures, or similar photographic reproductions presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to 'Specified Sexual Activities' or 'Specified Anatomical Areas' for observation by patrons within the facility, or an establishment used for presenting such material that limits its customers to persons over 18 years of age.

For the purpose of this definition, 'Specified Sexual Activities' is defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; and
3. Fondling or other erotic touching of the human genitals, pubic region, buttock, or female breast.

And "Specified Anatomical Areas" is defined as:

1. Less than completely and opaquely covered: (a) human genitals, (b) pubic region, (c) buttock, and (d) female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Nothing contained in this definition may be construed to limit the application of any State Statute relating to obscenity or relating to distribution of materials to juveniles.

Entertainment, Public

An establishment resembling a nightclub or bar that is open to the general public, where the primary use includes music, dancing, live entertainment, or other similar activities predominantly catering to adult customers. This use typically has business hours that extend beyond 10:00 p.m., may serve alcohol, and may require payment of an entrance fee through ticket sales or a cover charge. A restaurant with entertainment that exceeds the standard in subsection 4102.5.G(1) or a smoking lounge that meets this definition is deemed to be public entertainment.

Golf Course or Country Club

A tract of land designed with a course containing nine or more holes for playing the game of golf and improved with tees, greens, fairways and hazards, or an area designed for driving golf balls into an open area for collection and reuse. This use may include one or more structures containing a clubhouse, restaurant, meeting facilities, lounges, snack bars, swimming pool, tennis or squash courts, shelters, and maintenance facilities. This use may include putting and chipping greens but may not include a miniature golf course in which only golf putters are used.

Health and Exercise Facility, Large

An indoor facility, other than a small health and exercise facility, where patrons participate in exercise or similar activities designed to improve and preserve physical fitness, including

health clubs and gyms. Accessory uses to serve the members may include child care, restaurant, retail sales, massage therapy, and personal service. This definition does not include a community center.

Health and Exercise Facility, Small

An indoor facility having a maximum gross floor area of 6,000 square feet where patrons participate in exercise or similar activities designed to improve and preserve physical fitness, including health clubs, fitness classes, training, and instruction. Accessory uses to serve the members may include child care, restaurant, retail sales, massage therapy, and personal service. This definition does not include a community center or a specialized instruction center.

Marina, Commercial

A waterfront facility that provides for the berthing, mooring, or water storage of boats. The use may include facilities such as major and minor boat repair; boat docks, piers, and slips; boat fueling; dry land boat maintenance and storage; pump-out stations; boat and boat part sales; and restaurants.

Marina, Private Noncommercial

A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than a facility for minor servicing or repair.

Quasi-Public Park, Playground, or Athletic Field

An outdoor land area designed or designated to be used for community recreation leagues, exercise, sports, education, or similar activities, or an area intended to enhance the enjoyment of natural features or natural beauty. This use must be under private ownership or control and not meet the definition of a public use, indoor commercial recreation, outdoor commercial recreation, or golf course or country club. This use may include outdoor playfields, athletic fields or courts, other recreation facilities, and water features, picnic areas, natural areas, boating facilities, fishing facilities, arboreta, and botanic gardens.

Smoking Lounge

An establishment where the principal activity is the recreational inhaling of smoke or other vapors. This may include cigar or pipe bars, hookah lounges, vapor bars, and other similar establishments. This use does not include any use meeting the definition of a restaurant or public entertainment.

Stadium or Arena

A building or structure used for spectator sports, entertainment events, expositions, and other public gatherings.

Zoo or Aquarium

A facility in which animals are kept for viewing or contact by the public. This definition does not include pet stores, kennels, riding or boarding stables, horse or dog shows, horse races, or temporary events such as State and County fairs, livestock shows, and rodeos.

F. Retail Sales

The Retail Sales use category includes uses involved in the sale, rental, and incidental servicing of goods and commodities that are generally provided on the premises to a consumer. This use category does not include sales or service establishments related to vehicles (the Vehicle Sales and Services use categories), establishments primarily selling supplies to contractors or retailers (categorized as the Warehousing, Wholesaling, and Freight Movement use category), the provision of financial, professional, or business services in an office setting (categorized in the Offices use category), uses providing recreational or entertainment opportunities (categorized in the Recreation and Entertainment use categories).

Convenience Store

Any building that contains less than 6,000 square feet of gross floor area and is characterized by the frequent turnover of customers, and the retail sale of food, beverages, and other frequently needed items for household use or consumption. This definition does not include a Vehicle Fueling Station or a small grocery, specialty, or gourmet food stores, which are considered general retail sales.

Drive-Through, Other

Any use of land not otherwise defined that provides goods or services to the occupants of a motor vehicle. This definition does not include parking spaces designated for curbside pickup, which are considered accessory to the principal use.

Drive-Through Pharmacy

A retail sales establishment that provides medicine and various other items, such as toiletries, cosmetics, and packaged foods for sale, and that offers drop-off and pick-up service exclusively for prescriptions and associated medical items to persons within a motor vehicle.

Drug Paraphernalia Establishment

Any retail sales establishment where drug paraphernalia is displayed, sold, offered for sale, or given away.

Garden Center

An establishment for the propagation, cultivation, growing and sale of nursery stock, such as trees, plants, shrubs, sod, and seeds. A garden center may also include the sale of related items. Landscape contracting services using nursery stock grown on the property may be permitted as an accessory use to the garden center.

Pawnshop

An establishment where a pawnbroker conducted business. A pawnbroker includes any person who (1) lends or advances money or other things for profit on the pledge and possession of personal property, or another valuable thing, other than securities or written or printed evidences of indebtedness, or (2) who purchases personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

Retail Sales, General

An establishment where the primary occupation is the sale or rental of goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, that does not meet the definition for another use in this Ordinance. This use includes grocery stores, drug stores, pet stores, photographic and portrait studios, specialty or gourmet food stores, hardware stores, bookstores, clothing stores, discount stores, auction houses, and similar establishments.

Retail Sales, Large

Any establishment containing 80,000 square feet or more of gross floor area where merchandise is sold primarily for consumption by the immediate purchaser, rather than to a reseller. This definition does not include any uses in the Vehicle Sales and Services category.

G. Vehicle-Related Uses

The Vehicle Related Uses category includes a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. This category does not include the repair of special equipment and heavy vehicles (categorized in the Industrial Services use category). Accessory uses may include offices, sales of parts, maintenance facilities, outdoor display, and vehicle storage.

Car Wash

A structure, or portion of a structure, containing facilities for washing motor vehicles by hand or by using production-line, automated, or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning, or similar mechanical device.

Commercial Off-Street Parking

An area, other than accessory off-street parking serving a principal use on the site, where, for a charge or permit, motor vehicles may be parked in delineated spaces for the purpose of temporary, daily, or overnight off-street parking. This use does not allow the storage of commercial vehicles.

New Vehicle Storage

An area where new vehicles are parked or stored off-site from the associated vehicle sale and rental service establishment.

Truck Rental Establishment

Buildings and premises for the rental and ancillary minor servicing of trucks, utility trailers, and related items generally used by persons to move their personal and household belongings.

Vehicle Fueling Station

An establishment engaged in the retail sale of motor vehicle fuel that is stored on-site, such as gasoline, diesel fuel, natural gas, hydrogen, and electricity. Accessory uses may include a convenience retail store, and light vehicle repair and maintenance.

Vehicle Repair and Maintenance, Heavy

A building or premises in which the primary use is vehicle repair and servicing, such as major mechanical and body work, transmission and differential repair, straightening of body parts, painting, welding, or other similar work.

Vehicle Repair and Maintenance, Light

A building or premises primarily used for vehicle maintenance and servicing or vehicle repair that does not require the removal of engines or transmissions or require body or frame work.

Vehicle Sales, Rental, and Service

Buildings and premises for the sale, rental, and ancillary servicing of vehicles in operating condition, including the following:

1. Automobiles and motorcycles;
2. Vans, but not including any vehicle designed primarily for the transportation of ten or more passengers;
3. Boats such as outboard motor boats, Sunfishes, or other similar-sized boats; and
4. Specialized vehicles such as recreational vehicles and boat trailers having a maximum length of 17 feet.

Vehicle Transportation Service

Buildings and premises for a “for hire” chauffeured transportation service involving the storage and dispatch of taxicabs, limousines, executive sedans, ambulances, passenger vans, or other similar vehicles, administrative offices, and the ancillary servicing and maintenance of company vehicles.

6. Industrial Uses

A. Freight Movement, Warehousing, and Wholesale Distribution

The Freight Movement, Warehousing, and Wholesale Distribution category includes uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. There is little on-site sales activity with the customer present. This use category does not include a contractor’s office and shop, which is located in the Industrial Services use category, or uses included in the Waste and Recycling Facilities use category.

Data Center

A facility containing one or more large-scale computer systems used for data storage and processing for off-site users. Typical supporting equipment includes back-up batteries and power generators, cooling units, fire suppression systems, and enhanced security features.

Freight Distribution Hub

A building or area in which freight that is brought in by truck is assembled or stored for routing and reshipment, or semitrailers, including tractor or trailer units, are parked or stored.

Goods Distribution Hub

A facility for the receipt, transfer, short-term storage, and dispatching of retail and other similar goods transported by truck.

Self-Storage

A building consisting of individual, self-contained units that are leased or owned for the storage of business and household goods.

Warehouse

An establishment primarily engaged in the storage of products, supplies, and equipment.

Wholesale Facility

A facility in which the sale of commodities in quantity to retailers, other businesses, industries, or institutions occurs.

Wholesale Sales

The sale of goods, merchandise, and commodities in gross, primarily for purposes of resale.

B. Industrial Services and Extraction of Materials

The Industrial Services category includes uses involving the repair servicing, or storage of industrial, business, or consumer machinery equipment, products or by-products, or uses involving the extraction of natural resources from the ground. Few customers from the general public come to the site. Examples of Industrial Services uses include welding shops, landscaping and lawn maintenance companies, electric motor repair services, and HVAC services.

Building Materials Storage and Sales

An establishment for the storage and sale of lumber, rock, sand, gravel, landscaping, and other similar materials. Operations may be indoor or outdoor. Sales are principally to the commercial, industrial, or institutional community, and not to the general public except as a secondary and subordinate activity.

Contractor's Office and Shop

Establishments that provide services and store necessary vehicles, equipment, or materials for the installation and servicing of items which may include, but are not limited to, air conditioners, electrical equipment, flooring, painting, plumbing, roofing, tiling, and heating and ventilating equipment. This use also includes establishments for the planting and maintenance of gardens, grounds, and yards, such as landscape contractors and lawn maintenance services. This use cannot include retail sales to the general public, except as an accessory use.

Extraction Activity

An activity related to the extraction of soil, sand, gravel, stone, and other similar naturally occurring materials. This use includes excavating, stripping, dredging, mining, quarrying, and any similar activity.

Petroleum Products Storage Facility

A facility for the storage of natural gas, oil and other petroleum products. This use does not include a vehicle fueling station.

Specialized Equipment and Heavy Vehicle Sale, Rental, or Service

Buildings and premises for the sale, rental, and servicing of any of the following:

1. Farm and construction machinery or equipment;
2. Trucks that have more than two axles, are more than 17 feet long or 12 feet in height, or require a commercial driver's license to operate;
3. Buses and vans designed primarily for the transportation of ten or more passengers;
4. Recreational vehicles, trailers, and boats larger than those permitted as part of a vehicle sale and rental establishment; and
5. Manufactured homes.

Storage Yard

The use of any space, inside or outside of a building, for the storage or keeping of construction or landscaping equipment and materials, machinery, vehicles or vehicle parts, boats, farm machinery, or other large items.

Vehicle Storage or Impoundment Yard

An area designed to temporarily store wrecked, inoperative, or abandoned motor vehicles. Service and towing vehicles used for the operation of the establishment may also be stored on the property. This use does not include the dismantling, wrecking, or sale of vehicles or their parts.

C. Production of Goods

The Production of Goods use category includes uses involving the manufacturing, processing, production, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, transfer to other industrial operations, or for order by businesses or consumers.

Craft Beverage Production Establishment

A facility, licensed in accordance with Title 4.1 of the Code of Virginia, as amended, in which beer, wine, cider, mead, distilled spirits, or other similar beverages are brewed, fermented, or distilled. Production is limited to 20,000 barrels of beer, or 36,000 gallons of distilled spirits, wine, cider, or mead annually. An establishment exceeding those production quantities is deemed a production or processing use.

Production or Processing

An establishment primarily engaged in the printing, production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of goods or products, that does not meet the definition for a Production or Processing, Heavy use. Goods are generally not displayed or sold on-site; however, limited retail sales and other related non-production activities may be allowed if they are accessory to the primary production activity.

Production or Processing, Heavy

An establishment engaged in large-scale fabrication, assembly, storage, processing, or heavy industrial activities. This includes, but is not limited to, stockyards, slaughterhouses, and rendering facilities; processing of animal hides, wool, and similar materials; manufacturing of glue, gelatin, soap, and similar products; manufacturing of explosives, fertilizer, insecticides, ammonia, chlorine, corrosive acid, alcohol, plastic or synthetic resins, and similar substances; manufacturing of lime, cement, gypsum, or plaster of paris; refining and production of petroleum; processing of charcoal or coal; refining and casting of metals; mixing or batching of asphalt or concrete; garbage incineration other than incidental to the operation of hospital, hotels, and dwellings; and similar activities.

Small-Scale Production Establishment

An establishment where shared or individual tools, equipment, or machinery are used to make or grow products on a small scale, including the design, production, processing, printing, assembly, treatment, testing, repair, and packaging, as well as any incidental storage, retail or wholesale sales and distribution of such products. Typical small-scale production establishments include, but are not limited to, vertical farming or the making of electronics, food products, non-alcoholic beverages, prints, household appliances, leather products, jewelry and clothing/apparel, metal work, furniture, glass, ceramic or paper, together with accessory uses such as training or educational programs. Agriculture, craft beverage production establishment, restaurant, restaurant with drive-through, or carryout restaurant are not small-scale production establishments.

D. Waste and Recycling Facilities

The Waste and Recycling Facilities use category includes uses involving receiving solid or liquid waste from others for on-site disposal, storage, or processing, or transfer to another location for processing or disposal. This use category also includes uses that manufacture or produce goods or energy from the composting of organic material, and the reuse, recycling, or processing of scrap or waste material.

Junkyard

The use of any space, inside or outside of a building, for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, other vehicles or machinery, or their parts. This use includes the placement of more than five inoperative motor vehicles on any lot or place that is exposed to the weather.

Mixed Waste Reclamation Facility

A facility for the removal or reclamation of recyclable materials from solid waste. This use does not include a recycling center.

Recycling Center

A facility for the collection of nonputrescible recyclable materials that have been separated at their source (source-separated) before shipment to others who will use those materials to manufacture new products. A recycling center use can include a Materials Recovery Facility as defined by Chapter 109.1 of the County Code (Solid Waste Management), and commonly referred to as a "clean" MRF.

Solid Waste Disposal Facility

A use designed and operated as:

1. A land depository, excavation, or area conducted in a controlled manner for the dumping of debris or inert material;
2. A facility for the temporary storage or collection and transfer of solid waste;
3. A disposal site that compacts and covers solid waste at least once each day with an approved material; or
4. A facility for incinerating solid waste. This use includes both debris landfills and sanitary landfills as defined in Chapters 104 and 109.1 of the County Code.

7. Accessory Uses

Accessory Living Unit

A secondary dwelling unit established in conjunction with and clearly subordinate to a single-family detached dwelling unit.

Accessory Structure

A building or structure that:

1. Is subordinate in purpose to a principal building or a principal use legally existing on the same lot; and
2. Contributes to the comfort, convenience, or necessity of the occupants, business, or industry of the principal structure or principal use served on that lot.

Accessory Use

A use that:

1. Is clearly subordinate to, customarily found in association with, and serves a principal use;
2. Is subordinate in purpose, area, or extent to the principal use served;
3. Contributes to the comfort, convenience, or necessity of the occupants, business enterprise, or industrial operation within the principal use served; and
4. Is located on the same lot as the principal use.

Associated Service Use

A use that:

1. Is located in the same building as the principal use it serves; and
2. Is primarily designed to provide goods and services to occupants, business enterprises, or industrial operations in that principal building.

Caretaker Quarters

A dwelling or rooms in which a caretaker of a residential or agricultural property and the caretaker's family resides. Caretakers must provide domestic services for the occupants of the dwelling, such as child care, housekeeping, or grounds maintenance. This use does not include a dwelling in a nonresidential use, which is considered a residence for a manager or employee.

Child Care Center for Occasional Care

A facility located within the main structure in a regional shopping center where one or more children unattended by their parent or guardian receive care, protection, and supervision on an occasional basis.

Donation Drop-off Box

Any portable outdoor container intended or used for the donation, collection, and short-term storage of items, such as clothing, toys, books, and shoes, which are removed from the container on a periodic basis.

Electric Vehicle Charging

A vehicle parking space served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy by conductive or inductive means from the electric grid or other off-board electrical source to a battery or other energy storage device within a vehicle that operates, partially or exclusively, on electric energy.

Family Health Care Structure

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

Garage Sale or Yard Sale

A temporary and occasional use of the premises of a dwelling for the sale to the public, of typical household and personal items that were not specifically purchased, produced, refurbished, or fabricated for resale.

Gardening and Composting

An area of cultivated ground or a structure such as a planter box, pot, or raised bed, devoted in whole or in part to (1) the growing of herbs, fruits, or vegetables for consumption, or (2) composting.

Home Day Care Facility

A dwelling where during only a part of a 24-hour day, (1) at least one but not more than 12 children, exclusive of children who reside in the dwelling, receive care, protection, and supervision, unattended by a parent or legal guardian; or (2) up to three persons who are aged or infirm or persons with disabilities receive supportive services, health monitoring, protection, or supervision.

Home-Based Business

An occupation, profession, or trade that is conducted within a dwelling unit by a resident of the dwelling unit as a use that is clearly incidental and subordinate to the residential purpose of the dwelling unit. Examples of home-based businesses include home offices, music lessons, art studios, home crafts, and home-based food production. A home-based business does not include any other accessory use defined in this Ordinance, including but not limited to, home day care facility or short-term lodging.

Keeping of Animals

The provision of accommodations for one or more animals on any lot for personal enjoyment.

Limited Riding or Boarding Stable

A riding or boarding stable operated as accessory to a residence, where horses or ponies, not including those owned by a resident of the property, are kept, maintained, or boarded, or where riding lessons are made available to the general public or members of a private club. These services may be offered for a fee or free of charge.

Residence for Manager or Employee

A residence for a manager or employee and their family located in the same building or in an accessory structure on the same lot as their place of occupation.

Sawmilling

An operation or facility for the purpose of sawing or planing logs or trees into rough slabs.

Short-Term Lodging

The provision of a room or space that is suitable or intended for transient occupancy, in exchange for a charge for the lodging. This use does not include an accessory living unit, bed and breakfast, hotel or motel, or family health care structure. For purposes of subsection 4102.7.O, Short-Term Lodging, the following definitions apply:

Authorized Agent

An adult designated by a short-term lodging operator who consents to be available to address any issues or emergencies that may arise during any short-term lodging stay.

Permanent Resident

A person who occupies or intends to occupy a dwelling or mobile home for at least 185 days out of the calendar year for the purposes of establishing the dwelling or mobile home as that person's primary residence. A person may have only one permanent residence.

Short-Term Lodging Operator

An owner or tenant of a property who offers that property for short-term lodging.

Solar Collection System

A system, accessory to a principal use, consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in water heating or space heating and cooling, or that collects solar energy and converts it into electricity. Components may be mounted on the roof(s) of principal or accessory structures, other parts of structures, or the ground. Ground-mounted solar collection systems are designed to primarily meet on-site demands but may include the transfer of excess electricity to an electric utility grid.

Wayside Stand

A temporary structure or use of land designed for the display and retail sale of agriculture products grown on the premises, with no space for customers within the structure itself.

8. Temporary Uses

Community Garden

Any land or rooftop area used for the cultivation of herbs, fruits, flowers, vegetables, or ornamental plants by more than one person, household, or a nonprofit organization for personal or group use, consumption, or donation. This use does not include the bona fide production of crops, animals, or fowl. A community garden may be divided into separate plots for cultivation by one or more individuals or collectively by members of the group and may include common areas and accessory structures maintained and used by group members. A community garden does not include a private garden on a lot that contains a single-family detached dwelling. Community gardens are not deemed to be an agricultural use, except when accessory to a lot that is principally used for agriculture.

Construction Site Office and Storage

A temporary structure, facility, or space associated with the staging, management, and security of new construction located on or adjacent to the construction site. This definition includes an office building, security building, storage buildings, construction waste and recycling receptacles, temporary sanitation facilities, employee parking areas, and areas for the storage of materials and supplies used in the actual construction of buildings on the site.

Farmers Market

A regularly occurring market that sells farm products or value-added farm products directly to the general public.

Food Truck

Any readily movable mobile food service establishment, to include any vehicle that is self-propelled, pushed, or pulled to a specific location.

Interim Off-Street Parking in Metro Station Area

A temporary, privately-operated off-street parking lot located near a Metro station.

Model Home Sales or Leasing Office

A trailer or model unit that is used for the real estate sales or leasing activities of the development pending construction and the initial sales of homes or units in the development.

Portable Storage Container

A purpose-built, fully enclosed, box-like container that is designed for temporary storage of household goods and equipment and which has signage on one or more of its outer surfaces. These containers are uniquely designed for ease of loading to and from a transport vehicle.

Special Event

A temporary outdoor activity held on private property, including, but not limited to, seasonal sales, the display of goods and merchandise associated with a retail use, community or cultural events, musical or arts events, celebrations, festivals, fairs, carnivals, and circuses.

Temporary Dwelling or Manufactured Home

The temporary use of a dwelling or manufactured home.

9104. Floodplain Definitions

The following definitions are only to be used in the interpretation and administration of the floodplain regulations in Section 5105.

Base Flood

A flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation

The Federal Emergency Management Agency designated water surface elevation of a flood having a one percent chance of being equaled or exceeded in any given year shown on the Flood Insurance Rate Map (FIRM).

Basement

Any area of the building having its floor below grade (below ground level) on all sides.

Development

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Floodplain

Those land areas in and adjacent to streams and watercourses subject to continuous or periodic inundation from flood events with a one percent chance of occurrence in any given year (i.e., the 100-year flood frequency event also known as the base flood) and having a drainage area greater than 70 acres. For the purpose of administering Section 5105 Floodplain Regulations, minor floodplains are those floodplains which have a drainage area greater than 70 acres but less than 360 acres and major floodplains are those floodplains which have a drainage area equal to or greater than 360 acres.

Floodplains include all areas of the County that are designated as a floodplain by the Federal Emergency Management Agency (FEMA), by the United States Geological Survey, or by Fairfax County. The basis for the floodplains designated by FEMA are the Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) for Fairfax County prepared by the FEMA, Federal Insurance Administration, dated September 17, 2010, as amended. Floodplains designated by FEMA on the FIRM are referred to as special flood hazard areas.

Flood or Flooding

1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudflows which are proximately caused by flooding as defined in 1.b. above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water,

accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in 1.a. above.

Flood Insurance Rate Map (FIRM)

An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been produced and made available digitally is also commonly called a Digital Flood Insurance Rate Map (DFIRM). The official FIRM for Fairfax County is the FIRM/DFIRM prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 17, 2010, as amended.

Flood Insurance Study (FIS)

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow or flood-related erosion hazards. The official FIS for Fairfax County is the FIS prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 17, 2010, as amended.

Flood Proofing

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Historic Structure

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Virginia Landmarks Register; or
4. Listed on the Fairfax County Inventory of Historic Sites.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for building access in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR §60.3.

Manufactured Home

A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes a manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. A manufactured home does not include a recreational vehicle.

New Construction

For the purposes of determining insurance rates, new construction includes structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction includes structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Recreational Vehicle

A vehicle that:

1. Is built on a single chassis;
2. Contains 400 square feet or less when measured at the largest horizontal projection;
3. Is designed to be self-propelled or permanently towable by a light duty truck; and
4. Is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Special Flood Hazard Area

The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as designated on the official Flood Insurance Rate Map for Fairfax County.

Start of Construction

For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether that alteration affects the external dimensions of the building.

Structure

For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home or other structure as defined in this Article. structure for insurance coverage purposes, means:

1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
2. A manufactured home; or
3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For insurance coverage purposes, structure includes a recreational vehicle, a park trailer or other similar vehicle, except as described in subsection 3 of this definition, or a gas or liquid storage tank.

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. substantial improvement includes structures that have incurred substantial damage regardless of the actual repair work performed. substantial improvement does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

Violation

See subsection 8106.1.A. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), or (c)(10) is presumed to be in violation until such time as that documentation is provided.

Appendix 1 - Index of Amendments and Provisions Relating to Previous Approvals

Below are the general provisions for this Ordinance, followed by the provisions for specific Zoning Ordinance amendments relating to applicability and previous approvals. They are not part of the adopted Zoning Ordinance, but are provided here as a convenience. Additional information for any amendment may be obtained by contacting the Zoning Administration Division, Department of Planning and Development.

1. General Provisions Regarding Previous Approvals

Except as specified in the Ordinance, the specific uses, features, and structures on each of the following are entitled to continue under the previous approval(s) if the applicable due diligence standard is met. For the purpose of this statement, to “aggravate conflicts” means to create any new or additional noncompliance with the amended Ordinance such as expanding a use, feature, or structure that is not allowed by the new Ordinance, as determined by the Zoning Administrator.

- A.** Proffered rezonings and related development plans, special exceptions, special permits, variances, comprehensive sign plans, PRC plans, and parking reductions approved before *[insert effective date of this Ordinance]*, and any plans and permits, including but not limited to site plans, subdivision plats, construction plans, building permits, and Residential and Non-Residential Use Permits submitted in accordance with such approvals. The provisions of this Ordinance govern to the extent they are not in conflict with or superseded by the approval. Amendments to such approvals may be approved if they do not aggravate conflicts with this Ordinance.
- B.** Site plans, minor site plans, subdivision plans and plats, public improvement plans, grading plans, construction plans, building permits and other related subsequent plans, approvals and written determinations, approved before *[insert effective date of this Ordinance]*. The provisions of this Ordinance govern to the extent they do not preclude the approved uses, features, and structures. Revisions to such approvals may be approved if they do not aggravate conflicts with the new Ordinance.
- C.** Applications for rezonings and related development plans, special exceptions, special permits, variances, comprehensive sign plans, PRC plans, parking reductions, subdivision plats, site plans, parking tabulations and redesignations, building permits, public improvement plans, and grading plans submitted and accepted for review before *[insert effective date of this Ordinance]*, provided: (a) approval is granted within 12 months of *[insert effective date of this Ordinance]* or, if corrections to a properly submitted and accepted plan are deemed necessary by the reviewing authority, revised plans are resubmitted within six months of its disapproval; (b) the approval remains valid; and (c) the uses, features, and structures are constructed in accordance with approved plans and permits. Required subsequent plan and permit submissions may be accepted and approvals may be granted, consistent with a grandfathered approval. Revisions to such approvals may be approved if they do not aggravate conflicts with the new Ordinance.

- D. Lawfully existing uses, features, and structures as of *[insert effective date of this Ordinance]* or grandfathered in accordance with A or B above, regardless of changes in ownership.
- E. Lawfully existing freestanding accessory structures as of *[insert effective date of this Ordinance]* are not subject to the new standards for maximum height and maximum cumulative square footage in subsections 4102.7.A(6)(c) and 4102.7.A(6)(d). Additions or modifications to these structures that increase height are subject to this Ordinance, and all existing square footage will be counted toward the cumulative maximum for any new or expanded structures.
- F. Lawfully existing home occupations, home professional offices, and barbershops or beauty parlors as a home occupation as of *[insert effective date of this Ordinance]* may continue, subject to any conditions of approval and the standards in effect at the time of approval. However, any modifications to the use will require approval of an administrative permit or special permit for a home-based business and conformance with this Ordinance.

2. Specific Provisions Regarding Previous Approvals

- A. The provisions that are carried forward from the previous Ordinance are either incorporated into the text of the Ordinance or are specified below.

(1) Commercial and Industrial Districts (ZO-92-225)

Revised provisions to ZOA 89-185 and ZOA 92-225 are as follows:

Properties subject to the provisions of Zoning Ordinance Amendment (ZOA) 89-185, adopted December 11, 1989, and Zoning Ordinance Amendment (ZOA) 92-225, adopted July 13, 1992, are subject to the following amended provisions regarding those properties, to the extent that uses, and FAR of those properties permitted before that date, have not otherwise been restored by any other approval such as a special exception:

- (a) Uses for which building permits have been approved, provided the structure containing the use is constructed under the approved building permit.
- (b) Uses shown on a site plan approved before December 12, 1989, provided a building permit(s) for the structure(s) shown on the approved site plan is issued in accordance with subsection 8100.7.F(3) and provided further that the structure(s) containing the use is in fact constructed in accordance with such building permit(s).
- (c) Revisions to such approved site plans may be approved so long as such revision does not result in (a) an increase in FAR to include an increase in floor area for office beyond that permitted under ZOA 92-225, or (b) an increase in building height.
- (d) Uses shown on a site plan, which plan contains the required information as set forth in subsection 8101.4.A, Minor Site Plans, and is filed on or before December 12, 1989, provided such site plan is approved within 24 months of the return of the initial submission to the applicant or agent, a building permit(s) for the structure(s) shown on the approved site plan is issued in accordance with subsection 8100.7.F(3) and provided further that the structure(s) containing the use is in fact constructed in accordance with such building permit(s).

- (e) Resubmissions of such filed site plans or revisions to such approved site plans may be approved so long as such resubmission/revision does not result in (a) an increase in FAR to include an increase in floor area for office beyond that permitted under ZOA 92-225, or (b) an increase in building height.
- (f) Where a site plan was filed between September 18, 1989, and December 12, 1989, where site plans were approved before December 12, 1989, where site plans were approved in accordance with this subsection (c) subsequent to December 12, 1989, or where site plans were approved as a result of the Circuit Court declaration that ZOA 89-185 was invalid; and, in each of the foregoing cases, where such site plans were not approved or are no longer valid, such site plans may be resubmitted within 120 days of the adoption of ZOA 92-225, and may be approved, provided such plans comply with all current applicable County ordinances and regulations, except ZOA 89-185 and ZOA 92-225. Revisions to such site plans may be approved so long as such revision does not result in (a) an increase in FAR to include an increase in floor area for office beyond that permitted under ZOA 92-225, or (b) an increase in building height. For the purpose of this subsection, the term “site plan” is deemed to include parking tabulation revisions for a change in use.
- (g) Special exception and special permit uses approved before December 12, 1989, provided a site plan is approved, a building permit issued, and construction commenced while the special exception or special permit is still valid, and provided further that the use is in fact constructed in accordance with such building permit.
- (h) While the special exception or special permit is still valid, resubmissions of such site plans must be permitted and may be approved so long as such resubmission does not result in (a) an increase in FAR, (b) an increase in building height, (c) the addition of a use, or (d) an increase in floor area.
- (i) Neither ZOA 89-185 nor ZOA 92-225 are applicable to proffered rezonings approved before the effective date of ZOA 92-225 and Section 1106 do not apply thereto as regards ZOA 89-185 or ZOA 92-225; provided, however, new uses added by ZOA 89-185 and ZOA 92-225 are permitted on properties subject to proffered rezonings adopted before the effective date of ZOA 92-225 to the same extent the new uses are permitted on similarly zoned properties without proffered conditions, so long as the new uses are not inconsistent with the proffered conditions. If the new uses are inconsistent with a proffered rezoning, a proffer condition amendment is required before the new uses are permitted. This grandfather provision continues to apply in the event of subsequent proffered condition amendments.
- (j) For the purpose of ZOA 89-185 and ZOA 92-225, the word “replacement” as used in subsection 8104.3.C is not deemed to include the reconstruction of a building or use which was destroyed by casualty, either completely or in part, so long as such reconstruction does not result in an increase in total FAR, percent of office FAR or building height if any such increase would result in development or uses beyond that permitted by ZOA 92-225.

B. [placeholder for future amendments]