

# FAIRFAX COUNTY



## ZONING ORDINANCE MODERNIZATION PROJECT

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### RESIDENTIAL, ACCESSORY, AND TEMPORARY USES

APRIL 9, 2019

#### Background

Since early 2018, Clarion Associates has been assisting Fairfax County in modernizing its Zoning Ordinance through the zMOD project. Outreach meetings were conducted by Clarion Associates in January and May of 2018 to establish a new structure for these regulations and to outline a process for updating and categorizing the land uses listed in the Zoning Ordinance. Drafts of the modernized use names and regulations are being released in installments according to the following schedule:

- Industrial uses (October 2018)
- Public, Institutional, and Community uses (December 2018)
- Agricultural and Commercial uses (January 2019)
- **Residential, Accessory, and Temporary uses (April 2019)**
- Consolidated draft of uses (April/May 2019)

In October 2018, Clarion conducted a round of outreach meetings to present the first installment of this work, which included definitions and regulations for industrial uses. In December 2018, the second installment, which included definitions and regulations for public, institutional, and community uses, was posted for public review. County staff conducted a round of outreach meetings on those uses in January 2019. In February 2019, the third installment, which included definitions and regulations for commercial and agricultural uses, was posted for public review, and County staff conducted a round of outreach meetings on those uses in February and March. All drafts are posted on the zMOD website and can be reviewed [here](#). We encourage you to review the drafts to familiarize yourself with the recommended organization, format, and use regulations.

This document presents the fourth installment of the proposed updated use regulations – those related to residential, accessory, and temporary uses. The proposed regulations include new land use classifications and definitions that combine uses with similar impacts to improve user-friendliness, simplify administration, and improve alignment with how people live and businesses operate. The proposed changes also remove inconsistencies and fill in gaps in the current residential, accessory, and temporary use regulations.

All revisions to the current Zoning Ordinance are footnoted in the document. Footnotes will continue to be used in drafts to identify carryover content and proposed changes throughout the zMOD process, but they will not be included in the final adopted Ordinance.

## Proposed Revisions to Residential, Accessory, and Temporary Uses

Major changes to the residential, accessory, and temporary uses are summarized below.

### Uses

Residential uses are grouped into the following two categories: Household Living and Group Living. Eleven residential uses are presented, including two new uses, **Dwelling**, **Stacked Townhouse** and **Live-Work Development**.

The proposed draft more clearly distinguishes between accessory uses (subordinate uses to a principal use that may continue for an extended period of time) and temporary uses (which often occur over short periods of time). While accessory uses can be any use in connection with, incidental to, and on the same lot with a permitted principal use or structure, the draft only lists those accessory uses that are separately defined and require additional regulations or standards. Two new uses, **Electric Vehicle Charging** and **Solar Collection System**, have been added, which brings the total number of accessory uses to 17. The draft lists ten temporary uses. In addition, **Gardening and Composting** (an accessory use), **Community Garden** (a temporary use), and **Farmers Market** (a temporary use) are included as placeholders in this draft, as they are the subject of a separate pending Zoning Ordinance amendment.

Under the current Zoning Ordinance, both accessory uses and accessory structures are listed together with associated use limitations and use regulations. This accessory use classification focuses mainly on uses, and accessory structures are not listed as individual uses in the use tables, but they will continue to be regulated as structures. Outdated uses and structures, such as guest houses or fallout shelters, have not been carried forward, and certain specific accessory structures, including decks, carports, and other permitted extensions are not included in this draft and will be located in Article 5, Dimensional Standards.

As with the other categories of uses, the proposed revisions consolidate similar activities into fewer uses with broader definitions. Uses that have been consolidated are set forth in the table below:

Combined Uses	
New Combined Use	Existing Uses
<b>Residential Uses</b>	
Manufactured Home	Mobile home
	Manufactured home
<b>Accessory Uses</b>	
Caretaker Quarters	Servants quarters
	Quarters of a caretaker, watchman or tenant farmer, and his family
Home-Based Business	Barber shop or beauty parlor as a home occupation
	Home occupation
	Home professional office

Combined Uses	
New Combined Use	Existing Uses
Residence for Manager or Employee	Residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel
	Dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use
Temporary Uses	
Construction Site Office and Storage	Construction materials yard accessory to a construction project
	Contractor's offices and equipment sheds to include trailers accessory and adjacent to an active construction project

### **Changes in Permissions**

The term "permissions" refers to whether a listed use is allowed in a specific zoning district, and if so whether it is a Permitted (by-right), Special Permit (approved by BZA) or Special Exception (approved by Board of Supervisors) use. The proposed changes to permissions for residential, accessory, and temporary uses are identified in the table below, followed by a discussion of the more notable changes:

Changes in Permissions		
		Change in Permission
		SE = Special Exception Use; SP = Special Permit Use
Use	Affected District	A = Accessory Use; AP = Administrative Permit
Residential Uses		
Religious Group Living	PRC	From allowed if shown on a development plan and PRC plan or by SP to allowed if shown on a development plan and PRC plan or by SE
Residence Hall	R-C	From SE to not allowed
	I-4	From not allowed to SE
Accessory Uses		
Accessory Dwelling Unit	R-A through R-8	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	From A to SP for Servants quarters From not allowed to SP for Quarters of a caretaker, watchman, or tenant farmer, and his family)
	R-2, R-3, R-4	From A to not allowed for Servants quarters
Home Daycare Facility	PRC	From allowed if shown on a development plan and PRC plan or by SP to allowed if shown on a development plan and PRC plan or by SE
Home-Based Business	See permission changes discussed below	

Changes in Permissions		
		Change in Permission
Use	Affected District	SE = Special Exception Use; SP = Special Permit Use A = Accessory Use; AP = Administrative Permit
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 because of low likelihood of adequate land being available
Temporary Uses		
Food Truck	R-C through R-MHP	From not allowed to AP for permitted or approved nonresidential uses

#### Discussion of Notable Changes:

- ❖ The new use, **Stacked Townhouse Dwelling**, includes a type of structure currently interpreted to be a multiple family dwelling. The permissions have been carried forward, but listing this type of housing separately will allow separate standards to be developed where appropriate. When the parking rates in Article 11 are restructured to match the revised uses, a new rate will be established for this use. In this draft, the standard that limits the maximum length of a single family attached structure to 240 feet has been applied to the stacked townhouse dwelling as well.
- ❖ The **Live-Work Development** is a structure or part of a structure in which areas intended for occupancy by a single owner, tenant, or user are specifically designed to accommodate a residential dwelling unit, a flexible work space for office-type uses, or both. This recognizes an emerging use that would be allowed as a principal use if shown on a final development plan in the PDC, PRM, and PTC Districts. The new use standards prohibit as part of the work space 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 which typically require installation of specialized equipment are specifically prohibited.
- ❖ In the commercial and industrial districts, a new use standard requires that the **Religious Group Living** use must be located in conjunction with a religious assembly use. Religious Group Living will be added to the combined use, Religious Assembly with Private School, Specialized Instruction Center, or Child Care Center use within the public, institutional, and community use classification when the Consolidated Draft of the use regulations is prepared, and this standard will also be applied. Similarly, a new use standard requires that a **Residence Hall** in the commercial and industrial districts must be located in conjunction with a private school, a college or university, or a religious assembly use.
- ❖ The regulations that apply to **Freestanding Accessory Structures** have been revised in regards to permitted height, setback, and size requirements to allow some additional flexibility with regard to the location of freestanding accessory structures. Under the current provisions, there is a distinction between “accessory structures,” which are allowed to be up to seven feet in height in any side or rear yard, and “accessory storage structures,” which are allowed to be up to eight and one-half feet in height in any side or rear yard. The proposal eliminates this inconsistency between sheds and other 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. Based on a review of the heights of accessory storage structures approved with special permit applications, 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 the required rear yard setback or a distance equal to the height of the structure from the rear lot line, whichever is less. Any accessory structure that exceeds 25 feet in height or the height of the existing principal structure must obtain special permit approval from the BZA. Regarding size, a new standard has been added, based on a long-standing Zoning Administrator determination, which will restrict the cumulative total of all freestanding accessory structures to no more than 50 percent of the gross floor area of a principal structure. The ability to exceed this percentage with special permit approval from the BZA has been added as a new use standard.

- ❖ Currently, all **Accessory Dwelling Units** require special permit approval from the BZA. In accordance with the recommendations of the 50+ Committee and the Communitywide Housing Strategic Plan to expand affordable housing and resources for older adults and persons with disabilities, the draft proposes a streamlined process for administrative approval of an accessory dwelling unit if it is located within the principal dwelling. In order to allow for review of layout, character, and parking, an accessory dwelling unit located in a detached structure would continue to require special permit approval from the BZA. The current special permit standards have been carried forward for the administrative permit, except that the discretionary review of parking is replaced with a requirement to designate that one of the parking spaces will remain available for the accessory dwelling unit. To maintain the appearance of a single family dwelling, as opposed to a duplex, a standard has been added for the administrative permit that any garage or carport entrance be located adjacent to any existing garage or carport, and the associated driveway and curb cut must be the same as that for the principal dwelling.
- ❖ The **Caretaker Quarters** use permits an accessory residence in a detached structure for agricultural or domestic workers providing child care, housekeeping, or grounds maintenance on primarily agricultural and residential uses in the R-A, R-E, R-C, and R-1 Districts. This proposal changes the use from a permitted accessory use to a special permit use, and removes the use from being allowed in the R-2 through R-4 Districts.
- ❖ The new **Electric Vehicle Charging** use is permitted as accessory to any use other than a single-family dwelling. It must be located in a parking lot or structure that serves a principal use, must not interfere with vehicle, bicycle, or pedestrian circulation, and cannot contain a canopy or roof if located on the top level of an open parking structure. The standards also clarify that these spaces count towards the minimum required number of parking spaces.
- ❖ **Home Daycare Facility** 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.
- ❖ The use standards for the accessory **Home-based Business** use have been significantly revised. Home-based businesses that meet the proposed use standards may be approved by the Zoning Administrator. Those that exceed the limits in the use standards for customers or clients and employees may be approved with a special permit from the BZA. In recognition of the wide range of activities that are now often conducted from a residential dwelling, the new standards do not include

the current non-exclusive list of possible home occupation activities, but instead include a short list of prohibited activities. The specifically prohibited activities include uses within the following use categories: health care uses, animal-related uses, food and lodging uses (except for low-risk home food preparation), the provision of personal or businesses services (except a barbershop, hair salon, dressmaker, seamstress, or tailor), recreation and entertainment uses (except a small health and exercise facility), retail sales uses (except photography or art studios), vehicle-related uses, and industrial uses (except home crafts like making jewelry or ceramic items).

The standards continue to require that there be no exterior evidence that the property is used in any way other than as a dwelling, and the home business must take place entirely inside the dwelling or permitted accessory structure. Limitations on mechanical or electrical equipment and the prohibition of stock in trade on the premises were not carried forward because they are outdated and difficult to enforce.

Currently, only a private school of special education, such as music lessons or yoga classes, may have customers come to the home. The draft proposes to treat all home businesses the same with respect to employees and customers. As outlined in the table below, two options are included for initial consideration during the review of this draft for each of the following factors: the maximum number of employees, the maximum number of customers at one time, and the cumulative number of customers in a day. Both options include consideration of the cumulative effect of home-based businesses, home daycare, and short-term lodging. For the cumulative number of customers, Option 1 would not allow any customers associated with a home-based business and would not allow short-term lodging on the same property that has a home daycare, in recognition of the impact of both drop-off and pick-up of children. Option 2 would allow a cumulative number of eight customers associated with all home-based businesses, short-term lodging, and home daycare facilities with no prohibition on a home daycare facility being located on the same property. For example, if a home daycare has four children, then a home-based business operating on the same property could have four customers per day, but if a home daycare is approved by the BZA for twelve children, then a home-based business would not be allowed to have any customers because the cumulative maximum of eight has been exceeded.

Comparison of Current and Proposed Options for Home-based Business			
	Maximum No. of Employees	Maximum No. of Home-based Business Customers at a Time	Cumulative No. of Customers/Day
Proposed Option 1	1 total	0 if a home daycare is on-site 2 for home-based business (if no daycare)	0 if a home daycare is on-site 8 total for home business & short-term lodging (if no daycare)
Proposed Option 2	1 for each business or daycare	4	8 total for home business, short-term lodging & home daycare
Current Home Occupation Permit	1 for each occupation	4 – school of special education only	8 – school of special education only
Current Home Professional Office SP	4 or 6 on 2 acres or more	Determined by BZA	Determined by BZA
Current Home Child Care	1 total Additional with Board or BZA approval	5 – multifamily or townhouse 7 – single family detached Up to 12 with Board or BZA approval	5 – multifamily or townhouse 7 – single family detached Up to 12 with Board or BZA approval
Current Short-term Lodging	n/a	6 adults	6 adults (60 nights/year)

- ❖ The **Keeping of Animals** has been modified based on recent updates to the Virginia State Code regarding boarding establishments. The regulations permit fewer than five commonly accepted 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 accordance with Solsmart and Solarize Fairfax recommendations, the **Solar Collection System** use is a new use that codifies existing interpretations on accessory solar panels, which includes both rooftop and ground-mounted systems. In order 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 by up to five feet. Freestanding solar collection systems must meet the accessory structure setback and height requirements.
- ❖ The **Food Truck** regulations have been revised to reflect their increasing popularity as supplements to a variety of events. They are now also proposed to be permitted as a temporary use in conjunction with approved nonresidential uses in residential zoning districts and residential areas of planned districts, subject to a limitation that the food trucks can operate a maximum of 12 times per year on

those properties. This limitation may be exceeded if approved by the Board or BZA in conjunction with a special exception or special permit.

- ❖ The **Special Event** 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), it now applies to all types of short-term events that do not fall within the definition of any other temporary use. The current standards have been carried forward, but the requirement that a permit time period be consecutive has been deleted. Also, the requirement that the principal administrative offices of the sponsor be located in 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.
- ❖ **Alternative Use of Historic Buildings** replaces an existing use, “older structures,” which requires special permit approval from the BZA, and allows the Board to approve a special exception for nonresidential uses within a structure on the Fairfax County Inventory of Historic Sites. The intent of this application is to incentivize the preservation of historically significant sites through the allowance of appropriate adaptive reuse. Standards include a recommendation from the Architectural Review Board for any exterior modifications, any parking or loading spaces to be located out of the minimum required yards, and the use of applicable use standards as a guide when reviewing the application proposal.

### Next Steps

- Public meeting on Residential, Accessory, and Temporary Uses on April 23, 2019, 7:00 PM, at the Fairfax County Government Center.
- In late April/early May, a Consolidated Draft integrating the proposed changes to all four installments of land uses will be posted on the zMOD project website for public review. The posting will be advertised by e-mail, Facebook, and other press releases.
- County staff are available to answer questions and receive feedback on all released documents ([DPZZMODComments@fairfaxcounty.gov](mailto:DPZZMODComments@fairfaxcounty.gov)).
- Clarion Associates will return in mid-May 2019 for another round of public meetings to present the consolidated draft of all of the proposed use regulations and to answer additional questions.
- Work will continue throughout 2019 to develop a complete draft of the reorganized Zoning Ordinance, with continued outreach along the way.

### Questions?

If you have questions or comments about any aspect of the zMOD project, please e-mail zMOD staff at [dpzzmodcomments@fairfaxcounty.gov](mailto:dpzzmodcomments@fairfaxcounty.gov) or visit the project website at [www.fairfaxcounty.gov/planning-zoning/zmod](http://www.fairfaxcounty.gov/planning-zoning/zmod). If you would like to receive e-mail updates about this project, please visit the project website and click “Add Me to the zMOD E-Mail List.” You may follow us at <https://www.facebook.com/fairfaxcountyzoning/>





# Article 4: Use Regulations<sup>1</sup>

## 4100. General Provisions

1. All land uses are listed in the two tables in Sect. 4101, Use Tables. 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, or temporary uses. Each use is subject to the applicable general and use-specific standards (together referenced as “use 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. The proposed use will be treated the same as the most similar use.<sup>2</sup>
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.<sup>3</sup>

## 4101. Use Tables

### 1. Use Table Instructions and Abbreviations<sup>4</sup>

- 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 applicable 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 development plan and PRC plan in the PRC District, in accordance with [reference relocated current Article 16 provisions]. All uses must comply with applicable use standards. If the cell containing the “✓” is in a column under the subheading “Secondary,” the use is allowed to be established only 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 [reference to relocated current Article 16 provisions] and applicable use standards as follows:
  - (1) The use must be identified on an approved 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

<sup>1</sup> Most of the text has been edited for readability; however, content changes are footnoted throughout.

<sup>2</sup> This language carries forward and condenses Par. 1 of Sect. 2-302, adding in reference to the use category.

<sup>3</sup> This combines Paragraphs 4 through 8 of Sect. 2-302.

<sup>4</sup> Description of table abbreviations draw on materials from the current articles for the zoning districts, and Articles 8 (Special Permits) and 9 (Special Exceptions).

- (2)** The use may be established with approval of a special exception by the Board when the use is not specifically identified on a final development plan, development plan, or PRC plan, as applicable. When a use is being considered for approval as a special exception, the applicable special exception or special permit use standards and the standards for the specific use 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 applicable special exception or special permit use standards are used as a guide.<sup>5</sup>
- (4)** When a standard is identified as applicable to all instances of a particular use, it is a required standard rather than used as a guide.
- 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 [reference to relocated current Article 9 procedures] and applicable use standards.<sup>6</sup>
- 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 [reference to relocated current Article 8 procedures] and the applicable use standards.<sup>7</sup>
- 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 established in a district.<sup>8</sup> An accessory use can be established by right with a principal use unless a special exception or special permit is required by the applicable standards for the specific 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.<sup>9</sup>
- 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 applicable use standards.<sup>10</sup>
- 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 applicable 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.

<sup>5</sup> Subsections (2) and (3) carry forward provisions from Par. 3 of Sections 6-106, 6-206, 6-305, Par. 5 of Sect. 6-406, and Par. 4 of Sect. 6-505.

<sup>6</sup> This provision is based on Par. 1 of Sect. 2-304.

<sup>7</sup> This provision is based on Par. 1 of Sect. 2-303.

<sup>8</sup> This provision is based on Sect. 10-101.

<sup>9</sup> Temporary Special Permits are now referred to as administrative permits. They are approved by the Zoning Administrator (see Sect. 8-010).

<sup>10</sup> “Associated service use” is a new name for “accessory service use.”

## 2. Structure of the Use Classification System<sup>11</sup>

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: Agriculture; Residential; Public, Institutional, and Community; Commercial; Industrial; Accessory; and Temporary.

### B. Use Categories

Use Categories are subgroups of uses in each use 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 4101.3: Use Table for Residential, Commercial, and Industrial Districts<sup>12</sup>**

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 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	
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, Single Family Attached								P	P	P	P	P																	4102.3.A
Dwelling, Single Family Detached	P	P	P	P	P	P	P	P	P				P																4102.3.B
Dwelling, Stacked Townhouse <sup>13</sup>										P	P	P	P																4102.3.A
Group Residential Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P															
Live-Work Development <sup>14</sup>																													4102.3.C

<sup>11</sup> This new section explains the three-tiered organization of uses in the use table.

<sup>12</sup> The R-P and I-1 districts are deleted because there is no land zoned to either district.

<sup>13</sup> This is a new use.

**TABLE 4101.3: Use Table for Residential, Commercial, and Industrial Districts<sup>12</sup>**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 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		
Manufactured Home <sup>15</sup>	P													P															4102.3.D	
Group Living: uses characterized by residential occupancy by a group of persons who do not constitute a household																														
Congregate Living Facility		SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE											4102.3.E	
Group Household <sup>16</sup>			SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP																
Religious Group Living <sup>17</sup>			SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP					SP	SP	SP	SP		SP	SP				4102.3.F	
Residence Hall <sup>18</sup>			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.G	
ACCESSORY USES																														
Accessory Dwelling Unit	AP SP	AP SP	AP SP	AP SP	AP SP	AP SP	AP SP	AP SP	AP SP	AP SP																			4102.7.B	
Caretaker Quarters <sup>19</sup>	SP	SP	SP	SP																									4102.7.C	
Child Care Center for Occasional Care																				A	A	A							4102.7.D	
Donation Drop-off Box	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	4102.7.E	
Electric Vehicle Charging <sup>20</sup>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	4102.7.F	
Family Health Care Structure		AP	AP	AP	AP	AP	AP	AP	AP					AP															4102.7.G	
Garage Sale or Yard Sale	A	A	A	A	A	A	A	A	A	A	A	A	A	A															4102.7.H	
Gardening and Composting <sup>21</sup>																														
Home Daycare Facility	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP															4102.7.I	
Home-Based Business <sup>22</sup>	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															4102.7.J	

<sup>14</sup> This is a new use.<sup>15</sup> This consolidates the permissions for manufactured homes and mobile homes, which have been consolidated into the use “manufactured home.”<sup>16</sup> This carries forward the current permissions for “group housekeeping unit.”<sup>17</sup> This carries forward the current permissions for “convent, monastery, seminary, nunnery.”<sup>18</sup> This carries forward the current permissions for “dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls,” except it is changed from SE to not allowed in the R-C District and from not allowed to SE in the I-4 District.<sup>19</sup> This carries forward the permissions for “servants quarters,” except it is changed from permitted to not allowed in the R-2 through R-4 Districts, and extends the permissions for “quarters of a caretaker, watchman or tenant farmer, and his family” to the R-1 District. In addition, the permissions are changed from A to SP.<sup>20</sup> New use with new permissions.<sup>21</sup> Part of a pending text amendment. Table and standards will be updated when the amendment is finalized.<sup>22</sup> This consolidates permissions for “home occupation,” “barber shop or beauty parlor as a home occupation,” and “home professional office.”

**TABLE 4101.3: Use Table for Residential, Commercial, and Industrial Districts<sup>12</sup>**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 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			
Keeping of Animals	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP	A SP		A SP	A SP	A SP	A SP	A SP	A SP	4102.7.K	
Limited Riding or Boarding Stable	A AP	A AP	A AP	A AP																										4102.7.L	
Residence for Manager or Employee <sup>23</sup>																A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Sawmilling	SP		SP	SP																										4102.7.M	
Short-term Lodging		AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP																4102.7.N	
Solar Collection System <sup>24</sup>	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	A	4102.7.O	
Wayside Stand	A	A	A	A	A	A	A																							4102.7.P	
TEMPORARY USES																															
Business Promotional Activities <sup>25</sup>																AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	4102.8.B
Community Garden <sup>26</sup>																															
Construction Site Office and Storage <sup>27</sup>		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	4102.8.C
Farmers Market <sup>28</sup>		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	4102.8.D
Food Truck <sup>29</sup>		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	AP	AP	AP	AP	4102.8.E
Interim Off-street Parking in Metro Station Area <sup>30</sup>			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		4102.8.F

<sup>23</sup> This combines the current accessory use “residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel” and the accessory service use “dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use.” The permissions for the accessory use “residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel” are carried forward. A “dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use” will not be an associated service use.

<sup>24</sup> This is a new use that codifies existing interpretations and carries forward the current permissions.

<sup>25</sup> This carries forward the permissions for “promotional activities of retail merchants.”

<sup>26</sup> Part of a pending text amendment. Table and standards will be updated when the amendment is finalized.

<sup>27</sup> This is a new use that consolidates uses “construction materials yard accessory to a construction project” and “contractor’s offices and equipment sheds to include trailers accessory and adjacent to an active construction project.”

<sup>28</sup> Part of a pending text amendment. Table and standards will be updated when the amendment is finalized.

<sup>29</sup> This carries forward the current permissions for “food trucks,” but expands the availability to approved nonresidential uses in Residential districts.

**TABLE 4101.3: Use Table for Residential, Commercial, and Industrial Districts<sup>12</sup>**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 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		
Model Home Sales or Leasing Office <sup>31</sup>		AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP															4102.8.G	
Portable Storage Container <sup>32</sup>	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	4102.8.H	
Special Event <sup>33</sup>	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	4102.8.I	
Temporary Dwelling or Manufactured Home		AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP		AP	AP	AP	AP	AP	4102.8.J	
OTHER USES																														
Alternative Use of Historic Building <sup>34</sup>	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE		SE	SE	SE	SE	SE	4102.1.H	

<sup>30</sup> Renamed from “Commercial” to “Interim”.<sup>31</sup> This carries forward the current permissions for “subdivision and apartment sales and rental offices.”<sup>32</sup> This carries forward the permissions for “temporary portable storage container.”<sup>33</sup> This carries forward the permissions for “carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities.”<sup>34</sup> New use and standards that replace Group 7 special permit uses and standards (older structures).

## 4. Use Table for Planned Development Districts

**TABLE 4101.4: Use Table for Planned Development Districts**

✓ = permitted if shown on final development plan/development plan and PRC plan;

✓/SE = permitted if shown on final development plan/development plan and PRC plan, or as special exception if not on plan(s)

✓/SE = permitted if shown on final development plan/development plan and PRC plan, or as special permit 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 Standards
	Principal	Secondary	Residential	Neighborhood Convenience Center	Village Center	Town Center	Convention/ Conference Center	Principal	Secondary	Principal	Secondary		Principal	Secondary	
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.A
Dwelling, Single Family Detached	✓		✓	✓	✓	✓			✓			✓			4102.3.B
Dwelling, Stacked Townhouse <sup>35</sup>	✓		✓	✓	✓	✓	✓	✓		✓		✓			4102.3.A
Group Residential Facility	✓		✓	✓	✓	✓	✓		✓			✓			
Live-Work Development <sup>36</sup>								✓		✓		✓			4102.3.C
Manufactured Home															4102.3.D
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.E
Group Household		✓/SE	✓/SE	✓/SE	✓/SE	✓/SE			✓/SE			✓/SE			
Religious Group Living <sup>37</sup>		✓/SE	✓/SE	✓/SE	✓/SE	✓/SE			✓/SE						4102.3.F
Residence Hall		✓/SE	✓/SE	✓/SE	✓/SE	✓/SE			✓/SE			✓/SE			4102.3.G
ACCESSORY USES															
Accessory Dwelling Unit		AP SP	AP SP	AP SP	AP SP	AP SP			AP SP			AP SP			4102.7.B
Caretaker Quarters <sup>38</sup>															4102.7.C
Child Care Center for Occasional Care					A	A	A		A			A			4102.7.D
Donation Drop-off Box		A	A	A	A	A	A		A		A	A		A	4102.7.E

<sup>35</sup> This is a new use.

<sup>36</sup> This is a new use.

<sup>37</sup> This carries forward permissions for “convents, monasteries, seminaries, and nunneries,” except it is changed from ✓/SP to ✓/SE in the PRC District.

<sup>38</sup> This carries forward the permissions for “servants quarters” and “quarters of a caretaker, watchman or tenant farmer and his family.”

**TABLE 4101.4: Use Table for Planned Development Districts**

✓ = permitted if shown on final development plan/development plan and PRC plan;

✓/SE = permitted if shown on final development plan/development plan and PRC plan, or as special exception if not on plan(s)

✓/SE = permitted if shown on final development plan/development plan and PRC plan, or as special permit 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 Standards
	Principal	Secondary	Residential	Neighborhood Convenience Center	Village Center	Town Center	Convention/Conference Center	Principal	Secondary	Principal	Secondary		Principal	Secondary	
Electric Vehicle Charging <sup>39</sup>		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
Garage Sale or Yard Sale		A	A	A	A	A			A		A	A		A	4102.7.H
Gardening and Composting <sup>40</sup>															
Home Daycare Facility <sup>41</sup>		✓/SE A	✓/SE A	✓/SE A	✓/SE A	✓/SE A	✓/SE A		✓/SE A		✓/SE A	✓/SE A		✓/SE A	4102.7.I
Home-Based Business <sup>42</sup>		AP SP	AP SP	AP SP	AP SP	AP SP	AP SP		AP SP		AP SP	AP SP		AP SP	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 <sup>43</sup>															4102.7.L
Residence for Manager or Employee <sup>44</sup>		✓	✓	✓	✓	✓	✓		✓		✓	✓		✓	
Sawmilling															4102.7.M
Short-term Lodging		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.7.N
Solar Collection System <sup>45</sup>		A	A	A	A	A	A		A		A	A		A	4102.7.O
Wayside Stand															4102.7.P

<sup>39</sup> New use with new permissions.<sup>40</sup> Part of a pending text amendment. Table and standards will be updated when the amendment is finalized.<sup>41</sup> This carries forward the permissions for “home child care facility,” except permissions are changed from ✓/SP to ✓/SE in the PRC District.<sup>42</sup> This consolidates permissions for “home occupation” and “home professional office,” except “home professional office” is changed from not allowed to AP or SP use in the PRM and PTC Districts.<sup>43</sup> This changes the permissions from ✓ to not allowed in the PDH, PRC, PDC, PRM, and PTC Districts based on the low likelihood that there would be enough land for this use in a planned district.<sup>44</sup> This combines the current accessory use “residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation and a residence for an employee and his/her family located within the same building as a funeral home or chapel” and the accessory service use “dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use.”<sup>45</sup> This is a new use that codifies existing interpretations and carries forward the current permissions.



**TABLE 4101.4: Use Table for Planned Development Districts**

✓ = permitted if shown on final development plan/development plan and PRC plan;

✓/SE = permitted if shown on final development plan/development plan and PRC plan, or as special exception if not on plan(s)

✓/SE = permitted if shown on final development plan/development plan and PRC plan, or as special permit 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 Standards
	Principal	Secondary	Residential	Neighborhood Convenience Center	Village Center	Town Center	Convention/Conference Center	Principal	Secondary	Principal	Secondary		Principal	Secondary	
TEMPORARY USES															
Business Promotional Activities <sup>46</sup>		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.B
Community Garden <sup>47</sup>															
Construction Site Office and Storage <sup>48</sup>		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.C
Farmers Market <sup>49</sup>		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.D
Food Truck		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.E
Interim Off-street Parking in Metro Station Area <sup>50</sup>		SE	SE	SE	SE	SE	SE		SE						4102.8.F
Model Home Sales or Leasing Office <sup>51</sup>		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.G
Portable Storage Container <sup>52</sup>		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.H
Special Event <sup>53</sup>		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.I
Temporary Dwelling or Manufactured Home		AP	AP	AP	AP	AP	AP		AP		AP	AP		AP	4102.8.J
OTHER USES															
Alternative Use of Historic Buildings <sup>54</sup>		SE	SE	SE	SE	SE	SE		SE		SE	SE		SE	4102.1.H

<sup>46</sup> This carries forward the current permissions for “promotional activities of retail merchants.”<sup>47</sup> Part of a pending text amendment. Table and standards will be updated when the amendment is finalized.<sup>48</sup> This use consolidates uses “construction materials yard accessory to a construction project” and “contractor’s offices and equipment sheds to include trailers accessory and adjacent to an active construction project.”<sup>49</sup> Part of a pending text amendment. Table and standards will be updated when the amendment is finalized.<sup>50</sup> Renamed from “Commercial” to “Interim”.<sup>51</sup> This carries forward the current permissions for “subdivision and apartment sales and rental offices.”<sup>52</sup> This carries forward the permissions for “temporary portable storage container.”<sup>53</sup> This carries forward the permissions for “carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities.”<sup>54</sup> New use and standards that replace Group 7 special permit uses and standards (older structures).

## 4102. Use Standards

Each use must comply with its applicable 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<sup>55</sup>

#### A. Standards for All Uses

- (1) Except as may be qualified elsewhere in this Ordinance, every use must comply with the lot size and bulk regulations of the zoning district where it is located.
- (2) Except as may be qualified elsewhere in this Ordinance, every use must comply with the off-street parking, loading, and private street regulations in [*new reference for Article 11*]; the sign regulations in [*new reference for Article 12*]; and the landscaping and screening regulations in [*new reference for Article 13*].<sup>56</sup>
- (3) All uses except Extraction Activities must comply with the performance standards in [*new reference for Article 14*].<sup>57</sup>
- (4) Before establishment, uses, including any modifications or alterations to an existing use, are subject to the provisions of [*reference to relocated current Article 17, Site Plans*].<sup>58</sup>
- (5) 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. Some, but not all, such 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.

#### B. Standards for Uses in Residential Zoning Districts

- (1) The sale of goods or products is not permitted, except as accessory to an established permitted, special permit, or special exception use.<sup>59</sup>
- (2) Outdoor storage must comply with the following standards:<sup>60</sup>
  - (a) Be located on the rear half of the lot;
  - (b) Be screened from the view from the first story window of any neighboring dwelling; and

<sup>55</sup> This section collects use standards that do not apply to a particular land use, but instead (1) apply generally to all uses, or (2) apply to all uses requiring special exception or special permit approval, or (2) apply to all uses within a defined “Group” or “Category” of uses in the current Zoning Ordinance, or (4) apply to all uses in a specific zoning district (or category of zoning districts). The standards have been collected and integrated from Sections 8,006, 9-006, 9-304, and multiple other sections of Articles 2, 3, 4, 5, 6, 8, and 9.

<sup>56</sup> This consolidates the references to additional regulations that are repeated for each district.

<sup>57</sup> Carries forward provisions from Sections 14-101 and 14-102, and other repeated references.

<sup>58</sup> This consolidates the references to site plan requirements in the additional regulations for each district, and the standards for group and category uses.

<sup>59</sup> Consolidates a use limitation repeated for each residential district.

<sup>60</sup> This carries forward Par. 24 of Sect. 10-102.

- (c) Not occupy more than 100 square feet.

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### C. Standards for Uses in Commercial Zoning Districts<sup>61</sup>

- (1) All refuse must be kept in enclosed containers that are screened from view.
- (2) The following are not allowed in the minimum required yards:<sup>62</sup>
  - (a) Goods displayed, stored, or offered for sale; and
  - (b) Services or activities that are associated with the use of the property, except that off-street parking spaces and vehicle fueling station pump islands and canopies are allowed.<sup>63</sup>
- (3) In the C-1, C-2, C-3, and C-4 Districts, all operations, activities, 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.<sup>64</sup>
- (4) In the C-5, C-6, C-7, and C-8 Districts, any operations, storage, activity, or display of goods may be permitted as follows:
  - (a) The use must be only on the same lot with and accessory to an established permitted, special exception, or special permit use;
  - (b) The use is limited to 500 square feet of accessory outdoor storage and display in accordance with [reference to relocated current Sect. 17-104]; however, additional storage and display may be permitted if designated on an approved development plan or site plan;<sup>65</sup> and
  - (c) In addition to the standards above, the following apply to the C-8 District:
    - 1. The limitations on outdoor storage in Paragraph (c) above do not preclude outdoor storage by a contractor's office and shop.
    - 2. All outdoor storage and loading areas must be completely enclosed by screening.
    - 3. There may be no outdoor storage or parking of construction equipment; construction machinery; construction vehicles; or other vehicles, such as solid waste collection vehicles, dump trucks, cement mixers, tractors, or trailers of tractor-trailer trucks.

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### D. Standards for Uses in Industrial Districts<sup>66</sup>

- (1) The following are not allowed in the minimum required yards:<sup>67</sup>

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<sup>61</sup> This carries forward use standards that apply district-wide from Sections 4-105, 4-205, 4-305, 4-405, 4-605, 4-705, and 4-805. The curb cut standards for C-5 through C-8 are deleted because they are not currently used and are inconsistent with PFM and VDOT standards.

<sup>62</sup> This carries forward Sect. 2-504, except for the allowance for merchandise on pump islands.

<sup>63</sup> Reference to canopies added to reflect current practice.

<sup>64</sup> This extends the provisions for outdoor seating to a craft beverage production establishment.

<sup>65</sup> Revised to reflect recent ZOAs and to reference approval on a development plan. The standards specifying that storage is limited to certain types of items are not carried forward.

<sup>66</sup> This carries forward provisions in Sections I-105, I-205, I-305, I-405, I-505, and I-605.

- (a) Goods displayed, stored, or offered for sale;
  - (b) Processing or other industrial operations of any kind; and
  - (c) Services or activities that are 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, I-3, and I-4 Districts, all operations, activities, and storage must be conducted within a completely enclosed building, except for those uses which, by their nature, must be conducted outside a building, and any outdoor seating provided in association with a restaurant or craft beverage production establishment.<sup>68</sup>
- (3) In the I-5 District, outside storage may not be located within a minimum required front yard or within a required transitional screening yard.

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## E. Standards for Uses in Planned Districts

- (1) In the PRC District, all uses permitted under a development plan must be in substantial conformance with the approved development plan and the approved PRC plan as required by [reference to relocated Sect. 16-202].
- (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 [reference to relocated Sect. 16-403].<sup>69</sup>
- (3) Additional standards that apply to groups or categories of uses in the establishment of a planned district are in [references to each district section].<sup>70</sup>

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## F. Standards for Special Exception and Special Permit Uses<sup>71</sup>

- (1) 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 adopted 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, by its nature, design, or operational characteristics,<sup>72</sup> must not adversely affect the use or future development of neighboring properties and must be

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<sup>67</sup> This carries forward Sect. 2-504, except for the allowance for merchandise on pump islands.

<sup>68</sup> This carries forward provisions in Par. 2 of Sections. 5-205, 5-305, and 5-405. It extends the provision for outdoor seating to a craft beverage production establishment.

<sup>69</sup> Consolidates Par. 4 of Sections 6-106, 6-206, 6-305, 6-505, and Par. 11 of Sect. 6-406.

<sup>70</sup> This reference is to planned district standards in Article 2: Zoning Districts that cover larger types or categories of uses (e.g., principal and secondary uses in Par. 5 of Sect. 6-206 and “secondary uses of a commercial and office nature” in Par. 5 of Sect. 6-106). Standards that apply to specific uses (e.g., “kennels and veterinary hospitals” in Par. 9 of Sect. 6-106) are included in this Article.

<sup>71</sup> This combines the general standards in Sections 8-006 and 9-006.

<sup>72</sup> This part of the standard is derived from Sect. 9-505, which currently applies to certain commercial uses. It is made applicable here to the review of all SP and SE uses. Provisions on operational standards are stated here to avoid the need to restate them for each use to which they apply.

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 [*reference to relocated current Article 12*]; however, the Board or BZA may impose stricter requirements for a given use than those set forth in this Ordinance.
- (2) 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 [*reference to relocated current Articles 8 and 9*].
  - (3) A conforming use lawfully existing prior to 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 [*reference to relocated current Sect. 15 101*].
  - (4) 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.

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## G. Standards for Associated Service Uses<sup>73</sup>

- (1) In addition to the standards for specific uses, all associated service uses must comply with the following general standards:
  - (a) The associated service use must be located in the same building as the principal use.

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<sup>73</sup> This carries forward provisions in Sections 10-203, 5-105, and Par. 22 of Sect. 11-102 that apply to accessory service uses, with modifications. Revisions include (1) deleting accessory service uses from the R-12 and R-16 districts based on the density and that Non-RUPs have not been issued for such uses; (2) deleting the standard that the use be oriented to cater primarily to the residents or employees of the principal use with which they are associated; (3) deleting the current option for accessory service uses in a multifamily building in PDH, PDC, and PRC because the uses are allowed in those districts; (4) deleting options for the use to be in a freestanding building; (5) deleting limitations regarding which floor of a building the use may be located on; (6) revising the maximum percentage to be based on the building instead of the development to be consistent with the current parking standard; (7) adding a maximum size for personal and business service establishments of 5,000 square feet; (8) deleting accessory service uses in the I-I District and related standards; (9) deleting the minimum number of units in a multifamily building; (10) reducing the types of uses that may be approved as associated service uses; and (11) generalizing and expanding the standard for hours of operation.

- (b) The combined gross floor area of all associated service uses must not exceed 15 percent of the gross floor area of the building. In addition, each individual personal service or business service establishment may not exceed 5,000 square feet of gross floor area.
- (c) When located in a multifamily building, the associated service use may not be located within an individual dwelling unit.
- (d) In the C-1, C-2, C-3, C-4, I-2, I-3, I-4, I-5, and I-6 Districts, 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.
- (e) An associated service use may use the parking rate for the principal use.

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## H. Standards for Alternative Use of Historic Buildings<sup>74</sup>

### Standards when permitted by special exception:

- (1) The Board may approve a special exception to allow a non-residential 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) All applications that include exterior modifications to the structure or site will be reviewed by the Architectural Review Board (ARB), and its recommendation will be based on if the proposal is consistent with the Secretary of the Interior's Standards for Treatment of Historic Properties. The ARB recommendation will be provided to the Planning Commission and Board of Supervisors.
- (3) The structure may not be altered or used in a manner that results in removal from the Fairfax County Inventory of Historic Sites.
- (4) Goods or items offered for sale may not be displayed outdoors.
- (5) 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.
- (6) 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.
- (7) The Board may use the applicable use standards as a guide when reviewing the proposal.
- (8) 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.

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<sup>74</sup> New use and standards that replace Group 7 special permit uses and standards (older structures).

## 2. Residential Uses

### Household Living

#### A. Dwelling, Single Family Attached and Dwelling, Stacked Townhouse<sup>75</sup>

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

- (1) The maximum length of a contiguous building group is 240 feet.

#### B. Dwelling, Single Family Detached

Standards when permitted by right:

- (1) In the R-A District, a single family detached dwelling is allowed only in conjunction with an agricultural operation.<sup>76</sup>

#### C. Live-Work Development<sup>77</sup>

Standards applicable to all live-work developments:

- (1) The following activities are prohibited:
  - (a) The conduct of any activity that is not a permitted use or an approved special permit or special exception use in the district;
  - (b) Any office that involves medical or dental services or research and experimentation in a laboratory, or similar activities; and
  - (c) 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 (a) and (b) above.

#### D. Manufactured Home

Standards applicable to all manufactured homes:

- (1) A manufactured home that is to be used as a dwelling is allowed only:
  - (a) In a mobile home park in the R-MHP District in accordance with [reference to R-MHP District standards], provided that the manufactured home must be licensed in accordance with Chapter 32 of the 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

<sup>75</sup> This carries forward standards in the definition for this use in Sect. 20-300 and applies them to the new stacked townhouse dwelling use, except the requirements to incorporate one-foot offsets in the façade plane and vary the architectural facades or treatment of materials have been deleted.

<sup>76</sup> This carries forward Par. 2 of Sect. 3-A02. The requirement that the agricultural use cover at least 75 percent of the total land area is carried forward in the standards for agricultural operations.

<sup>77</sup> These are new standards for a new use.

the Federal Manufactured Home Construction and Safety Standards in effect on the date of manufacture;<sup>78</sup>

- (b) In the R-A District in conjunction with an agricultural operation, provided that the manufactured home must be placed on a permanent foundation;<sup>79</sup>
- (c) 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;<sup>80</sup> or
- (d) As a temporary dwelling in accordance with Sect. 4102.8.J, Temporary Dwelling or Manufactured Home.

## Group Living

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### E. Congregate Living Facility<sup>81</sup>

#### Standards when permitted by special exception:

- (1) A congregate living facility that has the external form and character typical of a single family detached dwelling must comply with the minimum yard 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 District and 45 feet from all other lot lines, or as determined by the Board.

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### F. Religious Group Living<sup>82</sup>

#### Standards when permitted by special permit:

- (1) 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.

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<sup>78</sup> This new standard renders nonconforming any manufactured home in the R-MHP District that does not comply with federal regulations. Such a manufactured home would be subject to the provisions in the zoning ordinance governing nonconformities.

<sup>79</sup> This carries forward Par. 2 of Sect. 3-A02 and Par. 3 of Sect. 3-A05, in accordance with State law, except the reference that the manufactured home comply with the requirements for a single family detached dwelling is deleted. The requirement that the agricultural use cover at least 75 percent of the total land area is carried forward in the standards for agricultural operations.

<sup>80</sup> This paragraph and the following paragraph carry forward Sect. 2-507, modified for readability. It deletes Par. C of Sect. 2-507 allowing a mobile home on a parcel of 100 acres or more as living quarters for a caretaker, watchman, or tenant farmer and his family in the R-A, R-C, R-E, or R-1 District. This provision is partially carried forward in Par. (1) above and is no longer needed in the other districts. Par. D of Sect. 2-507, which allows mobile homes as temporary dwellings for faculty, staff, and students as part of a church, private school of general or special education, child care center, or nursery school, is carried forward as a temporary use standard.

<sup>81</sup> This carries forward Sect. 9-307.

<sup>82</sup> New standard. Religious group living will be added to the combined use of "religious assembly with private school, specialized instruction center, or child care center," where this standard will also be added.<sup>82</sup>



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## G. Residence Hall<sup>83</sup>

### Standards when permitted by special exception:

- (1) In the R-E, R-1, R-2, R-3, and R-4 Districts, the external form and character of the structure must be that 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.

## 3. Accessory Uses<sup>84</sup>

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### A. General Standards for Accessory Uses and Structures<sup>85</sup>

#### (1) Generally Permitted

Unless qualified by another provision of this Ordinance, accessory uses and structures, as defined in Article 9: Definitions, are permitted in any zoning district, subject to the standards in this section (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.

#### (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.

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<sup>83</sup> This carries forward Sect. 9-312, except standard 2 has been added as a new requirement. Application submission requirements will be relocated, and the provision allowing the Board to impose conditions was deleted as unnecessary.

<sup>84</sup> This section generally integrates provisions from Article 10 and Article 2. The category of accessory service uses is not carried forward, but is instead replaced by associated service use standards in Sect. 4102.G of this draft. Some provisions in Article 10 will be located in other parts of the reorganized zoning ordinance (e.g., outdoor lighting will be located in Article 5: Development Standards). The use "Guest house or rooms for guest in an accessory structure" and all associated standards are not carried forward and have been deleted.

<sup>85</sup> This carries over Sect. 10-101 and Sect. 10-103, with some wording revised for clarity, as well as various other provisions from Article 10 and Article 2. Some of the provisions included in this section may be relocated during the comprehensive reorganization of the zoning ordinance. Other provisions are not included in this section because they will be located elsewhere in the reorganized zoning ordinance, such as outdoor lighting provisions (which will be located in Sect. 5-107, Outdoor Lighting) and yard encroachment provisions in Article 2 (which will be located in Sect. 5-100, Dimensional Standards).

#### **(4) Limitation on Motor Vehicle Fuel Storage Tanks**

In residential districts, motor vehicle fuel storage tanks are not allowed as accessory to a dwelling.<sup>86</sup>

#### **(5) Height<sup>87</sup>**

- (a)** 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.

#### **(6) Freestanding Accessory Structures<sup>88</sup>**

Freestanding accessory structures must comply with the following standards:

- (a)** The structure may not be located in the minimum required front yard as specified in the applicable zoning district regulations.
- (b)** On a lot that is 36,000 square feet or less, only the following freestanding accessory structures may be located in any front yard:
  - 1. Flagpoles;
  - 2. Landscaping (see Article 9: Definitions);<sup>89</sup>
  - 3. Basketball standards, which may be located no closer than 15 feet to the front lot line, and no closer than 12 feet to any side lot line or a distance equal to the minimum required side yard, whichever is less; and
  - 4. Gardening.<sup>90</sup>
- (c)** When in association with a single family dwelling, the height of a freestanding accessory structure may not exceed 25 feet or the height of the existing principal structure, whichever is less; however, the BZA may approve a special permit for an increase in height.

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<sup>86</sup> This carries forward Par. 14 of Sect. 10-102.

<sup>87</sup> The exceptions to the maximum height regulations in this section have been relocated to Sect. 5-100, Dimensional Standards.

<sup>88</sup> This carries forward and consolidates Paragraphs 10 and 12 of Sect. 10-104 and Par. 25 of Sect. 10-102, with revisions: (i) the distinction between “accessory structures” and “accessory storage structures” has been eliminated, which will allow all freestanding accessory structures up to 8.5 feet in height to be located in any side or rear yard; (ii) the reference to a statue in Par. 12C of Sect. 10-104 will be replaced with a link to the defined term of “landscaping” which includes fountains, statues, etc.; (iii) a new maximum height without SP approval; (iv) a new side and rear setback of 5 feet for structures between 8.5 – 12’ in height; (v) a revised rear setback for structures greater than 12 feet; (vi) a new cumulative maximum gross floor area of 50% of the principal structure for all accessory structures on the lot without SP approval; (vii) a revised side setback for basketball standards and deletion of the hours; and (viii) deletion of the 200 sq. ft. size limit for sheds. Par. 1 of Sect. 10-104, which requires that wall and roof attachments comply with the bulk standards for the principal structure, is deleted.

<sup>89</sup> This will include a link to the definition of landscaping, which includes structures such as fountains, statues, and ponds.

<sup>90</sup> Part of a pending text amendment.

- (d) 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 [reference to relocated Sect. 2-505].
- (e) If the structure is between eight and one-half feet in height and 12 feet in height, 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.
- (f) If the structure is more than 12 feet in height, it must be located at least:
  1. A distance equal to the minimum required side yards from all side lot lines; and
  2. A distance equal to or greater than its height from the rear lot line or the minimum required rear yard, whichever is less.
- (g) The requirements of Paragraphs (d), (e), and (f) are summarized in the table below.

Table 4102.7.A(6): Accessory Structure Height and Yard Requirements	
Height of Accessory Structure	Setbacks Required
Up to 8.5 feet	Side: None
	Rear: None
8.5 feet to 12 feet	Side: 5 feet
	Rear: 5 feet
Greater than 12 feet	Side: Required side yard setback of district
	Rear: Required rear yard setback of district or distance in height from rear lot line, whichever is less

- (h) In all residential districts, except the R-A, R-C, and R-E Districts, unless the BZA approves a special permit for an increase in the size, the cumulative gross floor area of all freestanding accessory structures on a lot may not exceed 50 percent of the gross floor area of the principal structure.

## (7) 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:<sup>91</sup>

- (a) Containers may not be located in any required parking space, driveway, parking aisle, open space, or landscaped area.
- (b) If located in a minimum required front yard, the containers must be located at least fifteen 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.

## (8) Television and Satellite Dish Antennas

Except as may be qualified by [reference to relocated Sect. 2-505], conventional television antennas and satellite dish antennas designed to 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.<sup>92</sup>

<sup>91</sup> This carries forward Par. 11 of Sect. 10-104.

<sup>92</sup> This carries forward Par. 13 of Sect. 10-104, with reference to voice and data services added.

## (9) Ground-Supported Amateur Radio Antenna Structures

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:<sup>93</sup>

- (a) 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.
- (b) Structures greater than 75 feet in height must not be located closer to any lot line than a distance equal to their height.

## (10) Gates and Gate Posts

Gates and gate posts may be located within any required minimum front yard as follows:<sup>94</sup>

- (a) Four gate posts not to exceed ten feet in height.
- (b) Two gates not to exceed eight feet in height.
- (c) Gates and gate posts exceeding four feet in height must not exceed a maximum of 15 percent of the width of the lot.

## (11) Fences and Walls

Fences and walls must comply with the following standards:<sup>95</sup>

### (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.<sup>96</sup> 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.<sup>97</sup>
- 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 Code, The Subdivision Ordinance.

### (b) Height

- 1. Unless otherwise allowed by Paragraph (c) below, the maximum allowed height for a fence or wall is as established in Table 4102.7.A(11)(b): Maximum Allowed Fence or Wall Height.

Table 4102.7.A(11)(b): 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	No requirement	No requirement	4

<sup>93</sup> This carries forward Par. 5 of Sect. 10-104.

<sup>94</sup> This carries forward Par. 4 of Sect. 10-104, except the provision allowing up to two trellises is deleted, and the maximum height of gate posts is changed from unlimited to ten feet.

<sup>95</sup> This carries forward Par. 5 of Sect. 10-103 and Par. 3 of Sect. 10-104.

<sup>96</sup> This increases the minimum lot size in Par. 5A of Sect. 10-103 for barbed wire fences from two to five acres.

<sup>97</sup> Reference to storage areas changed to storage yards to clarify this applies to a specific land use, not an area on a lot containing other uses.

Table 4102.7.A(11)(b): 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)
	Residential corner lot that abuts a major thoroughfare [1]	Solid wood or masonry located flush to the ground	8
	No requirement	No requirement	7
Side or Rear	Reverse frontage lot 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. 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 Par. (6) above.

**(c) Allowed Increases in Height**

1. Table 4102.7.A(11)(c): 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 4102.7.A(11)(c): 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(11)(c)3
Front	Up to a maximum fence or wall height of 6 feet	Special Permit OR Special Exception	4102.7.A(11)(c)4
Side or Rear	No limit	Special Permit OR Special Exception	4102.7.A(11)(c)5
Structures with Additional Permissions	Maximum Height Permitted	Type of Request	Applicable Standards
Noise Barriers	No limit	Special Permit OR Special Exception	4102.7.A(11)(c)6
Containment Structures	No limit	Special Exception	4102.7.A(11)(c)7

2. All applications for an increase in height must be accompanied by illustrations supporting the need for the height increase and identifying the location(s) for which the relief is sought, including the height, location, color, and materials of the

proposed fence, wall, gate, or gate post and any associated berming or landscaping in order to show the visual impact of the fence, wall, gate, or gate post on nearby properties.<sup>98</sup>

3. 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 4102.7.A(11)(b): Maximum Allowed Fence or Wall Height, if the following requirements are met:<sup>99</sup>
  - A. The fence or wall is not subject to a height increase in accordance with Paragraphs 4 or 5 below.
  - B. The fence or wall must meet the sight distance requirements of [*reference to relocated Sect. 2-505*].
  - 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.
  - E. The fence or wall height increase must not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.
4. In any front yard, the Board may approve, in conjunction with a proffered rezoning 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 4102.7.A(11)(b): Maximum Allowed Fence or Wall Height, if the following requirements are met:<sup>100</sup>
  - A. The fence or wall height may not exceed six feet.
  - B. The fence or wall must meet the sight distance requirements contained in [*reference to relocated Sect. 2-505*].
  - C. The Board or BZA determines that the proposed fence or wall height increase is warranted based on the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, concerns related to safety or noise, or other similar factors.
  - D. The Board or BZA determines that the proposed fence or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale, and any historic designations.
  - E. The Board or BZA determines that the proposed fence or wall height increase will not adversely impact the use or enjoyment of other properties in the immediate vicinity.

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<sup>98</sup> This carries forward Paragraphs 3H(1) and 3I(5) of Sect. 10-104 and applies it generally to all fence increase applications. This standard may be relocated to submission requirements.

<sup>99</sup> This section may be relocated to where other requests for reductions are located.

<sup>100</sup> This carries forward Sect. 8-923, except application requirements will be relocated.

- F.** The Board or BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence or wall design requirements.
- 5.** In any side or rear yard, the Board may approve, in conjunction with a proffered rezoning or a special exception, or the BZA may approve, in conjunction with another special permit, a fence or wall height greater than the maximum height allowed by Table 4102.7.A(11)(b): Maximum Allowed Fence or Wall Height, if the Board or BZA, as applicable, determines that the proposed fence or wall is in character with the existing development on the site, is harmonious with the surrounding development, and will not adversely impact the use or enjoyment of any nearby property. The Board or BZA, as applicable, may impose such conditions as it deems necessary to satisfy these criteria.
- 6.** For noise barriers, the Board may approve, in conjunction with a proffered rezoning or another special exception, or the BZA may approve, a fence or wall height greater than the maximum height allowed by Table 4102.7.A(11)(b): Maximum Allowed Fence or Wall Height, where the noise barriers are designed to reduce adverse impacts of highway noise on properties located adjacent to major thoroughfares, or noise impacts of commercial and industrial uses on adjacent properties, in accordance with the following:<sup>101</sup>
  - A.** A noise impact study must be submitted with the application. The study must demonstrate the need for such a barrier and the level of mitigation to be achieved, and must include the height of the barrier, the proposed location of the barrier on the property, the acoustical design and structural features of the barrier, the type of building materials to be used in construction of the barrier, and the proposed measures to mitigate any visual impacts of the barrier on adjacent property, to include the location and design of the barrier, use of berming, and landscaping.
  - B.** The Board or BZA, as applicable, must determine that the proposed height and location of the noise barrier are necessary in order to achieve mitigation of the noise and that the noise barrier will not adversely impact the use or development of surrounding properties.
  - C.** Before establishment, the noise barrier is subject to the provisions of [*reference to relocated Article 17*] or other appropriate submission as determined by the Director.
- 7.** For containment structures, an increase in fence or wall height may be approved by the Board or BZA in accordance with Sect. 4102.4.D, Community Swim, Tennis, and Recreation Club; Sect. 4102.5.R, Commercial Recreation, Outdoor; Sect. 4102.5.U, Golf Course or Country Club; or Sect. 4102.5.X, Quasi-Public Park, Playground, or Athletic Field.<sup>102</sup>

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<sup>101</sup> This carries forward Par. 3F of Sect. 10-104 and Sect. 8-919.

<sup>102</sup> This carries forward Par. 3E of Sect. 10-104. A standard for the community swim, tennis, and recreation club use will be added in the public, institutional, and community uses section.

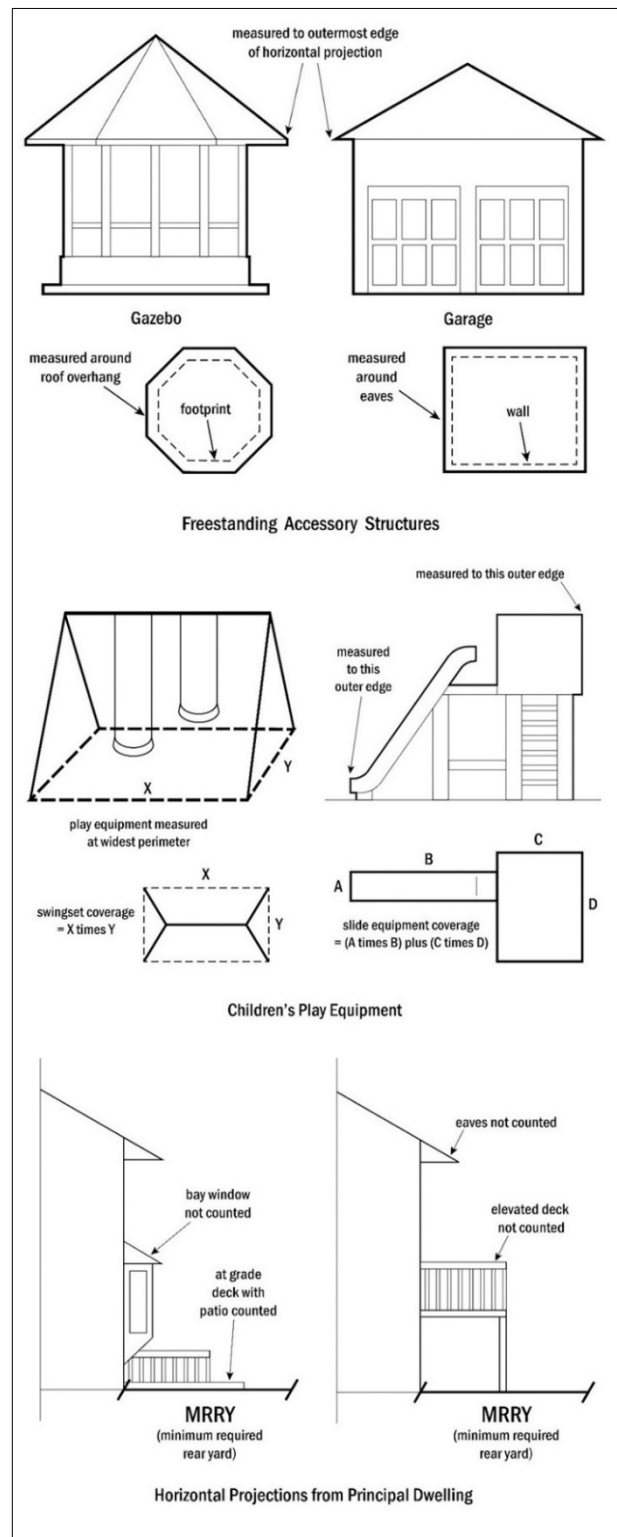


## (12) Rear Yard Coverage Limitations

The following limitations on coverage of the minimum required rear yard apply to any lot developed with a single family detached dwelling:<sup>103</sup>

- (a) Unless otherwise approved in accordance with Par. (e) below, all accessory structures and uses may cumulatively cover no more than:
1. 30 percent of the minimum required rear yard on any lot located in a conventional residential district; or
  2. 50 percent of the minimum required rear yard 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 required rear yard 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 required rear yard includes the following (see Figure 4102.7.A(12)(b): Determining Coverage):<sup>104</sup>
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

Figure 4102.7.A(12)(b): Determining Coverage



<sup>103</sup> This carries forward Par. 3 of Sect. 10-103. The illustrations are integrated from Appendix 2.

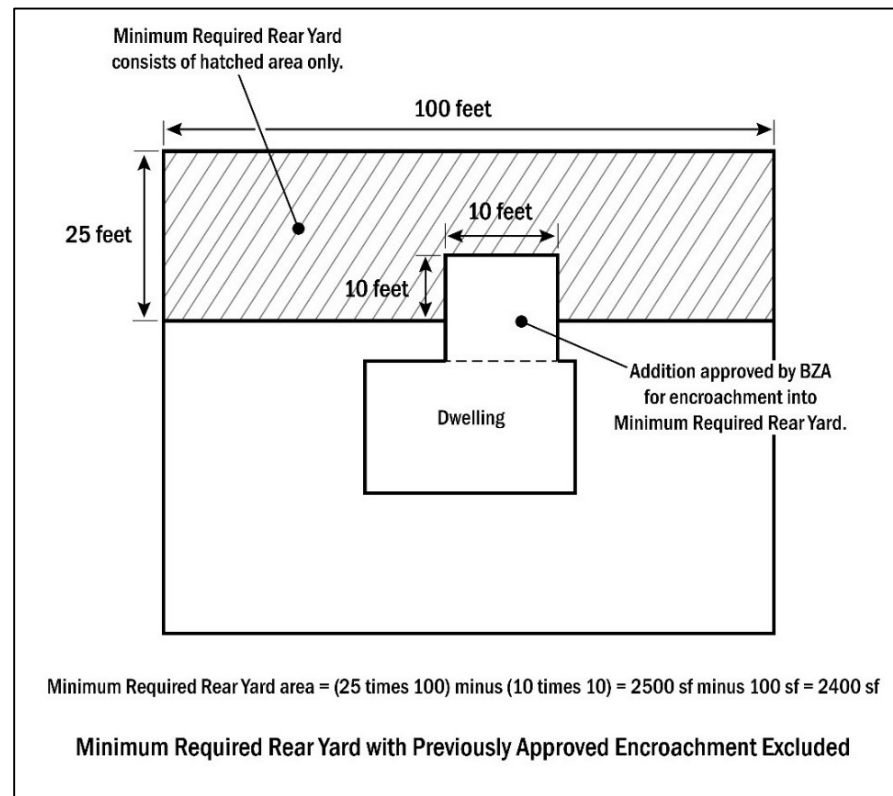
<sup>104</sup> Graphics will be revised for readability and consistent style as a part of the larger reorganization of the zoning ordinance.



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 required rear yard 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 required rear yard covered by an approved encroachment of the principal dwelling is not included in the minimum required rear yard calculation (see Figure 4102.7.A(12)(c): Approved Portions of Principal Dwelling).

**Figure 4102.7.A(12)(c): 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 yards, the minimum required rear yard will be governed by the regulations of that conventional residential zoning district that most closely characterizes the given development.
- (e) An increase in the limitations on coverage of the minimum required rear yard in Par. (a) above may be permitted in accordance with [reference to special permit procedure], 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:<sup>105</sup>

1. The maximum percentage of the minimum required rear yard 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 yard 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 required rear yard; 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 and/or septic field; the location of easements; and the preservation of historic resources.
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.

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## B. Accessory Dwelling Units<sup>106</sup>

### Standards when permitted by administrative permit:

- (1) An accessory dwelling unit is only permitted in association with a single family detached dwelling unit, and there must be no more than one accessory dwelling unit per single family lot.
- (2) An accessory dwelling 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.

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<sup>105</sup> This carries forward Sect. 8-926, except application requirements will be relocated.

<sup>106</sup> This carries forward Sect. 8-918, except (i) accessory dwelling units that are located within the principal dwelling and comply with the standards may be approved by administrative permit, (ii) application requirements will be relocated to procedures, (iii) reference to the Board policy has been deleted, and (iv) standards for carports, garages, driveways, and curb cuts have been added. The special permit standard relating to a review of parking has been replaced with a standard requiring one designated parking space. Additional changes are noted below.

- (3)** Any proposed external entrances for an accessory dwelling unit must be located on the side or rear of the dwelling, and not on the same façade as the external entrances serving the principal dwelling. Any proposed garage or carport entrance must be located directly adjacent to any existing garage or carport, and the associated driveway and cur cut must be the same as that which serves the principal dwelling.
- (4)** The gross floor area of the accessory dwelling unit must not exceed 35 percent of the total gross floor area of the principal and accessory dwelling units. For the purpose of this paragraph, gross floor area includes the floor area of any attached garage.<sup>107</sup>
- (5)** The accessory dwelling unit may not contain more than two bedrooms.
- (6)** The occupancy of the accessory dwelling 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 a person or persons who qualify as elderly or handicapped as specified below:
    - 1.** Any person 55 years of age or over; or
    - 2.** Any handicapped person, with handicapped defined in accordance with the Federal Fair Housing Amendments Act of 1988.<sup>108</sup>
  - (c)** The accessory dwelling unit may be occupied by a maximum of two people.
  - (d)** The principal single family dwelling unit may be occupied by not more than one of the following:
    - 1.** One family, which consists of one person or two or more persons related by blood or marriage and any number of natural children, foster children, step children, or adopted children; or
    - 2.** A group of not more than four persons not related by blood or marriage.
  - (e)** An accessory dwelling occupied by a handicapped person must provide for reasonable access and mobility, based on the specific needs of the handicapped person. Measures for reasonable access and mobility must be specified in the permit application. Generally, reasonable access and mobility for handicapped persons includes:
    - 1.** Uninterrupted access to one entrance; and
    - 2.** Accessibility and usability of one toilet room.
- (7)** One designated parking space must be available for the accessory dwelling unit.
- (8)** An accessory dwelling unit must meet all applicable regulations for building, safety, health, and sanitation, and the construction of an accessory dwelling unit is not deemed to be a subdivision of the lot on which located.
- (9)** Upon issuance of the administrative permit, the owner will record a copy of the permit among the land records of Fairfax County. The permit must contain a description of the subject property and must be indexed in the Grantor Index in the name of the property owners.

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<sup>107</sup> The definition of GFA for this use is clarified to include the floor area of any attached garage.

<sup>108</sup> The standard for disability is revised to reference the Fair Housing Act.

- (10) The owner must make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
- (11) An administrative permit for an accessory dwelling unit may be issued to the owner and approved for a period not to exceed five years from the date of approval. Such administrative permits may be extended for succeeding five-year periods by the Zoning Administrator.

**Standards when permitted by special permit:**

- (12) The BZA may approve a special permit for an accessory dwelling unit that does not meet the standards in Paragraphs (2) or (3) above to permit an accessory dwelling unit in a freestanding structure on a lot of two acres or more or to modify the location of any external entrance and access from the street.
- (13) The accessory dwelling unit must conform to all other applicable standards in Paragraphs (1) and (5) through (8) above.
- (14) When the accessory dwelling unit is located in a freestanding structure, the gross floor area of the accessory dwelling unit must not exceed 35 percent of the gross floor area of the principal dwelling unit. When the accessory dwelling unit is not located in a freestanding structure, the gross floor area of the accessory dwelling unit must not exceed 35 percent of the total gross floor area of the principal and accessory dwelling units. For the purpose of this paragraph, gross floor area includes the floor area of any attached garage.<sup>109</sup>
- (15) The BZA may require the provision of designated off-street parking spaces in addition to the requirements specified in [reference to relocated Article 11] for a single family detached dwelling unit.
- (16) Upon the approval of a special permit, the owner will record a copy of the BZA's approval, including all accompanying conditions among the land records of Fairfax County. The resolution must contain a description of the subject property and must be indexed in the Grantor Index in the name of the property owners.

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## C. Caretaker Quarters<sup>110</sup>

**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) Prior to the establishment of caretaker quarters, the following must be completed:<sup>111</sup>
  - (a) Recordation of a restrictive covenant in the land records and attached to the deed of the property, which states that the structure cannot be used for any other use; and

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<sup>109</sup> The maximum size of an accessory dwelling unit in a detached structure is revised to be based on the size of the principal dwelling, not a combination of the two. The definition of GFA for this use is defined to include an attached garage.

<sup>110</sup> Permissions have been changed from accessory to special permit, and standards from existing interpretations have been codified.

<sup>111</sup> This standard is based on a long-standing Zoning Administrator interpretation.

- (b) Documentation identifying the occupants, their work responsibilities, and their working hours.
- (4) The BZA may impose such conditions as it deems necessary, including, but not limited to, a time limit or limits to the size of a caretaker quarters.<sup>112</sup>

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#### D. Child Care Center for Occasional Care<sup>113</sup>

##### Standards when permitted by right:

- (1) Child care provided to any child may not exceed four hours in any 24-hour day or ten days in any month.

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#### E. Donation Drop-off Box<sup>114</sup>

##### Standards when permitted by right:

- (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 development is not residential;
  - (c) Commercial areas of Planned Development 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 required front yards;
  - (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 [*reference to relocated Sect. 2-505*]; 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.

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<sup>112</sup> This is a new standard.

<sup>113</sup> This carries forward Par. 32 of Sect. 10-102 and portions of the definition of this use in Article 20.

<sup>114</sup> This carries forward Par. 34 of Sect. 10-102, with wording clarified and the requirement that the location not interfere with vehicular or pedestrian circulation was extended to bicycles.

- (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 may be 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 Building Code 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;
  - (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."

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## **F. Electric Vehicle Charging<sup>115</sup>**

### **Standards when permitted by right:**

- (1)** An electric vehicle charging station that is accessory to any use other than a single family dwelling must comply with the following standards:
  - (a)** The station must be located in a parking structure or parking lot that serves a principal use.
  - (b)** Any parking space provided for the station counts toward the minimum required number of parking spaces.
  - (c)** The station must not interfere with vehicular, bicycle, or pedestrian circulation, including fire lanes and access to the site.

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<sup>115</sup> These are new standards for new use, based on a current Zoning Administration interpretation. Standards addressing lighting will be included with the relocated Article 14.

- (d) When located in a parking lot or on the top level of a parking structure open to the sky, no canopy or roofed structure is permitted in association with the station.
- (2) An electrical charging station that does not conform to the standards in Paragraph (1) above is considered a vehicle fueling station.

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## G. Family Health Care Structure<sup>116</sup>

### 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. The Zoning Administrator may revoke a permit for a family health care structure due to failure of the applicant to comply with any of 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 Sect. 63.2-2200 of the *Code of Virginia*, 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 [reference to relocated subsection Par. 6 of Sect. 16-403].
- (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 Virginia Uniform Statewide Building Code.
- (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) The caregiver must make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.

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<sup>116</sup> This carries over Sect. 10-102.27, except application requirements will be relocated to the article with procedures.



- (10) Evidence of compliance with these provisions must be provided to the Zoning Administrator on an annual basis.
- (11) 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.

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## H. Garage Sale or Yard Sale<sup>117</sup>

### Standards when permitted by right:

- (1) In residential districts and residential areas of planned districts, garage sales and yard sales are limited to two per calendar year for each lot.

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## I. Home Daycare Facility<sup>118</sup>

### Standards when permitted by right:

- (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 aged, infirmed, or handicapped adults receiving supportive services, health monitoring, protection, or supervision during part of a 24-hour day.
- (2) A home daycare 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 daycare facility is in operation, subject to the following exceptions:<sup>119</sup>
  - (a) A daycare 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 daycare provider will comprise the one nonresident person allowed by Par. (3) below.
  - (b) A substitute care provider may operate a home daycare 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 daycare 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 Sect. 4102.7.A, General Standards for Accessory Uses and Structures, are allowed.

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<sup>117</sup> This carries forward Par. 9 of Sect. 10-102, with clarification that limits apply per lot.

<sup>118</sup> This carries forward Par. 6 of Sect. 10-103 and Sect. 8-305, with clarification that older adults may also be cared for under this use. Reference to stacked townhouse has been added to Par. (1)(b).

<sup>119</sup> "Licensed or permitted home child care provider" has been removed, as the general standard requires conformance with all applicable state or county licensing requirements.



- (5) An increase in the number of children permitted under Par. (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 Par. (3) above may be permitted in accordance with *[reference to special permit procedure]*.
- (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:<sup>120</sup>**

- (7) A home daycare facility as a special permit use must comply with the standards in Paragraphs (2) and (4) above.
- (8) A maximum of 12 children may be cared for in a home daycare 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 Par. (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.

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## **J. Home-Based Business<sup>121</sup>**

**Standards when permitted by administrative permit:**

- (1) A home-based business is allowed in any dwelling unit subject to approval by the Zoning Administrator and the provisions listed below. Each permit for a home-based business 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.
- (2) A home-based business must be conducted by the home-based business permit applicant within the dwelling that is their primary residence or in an accessory building permitted by

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<sup>120</sup> This carries forward Sect. 8-305, except application requirements will be located with the submission requirements.

<sup>121</sup> This carries forward and consolidates Sections 8-905 and 8-907, and Part 10-300, with numerous changes. The non-exclusive list of possible home occupations in Sect. 10-302 was dated and was not carried forward, and the list of prohibited uses was revised. Limitation on mechanical or electrical equipment from 10-304.4 was not carried forward as outdated and difficult to enforce. Reference to outdoor lighting standards in Article 14 was deleted as unnecessary, as they apply by law. Reference to BZA review of area for impacts of home professional offices from Sect. 8-907.4 was deleted as outdated and very subjective to enforce. Reference to secondary use in the PDH, PRC, and PTC districts not carried forward because this use is by definition secondary to a dwelling use. Provisions prohibiting stock in trade on the premises were not carried forward. Limitations on numbers of customers and clients have been significantly revised. Other changes are noted below.

- this Ordinance that is normally associated with a residential use that is clearly subordinate to the principal use of the lot as a dwelling.
- (3) A home-based business may not include uses within the following use categories or classification:
- (a) Health care uses;
  - (b) Animal-related uses;
  - (c) Food and lodging, except for low-risk home food processing for sale at farmers markets or other food establishments, or directly to the consumer, in accordance with the Virginia Department of Agriculture and Consumer Services or the Health Department provisions, as applicable;<sup>122</sup>
  - (d) Personal and business services, except a barbershop or hair salon, dressmaker, seamstress, or tailor;
  - (e) Recreation and entertainment uses, except a health and exercise facility, small;
  - (f) Retail sales uses, except a photography or art studio;
  - (g) Vehicle-related uses; and
  - (h) Industrial uses, except home crafts such as jewelry making or ceramics
- (4) The premises must have the exterior appearance of a dwelling or residential accessory building. There must be no exterior evidence that the property is used in any way other than for a dwelling. The home-based business must take place entirely within enclosed structures.<sup>123</sup>
- (5) Outside display or storage of goods, equipment, or materials used in connection with the home-based business is not allowed.
- (6) The home-based business permit applicant and other persons who use the dwelling as their primary residence may be involved in the home-based business use. **[Option 1:** In addition, only one nonresident employee is allowed, regardless of the number of home-based businesses or home daycare facilities operating on the lot. This employee, whether paid or not, may work on the premises only between the hours of 7:00 AM to 6:00 PM, Monday through Friday.] **[Option 2:** In addition, one nonresident employee, whether paid or not, may be involved in each home-based business on the lot between the hours of 7:00 AM to 6:00 PM, Monday through Friday.] These limitations on the number of employees and employee hours may be exceeded in accordance with *[reference to special permit procedure]*.<sup>124</sup>
- (7) Customers or clients are allowed on-site as follows:<sup>125</sup>
- (a) A maximum of **[Option 1: two]** or **[Option 2: four]** are permitted at any given time.
  - (b) **[Option 1:** A cumulative maximum of eight are permitted in any one day, including all home-based businesses and short-term lodging that are operated on the lot. If a home daycare facility is operated on the lot, no customers or clients may be allowed for the

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<sup>122</sup> This is still under review with the Health Department.

<sup>123</sup> The last sentence was added for clarity.

<sup>124</sup> Hours revised from 8:00 to 5:00pm for a home professional office, to mirror the hours for a home daycare.

<sup>125</sup> New standards to allow limited customers or clients for all home-based businesses, which are currently only allowed for schools of special education and horseback riding lessons.

home-based business.] **[Option 2:** A cumulative maximum of eight are permitted in any one day, including all home-based businesses, short-term lodging, and home daycare facilities that are operated on the lot. The number of customers for a home daycare is equal to the total number of children or adults being cared for in any one day and if that number exceeds eight, then no additional customers or clients may be allowed for a home-based business or short-term lodging.]

- (c) The hours may not exceed 8:00 AM to 9:00 PM.
  - (d) Customers or clients must be scheduled on an appointment basis, with a minimum of 15 minutes between appointments.
  - (e) The limitations on customers or clients may be exceeded in accordance with *[reference to special permit procedure]*.
- (8) Only one commercial vehicle is permitted per dwelling unit, subject to the provisions of *[reference to relocated Sect. 10-102]*.
- (9) The dwelling in where home- based business is being conducted must be open for inspection to County personnel during reasonable hours.
- (10) A permit for a home-based business is valid for only the original applicant and is not transferable to any resident, address, or any other occupation. Upon termination of the applicant's residency, the home-based business permit becomes null and void.

**Standards when permitted by special permit:**

- (11) The BZA may approve a special permit for a home-based business which exceeds the limitations above for employees, customers, or clients, subject to all other standards above and only if the BZA determines 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.<sup>126</sup>

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## K. Keeping of Animals<sup>127</sup>

**Standards when permitted by right:**

- (1) The keeping of commonly accepted pets is allowed as an accessory use on any lot, provided such pets are for personal use and enjoyment, and not for the purpose of commercial breeding or boarding, or any other activity meeting the definition of a kennel. However, up to four commonly accepted pets not owned by the resident are allowed to be sheltered, fed, and watered in exchange for a fee.<sup>128</sup>
- (2) The keeping of dogs, except as kennel, is allowed as an accessory use on any lot in accordance with the following standards:

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<sup>126</sup> Standards for special permit approvals have been simplified.

<sup>127</sup> This carries forward and integrates Sections 2-512, 8-917, and 10-102.31, except application requirements in Sect. 8-917 are omitted.

<sup>128</sup> This language comes from the definition of a boarding establishment in Sect. 3.2-6500 of the Virginia Code.

- (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.<sup>129</sup>

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

- Horses includes ponies, mules, burros and donkeys.
- 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.
- 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 <sup>130</sup>	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 landing platform of a hive faces and is within ten feet of any lot line, there must be a flight path barrier, consisting of a fence,

<sup>129</sup> This brings forward the permissions for the number of dogs, except three dogs are reduced to requiring a 10,000 square-foot lot rather than a 12,000 square-foot lot based on special permit approvals since 2008.

<sup>130</sup> This codifies an existing interpretation.

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.

- (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.<sup>131</sup>
  - (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)** 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 Sect. 4102.7.A, General Standards for Accessory Uses and Structures.<sup>132</sup>
  - (d)** 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 Sect. 4102.7.A, General Standards for Accessory Uses and Structures, 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 Paragraphs (1) through (6) above, and to allow the keeping of animals that are not commonly accepted pets, 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 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.
- (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.

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<sup>131</sup> The sentence in Par. 3 of Sect. 10-102 stating that a barn or other agricultural structure may not be used for retail sales is not carried forward, as it is unnecessary.

<sup>132</sup> Height limit increased from seven feet.

- (9) The BZA may not approve the keeping of wild, exotic, or vicious animals. The keeping of wild, exotic, or vicious animals is subject to Chapter 41.1 of The Code.

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## **L. Limited Riding or Boarding Stable<sup>133</sup>**

### **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 section (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 prepared for the property and all activity on the property must conform to that Plan.

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<sup>133</sup> This carries forward Sect. 10-302.8, 10-304.12, and 10-305.

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## M. Sawmilling<sup>134</sup>

### 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 [*reference to relocated Sect. 8-012*] 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.

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## N. Short-term Lodging<sup>135</sup>

### 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.
  - (a) An application for a short-term lodging permit must be submitted to the Zoning Administrator on a form furnished by the County.<sup>136</sup>
  - (b) The permit will be valid for two years from the date of issuance.
  - (c) A permit for short-term lodging may be revoked by the Zoning Administrator because of the failure of the short-term lodging operator to comply with all applicable regulations set forth in this Section (4102.7.N) or elsewhere in the Zoning Ordinance. The Zoning Administrator will give notice of any such revocation by letter to the short-term lodging operator and the property owner, where applicable, setting forth the grounds upon which the permit was revoked, the date and time when the revocation is effective, and the appeals procedure. These provisions do not preclude the Zoning Administrator's use of any other remedy prescribed by law with respect to violations of this Ordinance.

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<sup>134</sup> These carry forward Sect. 8-910.

<sup>135</sup> This carries forward Sect. 10-105. Definitions are relocated to Article 9: Definitions and Ordinance Interpretation.

<sup>136</sup> Fee amount was deleted but will be listed with other fees related to the Zoning Ordinance.



- (2)** A dwelling or manufactured home used for short-term lodging must:
- (a)** Be open, upon request, for inspection by County personnel during reasonable hours;
  - (b)** Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations, as determined by the Building Official;
  - (c)** Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service);
  - (d)** 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
  - (e)** Have one designated 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 Virginia Uniform Statewide Building Code 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 Par. (2)(e), 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 dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.
- (h) The Zoning Administrator's issuance of a permit does not abrogate, nullify, or invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners' association by-law.

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## **O. Solar Collection System<sup>137</sup>**

### **Standards when permitted by right:**

- (1) A roof-mounted solar collection system may extend up to five feet above the maximum building height in the district where it is located, or, if mounted on an existing building that exceeds the maximum building height in the district where it is located, up to five feet above the existing building height.
- (2) Freestanding solar collection systems must comply with the height and yard requirements for freestanding accessory structures in Sect. 4102.7.A(6).

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## **P. Wayside Stand<sup>138</sup>**

### **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 Sect. 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.

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<sup>137</sup> These are new standards.

<sup>138</sup> This carries over Sect. 10-102(30) and 10-104(8). Some wording revised for clarity.

## 4. Temporary Uses

### A. General Standards for Temporary Uses<sup>139</sup>

- (1) Upon application as provided for in [*reference to relocated Sect. 8-010*], 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 six weeks prior to the date on which the use permitted by the permit is to take effect, provided that the Zoning Administrator may approve 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 Sect. 4102.1.F, Standards for Special Exception and Special Permit Uses, the Zoning Administrator will 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) The Zoning Administrator may revoke an administrative permit for a temporary use at any time on the failure of the owner or operator of the use to observe all requirements of the law with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were designated by the Zoning Administrator. Notice of such revocation will be made by letter from the Zoning Administrator to the owner or operator of the use for which the permit has been granted, hand-delivered or mailed, return receipt requested, setting forth the grounds upon which the permit was revoked, the date and time upon which the revocation is effective, and informing the owner or operator of the appeals procedure. Upon receipt of such notice, the owner or operator of such activity must close operation of the activity forthwith. The foregoing provisions do not preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations of the provisions of this Ordinance.
- (5) An appeal by any person aggrieved by an action of the Zoning Administrator in granting or denying an administrative permit for a temporary use may be made in accordance with the provisions of [*reference to relocated Part 3 of Article 18*].
- (6) 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 48 hours of the date upon which the appeal is received. Within 24 hours 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.

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<sup>139</sup> This carries over Sect. 8-803, except it changes the requirement for an application submission from three weeks to six weeks prior to the date on which the event will take place.

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## **B. Business Promotional Activities<sup>140</sup>**

### **Standards when permitted by administrative permit:**

- (1)** An administrative permit may be issued for a period not to exceed 14 days in any three-month period.
- (2)** The promotional activities involving the outdoor display of goods and merchandise must be conducted in an area immediately adjacent to the place where such items are customarily sold.
- (3)** The display may not be located in any required parking space, service drive, or loading area.
- (4)** 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.
- (5)** The administrative permit may not authorize the outdoor display of used appliances, used furniture, used housewares, used plumbing, used building materials, and other similar used merchandise.

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## **C. Construction Site Office and Storage<sup>141</sup>**

### **Standards when permitted by administrative permit:**

- (1)** An administrative permit may be issued for a maximum of 18 months.
- (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 prior to the recording of the subdivision served by the use or existing prior to 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 Paragraphs (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)** All buildings, materials, supplies, and debris must be completely removed from the temporary use site the earliest of:
  - (a)** Within 60 days from the date of completion of the last building to be constructed;
  - (b)** Within 60 days from the date active construction is discontinued; or

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<sup>140</sup> This carries forward Sect. 8-807.

<sup>141</sup> This carries over and consolidates Sections 8-805 and 8-806. The 20-day time limit for removal of all materials from the site in Sect. 8-806 was not carried forward.

- (c) Within 18 months after approval of the administrative permit.
- (9) 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.

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#### D. Farmers Market<sup>142</sup>

[standards to be inserted]

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#### E. Food Truck<sup>143</sup>

##### Standards when permitted by administrative permit:

- (1) Prior to the operation of a food truck, a food truck location permit and an annual food truck operation permit are required (see Par. (5) below).
- (2) The sale or offering for sale of goods or services from any vehicle is deemed to be a commercial use.
- (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 on-going 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 in accordance with [reference to special exception procedure] or [reference to special permit procedure].
- (4) Each food truck must be in substantial conformance with any proffered condition, development plan, special exception or special permit approval 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.D). Unless otherwise specified in any zoning approval, all provisions of this section 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.

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<sup>142</sup> This is a placeholder for the standards that are the subject of a separate pending Zoning Ordinance amendment.

<sup>143</sup> This carries forward Sect. 2-510, reorganized and with wording revised for clarity. Availability expanded to non-residential uses in residential districts and limits on frequency at such locations were added. Fee amount was deleted but will be listed with other fees related to the Zoning Ordinance.

- (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 Paragraph (7) 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.
  - (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 temporary special 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) Food trucks may also be permitted on County or Park Authority owned and controlled property or in conjunction with the approval of an administrative permit, provided that such food trucks comply with all applicable regulations, including the Health Department and the Department of Cable and Consumer Services requirements.
- (8) 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 Sect. 4102.8.D.

- (9) 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:**

- (10) 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.

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## **F. Interim Off-street Parking in Metro Station Area<sup>144</sup>**

**Standards when permitted by special exception:**

- (1) The purpose of this special exception is to provide for an interim solution to Metro Station parking deficiencies by allowing private property within a specified distance of a Metro Station to be used temporarily for Metro-related parking. The temporary parking lot use is intended only as an interim use to serve a public need and not as a transitional use to a higher density or intensity development than currently is planned. The Board may approve a special exception to allow a privately operated off-street parking lot, as a temporary use, in Metro Station areas, but only in accordance with the following provisions:
- (2) The site for the proposed parking area must not be used for any purpose other than to provide ground surface parking of motor vehicles for the general public. No motor vehicle repair work except emergency service is permitted in association with any such off-street parking area.
- (3) The applicant must demonstrate that the use of a site for temporary off-street parking and all improvements made to the site will not preclude the ultimate development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and the adopted comprehensive plan.
- (4) In addition to the submission requirements set forth in *[reference to relocated Sect. 9-011]*, grading plans and plans for drainage provisions must be provided. Any grading associated with the use of a site for temporary off-street parking is limited to that which should be allowed for the permanent development of the site in accordance with the existing zoning, any proffered conditions, approved development plans, and/or the adopted comprehensive plan.
- (5) Accessible off-street parking spaces and related access aisles and accessible routes must be provided as set forth in *[reference to relocated Article 11]*. All other provisions of *[reference to relocated Article 11]*, however, do not apply and, in lieu of those provisions, all such parking areas are subject to the following:<sup>145</sup>
- (a) A temporary surfacing material for all such parking areas may be permitted if maintained in good condition at all times in accordance with the standards approved by the Director and provided that:

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<sup>144</sup> This carries forward Sect. 9-520.

<sup>145</sup> Reference to accessible aisles and routes has been added.

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 those locations where significant pedestrian traffic is anticipated and safe and convenient pedestrian access must exist from the parking area to the station entrance.
- (b) Parking must be organized, parking spaces delineated, adequate aisle clearance provided, and safe and convenient access to a street maintained.
- (c) Additional conditions may include but need not be limited to the imposition of speed limits and provisions of dust control techniques.
- (6) Parking spaces and parking kiosks may be located in any required yard if they are located at least ten feet from all public rights-of-way and private streets, except no parking of vehicles may occur closer to any lot line that abuts a Residential district than a distance equal to the dimension of the abutting corresponding yard as required by this Ordinance.
- (7) Adequate lighting must be provided and is subject to the outdoor lighting performance standards set forth in [*reference to relocated Part 9 of Article 14*].
- (8) The Board may impose such other conditions and restrictions as it may deem necessary to assure that the off-street parking area will be compatible with and will not adversely impact the adjacent area or adversely impact the site itself so as to hinder future development in accordance with the existing zoning and adopted comprehensive plan. Among other conditions and restrictions, the Board may limit the size and location of the parking lot to ensure retention of such natural site features, including vegetation, that should be preserved for future analysis at the time of the establishment of the permanent use of the property.
- (9) On land zoned and planned residential, in addition to Paragraphs (1) through (8) above:
  - (a) The major portion of the proposed parking area must be located within a 1,500-foot radius of a Metro Station platform entrance.
  - (b) Any property to be used for temporary off-street parking must be a minimum of five acres in size.
  - (c) The temporary parking use is limited to replacing Metro Station parking spaces temporarily displaced during construction on the Metro Station site.
  - (d) The number of temporary off-street parking spaces allowed within the vicinity of any one Metro Station must not exceed the number of temporarily displaced Metro Station parking spaces.
  - (e) Notwithstanding the provisions of [*reference to relocated Article 13*], 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 residentially zoned land. In addition, the Board may require the preservation of any natural screening and plant materials, and must require that adequate landscaping and screening be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity.
  - (f) The Board must impose a time limitation on the special exception such to ensure that the use will not be operational prior to the displacement or subsequent to the re-establishment of the Metro Station parking spaces; provided, however, that such



special exception may be renewed in accordance with the provisions of [*reference to relocated special exception renewal provisions*].

- (a) On land zoned commercial or industrial, or on land zoned residential but planned commercial or industrial, in addition to Paragraphs (1) through (8) above:
  - (i) The major portion of the proposed parking area must be located within a 2,000-foot radius of a Metro Station platform entrance.
  - (ii) 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 respective station and the number existing at the time the application is filed; provided, 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. The applicant must demonstrate that there is presently a need for the provision of additional parking space.
  - (iii) The provisions of [*reference to relocated Article 13*] do not apply; provided, however, that the Board may require the preservation of any natural screening and plant materials, and must require that adequate landscaping and screening be provided to assure compatibility of the parking area with adjacent property and the surrounding vicinity.
- (10) The Board may approve a special exception for this use for a period not to exceed three years from the date of approval of the Non-Residential Use Permit; provided, however, that such special exception may be renewed in accordance with the provisions of [*reference to relocated special exception renewal provisions*]. 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.

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## G. Model Home Sales and Leasing Office<sup>146</sup>

### 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.

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<sup>146</sup> This carries forward Sect. 8-808 and Sect. 2-509. Limit on sleeping accommodations was deleted. Provision for extension of the permit has been added.



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## H. Portable Storage Container<sup>147</sup>

### Standards when permitted by right:

- (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 Par. (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 *[reference to new location of sight distance triangle provisions in Sect. 2-505]*.

### Standards when permitted by administrative permit:

- (7) An administrative permit may be issued for a period longer than set forth in Par. (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.

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<sup>147</sup> This carries forward Sections 8-812, 10-102.28, and 10-104.15.

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## I. Special Event

### Standards when permitted by administrative permit:<sup>148</sup>

- (1) An administrative permit may be issued for a period not to exceed 21 days. Any request for a longer period of time or any renewal or extension of a permit may be approved by the BZA, subject to the same procedure as specified in [reference to relocated Sect. 8 009] for the original issuance of the permit.
- (2) All permitted activities must be sponsored by a volunteer fire company, local chamber of commerce, veterans' organization, service club, civic organization, place of worship or religious organization, sports or hunt club, or charitable, educational, or nonprofit organization or recognized chapter of one of the listed types of organizations located within the County.
- (3) The sponsoring organization must furnish the Zoning Administrator the name and address of the owner and operator of the special event.
- (4) The sponsoring organization must submit to the Health Department information as to sanitary arrangements and facilities to be used by the public and employees, and the Health Department will advise the Zoning Administrator that such arrangements and facilities will be adequate if properly used and maintained.
- (5) The Zoning Administrator may not issue an administrative permit for a special event where the proposed activity will:
  - (a) Occur within two miles of any other special event 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 special events within a two-mile radius for which an administrative permit has been previously obtained.
- (6) No administrative permit may be issued unless adequate provision is made for off-street parking and loading requirements.
- (7) 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 owners or operators of any special event such as a carnival, circus, side show, dog and pony show, trained animal show, traveling animal exhibition, menagerie or any other show, exhibition, or similar performance, must obtain a County license in accordance with the provisions of Chapter 25 of The Code, and a permit in accordance with the provisions of Chapter 41.1 of The Code.

### Standards when permitted by special permit:

- (8) An application for any such approval by the BZA must be filed 120 days prior to the date on which the permit is to take effect.<sup>149</sup>

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<sup>148</sup> This carries forward Sect. 8-804. Provision applicable to circuses, carnivals, and fairs have been made generally applicable to all special events, and Par. (3) now covers both owners and operators. Requiring a determination of good repute and that the principal administrative offices of the sponsor be located in the County were not carried forward.

- (9) A special event as a special permit use must comply with the standards in Paragraphs (1) through (7) above.

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## J. Temporary Dwelling or Manufactured Home<sup>150</sup>

### 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.
  - (b) A temporary dwelling or manufactured home may only 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 the earlier of:
    - 1. The date of completion of construction of the dwelling on the same lot; or
    - 2. At the expiration of the nine-month administrative permit period. The Zoning Administrator may extend this time period if it is determined that the applicant is diligently pursuing the rebuilding or repair of the single family detached dwelling.
  - (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.<sup>151</sup>
  - (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 prior to the damage or destruction in accordance with [reference to relocated Sect. 15-101].

### Standards when permitted by special exception or special permit:

- (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; private school; or specialized instruction center. Such 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

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<sup>149</sup> The submission timeframe is changed from 90 days to 120 days.

<sup>150</sup> This carries forward Sect. 8-809 and Par. D of Sect. 2-507.

<sup>151</sup> Requirement for any standards proposed by the Zoning Administrator to be sent to the BZA for action was deleted as unnecessary.

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 9: Definitions

## 9100. 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 a form or example of a use listed as an allowable principal use in the use table in [reference to use table], or is subject to other use-specific provisions in this Ordinance. This subsection is also intended to guide interpretations of how a particular unlisted use should be categorized and to address future additions to the use table.

### 2. 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 Sect. <>, Definitions). Occupancy is generally arranged on the basis of 30 consecutive days or more.

##### **Dwelling, Multifamily<sup>152</sup>**

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<sup>153</sup>**

A single family dwelling unit that is in a single structure with other single family dwelling units, and in which:

- Each dwelling unit is separated from the others by a fire-rated vertical common party wall running from the foundation to the roof of the building; and
- Each dwelling unit has 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, “back-to-back” townhouses, and duplexes. The dwelling units may be located on a single parcel or on adjoining lots.

<sup>152</sup> This replaces the current definition of “dwelling, multiple family.”

<sup>153</sup> This replaces the current definition of “dwelling, single family attached.” Standards in the current definition are carried forward in Article 4.

**Dwelling, Single Family Detached<sup>154</sup>**

A residential building, other than a manufactured home, containing only one principal dwelling unit on a single lot.

**Dwelling, Stacked Townhouse<sup>155</sup>**

A building in which:

- Dwelling units are arranged in stacks of up to two units, with each stack separated from other stacks by a fire-rated vertical common party wall running from the foundation to the roof of the building; and
- Each stack includes a ground-floor entry for all units in the stack, either as a shared entry or as individual entries.

This definition includes dwellings commonly referred to as “piggyback” townhouses and “two-over-two” townhouses.

**Group Residential Facility<sup>156</sup>**

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 such home is licensed by the Virginia Department of Behavioral Health and Developmental Services; or (b) eight intellectually disabled persons or eight aged, infirm or disabled persons reside and such home is licensed by the Virginia Department of Social Services; or (c) eight handicapped persons reside, with handicapped defined in accordance with the Federal Fair Housing Amendments Act of 1988. The terms handicapped, mental illness and developmental disability may not include current illegal use or addiction to a controlled substance as defined in Sect. 54.1-3401 of the Code of Virginia or as defined in Sect. 102 of the Controlled Substance Act (21 U.S.C. 802). Group residential facilities are considered residential occupancy by a single housekeeping unit under this Ordinance in accordance with § 15.2-2291 of the Code of Virginia.

**Live-Work Development<sup>157</sup>**

A structure or part of a structure in which areas designed for occupancy by a single owner, tenant, or user are specifically designed to accommodate a residential dwelling unit, a flexible work space, or both. This use does not include a home-based business that would be permitted in a single family detached dwelling.

**Manufactured Home<sup>158</sup>**

A transportable residential structure 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

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<sup>154</sup> This simplifies the current definition of “dwelling, single family detached.” It no longer excludes “zero lot line” development.

<sup>155</sup> This is a new definition for a new use. A new parking rate will be reviewed as part of the draft of the new Article 11.

<sup>156</sup> This definition carries forward the definition of “group residential facility” in the current Zoning Ordinance, with minor modifications, including the addition of a reference to the Virginia Code.

<sup>157</sup> This is a new definition for a new use.

<sup>158</sup> This is a new definition for a use which encompasses the current uses “dwelling, manufactured home” and “dwelling, mobile home.”

or on a flat bed or other trailer or detachable wheels. For purposes of administering the floodplain regulations contained in Sect. <>, the definition of “manufactured home” in Sect. <> 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 Sect. <>, Definitions). 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 or may not include cooking and eating facilities. Residents may receive care, training, or treatment, and caregivers may or may not also reside at the 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 § 15.2-2291 of the Virginia Code.

### **Congregate Living Facility<sup>159</sup>**

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 includes facilities providing in-patient alcohol and addiction treatment and services and facilities for the care of more than eight mentally ill or developmentally disabled patients. 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 anyone who does not reside at the facility.

### **Group Household<sup>160</sup>**

A dwelling unit that does not meet the occupancy limitations for a household (see Sect. <>, Definitions), 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<sup>161</sup>**

A place of residence, such as a convent or monastery, for persons under religious vows.

### **Residence Hall<sup>162</sup>**

A place of residence that is used by, occupied by, and maintained for persons associated with an educational or a religious institution. This definition does not include a bed and breakfast, group

<sup>159</sup> This carries forward the current definition for a congregate living facility.

<sup>160</sup> This is a new definition for the current use “group housekeeping unit.”

<sup>161</sup> This is a new definition for a use that encompasses “convents, monasteries, seminaries, and nunneries,” which are not currently defined.

<sup>162</sup> This is a new definition to encompass “dormitories, fraternity/sorority houses, rooming/boarding houses, or other residence halls,” which are not defined in the current Zoning Ordinance.

household, hotel or motel, or other accommodations used for occupancy that is typically more transient in nature. This definition includes dormitories and fraternity and sorority houses.

### 3. Accessory Uses

#### **Accessory Dwelling Unit<sup>163</sup>**

A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit.

#### **Accessory Structure<sup>164</sup>**

A building or structure that:

- Is subordinate in purpose to a principal building or a principal use legally existing on the same lot; and
- 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:

- Is clearly subordinate to, customarily found in association with, and serves a principal use;
- Is subordinate in purpose, area, or extent to the principal use served;
- Contributes to the comfort, convenience or necessity of the occupants, business enterprise, or industrial operation within the principal use served; and
- Is located on the same lot as the principal use, except any building that is customarily incidental to any agricultural use is deemed to be an accessory use, whether or not it is situated on the same lot with the principal building.

#### **Associated Service Use<sup>165</sup>**

A use that:

- Is located in the same building as the principal use it serves; and
- Is primarily designed to provide goods and services to occupants, business enterprises, or industrial operations in that principal building.

#### **Caretaker Quarters<sup>166</sup>**

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

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<sup>163</sup> This carries forward the definition of "dwelling unit, accessory" in the current Zoning Ordinance.

<sup>164</sup> New definition.

<sup>165</sup> This is a new definition to replace the current definition of "accessory service use."

<sup>166</sup> This definition is new. This use consolidates "quarters of a caretaker, watchman or tenant farmer, and his family" and "servants quarters."



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<sup>167</sup>**

A facility located within the main structure in a regional shopping center where one or more children receive care, protection, and supervision on an occasional basis unattended by a parent or guardian.

**Donation Drop-off Box<sup>168</sup>**

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<sup>169</sup>**

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<sup>170</sup>**

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

**Garage Sale or Yard Sale<sup>171</sup>**

The temporary and occasional use of the premises of a dwelling for the sale to the public, of typical household and personal items that have not been specifically purchased, produced, refurbished, or fabricated for resale.

**Gardening and Composting<sup>172</sup>**

*[definition to be inserted]*

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<sup>167</sup> This carries forward the definition of "child care center for occasional care" and incorporates the requirement that the center be located within a regional shopping center from Par. 32 of Sect. 10-102. The time limits in the current definition are included in the use standards.

<sup>168</sup> This carries forward the definition of "donation drop-off box" in the current Zoning Ordinance, with minor revisions.

<sup>169</sup> This is a new definition for a new accessory use.

<sup>170</sup> This carries forward the definition of "temporary family health care structure" in the current Zoning Ordinance.

<sup>171</sup> This is a new definition. This use carries forward the current use "garage and yard sales."

<sup>172</sup> This is a placeholder for a definition that is the subject of a separate pending Zoning Ordinance amendment.

**Home Daycare Facility<sup>173</sup>**

A dwelling where at least one but not more than 12 children, exclusive of children who reside in the dwelling, receive care, protection, and supervision during only part of a 24-hour day, unattended by a parent or legal guardian; or up to three aged, infirmed, or handicapped adults receive supportive services, health monitoring, protection, or supervision during part of a 24-hour day.

**Home-Based Business<sup>174</sup>**

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, and that does not meet the definition of another accessory use listed in this Ordinance. Examples include home offices, music lessons, and art studios.

**Keeping of Animals<sup>175</sup>**

The provision of accommodations for one or more animals on the premises of any lot for personal enjoyment.

**Limited Riding or Boarding Stable<sup>176</sup>**

A riding or boarding stable operated as accessory to a residence, where horses or ponies, not including those owned by resident(s) 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. Such services may be offered for a fee or free of charge.

**Residence for a Manager or Employee<sup>177</sup>**

A residence for manager or employee and his/her family located in the same building as his/her place of occupation.

**Sawmilling<sup>178</sup>**

An operation or facility established for the purpose of sawing or planing of logs or trees into rough slabs.

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<sup>173</sup> This carries forward the definition of “home child care facility” in the current Zoning Ordinance, with minor revisions, and adds the ability to care for adults in accordance with State law.

<sup>174</sup> This is a new definition for a use that is described in Sect. 10-300 et seq. of the current Zoning Ordinance but is not currently defined. This use supersedes the following current uses: “barber shop or beauty parlor as a home occupation,” “home occupation,” and “home professional office.”

<sup>175</sup> This is a new definition for an accessory use described in Sect. 2-512 of the current Zoning Ordinance.

<sup>176</sup> This is a new definition. This use carries forward the current use “horseback riding lessons” as an accessory use.

<sup>177</sup> This is a new definition. This use consolidates the following current uses: “dwelling unit for a watchman, custodian, proprietor or owner and his/her family whose employment or business is directly related to the principal use,” “residence for a proprietor or storekeeper and his/her family located in the same building as his/her place of occupation,” and “residence for an employee and his/her family located within the same building as a funeral home or chapel.”

<sup>178</sup> This is a new definition. This use carries forward the current use “sawmilling of timber.”

### **Short-term Lodging<sup>179</sup>**

The provision of a room or space that is suitable or intended for transient occupancy, in exchange for a charge for the lodging. Such use does not include accessory dwelling unit, bed and breakfast, hotel/motel, or family health care structure. For purposes of Sect. 4102.7.N, 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 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<sup>180</sup>**

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. A solar collection system is designed to primarily meet on-site demands but may include transfer of excess electricity to an electric utility grid. Components may be mounted on the roof(s) of principal or accessory structures, other parts of structures, or the ground.

### **Wayside Stand<sup>181</sup>**

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.

## **4. Temporary Uses**

### **Business Promotional Activities<sup>182</sup>**

Temporary outdoor display of goods and merchandise as part of promotional activities.

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<sup>179</sup> This carries forward the current definition of "short-term lodging" and supporting definitions in Sect. 10-105.

<sup>180</sup> This is a new definition.

<sup>181</sup> This carries forward the definition and use of "wayside stand" in the current Zoning Ordinance. The prohibition on using a tent is not carried forward.

<sup>182</sup> This is a new definition for "promotional activities of retail merchants" in the current Zoning Ordinance.

**Community Garden<sup>183</sup>**

*[definition to be inserted]*

**Construction Site Office and Storage<sup>184</sup>**

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<sup>185</sup>**

*[definition to be inserted]*

**Food Truck<sup>186</sup>**

Any readily movable mobile food service establishment, to include vehicles that are self-propelled, pushed, or pulled to a specific location.

**Interim Off-Street Parking in Metro Station Area<sup>187</sup>**

A temporary, privately-operated off-street parking lot located near a Metro station.

**Model Home Sales or Leasing Office<sup>188</sup>**

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<sup>189</sup>**

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

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<sup>183</sup> This is a placeholder for a use that is the subject of a pending text amendment. Its definition will be inserted at a later date.

<sup>184</sup> This is a new definition that supersedes the definition for “construction materials yard” in the current Zoning Ordinance. This use consolidates the current uses “construction materials yard accessory to a construction project” and “contractor’s offices and equipment sheds to include trailers accessory and adjacent to an active construction project.”

<sup>185</sup> This use carries forward “temporary farmers’ markets” and is the subject of a pending text amendment. Its definition will be inserted at a later date.

<sup>186</sup> This carries forward the definition of “food truck” in the current Zoning Ordinance.

<sup>187</sup> This is a new definition for the current use “commercial off-street parking in Metro station areas as a temporary use.”

<sup>188</sup> This is a new definition. This use supersedes the use “subdivision and apartment sales and rental offices” as a temporary use in the current Zoning Ordinance.

<sup>189</sup> This carries forward the definition of “temporary portable storage container” in the current Zoning Ordinance.

**Special Event<sup>190</sup>**

Temporary activities, including, but not limited to, seasonal sales, cultural events, musical events, celebrations, festivals, fairs, carnivals, and circuses, held on private property.

**Temporary Dwelling or Manufactured Home<sup>191</sup>**

The temporary use of a dwelling or manufactured home.

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<sup>190</sup> This is a new definition. This use subsumes the current use “carnival, circus, festival, fair, horse show, dog show, steeplechase, music festival, turkey shoot, sale of Christmas trees or other seasonal commodities and other similar activities.”

<sup>191</sup> This is a new definition for the current use “temporary dwellings or mobile homes.”