



Zoning Ordinance

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ARTICLE I. - TITLE, AUTHORITY, PURPOSE

Sec. 1-1. - Title.

This appendix shall be known and may be cited as the "Zoning Ordinance of the Town of Vinton, Virginia."

Sec. 1-2. - Authority.

This appendix is adopted by the Vinton Town Council pursuant to the provisions of Code of Virginia, § 15.2-2280 et seq., as amended.

Sec. 1-3. - Purpose.

The purpose of this appendix is to classify the territory of the town into zoning districts for the general purpose of promoting the health, safety, convenience, and general welfare of the public and of further accomplishing the objectives of Code of Virginia, § 15.2-2200. To these ends, and pursuant to the provisions of Code of Virginia, § 15.2-2283, this appendix is designed to give reasonable consideration to each of the following purposes, where applicable:

- (a) To provide for adequate light, air, convenience of access and safety from fire, flood, crime and other dangers;
- (b) To reduce or prevent congestion in the public streets;
- (c) To facilitate the creation of a convenient, attractive and harmonious community;
- (d) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (e) To protect against destruction of or encroachment upon historic areas;
- (f) To protect against one or more of the following: Overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health or property from fire, flood, panic or other dangers;
- (g) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- (h) To provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- (i) To protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- (j) To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the town as well as a reasonable proportion of the current and future needs of the planning district; and
- (k) To provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), or state and federal housing laws, as applicable; and
- (l) To protect surface water and ground water as defined in Code of Virginia, § 62.1-255.

Sec. 1-4. - Matters considered in applying zoning.

Pursuant to the requirements of Code of Virginia, § 15.2-2284, the regulations contained in this appendix and the districts established by this appendix have been drawn and applied with consideration for:

- (a) The existing use and character of property;
- (b) The comprehensive plan of the town;

- (c) The suitability of property for various uses;
- (d) Trends of growth or change in the town;
- (e) Current and future requirements of the town as to land for various purposes as determined by population and economic studies and other studies carried out through the comprehensive plan;
- (f) Transportation requirements of the town, and requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services;
- (g) Conservation of natural resources, preservation of floodplains and preservation of agricultural and forestal land;
- (h) Conservation of properties and their values; and
- (i) Encouragement of the most appropriate use of land throughout the town.

Sec. 1-5. - Effective date.

This appendix shall become effective on April 1, 2022, pursuant to its adoption by the Vinton Town Council on March 15, 2022.

ARTICLE II. - DISTRICTS AND DISTRICT MAP

Sec. 2-1. - Establishment of zoning districts.

In order to carry out the purposes of this appendix, the following zoning districts are hereby established:

R-LD residential low density district
R-1 residential district
R-2 residential district
R-3 residential district
R-B residential-business district
GB general business district
CB central business district
M-1 limited industrial district
M-2 general industrial district
PD planned development district
Floodplain districts FP-1, FP-2
Public/open space district
MUD mixed use development district

Sec. 2-2. - District boundaries; official zoning map.

The locations and the boundaries of the zoning districts established by this appendix, other than the floodplain districts, shall be as shown on the official zoning map which, together with all notations and explanatory matter shown thereon, is hereby made a part of this appendix. The locations and the boundaries of the floodplain districts are shown as described in Article IV of this appendix.

Sec. 2-3. - Maintenance of zoning map.

The official zoning map shall be dated and endorsed with the signature of the mayor. The official zoning map shall be maintained for public view in the office of the Zoning Administrator and shall not be removed from that office except for official purposes.

Sec. 2-4. - Recording amendments on zoning map.

- (a) Whenever an amendment is made to the zoning district boundaries or other matter shown on the official zoning map by ordinance adopted by the town council, the Zoning Administrator shall see that the amendment is properly recorded on the map, along with the effective date and nature of the amendment. Each amendment shall be recorded as soon as practicable after its adoption.
- (b) The effective date of the adoption of any amendment to the zoning district boundaries, proffers, special use permits, and variances shall be the effective date of the ordinance providing for the amendment. Any delay in or failure to record an amendment on the official zoning map, or any error in depicting the amendment, shall not affect the validity of the ordinance providing for the amendment.

Sec. 2-5. - Unauthorized changes to zoning map.

It shall be unlawful for any person to make changes on the official zoning map except by authorization of the Zoning Administrator for official purposes and in accordance with the provisions of this appendix. Any unauthorized change shall be considered a violation of this appendix.

Sec. 2-6. - Copies of zoning map.

The Zoning Administrator shall cause copies of the official zoning map to be made in such numbers, in such form and for such purposes as deemed appropriate by the Zoning Administrator with the consent

of the town council. In the case of any discrepancy between the official zoning map and any copy, the official zoning map shall be the final authority.

Sec. 2-7. - Interpretation of district boundaries.

In any case where uncertainty exists with respect to the location of a boundary of any of the districts shown on the zoning map, the following rules shall apply:

- (a) Where a discrepancy exists between a district boundary shown on the zoning map and that which is described in the text of the ordinance establishing such boundary, the text of the ordinance shall govern.
- (b) Where district boundaries are shown with specific dimensions, such dimensions shall govern.
- (c) Where district boundaries appear to follow street, alley, property or corporation lines, or appear to follow the centerlines of streets, alleys, or watercourses, such boundaries shall be construed as following such lines. The location of any street, alley, property line, corporation line, or watercourse used as a district boundary shall be the location in existence at the time of adoption of the ordinance establishing the boundary.
- (d) Where district boundaries appear parallel to, perpendicular to, or as extensions of centerlines, property lines or other features, they shall be so construed.
- (e) Where district boundaries are not described in any ordinance and do not appear to follow any center lines, street lines, property lines or other features, the location of such district boundaries shall be determined by measurement on the zoning map in accordance with its scale.
- (f) In any case where none of the foregoing rules establish the location of a district boundary, or where subsequent dispute or uncertainty exists, the location of such district boundary shall be determined by the Zoning Administrator who will communicate this determination in the form of a letter. The determination is subject to an appeal to the board of zoning appeals in accordance with the provisions of Article X of this appendix.

Sec. 2-8. - Vacation of street or other public way.

Whenever any street, alley or other public way is vacated by official action, the zoning districts adjoining each side of such street, alley or other public way shall automatically be extended to the center of such vacation, and the area included in the vacation shall be subject to all applicable regulations of the extended districts.

Sec. 2-9. - Unclassified areas and additions to jurisdiction.

- (a) Any area for which no zoning classification is shown on the official zoning map shall be construed as being within the R-LD residential low-density district unless otherwise designated by ordinance adopted by the town council.
- (b) Any territory hereafter annexed to the town shall be construed as being within the R-LD residential low density district until otherwise designated by ordinance adopted by the town council.

ARTICLE III. - GENERAL PROVISIONS

Sec. 3-1. - Compliance with provisions.

Except as provided in Section 3-5 of this article, no building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, expanded, converted to another use or structurally altered except in conformity with all of the regulations specified for the district in which such building, structure or land is located and with all other applicable provisions of this ordinance.

Sec. 3-2. - Interpretation and application.

- (a) *Minimum requirements.* In their interpretation and application, the provisions of this appendix shall be construed to be minimum requirements, unless specifically indicated to the contrary.
- (b) *Conflict with other requirements.* Where a requirement imposed by this appendix is at variance with any other provision of this appendix or with the requirements of any other lawfully adopted regulation, the most restrictive requirement, or that which imposes the higher standard, shall govern.
- (c) *Permitted uses.* Permitted uses listed in the district regulations contained in Article IV of this appendix shall be permitted in the respective districts, provided they comply with all applicable provisions of this appendix. All other uses shall be prohibited.
- (d) *Private covenants and restrictions.* The provisions of this appendix shall not be construed to affect, interfere with, or abrogate any condition, covenant, limitation or restriction contained in any deed, contract or other private agreement relating to the use of any land, building or structure, provided that whenever the provisions of this appendix impose greater restrictions on such use than are imposed by any such condition, covenant, limitation or restriction, the provisions of this appendix shall govern.

Sec. 3-3. - Reduction from requirements.

No lot area, yard, open space, parking space, or other feature required by this appendix shall be reduced or eliminated except in conformity with the regulations established by this appendix. Any such reduction or elimination resulting from a taking for public purpose by a governmental authority shall not be considered to be a violation of the provisions of this appendix. Any property so affected by such taking shall be subject to the applicable provisions of Article VII of this appendix pertaining to nonconforming uses and features.

Sec. 3-4. - Requirements to be met for each building, structure or use.

No part of any lot, yard, open space, parking space, or other feature required by this appendix for a building, structure or use shall be considered as lot, yard, open space, parking space, or other feature for any other building, structure or use, except as may be specifically permitted by this appendix.

Sec. 3-5. - Existing buildings, structures and uses.

Buildings, structures and uses lawfully existing at the effective date of this appendix or subsequent amendment thereto may be continued subject to the provisions of Article VII of this appendix pertaining to nonconforming uses and features.

Sec. 3-6. - Reserved.

Sec. 3-7. - Compliance with approved applications and plans.

Zoning permits, certificates of zoning compliance, site plans, special use permits, variances, and other approvals required by this appendix are granted based on the basis of specific applications or plans and shall authorize only the construction, arrangement or use set forth by such approved applications or plans. Any construction, arrangement or use not in compliance with that which is specifically authorized by approved applications or plans shall be considered a violation of this appendix.

Sec. 3-8. - Permits issued prior to adoption of appendix.

Nothing contained in this appendix shall be construed to require any change in the plans, construction or intended use of any building or structure for which a permit was lawfully issued prior to the effective date of this appendix or subsequent amendment thereto, provided that the authorized construction is commenced or use is established prior to the expiration of such permit as specified by the provisions of this appendix or other applicable laws.

Sec. 3-9. - Fees.

The town council may establish by ordinance a schedule of fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incident to the administration of this appendix or to the filing or processing of appeals or amendments. All applications for rezonings, variances, special use permits, permits, reviews, approvals or other actions for which fees are specified by such fee schedule and shall be accompanied by the required application fee. A schedule of such fees shall be made available in the office of the Zoning Administrator.

Sec. 3-10. - Severability.

Should any article, section, subsection, paragraph, phrase, definition or other provision or part of this appendix, including the zoning map, be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this appendix as a whole or any part thereof other than the part declared to be invalid or unconstitutional.

ARTICLE IV. - DISTRICT REGULATIONS

DIVISION 1. - RESIDENTIAL DISTRICTS

Sec. 4-1. - Purposes of the residential districts.

- (a) The purpose of the R-LD residential low-density district is to provide appropriate areas for low density single-family residential development and promote a suitable residential environment with necessary community facilities and public services. The district is intended to preserve the predominant character of established neighborhoods with relatively large lots and to afford protection from encroachment by potentially incompatible nonresidential and higher density residential uses. It is also intended for application in areas that are not yet fully developed, where agricultural activities, forestlands or open areas remain and where public utilities are not yet provided or may not be provided in the future.
- (b) The purpose of the R-1 residential district is to provide appropriate areas for moderate density single-family residential development and promote a suitable residential environment with necessary community facilities and public services. The district is also intended to preserve the predominant character of established neighborhoods and protect single-family residential areas from encroachment by potentially incompatible nonresidential uses and higher density residential uses.
- (c) The purpose of the R-2 residential district is to provide appropriate areas for moderate density residential development and promote a suitable residential environment with necessary community facilities and public services. Although the primary intended use is single-family detached, the district also provides for flexibility in housing types by permitting two-family dwellings and townhouses at densities compatible with single-family detached. The district is also intended to preserve the predominant character of established neighborhoods and protect them from encroachment by potentially incompatible nonresidential uses and higher density residential uses.
- (d) The purpose of the R-3 residential district is to provide for a variety of housing types at medium to high density in a suitable residential environment protected from encroachment by incompatible nonresidential uses. The district is intended to be applied to areas having convenient access and adequate services and facilities for residents with minimal impact on minor streets and lower density neighborhoods. The lot size, density, open space, yard and other requirements of the district are intended to avoid congestion and overcrowding of land, promote a compatible mixture of housing types and avoid undue burden on public services.

Sec. 4-2. - Use table for residential districts.

District	R-LD	R-1	R-2	R-3	Supplemental Regulation Section
<i>Residential Uses</i>					
Dwelling, single-family	P	P	P	P	
Dwelling, two-family			P	P	Sec. 5-30.
Dwelling, multifamily (12 or fewer du per acre)				P	Sec. 5-18.
Dwelling, multifamily (Between 13 and 24 du per acre)				S	Sec. 5-18.
Dwelling, townhouse			S	P	Sec. 5-29.
Dwelling, manufactured home park				S	Sec. 5-14.
<i>Accommodations and Group Living Uses</i>					
Bed and breakfast	S	S	S	P	

District	R-LD	R-1	R-2	R-3	Supplemental Regulation Section
Boardinghouse/ rooming house				P	Sec. 5-7.
Group homes	P	P	P	P	
Tourist homes				P	Sec. 5-28.
<i>Commercial Uses</i>					
Day care home, adult	P	P	P	P	
Day care center, adult				P	Sec. 5-9.
Day care center, child				P	Sec. 5-9.
Day care home, family	S	S	S	S	
Home occupations, other than personal service home occupations	P	P	P	P	
Personal service home occupations	S	S	S	S	
<i>Public, Institutional, and Community Facilities</i>					
Cemeteries	S	S			
Churches and other places of worship	P	P	P	P	
Golf course and country club	S				
Educational facilities, elementary, middle, and secondary (public or private)	P	P	P	P	
Fire stations and rescue squad facilities	S	S	S	S	
Parks, playgrounds, other recreational facilities and community centers	P	P	P	P	
<i>Utility and Accessory Uses</i>					
Accessory Uses and Structures	P	P	P	P	
Accessory Dwelling Unit	P	P	P	P	Sec. 5-3.
Major utility services	S	S	S	S	
Minor utility services	P	P	P	P	
Signs, as permitted in article VI	P	P	P	P	
<i>Agricultural Uses</i>					
Agricultural and forestry uses and stands for retail sale of agricultural products produced on-site.	P				
Livestock, raising and keeping	P				Sec. 5-24.
"P" indicates a use permitted as of right.					
"S" indicates a use permitted only by special use permit.					

District	R-LD	R-1	R-2	R-3	Supplemental Regulation Section
A blank cell indicates the use is not permitted; any use not listed in this table is not permitted in residential districts.					

Sec. 4-3. - Dimensional regulations for residential districts.

District	R-LD	R-1	R-2	R-3
<i>Minimum Lot Area (square feet)</i>				
Served by public water and public water systems	12,000	8,000	6,000	6,000
Served by either public water or public sewer systems	20,000	20,000	20,000	20,000
Served by private water and sewage disposal systems	30,000	30,000	30,000	30,000
<i>Minimum Lot Width (feet)</i>				
Served by public water and public water systems	75	65	50	50
Served by either public water or public sewer systems	100	100	100	100
Served by private water and sewage disposal systems	120	120	120	120
<i>Minimum Yard Requirements (feet)</i>				
Front yard	30	25	25	25
Side yard	15	6.5	5	5
Rear yard	25	25	25	25
<i>Height Maximum (feet)</i>				
<i>Lot Coverage Maximum (percentage of lot area covered by all buildings)</i>		None	None	None
Where a maximum lot frontage is specified for a district, such maximum shall apply to only one frontage of a corner lot.				
A numeric entry means the dimension shall apply based on the unit of measurement indicated.				

DIVISION 2. - MULTIPLE PURPOSE DISTRICTS**Sec. 4-4. - Purposes of multiple purpose districts.**

- (a) The purpose of the R-B residential-business district is to accommodate a limited range of offices and similar uses that are compatible with moderate density residential in order to provide for mixed use and other alternatives for conversion of dwellings or for new construction in areas that are undergoing change and are no longer viable as exclusively residential in character. The district is also intended as a means to ease the transition between residential and commercial areas by providing for a mix of uses and development standards that are compatible with nearby residential areas.
- (b) The purpose of the GB general business district is to accommodate a wide range of retail and service uses which serve the community as a whole or cater to the traveling public. The district is intended to be applied along primary traffic routes and to areas having direct access to such routes, in order to provide safe and efficient access while avoiding the routing of traffic onto minor streets or through residential areas. The district regulations are designed to afford flexibility in permitted uses of individual sites in order to promote business opportunities, economic development and the provision of services. The district regulations are also designed to provide for harmonious development and compatibility with adjacent residential areas.
- (c) The purpose of the CB central business district is to provide for the day-to-day and specialty shopping and service needs of the community. It is intended to be a compact, densely developed and well-defined area having a strong pedestrian orientation and urban shopping area character that is compatible with adjacent residential neighborhoods. The permitted uses and regulations of the district are intended to promote an attractive pedestrian environment with retail, personal service and office establishments at street level and with minimal disruption from vehicle-oriented land uses and features that would detract from a safe, convenient and economically viable pedestrian environment. The district is intended to promote continuity of a storefront character with minimum interruption by driveways and vehicle traffic across public sidewalk areas. The district regulations are also intended to preserve the predominant scale of the central business area, promote retention and appropriate use of existing structures and encourage that any new development be compatible with the area.
- (d) The purpose of the P/O public/open space district is to preserve specific areas from private development, as these areas have been identified as currently undeveloped, unlikely to be developed, or unsuitable for private development. These areas either have natural conditions of soil, slope, susceptibility to flooding or erosion, geological condition, vegetation or an interaction between the aforesaid which makes such lands unsuitable for urban development or which are of a public nature which is inappropriate for private development. In order to protect the natural environment in these sensitive areas, the permissible uses there are limited to public recreation-oriented activities. This district is also intended to specify the location of public facilities of a recreational nature as well as to reserve areas for location of other public facilities.

Sec. 4-5. - Use table for multiple purpose districts.

District	R-B	GB	CB	P/O	Supplemental Regulation Section
<i>Residential Uses</i>					
Dwelling, single-family	P				
Dwelling, two-family	P				Sec. 5-30.
Dwelling, two-family, that does not meet the lot area and/or lot width requirements of Sec. 4-6	S				Sec. 5-30.
Dwelling, multifamily					
Townhouses	S				Sec. 5-29.

District	R-B	GB	CB	P/O	Supplemental Regulation Section
<i>Accommodations and Group Living Uses</i>					
Assisted care facilities	S				
Bed and breakfast establishments	P	P	P		
Boardinghouse/ rooming house					
Group homes	P				
Halfway house		S			
Hotels and motels		P	P		
Nursing homes		P			
Tourist homes	P	P	P		Sec. 5-28.
<i>Commercial Uses: Office and Related Uses</i>					
Alternative financial institution		P			
Banks and other financial services	P	P	P		
Contractors' offices, shops and display rooms, general or special trade		P			
Laboratories	P	P	P		
Massage clinic	P	P	P		
Medical and dental clinics	P	P	P		
Offices	P	P	P		
Outpatient mental health and substance abuse centers		S			
Research and development facility		P	P		Sec. 5-25.
<i>Commercial Uses: Miscellaneous</i>					
Animal hospital or veterinary clinic, completely enclosed	P	P	P		Sec. 5-5.
Animal hospital or veterinary clinic, with outside runs, play yards, pens, or training areas.		S			Sec. 5-6.
Community markets		P	P		
Flea markets		S	S		
Floral shops		P	P		
Funeral homes	S	P			
Greenhouses, commercial		S			

District	R-B	GB	CB	P/O	Supplemental Regulation Section
Parking areas and lots as a principal or accessory use of property. This shall not include the parking or storage of recreational vehicles, watercraft, utility trailers, or recreational equipment trailers.	P	P			As required by Article VI
Parking garages	P	S			
<i>Commercial Uses: Retail Sales and Service</i>					
Auto wash facilities	P				
Bakeries where products are sold principally at retail on the premises	P	P			
Barber and beauty shops, retail	P	P	P		
Building supplies and materials, retail		P			
Business support services		P	P		
Garden centers		P			
Laundromats, laundry, and drying cleaning pick up stations		P	P		
Motor vehicle sales and service establishment		P			Sec. 5-16.
Motor vehicle service centers		P			
Music and dance instruction	P	P	P		
Pawnbroker		P	P		
Personal service business	S	P	P		
Pet shops, pet grooming, and pet daycare facility, completely enclosed	P	P	P		Sec. 5-5.
Pet shops, pet grooming, and pet daycare facility, with outside runs, play yards, pens, or training areas.		S			Sec. 5-6.
Repair and service business		P	P		
Retail stores and shops		P	P		
Retail stores and shops, boutique	P	P	P		Sec. 5-26
Retails stores and shops, large format		S	S		
Shopping centers containing uses permitted in the GB District		P			
<i>Industrial Uses</i>					
Motor vehicle or trailer painting and body repair.		S			Sec. 5-17.

District	R-B	GB	CB	P/O	Supplemental Regulation Section
Gasoline service stations and self-service gasoline stations		P	S		
<i>Warehousing and Distribution Uses</i>					
Mini-warehouses and warehouses		S			
Wholesale merchandising broker, not including wholesale storage or warehouses		P			
<i>Assembly and Entertainment Uses</i>					
Amphitheater			P		
Amusement, commercial, indoor		P	S		
Amusement, commercial, outdoor		S			
Eating and drinking establishment		P	P		Sec. 5-11.
Entertainment Establishment		P	P		
Microbrewery		P	P		Sec. 5-11.
Microdistillery		P	P		Sec. 5-11.
Off-track betting centers		P			
Recreation, commercial, outdoor		S	S		
Recreation, commercial, indoor		P	S		
Sports Complexes		S	S		
<i>Public, Institutional, and Community Facilities</i>					
Artist Studio (including photography)	P	P	P		
Art galleries, supply shops, and custom frame shops		P	P		
Bicycle and pedestrian paths and trails				P	
Cemeteries				P	
Churches and other places of worship	P	P	P		
Day care home, adult	P				
Day care center, adult	P	P	P		
Day care center, child	P	P	P		
Day care home, family	S				
Educational facilities, business schools or nonindustrial trade school	P	P	P		
Educational facilities, elementary, middle, and secondary (public or private)	P	P		P	

District	R-B	GB	CB	P/O	Supplemental Regulation Section
Educational facilities, industrial trade school		P			
Educational facilities, school for the arts	P	P	P		
Fire stations and rescue squad facilities	S	P	P		
Golf course and country club				S	
Home occupations	P	P	P		
Hospitals		P			
Libraries	P	P	P		
Municipal or county buildings	P	P	P	P	
Museums	P	P	P		
Parks, playgrounds, other recreational facilities and community centers	P	P	P	P	
Post offices and package mailing services, but not including package distribution centers.		P	P		
Public-owned parking facilities and off-street parking	P	P	P	P	As required by Article VI
Public swimming pools				P	
<i>Utility and Accessory Uses</i>					
Accessory Uses and Structures	P	P	P	P	
Accessory Dwelling Unit	P				<u>Sec. 5-3.</u>
Drive-up facilities in conjunction with any use permitted in the CB District			S		<u>Sec. 5-10.</u>
Mixed use buildings	P	P	P		<u>Sec. 5-15.</u>
Major utility services	S	S	S	S	
Minor utility services	P	P	P	P	
Outdoor display area	P	P	P		<u>Sec. 5-19.</u>
Outdoor storage area		S			<u>Sec. 5-21.</u>
Signs, as permitted in Article VI	P	P	P	P	
"P" indicates a use permitted as of right. "S" indicates a use permitted only by special use permit. A blank cell indicates the use is not permitted; any use not listed in this table is not permitted in multiple purpose districts.					

Sec. 4-6. - Dimensional regulations for multiple purpose districts.

District	RB	GB	CB	P/O
<i>Minimum Lot Area (square feet)</i>				
Served by public water and public water systems	6,000	None	None	None
Served by either public water or public sewer systems	20,000	TBD	TBD	None
Served by private water and sewage disposal systems	30,000	TBD	TBD	None
<i>Minimum Lot Width (feet)</i>				
Served by public water and public water systems	50	None	None	None
Served by either public water or public sewer systems	100	TBD	TBD	None
Served by private water and sewage disposal systems	120	TBD	TBD	None
<i>Minimum Yard Requirements (feet)</i>				
Front yard	15	20	None	None
Side yard	5*	None	None	None
Rear yard	25	None	None	None
<i>Maximum Yard Requirements (feet)</i>				
Front yard	None	None	15	None
<i>Height Maximum (feet)</i>	Building or structure situated within 100 feet of property located in a residential or R-B district	35	35	45 or 4 stories, whichever is less
	Building or structure situated > 100 feet of property located in a residential or R-B district	35	60	45 or 4 stories, whichever is less
<i>Lot Coverage Maximum (percentage of lot area)</i>		None	None	None
<ul style="list-style-type: none"> Where a maximum lot frontage is specified for a district, such maximum shall apply to only one frontage of a corner lot. A numeric entry means the dimension shall apply based on the unit of measurement indicated. 				
* A side yard of not less than 10 feet shall be provided for a property devoted to a nonresidential use where a side lot line abuts property in an R-1 or R-2 district.				
TBD: Minimum lot area for any use not served by public sewer and public water systems shall be as determined by the health official.				

DIVISION 3. - INDUSTRIAL DISTRICTS

Sec. 4-7. - Purposes of the M-1 and M-2 districts.

(a) The purpose of the M-1 limited industrial district is to provide appropriate locations for light industrial and manufacturing uses along with related service and support uses and compatible commercial activities. The uses permitted in the district typically involve minimal hazards, do not create significant amounts of smoke, noise, odor, dust or other nuisance, and are intended to provide employment opportunities and economic development potential. The district is intended to be located along or near primary traffic routes to facilitate access and avoid industrial traffic on minor roads and residential streets. The regulations in the M-1 district are designed to promote compatibility among uses within the district and with neighboring uses in other districts and to avoid adverse impacts on existing and future industrial development so as to maximize industrial development opportunities in the town.

(b) The purpose of the M-2 general industrial district is to provide appropriate locations for general industrial and manufacturing uses which may result in greater amounts of smoke, noise, odor or dust than typically associated with uses permitted in the M-1 limited district. The M-2 district is intended to accommodate those uses which, although not generally appropriate in other districts or close to residential, business or limited industrial areas, provide desirable employment opportunities, enhance economic development potential, enlarge the tax base and provide needed services or products. The setback, yard, screening, special use permit and other requirements of the district are intended to promote compatibility of development and to provide protection for other uses and for the general public.

Sec. 4-8. - Use table for industrial districts.

District	M-1	M-2	Supplemental Regulation Section
<i>GB and M1 District Uses</i>			
Any use or structure permitted by right in the GB district, unless otherwise indicated on this table. *	P	P	* Exception
<i>Exceptions to this provision include:</i>			
* Dwelling use shall be permitted only for purposes of occupancy by a security guard, caretaker or watchman employed in connection with the principal use of the premises.			
Any use or structure permitted by special use permit in the GB district, unless otherwise indicated on this table.	S	S	
Any use or structure permitted by right in the M-1 limited industrial district, unless otherwise indicated on this table.	-	P	
Any use or structure permitted by special use permit in the M-1 district, unless otherwise indicated on this table.	-	S	
<i>Commercial Uses: Office and Related Uses</i>			
Laboratories	P	P	
Research and development facility	P	P	Sec. 5-25
<i>Commercial Uses: Retail Sales and Service</i>			
Adult uses as defined in Sec. 5-4 of this appendix.	S	S	Sec. 5-4

District	M-1	M-2	Supplemental Regulation Section
Animal hospital or veterinary clinic, with outside runs, play yards, pens, or training areas.	P	P	<u>Sec. 5-6</u>
Boarding kennel, completely enclosed		P	<u>Sec. 5-5</u>
Boarding kennel, with outside runs, play yards, pens, or training areas.		P	<u>Sec. 5-6</u>
Commercial motor vehicle sales, rental, and service establishment	P	P	<u>Sec. 5-8</u>
Greenhouses, commercial	P	P	
Motor vehicle sales and service establishment	P	P	<u>Sec. 5-16</u>
Pet shops, pet grooming, and pet daycare facility, with outside runs, play yards, pens, or training areas.	P	P	<u>Sec. 5-6</u>
Recreational vehicle or boat sales and service	P	P	<u>Sec. 5-8</u>
Sales, rental, and servicing of machinery and equipment	P	P	
Taxi cab business	P	P	
Tire recapping		P	
Truck stops	S	S	
Truck terminals		P	
<i>Industrial Uses</i>			
Asphalt mixing plants		P	
Assembly of automobiles, other motor vehicles, machinery and similar large durable goods and products.		P	
Motor vehicle or trailer painting and body repair.	P	P	<u>Sec. 5-17.</u>
Battery manufacturing		P	
Boatbuilding	P	P	
Boiler shops		P	
Brewery	P	P	<u>Sec. 5-11.</u>
Brick manufacturing		P	
Cabinet, furniture, woodworking and upholstery shops.	P	P	
Coalyards and woodyards	P	P	

District	M-1	M-2	Supplemental Regulation Section
Concrete mixing plants		P	
Contractor's shop, heavy construction	P	P	
Cotton spinning mills		P	
Distillery	P	P	Sec. 5-11.
Dye manufacturing		P	
Feed mills and feed manufacturing		P	
Ice manufacturing and packaging	P	P	
Machine shops excluding punch presses or drop hammers exceeding forty-ton rated capacity	P	P	
Machine shops with punch presses or drop hammers exceeding forty-ton rated capacity		P	
Manufacturing of acids, cement, lime, gypsum or fertilizer		S	
Manufacturing: compounding, assembling, treatment or packaging of articles of merchandise from the following materials, when such materials are refined, prepared or initially processed elsewhere: Bone, canvas, cloth, cork, feathers, felt, fiberglass, fibers, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stones, rubber, shell, straw, textiles, tobacco, wood, yarn, and similar materials.	P	P	
Manufacturing: compounding, processing, treatment or packaging of bakery goods, candy, cosmetics, dairy products, food products, perfumes, pharmaceuticals, soaps, toiletries and similar products.	P	P	
Manufacturing: pottery, figurines and other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.	P	P	
Manufacturing or assembling of electronic equipment, instruments, devices, components and parts, electrical appliances, medical equipment, musical instruments, toys, novelties, small parts and similar products.	P	P	

District	M-1	M-2	Supplemental Regulation Section
Meat, poultry, and fish processing and abattoirs		S	
Monument and stone works	P	P	
Paper and pulp manufacturing		S	
Petroleum refining, including byproducts, and bulk storage of petroleum products for distribution		S	
Printing and publishing plants	P	P	
Railroad yards, related facilities and freight and passenger terminals		P	
Sand and gravel and crushed stone operations		S	
Sawmills, planing mills, and wood preserving operations		P	
Sheet metal and metal fabrication shops	P	P	
Steel fabricating		P	
<i>Warehousing and Distribution Uses</i>			
Bottling plants	P	P	
Contractors' and construction equipment storage and rental	P	P	
Junkyards and automobile graveyards		S	
Mini-warehouses and warehouses	P	P	
Storage and distribution facilities	P	P	
Vehicle storage or impoundment lot	S	P	Sec. 5-31
Wholesale businesses, including storage	P	P	
<i>Utility and Accessory Uses</i>			
Accessory Uses and Structures	P	P	
Major utility services	S	P	
Outdoor storage	P	P	Sec. 5-21
Signs, as permitted in article VI	P	P	
"P" indicates a use permitted as of right.			
"S" indicates a use permitted only by special use permit.			
A blank cell indicates the use is not permitted; any use not listed in this table is not permitted in industrial districts.			

Sec. 4-9. - Dimensional regulations for industrial districts.

District	M-1	M-2	
<i>Minimum Lot Area (square feet)</i>			
Served by public water and public water systems	None	None	
Served by either public water or public sewer systems	TBD	TBD	
Served by private water and sewage disposal systems	TBD	TBD	
<i>Minimum Lot Width (feet)</i>			
Served by public water and public water systems	None	None	
Served by either public water or public sewer systems	None	None	
Served by private water and sewage disposal systems	None	None	
<i>Minimum Yard Requirements (feet)</i>			
Front yard	25	25	
Side yard	None	None	
Rear yard	None	None	
<i>Height Maximum (feet)</i>	Building or structure situated within 100 feet of property located in a residential or R-B district	35	35
	Building or structure situated > 100 feet of property located in a residential or R-B district	60	60
<i>Lot Coverage Maximum (percentage of lot area)</i>		None	
TBD: Minimum lot area for any use not served by public sewer and public water systems shall be as determined by the health official.			

DIVISION 4. - PLANNED UNIT DEVELOPMENT DISTRICTS

Sec. 4-10. - Purpose of the planned unit development district.

Consistent with the general purposes of this appendix, the intent of the PD planned development district is to encourage and provide for the development of medium to large parcels of land for residential or limited mixed use communities in a planned and coordinated manner. The district is intended to provide greater flexibility than normal zoning classifications in order to encourage the most efficient and economical use of limited vacant land, to maximize opportunities to provide open space and preserve natural features of the land through clustering and other design concepts and to adapt development standards to the unique characteristics of individual sites. The district regulations are intended to promote imaginative and innovative design, a variety of housing types, convenience of services and provision of recreational and other amenities for residents.

Sec. 4-11. - Use table for planned use development district.

(a) Uses and structures permitted by right. The following uses and structures are permitted by right in the PD planned development district, subject to all other applicable requirements of this appendix:

District	PD	Supplemental Regulation Section
<i>Residential Uses</i>		
Dwelling, single-family	P	
Dwelling, two-family	P	
Dwelling, multifamily	P	
Townhouses	P	
<i>Accommodations and Group Living Uses</i>		
Group Homes	P	
<i>Commercial Uses: Office and Related Uses</i>		
Banks and other financial services	P	
Massage Clinics	P	
Medical and Dental Clinics	P	
Offices	P	
Research and Development Facility	P	<u>Sec. 5-25.</u>
<i>Commercial Uses: Retail Sales and Service</i>		
Laundromats, laundry, and drying cleaning pick up stations	P	
Personal service business	P	
Retail stores and shops	P	
<i>Industrial Uses</i>		
Gasoline service stations and self-service gasoline stations	P	

District	PD	Supplemental Regulation Section
<i>Assembly and Entertainment Uses</i>		
Eating and drinking establishment	P	
<i>Public, Institutional, and Community Facilities</i>		
Churches and other places of worship	P	
Day care home, Adult	P	
Day care center, Adult	P	
Day care center, Child	P	
Day care home, Family	P	
Home occupations	P	
Parks, playgrounds, other recreational facilities and community centers not operated for commercial purposes	P	
Educational facilities, business schools or nonindustrial trade school	P	
Educational facilities, elementary, middle, and secondary (public or private)	P	
Educational facilities, industrial trade school	P	
Educational facilities, school for the arts	P	
<i>Utility and Accessory Uses</i>		
Accessory Uses and Structures	P	
Drive-up facilities in conjunction with any use permitted in the PD District		
Major utility services	P	
Minor utility services	P	
Outdoor display area	P	<u>Sec. 5-19</u>
Outdoor storage area	S	<u>Sec. 5-21</u>
Signs, as permitted in Article VI	P	
"P" indicates a use permitted as of right. "S" indicates a use permitted only by special use permit. A blank cell indicates the use is not permitted; any use not listed in this table is not permitted in the planned use development district.		

Sec. 4-12. - Use limitations.

(a) Use limitations. Commercial uses permitted in the PD planned development district shall be subject to the following limitations in addition to other applicable requirements:

- (1) Not more than 15 percent of the gross area of a PD district shall be devoted to sites for commercial uses and their accessory uses and structures.
- (2) No individual commercial use shall contain more than 5,000 square feet of floor area.
- (3) No zoning permit for any commercial use shall be issued until certificates of use and occupancy have been issued for at least 25 percent of the dwelling units proposed in the PD district.

Sec. 4-13. - District size.

Each PD district shall contain not less than ten acres of contiguous land area. Existing public streets shall not be included in calculating land area.

Sec. 4-14. - General development standards.

(a) Density. The density of a PD district shall not exceed ten dwelling units per gross acre. For purposes of calculating density, areas devoted to sites for commercial uses shall not be included.

(b) Common open space requirements. Not less than 20 percent of the gross area of each PD district shall be devoted to common open space meeting the following criteria:

- (1) Common open space shall consist of areas owned by a homeowners' association and devoted to active or passive recreation or leisure time use or to the privacy or visual enjoyment of residents of the development, and may include buffers, floodplains, steep slopes and other natural areas to be preserved. Common open space may include land improved or developed for recreation use, including swimming pools, game courts, playgrounds, recreation centers and similar facilities, but shall not include streets, parking areas, private yard areas or sites reserved for future development of a nature that would not qualify as common open space.
- (2) Common open space shall have horizontal widths of not less than 50 feet, except areas devoted to pedestrian trails, bikeways or leisure trails shall not be less than ten feet in horizontal dimensions.
- (3) Common open space shall be arranged, together with streets and walkways, to provide a continuous and interconnected system which is accessible from all dwelling units within the development without having to cross privately owned property.

(c) Yards and setbacks. Minimum yards, setbacks and spaces between buildings shall be as required in the R-3 residential district, unless different minimum requirements are specifically authorized in the approved master plan for the PD district.

(d) Perimeter buffer. A buffer area of not less than 50 feet in width shall be provided around the perimeter of the PD district, except adjacent to public streets providing access to the district. Such buffer area shall be left in a natural state or shall be supplemented with landscaping materials and/or structural fences or walls. No building, structure, road, parking area or improvement for active recreation use shall be located in any required buffer.

(e) Height limits. No building or structure in a PD district shall exceed a height of 45 feet, provided that no accessory building located within 25 feet of a property line shall exceed a height of 15 feet. (See Article VI for supplementary height regulations.)

(f) Public sewer and water. The PD district shall be served by public sewer and public water systems.

(g) Underground utilities. All utility lines within a PD district shall be placed underground.

(h) Streets. Except as may be specifically approved by the town council in conjunction with the PD district master plan, streets within a PD district shall be public and shall be constructed in accordance with applicable standards of the town and the Virginia Department of Transportation. Private internal streets within a PD district which provide access to sites within the district and do not provide for through traffic

by the general public may be permitted by the council in accordance with design and construction standards specified in the PD district master plan.

- (i) Preservation and maintenance of common areas. Provisions shall be made by the developer to ensure preservation and maintenance of required common open space and other common areas and facilities. Ownership of common areas and facilities shall be vested in a homeowners' association comprised of all owners of property within the development. Appropriate covenants and restrictions providing for preservation and maintenance of such areas and facilities shall be described in general and approved as to form by the town attorney at the time of submission and review of the PD district master plan. Final covenants and restrictions shall be submitted for review by the Zoning Administrator and town attorney, and shall be recorded prior to approval of any site plan.

Sec. 4-15. - Procedures.

- (a) Generally. Except as specifically modified by the provisions of this division, application for rezoning of a property to a PD district shall be submitted in the same manner and shall be reviewed and considered in the same manner as other applications to change the zoning classification of property by amendment to the official zoning district map as set forth in Article IX of this appendix. A master plan for the development of each PD district shall be submitted by the applicant as part of the application for rezoning. Upon approval by the town council, the standards and requirements set forth in the master plan shall, together with the applicable requirements of this appendix, constitute the regulations applicable within the PD district.
- (b) Master plan contents. Every application for rezoning to a PD district shall include a master plan for development of the site which shall consist of not less than the following written and graphic information, in such number as specified by the policy of the planning commission, prepared in sufficient detail and scale and with sufficient clarity to accurately depict the nature and character of development proposed within the PD district:
 - (1) A plat, legal description of the property and verification of ownership or control by the applicant.
 - (2) Existing zoning, uses and structures on the subject site, and existing zoning and use of adjacent properties.
 - (3) An inventory of site characteristics and natural features, including topography with contour intervals of five feet or less, watercourses, water bodies, floodplains, wooded areas and other major vegetation features, and historic and archeological resources.
 - (4) Description of the proposed development, including its general character, the manner in which it satisfies the purposes and intent of PD districts, means of preserving significant natural features and means of addressing potential impacts on the community and on public services.
 - (5) A land use plan for the site, showing specific land uses with schematic site plans, access and circulation, general location and arrangement of buildings, parking areas, driveways, pedestrian routes, natural areas to be retained, buffers and open spaces and their functions and general character.
 - (6) Statements or graphic representations showing proposed development standards including minimum lot areas and widths, minimum yards and setbacks, building heights, densities, amount of nonresidential floor area, number of parking spaces and percentage of open space.
 - (7) Traffic impact analysis.
 - (8) General plans for public services and utilities showing the necessary services and utilities will be provided and are sufficient to serve the development.
 - (9) Statements or graphic representations of general character and architectural and community design guidelines to be applicable to the development, including street and parking area design standards, lighting and signage.
 - (10) General description of covenants and restrictions intended to provide for preservation and maintenance of common areas and facilities.

- (11) Development phasing schedule.
- (12) Such other information that is deemed necessary by the Zoning Administrator, planning commission or town council to establish that the proposed development complies with the general purposes or specific requirements of this appendix, including such additional information or analyses as may be necessary to evaluate potential impacts of the proposed development on the surrounding area and the community as a whole.
- (c) Reserved.
- (d) Pre-application conference. Prior to submission of the application and master plan, the applicant shall meet with the Zoning Administrator to discuss the proposed development in general and the PD district application, review and approval process.
- (e) Review and consideration of application. Formal review, consideration and action on the application shall be conducted in accordance with the provisions of Division 1 of Article IX of this appendix. The planning commission's action on the application shall include recommendations to town council regarding the master plan accompanying the application, and the commission may recommend modifications or changes to such master plan. The town council may consider further appropriate modifications or changes to the master plan.
- (f) Approval of subdivision and site plans. Prior to development pursuant to an approved PD district, subdivision plats as normally required by the subdivision ordinance, Appendix A of this Code, and/or of the town and site plans as normally required by Article VIII of this appendix shall be submitted and approved. Subdivision plats and site plans shall conform to the standards and requirements of the PD district and the master plan approved in conjunction with the district.
- (g) Modifications or amendments to approved master plan. Minor modifications to an approved PD district master plan may be authorized by the Zoning Administrator when such modifications do not: Alter the boundaries of the property; conflict with specific requirements of this appendix or any specific standards or requirements set forth in the approved master plan; significantly decrease the width or depth of any yard, setback or buffer area; significantly alter points of access to the property or the internal circulation system; significantly alter the arrangement of major site plan elements; or substantially change the general character, architectural treatment or design of elements of the plan. Any change in an approved PD district master plan other than a minor modification as described above shall require a formal amendment subject to the same procedures and requirements as a new application.
- (h) Failure to submit site plans. Failure of an applicant to submit a site plan for a first phase of development pursuant to an approved PD district within 24 months of approval of the district shall cause the town council to initiate an ordinance to amend the official zoning map to rezone the property to the classification(s) existing at the time of initial approval of the PD district.

DIVISION 5. - MIXED-USE DEVELOPMENT (MUD) DISTRICT

Sec. 4-16. - Purpose of the mixed-use development (MUD) district.

- (a) Mixed use is the idea of creating a multi-use, multi-purpose building or set of buildings, incorporating some combination of residential, commercial, industrial, office, institutional, or other land uses as part of the overall environment. Mixed use may be developed at various scales from a mixed-use building, mixed-use parcels/sites or mixed use walkable/transit areas. A mixed-use building or buildings will be considered largely residential with street front commercial space, providing retailers with customers within close reach of each other.
- (b) The intent of the mixed-use development district is to encourage the orderly development of mixed residential/commercial sites and to encourage innovative development patterns that create a desirable environment, particularly for lots which contain a number of constraints to conventional development. These regulations are designed to achieve the following objectives:
 - (1) Allow market-driven growth in places that are most conducive to accommodating additional activity.

- (2) Encourage economic development through the creation of a mix uses adjacent to existing commercial centers.
- (3) Provide diverse housing development for households with a range on incomes and lifestyles.
- (4) Promote a walkable community with pedestrian-oriented buildings and open space that connects to nearby destinations.
- (5) Create and support lively, human-scaled activity areas and gathering places for the community by encouraging civic uses, plazas, and a mix of uses.
- (6) Ensure that new development is consistent with and enhances the nearby streetscapes.
- (7) Promote development that accommodates the automobile but also emphasizes alternative travel means such as buses, biking, and walking.
- (8) Promote the adaptive reuse of existing buildings that have been identified as architectural, cultural, and/or historic significance to the community.
- (9) Encourage redevelopment of underutilized or obsolete industrial, commercial or institutional property.
- (10) Create opportunities to use new technologies in managing the quality and quantity of stormwater; and
- (11) Encourage the preservation of steep slopes, floodplains, historic structures and areas, and unique, natural, or geological formations.

Sec. 4-17. - Procedural requirements for mixed-use development (MUD) district.

Applications to establish a mixed-use development (MUD) district or amend the development plan of MUD district shall include a proposed development plan, drawn to scale, containing the following information and necessary explanatory materials:

- (a) Boundaries of the location of the proposed MUD district and the ownership of properties contained therein, as well as all existing public and private streets, alleys, and easements within and immediately adjacent to the district;
- (b) Location, size, and use of existing buildings and the location, size, and use of proposed buildings or additions to existing buildings;
- (c) Location of all existing parking facilities, off-site parking facility, on-street parking, shared parking, and the approximate location of all proposed surface parking lots or parking structures, including the number of parking spaces for each lot or structure and all existing and proposed means of access to parking areas and to public or private streets, alleys, and easements;
- (d) Proposed changes in the location, width, or character of public streets, alleys, or easements within and adjacent to the district, and the delineation of any private driveways or loading spaces that intersect with public rights-of-way or easements and the delineation of routes for emergency vehicles accessing the district;
- (e) Existing and proposed pedestrian routes, including links between various buildings;
- (f) General use of major existing and proposed open spaces within the site and specific features of the development plan, such as screening, buffering, or retention of natural areas, which are intended to enhance compatibility with adjacent properties, and calculations of the percentage of usable open space for the district;
- (g) Infrastructure plans indicating the size and location of existing and proposed stormwater, sanitary sewer, and water lines as well as estimates of impacts of the proposed development on infrastructure capacity in the district and impacts on collector lines immediately outside of the district; and
- (h) Information to demonstrate the compatibility of all structures with the character and appearance of the surrounding neighborhood by virtue of the structures' height, bulk, and location within the MUD district.

Sec. 4-18. - Use table for mixed-use development district.

District	MUD	Supplemental Regulation Section
<i>Residential Uses</i>		
Dwelling, single-family	P	
Dwelling, two-family	P	
Dwelling, multifamily	P	
Townhouses	P	
<i>Accommodations and Group Living Uses</i>		
Assisted living facility	P	
Bed and Breakfast Establishments	P	
Group Homes	P	
Hotels	P	
<i>Commercial Uses: Office and Related Uses</i>		
Banks and other financial services	P	
Massage Clinic	P	
Medical and Dental Clinics	P	
Offices	P	
Research and Development Facility	P	<u>Sec. 5-25.</u>
<i>Commercial Uses: Miscellaneous</i>		
Animal hospital or veterinary clinic, completely enclosed	P	<u>Sec. 5-5.</u>
Community Markets	P	
Convention Centers, meeting space, and banquet facilities	P	
<i>Commercial Uses: Retail Sales and Service</i>		
Laundromats, laundry, and drying cleaning pick up stations	P	
Music and dance instruction	P	
Personal service business	P	
Pet shops, pet grooming, and pet daycare facility, completely enclosed	P	<u>Sec. 5-5.</u>
Repair service, including bicycles, but not including motorized vehicles;	P	

District	MUD	Supplemental Regulation Section
Retail stores and shops	P	
<i>Industrial Uses</i>		
Fuel sales with pumps located at the rear or side of the associated retail structure and which do not conflict with pedestrian travel ways or interrupt street frontage. In no case shall the gas pump canopy abut a public street.	S	
<i>Assembly and Entertainment Uses</i>		
Eating and drinking establishment	P	<u>Sec. 5-11.</u>
Recreation, indoor	P	
<i>Public, Institutional, and Community Facilities</i>		
Artist Studio (including photography)	P	
Art galleries, supply shops, and custom frame shops	P	
Day care home, Adult	P	
Day care center, Adult	P	
Day care center, Child	P	
Day care home, Family	P	
Home occupations	P	
Libraries	P	
Municipal or county buildings	P	
Museums	P	
Post Offices	P	
Parks, playgrounds, other recreational facilities and community centers.	P	
Educational facilities, business schools or nonindustrial trade school	P	
Educational facilities, elementary, middle, and secondary (public or private)	P	
Educational facilities, industrial trade school	P	
Educational facilities, school for the arts	P	
<i>Utility and Accessory Uses</i>		
Accessory Uses and Structures	P	

District	MUD	Supplemental Regulation Section
Drive-up facilities in conjunction with any use permitted in the MUD District that do not abut or face a public street and located in the rear or side of the structure.	S	Sec. 5-10.
Individual buildings over 20,000 total square feet in gross floor area, or greater than 10,000 square feet per floor.	S	
Major utility services	P	
Minor utility services	P	
Outdoor display area	P	Sec. 5-19.
Signs, as permitted in article VI	P	
<p>"P" indicates a use permitted as of right. "S" indicates a use permitted only by special use permit. A blank cell indicates the use is not permitted; any use not listed in this table is not permitted in the mixed-use development district.</p>		

Sec. 4-19. - Street design, block size and sidewalks.

- (a) Public streets. All proposed streets within a MUD district shall be designed and constructed according to the VDOT Secondary Street Acceptance Requirements, and the applicant shall ensure that the proposed public streets will be accepted into the public street system by VDOT and the town, and shall supply such surety as the town may require.
- (b) Grid network. The transportation system in the MUD district shall be generally in the form of a grid of interconnected streets, alleys and paths, modified as necessary to accommodate topography and parcel shape.
 - (1) Streets. Proposed streets within the MUD district shall be extended to the boundary lines of the parcel being developed and terminated with stub outs to provide access to adjacent tracts not presently being subdivided or developed.
 - (2) Cul-de-sac streets. Cul-de-sac streets shall not comprise more than ten percent of the total street length in the MUD district, nor shall any individual cul-de-sac street exceed 500 feet in length. Alleys are exempt from this calculation.
 - (3) Block size. Blocks shall be in conformance with Appendix A, Subdivision Ordinance.
 - (4) Street design.
 - a. Street sections shall be designed to meet VDOT standards and shall be built to the narrowest dimensions permitted by the town and VDOT.
 - b. Dead end alleys are permissible if identified in the development plan submitted at the time of rezoning approval, but in no circumstances shall an alley have a dead end length of over 100 feet. Dead end alleys shall have hammerhead turnarounds.
 - c. Bicycle accommodations shall meet VDOT requirements.
- (5) Accommodation for pedestrians and bicycles.
 - a. Accommodations for pedestrians and bicycles within new proposed town right-of-way shall be designed and constructed according to VDOT Secondary Street Acceptance

Requirements. Reasonable accommodation for bicycles should be considered in existing street systems.

- b. Sidewalks shall be provided on both sides of the street and separated from the roadway by a planting strip or designated parallel parking.
- c. The paved area of sidewalks shall be not less than five (5) feet wide. If a planting strip is provided, it shall be a minimum of four (4) feet in width.

(6) Lot access.

- a. All lots shall front on a public street or on a square or plaza.
- b. Alleys shall serve only the rear or sides of lots or uses.

Sec. 4-20. - Parking.

- (a) Off-street parking. Except as otherwise provided by this subsection, off-street parking requirements shall be in accordance with Article VI of this Appendix.
- (b) Shared parking. The Zoning Administration shall permit shared parking upon approval of a shared parking plan.
- (c) On-street parking. On-street parking is permitted if Vinton Department of Public Works approves the design and placement of such spaces.
 - (1) On-street as well as off-street parking spaces shall be counted toward satisfying the use-based parking requirements contained within Article VI of this appendix.
 - (2) Where on-street parking is provided, requirements for off-street parking shall be reduced accordingly.
 - (3) On-street parking spaces assigned to a building or use shall be those spaces that abut the lot containing that building or use.
 - (4) On-street parking shall be provided on streets abutting squares, small parks or other open spaces.
- (d) Off-street parking for commercial and mixed uses. Off-street parking and loading spaces for commercial and mixed-use structures shall be located to the rear of principal structures with the exception of required handicapped parking or loading spaces or for existing building which may be located to the sides of the principal structure.
- (e) Parking for retail and services. Parking for retail and service uses shall not require on-site parking provided that:
 - (1) On-street or off-street parking is available within a 600-foot radius of the activity.
 - (2) The total floor space for the individual uses does not exceed 2,500 square feet of gross floor area.

Sec. 4-21. - Pedestrian scale lighting.

The provisions of this subsection shall apply to any nonresidential project in a MUD district as follows:

- (a) Generally, site lights should be dark-sky-friendly, and not cast light upward into the sky. Site lighting shall be located and designed to illuminate only the intended lot; light shall be directed downward to the immediate area being lighted and away from any living quarters.
- (b) Floodlights or directional lights may be used to illuminate alleys, parking garages and working (maintenance) areas, but shall be shielded or aimed in such a way that they do not shine into other lots, the street, or direct light out of the MUD district. Floodlighting shall not be used to illuminate building walls (i.e. lights should not be placed on the ground so that a beam of light is directed upward).
- (c) Pedestrian scale decorative streetlights (12 feet to 15 feet in height) shall be installed by the developer on both sides of new streets throughout the MUD district with a general average spacing of 75 feet on center.

Sec. 4-22. - Utilities.

The following provisions shall apply to providing utilities in the MUD district:

- (a) All development within a MUD district shall be served by public water and sewer facilities.
- (b) Utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located underground and to the rear of properties in alley rights-of-way (ROW) or the ROW of minor streets, and all utilities shall be located within a public utility easement. Aboveground utilities are permissible if identified and approved in the development plan submitted at the time rezoning is approved.
- (c) Wireless facilities may be approved either as part of a master plan of development under this division or as an accessory or modification to the master plan of development following the general procedures for approval of such facilities set forth in this Appendix.

Sec. 4-23. - Property owners' association (POA).

A property owners' association (POA) shall be established:

- (a) A property owners association (POA) shall be established by the developer at the time of zoning approval of a MUD district.
- (b) Membership in a POA shall be mandatory for all property owners within the MUD district, and shall be required as a covenant in all deeds to property in the MUD district granted after development plan approval.
- (c) The developer shall prepare documents which provide at a minimum that the POA shall accept title to any common elements including, but not limited to, open space, recreation, plazas, roads, parking, sewer, water, and stormwater management facilities which will not be publicly owned, and shall provide for the maintenance of any common area improvements or other property owned by the POA.

Sec. 4-24. - General development standards.

The following general development standards shall apply in the MUD district:

- (a) The density of a MUD district shall not exceed 24 dwelling units per gross acre. For purposes of calculating density, areas devoted to sites for commercial uses shall not be included.
- (b) Except infill sites of less than three acres; not less than ten to 20 percent of the gross area of each MUD district shall be devoted to common open space meeting the following criteria:
 - (1) Common open space shall consist of areas owned by a homeowners' association and devoted to active or passive recreation or leisure time use or to the privacy or visual enjoyment of residents of the development, and may include buffers, floodplains, steep slopes and other natural areas to be preserved. Common open space may include land improved or developed for recreation use, including swimming pools, game courts, playgrounds, recreation centers and similar facilities, but shall not include streets, parking areas, private yard areas or sites reserved for future development of a nature that would not qualify as common open space.
 - (2) Common open space shall have horizontal dimensions of not less than 50 feet, except areas devoted to pedestrian trails, bikeways or leisure trails shall not be less than ten feet in horizontal dimensions.
 - (3) Common open space shall be arranged, together with streets and walkways, to provide a continuous and interconnected system which is accessible from all dwelling units within the development without having to cross privately owned property.
- (c) Minimum yards, setbacks and spaces between buildings shall be as required in the R-3 residential district, unless different minimum requirements are specifically authorized in the approved master development plan for the MUD district.

- (d) Where adjacent to a non-compatible land use, as determined by Zoning Administrator, a buffer area of not less than 15 feet in width shall be provided around the perimeter of the MUD district, except adjacent to public streets providing access to the district. Such buffer area shall be left in a natural state or shall be supplemented with landscaping materials and/or structural fences or walls. No building, structure, road, parking area or improvement for active recreation use shall be located in any required buffer.
- (e) No building or structure in a MUD district shall exceed a height of 45 feet. This height limitation should not apply to the adaptive reuse of existing structures that have been identified as architectural, cultural and/or historic significance to the community.
- (f) Except as may be specifically approved by the town council in conjunction with the MUD district master plan, streets within a MUD district shall be public and shall be constructed in accordance with applicable standards of the town and the Virginia Department of Transportation. Private internal streets within a MUD district which provide access to sites within the district and do not provide for through traffic by the public may be permitted by the council in accordance with design and construction standards specified in the MUD district master development plan.
- (g) Provisions shall be made by the developer to ensure preservation and maintenance of required common open space and other common areas and facilities. Ownership of common areas and facilities shall be vested in a homeowners' association comprised of all owners of property within the development. Appropriate covenants and restrictions providing for preservation and maintenance of such areas and facilities shall be described in general and approved as to form by the town attorney at the time of submission and review of the MUD district master development plan. Final covenants and restrictions shall be submitted for review by the Zoning Administrator and town attorney, and shall be recorded prior to approval of any site plan.
- (h) A variance from the development standards may be permitted by the Zoning Administrator, when strict adherence to such development standards would result in substantial injustice or hardships. An appeal from the decision of the Zoning Administrator may be taken to the board of zoning appeals (BZA) in accordance with Article X of this appendix.

Sec. 4-25. - Procedures.

- (a) Except as specifically modified by the provisions of this division, application for rezoning of property to a MUD district shall be submitted in the same manner and shall be reviewed and considered in the same manner as other applications to change the zoning classification of property by amendment to the official zoning district map as set forth in Article IX of this appendix. The applicant, as part of the application for rezoning, shall submit a master plan for the development of each MUD district. Upon approval by the town council, the standards and requirements set forth in the master plan shall, together with the applicable requirements of this appendix, constitute the regulations applicable within the MUD district.
- (b) Every application for rezoning to a MUD district shall include a master plan for development of the site which shall consist of not less than the following written and graphic information, in such number as specified by policy of the planning commission, prepared in sufficient detail and scale and with sufficient clarity to accurately depict the nature and character of the development proposed within the MUD district:
 - (1) A plat, legal description of the property and verification of ownership or control by the applicant.
 - (2) Existing zoning, uses and structures on the subject site, and existing zoning and use of adjacent properties.
 - (3) An inventory of site characteristics and natural features, including topography with contour intervals of five feet or less, watercourses, water bodies, floodplains, wooded areas and other major vegetation features, and historic and archeological resources.
 - (4) Description of the proposed development, including its general character, the manner in which it satisfies the purposes and intent of MUD district, means of preserving significant natural features and means of addressing potential impacts on the community and on public services.

- (5) A land use plan for the site, showing specific land uses with schematic site plans, access and circulation, general location and arrangement of buildings, parking areas, driveways, pedestrian routes, natural areas to be retained, buffers and open spaces and their functions and general character.
- (6) Statements or graphic representations showing proposed development standards including minimum lot areas and widths, minimum yards and setbacks, building heights, densities, amount of nonresidential floor area, numbers of parking spaces and percentage of open space.
- (7) Traffic impact analysis, at the discretion of the Zoning Administrator.
- (8) General plans for public services and utilities sufficient to show that necessary services and utilities will be provided to serve the development.
- (9) Statements or graphic representations of general character and architectural and community design guidelines to be applicable to the development, including street and parking area design standards, lighting and signage.
- (10) General description of covenants and restrictions intended to provide for preservation and maintenance of common areas and facilities.
- (11) Development phasing schedule.
- (12) Such other information deemed necessary by the Zoning Administrator, planning commission or town council to establish that the proposed development complies with the general purposes or specific requirements of this appendix, including such additional information or analyses as may be necessary to evaluate potential impacts of the proposed development on the surrounding area and the community as a whole.

(c) Reserved.

- (d) Prior to submission of the application and master development plan, the applicant shall meet with the Zoning Administrator to discuss the proposed development in general and the MUD district application, review and approval process.
- (e) Formal review, consideration and action on the application shall be conducted in accordance with the provisions of Division 1 of Article IX of this appendix. The planning commission's action on the application shall include recommendations to town council regarding the master plan accompanying the application, and the commission may recommend modifications or changes to such master plan. The town council may consider further appropriate modifications or changes to the master plan.
- (f) Prior to development pursuant to an approved MUD district, subdivision plats as normally required by the subdivision ordinance, Appendix A of this Code, of the town and site plans as normally required by Article VIII of this appendix shall be submitted and approved. Subdivision plats and site plans shall conform to the standards and requirements of the MUD district and the master plan approved in conjunction with the district.
- (g) Minor modifications to an approved MUD district master development plan may be authorized by the Zoning Administrator when such modifications do not: Alter the boundaries of the property; conflict with specific requirements of this appendix or any specific standards or requirements set forth in the approved master plan; significantly decrease the width or depth of any yard, setback or buffer area; significantly alter points of access to the property or the internal circulation system; significantly alter the arrangement of major site plan elements; or substantially change the general character, architectural treatment or design of elements of the plan. Any change in an approved MUD district master development plan other than a minor modification as described above shall require a formal amendment subject to the same procedures and requirements as a new application.

DIVISION 6. - FLOODPLAIN OVERLAY DISTRICT**Sec. 4-26. - General provisions.**

(a) *Statutory authorization and purpose.* The ordinance from which this division derives is adopted pursuant to the authority granted to localities by § 15.2-2280, Code of Virginia. The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (3) Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- (4) Protecting individuals from buying land and structures which are unsuitable for their intended purpose because of flood hazards.

(b) *Applicability.* These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Vinton (hereafter referred to as "town") and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the town by the Federal Emergency Management Agency (FEMA).

(c) *Compliance and liability.*

- (1) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this division and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this division.
- (2) The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This division does not imply that districts outside the floodplain district areas or land uses permitted within such district will be free from flooding or flood damages.
- (3) The provisions herein shall not create liability on the part of the town or any officer or employee thereof for any flood damage that may result from reliance on these regulations or any administrative decision lawfully made thereunder.

(d) *Records.* Records of actions associated with administering this ordinance shall be kept on file and maintained by the floodplain administrator.

(e) *Abrogation and greater restrictions.*

- (1) This floodway overlay district ordinance supersedes any ordinance currently in effect in flood-prone areas. Any underlying zoning district regulations, however, shall remain in full force and effect to the extent that its provisions are more restrictive.
- (2) In the event any provision concerning a floodplain area is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying zoning district provisions shall remain applicable.

(f) *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this division shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of

this division. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.

(g) *Penalty for violations.* Any person who fails to comply with any of the requirements or provisions of this article or directions of the floodplain administrator or any authorized employee of the town shall be guilty of the appropriate violation and subject to the penalties therefore.

The Virginia Uniform Statewide Building Code (VA USBC) addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the zoning ordinance of the town are addressed in Article VIII, Division 5, sections 8-38 through 8-41 of the zoning ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the town to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

Sec. 4-27. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Appurtenant or accessory structure.* Accessory structures not to exceed 200 square feet.
- (2) *Base flood.* The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- (3) *Base flood elevation.* The FEMA designated one-percent annual chance water surface elevation and the elevation determined per section 4-30. The water surface elevation of the base flood in relation to the datum specified on the community's FIRM. For the purposes of this division, the base flood is a 100-year flood or one-percent annual chance flood.
- (4) *Basement.* Any area of the building having its floor sub-grade (below ground level) on all sides.
- (5) *Board of zoning appeals.* The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this division.
- (6) *Development.* Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (7) *Existing construction.* Structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
- (8) *Flood or flooding.*
 - a. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters; or
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudflows which are proximately caused by flooding as defined in paragraph a.2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated

cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.2. of this definition.

(9) *Flood insurance rate map (FIRM)*. An official map of a community, on which the Federal Emergency Management Agency FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

(10) *Flood insurance study (FIS)*. A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

(11) *Floodplain or flood-prone area*. Any land area susceptible to being inundated by water from any source.

(12) *Floodproofing*. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(13) *Floodway*. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(14) *Freeboard*. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

(15) *Highest adjacent grade*. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(16) *Historic structure*. Any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - By an approved state program as determined by the Secretary of the Interior; or
 - Directly by the Secretary of the Interior in states without approved programs.

(17) *Hydrologic and hydraulic engineering analysis*. Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

(18) *Letters of map change (LOMC)*. A letter of map change is an official FEMA determination, by letter, that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

- a. *Letter of map amendment (LOMA)*: An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a land as defined by meets and bounds or structure is not located in a SFHA.
- b. *Letter of map revision (LOMR)*: A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A letter of map revision based on fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- c. *Conditional letter of map revision (CLOMR)*: A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

(19) *Lowest floor*. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR § 60.3.

(20) *Manufactured home*. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

(21) *Manufactured home park or subdivision*. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(22) *New construction*. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after March 15, 1978, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

(23) *Post-FIRM structures*. A structure for which construction or substantial improvement occurred on or after March 15, 1978.

(24) *Pre-FIRM structures*. A structure for which construction or substantial improvement occurred before March 15, 1978.

(25) *Recreational vehicle*. A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

(26) *Repetitive loss structure*. A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.

(27) *Shallow flooding area.* A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(28) *Special flood hazard area (SFHA).* The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in section 4-30(a).

(29) *Start of construction.* For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(30) *Structure.* For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(31) *Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(32) *Substantial improvement.* Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a historic structure, provided that notification from the Register of Historic Places or the state inventory of historic places determines that the alteration will not preclude the structure's continued designation as a historic structure.
- c. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all requirements of this division that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the state inventory of historic places must be obtained from the Secretary of the Interior or the state historic preservation officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

(33) *Violation.* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 4-31 is presumed to be in violation until such time as that documentation is provided.

(34) *Watercourse.* A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Sec. 4-28. - Administration.

(a) *Designation of the floodplain administrator.* The town manager, or his/her designee, is hereby appointed to administer and implement these regulations and is referred to herein as the floodplain administrator. The floodplain administrator may:

- (1) Do the work themselves. In the absence of a designated floodplain administrator, the duties are conducted by the planning and zoning director, or his/her designee.
- (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP).

(b) *Duties and Responsibilities of the floodplain administrator.*

- (1) The duties and responsibilities of the floodplain administrator shall include, but are not limited to:
 - a. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA);
 - b. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information;
 - c. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations;
 - d. Review applications to determine whether all necessary permits have been obtained from the federal, state or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the state.
 - e. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (Virginia Department of Environmental Quality, U.S. Army Corps of Engineers) and have submitted copies of such notifications to FEMA.
 - f. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
 - g. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
 - h. Review elevation certificates and require incomplete or deficient certificates to be corrected.
 - i. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMAs, including hydrologic and hydraulic engineering analyses prepared by or for the town, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

- j. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 1. Flood insurance studies (FIS), flood insurance rate maps (FIRMs, including historic studies and maps and current effective studies and maps) and letters of map change; and
 2. Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- k. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- l. Advise the board of zoning appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- m. Administer the requirements related to proposed work on existing buildings:
 1. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 2. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- n. Undertake, as determined appropriate by the floodplain administrator due to the circumstances, other actions which may include but are not limited to:
 1. Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures;
 2. Coordinating with other federal, state, and local agencies to assist with substantial damage determinations;
 3. Providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and
 4. Assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under NFIP flood insurance policies.
- o. Notify the Federal Emergency Management Agency (FEMA) when the corporate boundaries of the town have been modified and:
 1. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- p. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

- q. It is the duty of the floodplain administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).
- (c) *Use and interpretation of FIRMs.* The floodplain administrator shall make interpretations, where needed, as to the exact location of SFHAs, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:
 - (1) Where field surveyed topography indicates that adjacent ground elevations:
 - a. Are below the base flood elevation, even in areas not delineated as a SFHA on a FIRM, the area shall be considered as SFHA and subject to the requirements of these regulations;
 - b. Are above the base flood elevation, the area shall be regulated as SFHA unless the applicant obtains a letter of map change that removes the area from the SFHA.
 - (2) In FEMA-identified special flood hazard areas SFHAs where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
 - (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
 - (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
 - (5) If a preliminary FIRM and/or a preliminary FIS has been provided by FEMA:
 - a. Upon the issuance of a letter of final determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - b. Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - c. Prior to issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Sec. 4-29. - Boundary and floodplain overlay district changes.

- (a) *Jurisdictional boundary changes.* The town floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the NFIP. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9)(v), all NFIP participating communities must notify the Federal Insurance Administration and optionally the state coordinating office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

- (b) *District boundary changes.* The delineation of any of the floodplain overlay districts may be revised by town council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA.
- (c) *Interpretation of district boundaries.* Initial interpretations of the boundaries of the floodplain districts shall be made by the floodplain administrator, or his or her designee. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence if he/she so desires. Procedures for such appeals shall be as outlined in Article X, Division 3, Section 10-11 of the zoning ordinance.
- (d) *Submitting technical data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- (e) *Letters of map revision.* When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a conditional letter of map revision (CLOMR) or a letter of map revision (LOMR).

Examples:

- (1) Any development that causes a rise in the base flood elevations within the floodway.
- (2) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- (3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

Sec. 4-30. - Establishment of floodplain overlay districts.

- (a) *Basis of districts.* The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the town prepared by FEMA, Federal Insurance Administration, dated September 28, 2007, and any subsequent revisions or amendments thereto.

The town may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "local flood hazard map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the town offices.

- (1) The floodway overlay district is in an AE zone and is delineated, for purposes of this division, using the criterion that certain areas within the floodplain must be capable of carrying the waters

of the one percent annual chance flood without increasing the water surface elevation of that flood more than one foot at any point.

The following provisions shall apply within the Floodway Overlay District of an AE zone:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the floodplain administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies—with the town's endorsement—for a conditional letter of map revision (CLOMR), and receives the approval of FEMA.

If subsection 4-30(a)(1)(a) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 4-31.

- b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

(2) The flood-fringe overlay district shall be those areas of the 100-year floodplain not included in the floodway; identified as AE zone on the maps accompanying the FIS that are not included in the floodway area.

(3) The AE or AH zone on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE or AH zone:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as zones AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the town.

Development activities in zones AE or AH on the town FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies—with the town endorsement—for a Conditional letter of map revision (CLOMR), and receives the approval of FEMA.

(b) *Overlay concept.* The floodplain districts described above shall be overlays to the existing underlying zoning districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying zoning district provisions.

If there is any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Sec. 4-31. - District provisions.**(a) Permit and application requirements.**

- (1) *Permit requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with all other applicable codes and ordinances, as amended, such as the VA USBC and the town's subdivision regulations. Prior to the issuance of any such permit, the floodplain administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- (2) *Site plans and permit applications.* All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 - a. The elevation of the base flood (100-year flood) at the site.
 - b. The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
 - c. For structures to be flood-proofed (nonresidential only), the elevation to which the structure will be flood-proofed.
 - d. Topographic information showing existing and proposed ground elevations.

(b) General standards. The following provisions shall apply to all permits:

- (1) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including ductwork, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system, and be located and constructed to minimize or eliminate flood damages.
- (7) New and replacement sanitary sewage facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The town may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods.

Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

(10) Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

In addition to provisions (1)—(10) above, in all special flood hazard areas, the additional provisions shall apply:

(11) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

(12) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(c) *Elevation and construction standards.* In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 4-30(a)(3), the following provisions shall apply:

(1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) in zones AE and AH with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above two feet above the base flood level.

(2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above one foot above the base flood level. Buildings located in AE and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the floodplain administrator.

(3) *Space below the lowest floor.* In zones AE and AH, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- a. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
- b. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- c. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

2. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.
3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
4. The bottom of all required openings shall be no higher than one foot above the adjacent grade.
5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(4) *Standards for manufactured homes and recreational vehicles.*

- a. *All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in subsection 4-31(b) and subsection 4-31(c).*
- b. All recreational vehicles placed on sites must either:
 1. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 2. Meet all the requirements for manufactured homes in subsection 4-31(b) and Subsection 4-31(c).

(5) *Standards for subdivision proposals.*

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- d. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a flood insurance study FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is the lesser.

Sec. 4-32. - Permitted uses by right and by special use.

(a) *Floodplain area.*

(1) The development and/or use of land shall be permitted in accordance with the regulations of the underlying zoning district, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the VA USBC and all other applicable codes and ordinances.

- a. In the floodplain area, the applicant and/or developer shall evaluate the effects of the proposed development and/or use of land on the floodplain with current hydrologic and hydraulic engineering technologies. The applicant and/or developer shall submit studies, analysis, computations, etc. to show the delineation of a floodway based on the requirement that all existing and future development not increase the 100-year flood elevation more than

one (1) foot at any point. The engineering principle, equal reduction of conveyance, shall be used to make the determination of increased flood heights.

(b) *Floodway area.*

- (1) The following uses, types, and activities are permitted, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that no specific land use requires any type of structure, fill, or storage of materials and equipment:
 - a. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - b. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
 - c. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.
 - d. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.
 - e. Manufactured homes are permitted only in an existing manufactured home park, and must meet all the requirements for manufactured homes in subsection 4-31(b) and subsection 4-31(c).
- (2) The following uses and activities may be permitted by special use pursuant to Article VIII, Division 4 of the town zoning ordinance, provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by this or any other ordinance:
 - a. Structures (except for manufactured homes) accessory to the uses and activities by right, above.
 - b. Certain utilities and public utilities and improvements, such as pipelines, water and sewage treatment plants, and other similar or related uses.
 - c. Water-related uses and activities, such as marinas, docks, wharves, piers, etc.
 - d. Extraction of sand, gravel and other materials (where no increase in level of flooding or velocity is caused thereby).
 - e. Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent floatation or movement, and/or can be readily removed from the area within the time available after flood warning.
 - f. Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities, and structural development, shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable code and ordinances.

(c) *Procedures for special uses in floodways.*

- (1) Any use listed as permitted with special use in a floodway shall be allowed only after application to the town council. All such applications shall be reviewed pursuant to the procedures outlined in Article VIII, Division 4 of the Vinton Zoning Ordinance. In addition to information required by Article VIII, Division 4, all applications shall include the following:
 - a. Plans in triplicate drawn to scale of not less than one inch to 100 feet horizontally showing the location, dimension, and contours (at five-foot intervals) of the lot, existing and proposed structures, fill, storage areas, water supply, sanitary facilities, and relationship of the floodway to the proposal.

- b. A typical valley cross-section as necessary to adequately show the channel of the stream, elevation of land and areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development and 100-year flood elevation.
- c. A profile showing the slope of the bottom of the channel or flow line of the stream.
- d. A summary report, prepared by professional engineers or others of demonstrated qualifications, evaluating the proposed project in relation to flood heights and velocities; the seriousness of flood damage to the use; and other pertinent technical matters.
- e. A list of names and addresses of adjoining property owners.

(2) In acting upon such applications, the planning commission and the town council shall consider all relevant factors specified in other sections of this article and:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments. No special use shall be granted for any proposed use, development, or activity within the floodway that will cause any increase in flood levels during the 100-year flood.
- b. The danger that materials may be swept on to other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- e. The importance of the services provided by the proposed facility to the town.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the town.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. Such other factors which are relevant to the purpose of this division.

Sec. 4-33. - Existing structures in floodplain areas.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- (a) Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- (b) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than 50 percent of its market value shall conform to the VA USBC.
- (c) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

Sec. 4-34. - Variances; factors to be considered.

Applications for a variance of the requirements of floodplain overlay district shall be accepted and reviewed pursuant to the procedures outlined in Article X, Division 3 of the Vinton Zoning Ordinance.

Variances shall be issued only upon the following:

- (a) A showing of good and sufficient cause;
- (b) After the board of zoning appeals (BZA) has determined that failure to grant the variance would result in exceptional hardship to the applicant; and
- (c) After the BZA has determined that the granting of such variance will not result in:
 - (1) Unacceptable or prohibited increases in flood heights;
 - (2) Additional threats to public safety;
 - (3) Extraordinary public expense; and will not:
 - a. Create nuisances;
 - b. Cause fraud or victimization of the public; or
 - c. Conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the BZA for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the BZA shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway area that will cause any increase in the 100-year flood elevation;
- (b) The danger that materials may be swept on to other lands or downstream to the injury of others;
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- (e) The importance of the services provided by the proposed facility to the community;
- (f) The requirements of the facility for a waterfront location;
- (g) The availability of alternative locations not subject to flooding for the proposed use;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;
- (j) The safety of access by ordinary and emergency vehicles to the property in time of flood;

- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
- (l) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination and notification from the Register of Historic Places or the state inventory of historic places that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
- (m) Such other factors which are relevant to the purposes of this division.

The BZA may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the BZA has determined that the granting of such will not result in:

- (a) Unacceptable or prohibited increases in flood heights;
- (b) Additional threats to public safety;
- (c) Extraordinary public expense; and will not
- (d) Create nuisances;
- (e) Cause fraud or victimization of the public; or
- (f) Conflict with local laws or ordinances.

Variances shall be issued only after the BZA has determined that the variance will be the minimum required to provide relief.

The BZA shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the 100-year flood elevation:

- (a) Increases the risks to life and property; and
- (b) Will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Sec. 4-35—4-50. - Reserved.

ARTICLE V. - SUPPLEMENTARY REGULATIONS

Sec. 5-1. - Purpose.

The regulations of this article are intended to supplement the applicable zoning district regulations and the other development standards of this appendix in a manner that specifically addresses the unique development challenges of certain uses, facilities, and structures.

Sec. 5-2. - Applicability.

The supplementary regulations of uses, structures, and facilities as set forth in this article, shall apply in all zoning districts unless otherwise stated herein, and shall supplement the requirements of the applicable zoning district regulations and the other applicable standards of this appendix. The supplementary regulations are applicable to new development, redevelopment, or a change of use.

- (a) The standards listed as general standards shall apply in all zoning districts in which the use, structure, or facility is permitted by right or by special use permit.
- (b) Where a specific zoning district is indicated, the standards listed shall apply to that zoning district, in addition to any general standards listed for the use, structure, or facility.

Sec. 5-3. - Accessory Dwelling Units.

- (a) Applicability. In order that the single-family character of the property be maintained and an accessory dwelling unit (ADU) remain subordinate to the principal single-family detached dwelling with which it is associated, such accessory dwelling units, where permitted by this appendix, shall be subject to the following standards:
 - (b) General standards.
 - (1) An accessory dwelling unit (ADU) shall be accessory only to a single-family detached dwelling, and shall be located on a lot that complies with the minimum area, dimensional, and lot coverage standards of the zoning district in which it is located;
 - (2) The owner must reside on the premises, in either the principal dwelling or the accessory dwelling unit. If an owner will not reside on the property in a way that constitutes their principal residence, then the Planning and Zoning Department must be informed and the owner will not be permitted to rent the accessory dwelling unit during that year.
 - (3) An ADU may be used as a homestay unit if it is registered and actively permitted pursuant to the requirements and regulations set forth in [Sec. 5-13](#).
 - (4) Only one (1) ADU shall be allowed on any one (1) lot or parcel;
 - (5) An accessory dwelling unit may be located on a lot where it is permitted provided:
 - (A) The parcel meets the minimum lot size, dimensional, and coverage requirements of the zoning district it is located in.
 - (B) An ADU shall be located behind the front building line of the principal structure and comply with the minimum front yard setback requirements for the underlying zoning district.
 - (C) An ADU that is internal or attached to the principal structure shall comply with all applicable zoning requirements for a principal building within its underlying residential zoning district.
 - (D) A detached accessory dwelling unit in a separate freestanding structure shall comply with the applicable zoning requirements of the underlying residential zoning district and the development standards relating to accessory buildings in Article VI.

- (6) Lots that are non-conforming with regard to minimum lot size requirement are eligible for an ADU provided that no additions or changes to the footprint of the existing structure occur. No freestanding structures can be used as an ADU in the case of such non-conformity, except for in the case of utilizing the second floor of a freestanding non-dwelling structure in existence as of April 1, 2022. In such cases, all applicable regulations of this section shall apply.
- (7) The property owner shall reside on-site, either in the principal dwelling or in the ADU, during times that the unit is available for rent.
- (8) Maximum floor area of the ADU:
 - (A) *Measurement procedures.* For the purpose of determining the size of an accessory dwelling unit, regardless of the definition in Article XI, gross floor area includes the area of any basement or cellar having a structural headroom of seven feet or more, but does not include a garage.
 - (B) For attached or internal ADUs, the floor area of the ADU shall not exceed the lesser of eight hundred (800) square feet or forty (40) percent of the finished floor area of a principal residential use to which it is associated, or
 - (1) The entirety of the basement or cellar may be used, up to the size of the basement or cellar as of April 1, 2022. Minimum floor area requirement still applicable.
 - (C) For detached ADUs in separate freestanding structures, the floor area of the ADU shall not exceed the lesser of six hundred (600) square feet or forty (40) percent of the finished floor area of a principal residential use to which it is associated, or
 - (1) The entirety of the second floor of an existing freestanding non-dwelling accessory structure, up to the size of the second floor area as of April 1, 2022. Minimum floor area requirement still applicable.
- (9) The minimum floor area of the ADU shall be three hundred (300) square feet;
- (10) An ADU shall have the same street address and mailbox as the principal single-family detached dwelling;
- (11) Not be subdivided or otherwise segregated in ownership from the principal single-family detached dwelling.
- (12) No commencement of use of an ADU shall occur until the property owner has an approved zoning permit from the Town of Vinton and any building permits have been issued for construction related to the accessory dwelling unit and the work completed and approved by the Roanoke County Office of Building Safety.

(c) Development standards.

- (1) Detached ADUs are those which are not attached to the principal dwelling.
 - (A) Front and secondary front yard setback requirements are the same as those applied to the primary dwelling unit. An ADU is not allowed in front of the primary dwelling unit.
 - (B) Minimum side and rear yards for structures accessory to a residential dwelling use, including detached ADUs, shall be five (5) feet.
 - (C) Minimum separation required from other structures is five (5) feet.
 - (D) A detached accessory dwelling unit may be located over a garage, workshop, studio or similar structure or built as a freestanding cottage.
 - (E) First floor areas may be used as garages, limited access and limited storage.

- (2) All façades of an attached accessory dwelling shall have similar materials and architectural treatment that are balanced with the main building design and exterior elevation.
- (3) Exterior entrances to an accessory dwelling unit in a principal structure shall be located so as to appear as a single-family dwelling. The accessory dwelling unit entrance shall be located on the side or in the rear of the single-family residence.
- (4) One (1) additional unobstructed parking space shall be required for the accessory dwelling unit.
- (5) An accessory building in which the accessory dwelling unit is located shall not be separately metered for utilities (water, sanitary sewer, gas, electric, etc.) from the principal single-family detached dwelling.
- (6) Use the same driveway as the principal dwelling, unless it is accessed from a right-of-way not used by the principal use (e.g., a rear alley or separate street access on a corner or through-lot).

Sec. 5-4. - Adult uses.

- (a) *Applicability.* In any district in which an adult use is permitted, if such use constitutes an "adult use" as defined in this section, the minimum requirements and standards set out in this section shall apply to such use.
- (b) *Definitions.* For the purposes of this section, the following words and terms are defined as set forth below:
 - (1) Adult entertainment establishment: An eating establishment, eating and drinking establishment, entertainment establishment, private club or similar establishment which features, on a regular basis, live performances involving persons who display specified anatomical areas or engage in specified sexual activities where such performances occur on more than one (1) day in a thirty-day period.
 - (2) Adult bookstore: An establishment that devotes more than fifteen (15) percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following: (a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas;" or (b) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than fifteen (15) percent of the total floor area of the establishment to the sale of books and periodicals.
 - (3) Adult drive-in-theatre: An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons.
 - (4) Adult mini-motion picture theatre: An establishment, with a capacity of more than five (5) but less than fifty (50) persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.
 - (5) Adult model studio: Any establishment open to the public where, for any form of consideration of gratuity, figure models who display "specified anatomical areas" are

provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation, or institution which meets the requirements established in the Code of Virginia, for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

- (6) Adult motion picture arcade: Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or specified "anatomical areas."
- (7) Adult motion picture theatre: An establishment, with a capacity of fifty (50) or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown; and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.
- (8) Adult use: Any adult bookstore, adult entertainment establishment, adult motion picture theatre, adult mini-motion picture theatre, adult motion picture arcade, adult model studio, adult drive-in theatre, or massage parlor, as defined in this appendix.
- (9) Massage parlor: Any establishment defined as a massage parlor by Article XI of this Appendix.
- (10) Specified anatomical areas:
 - (A) Less than completely and opaquely covered:
 - (1) Human genitals, pubic region;
 - (2) Buttock; and
 - (3) Female breast below a point immediately above the top of the areola;
and
 - (B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (11) Specified sexual activities:
 - (A) Human genitals in a state of sexual stimulation or arousal;
 - (B) Acts of human masturbation, sexual intercourse, or sodomy; and
 - (C) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

(c) *Requirements and standards.*

- (1) No adult use may be established within one thousand (1,000) feet of any other such adult use in any zoning district.
- (2) No adult use may be established within 500 feet of a residentially zoned district (R-LD, R-1, R-2, R-3, R-B), nor within 500 feet of any property occupied by a church or other place of worship, public library, public or private school, educational institution, public park, playground, playfield, lodging house, tourist home, child day care center, hotel, or motel.

- (3) The establishment of an adult use as referred to herein shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion, in whole or in part, of an existing business to any adult use.
- (d) *Measure of distance.*
 - (1) All distances specified in this division shall be measured from the property line of one use to another. The distance between an adult use and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially zoned district.

Sec. 5-5. - Animal-related facilities, completely enclosed.

- (a) *Applicability.* The supplemental regulations of this section shall apply to any animal hospital, veterinary clinic, pet shop, pet grooming service, boarding kennel, and/or pet day care facility that is completely enclosed permitted by this appendix, by right or by special use permit.
- (b) *Standards.*
 - (1) All facilities shall be located within completely enclosed and air-conditioned buildings which are soundproof to the extent that sound produced by animals kept or treated therein are not audible outside of the building.
 - (2) These supplemental regulations shall not prohibit the occasional use of outdoors areas for supervised animal relief.

Sec. 5-6. - Animal-related facilities with outdoor components.

- (a) *Applicability.* The supplemental regulations of this section shall apply to any animal hospital, veterinary clinic, pet shop, pet grooming service, boarding kennel, and/or pet day care facility with outdoor play yards, runs, pens, or training areas permitted by this appendix, by right or by special use permit.
- (b) *Standards.*
 - (1) No facility may be established within 300 feet of a residentially zoned district (R-LD, R-1, R-2, R-3, and R-B).
 - (2) Outdoor play yards shall be screened from view so as not to be visible from any public street or adjacent property.
 - (3) Any outdoor play yard shall only be used between dawn and dusk for supervised exercise and training use. This shall not prohibit the occasional use of outdoor areas for supervised animal relief outside of these hours.
 - (4) Overnight boarding shall be enclosed within a soundproof building.
- (c) *Measure of distance*
 - (1) All distances specified in this division shall be measured from the property line of one use to another. The distance between a property containing this type of facility and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially zoned district.

Sec. 5-7. - Boardinghouses and Rooming houses.

- (a) *Applicability.* The supplemental regulations of this section shall apply to any rooming house and/or boardinghouse permitted by this appendix, by right or by special use permit.
- (b) *Standards in the R-3 Residential District.*
 - (1) Minimum lot size: Ten thousand (10,000) square feet.
 - (2) Minimum lot width: Fifty (50) feet in width.

Sec. 5-8. - Commercial motor vehicle sales, rental, and service establishments, and recreational vehicle or boat sales and service establishments.

- (a) Applicability. The supplemental regulations of this section shall apply to any commercial motor vehicle sales, rental, and service establishments, and recreational vehicle or boat sales and service establishments permitted by this appendix, either by right or by special use permit.
- (b) Standards in the M-1 Limited Industrial District and M-2 General Industrial District.
 - (1) No service or repair of vehicles or storage of inoperable vehicles shall be conducted outside a completely enclosed building;
 - (2) Any such use located within 100 feet of a residential or R-B district shall be provided with screening as set forth in Article VI of this appendix;
 - (3) All areas for parking or display of vehicles shall be paved;
 - (4) Outdoor activities related to the use shall not be conducted within five feet of any side or rear property lines, and all areas devoted to the parking, circulation or display of vehicles shall be separated ten (10) feet from public street lines;
 - (5) The storage or display of vehicles in the planting strip required in [subsection 6-26 \(a\)](#) shall be prohibited;
 - (6) The minimum lot area for such use shall be 20,000 square feet and the minimum lot width shall be 100 feet;
 - (7) Outdoor lighting, if provided, shall be permanently affixed;
 - (8) A permanent structure or structures meeting the requirements of the Uniform Statewide Building Code shall be provided for such use;
 - (9) No newly constructed building shall be situated so that motor vehicle entrances to or exits from the building face a public street.

Sec. 5-9. - Day care centers, adult and child.

- (a) Applicability. The supplemental regulations of this section shall apply to any adult or child day care center permitted by this appendix, by right or by special use permit.
- (b) Standards in the R-3 Residential District.
 - (1) Minimum lot size: Ten thousand (10,000) square feet
 - (2) Minimum lot width: Fifty (50) feet in width

Sec. 5-10. - Drive-up facilities.

- (a) *Purpose.* The following standards for drive-up facilities are intended to allow for such facilities in a manner that promotes public safety and efficient operation by addressing their unique challenges, such as the siting of the building, high volumes of traffic, vehicular access, and on-site circulation. The specific purposes of this section are to:
 - (1) Minimize the negative impact of drive-through facilities created by additional traffic hazards from motor vehicles entering and exiting the site;
 - (2) Promote safer and more efficient on-site vehicular and pedestrian circulation;
 - (3) Reduce conflicts between queued motor vehicles and traffic on adjacent streets; and
 - (4) Minimize the negative impacts drive-through facilities create on abutting residential properties.
- (b) Applicability. The supplemental regulations of this section shall apply to any drive-up facilities permitted by this appendix, by right or by special use permit.

(c) Definitions. For the purposes of this section, the following words and terms are defined as set forth below:

- (1) **Access:** A way or means of approach to provide motor vehicle or pedestrian entrance to or exit from a property.
- (2) **Access connection:** Any driveway, street, curb cut, turnout, or other means of providing for the movement of motor vehicles to or from the street network.
- (3) **Stacking lane:** An area of stacking spaces and driving lane provided for motor vehicles waiting for drive-through service that is physically separated from other motor vehicle and pedestrian circulation on the site.
- (4) **Stacking space:** An area within a stacking lane for a motor vehicle waiting to order or finish a drive-through transaction.

(d) Standards.

- (1) Drive-up facilities shall provide a minimum number of stacking spaces on site in accordance with the standards below:

Use with Which Drive-up Facility is Associated	Minimum Number of Stacking Spaces Required per Stacking Lane
Eating establishment	5
Financial institution	3
Car wash, self-service	1
Car wash, automated	5
Drive-through kiosk	2
Others not specifically listed	2

- (2) Each stacking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width along straight portions. Stacking spaces and stacking lanes shall be a minimum of twelve (12) feet in width along curved segments.
- (3) The minimum distance to any access connection for the site from the centerline of the final transaction window shall be forty (40) feet.
- (4) Stacking lanes shall be clearly identified and delineated from traffic aisles and parking areas by means of striping, curbing, landscaping, or the use of alternative paving materials or raised medians.
- (5) Entrances to stacking lanes shall be clearly marked and shall be located at a minimum of forty (40) feet from the intersection with the street. The distance shall be measured from the property line along the street to the beginning of the entrance. The entrance into the drive-through lanes shall not conflict with general access to the site.
- (6) Stacking lanes shall be designed so that they do not interfere with circulation both on site and on adjacent streets. Toward that purpose, stacking lanes shall be designed so they:
 - (A) Do not impede or impair access into or out of parking spaces;

- (B) Do not impede or impair motor vehicle or pedestrian traffic movement;
- (C) Minimize conflicts between pedestrian and motor vehicular traffic with physical and visual separation between the two; and
- (D) Do not interfere with required loading and trash storage areas, and loading or trash operations shall not impede or impair motor vehicle movement. If separate stacking is curbed, an emergency by-pass or exit shall be provided.

- (7) Stacking lanes shall not enter or exit directly from or into a public right-of-way; however, the Zoning Administrator may eliminate and/or allow the use of a public alley standard based on specific conditions of the site.
- (8) The intersection of stacking lanes and walk-in customer access shall be a minimum of twenty (20) feet from any access connections and transaction windows. Such intersections shall be provided with a crosswalk that uses alternative paving and striping and includes warning signage aimed at both the pedestrian and motor vehicle.
- (9) Speakers shall be located at least fifty (50) feet from the property line of any residentially zoned property.
- (10) Menu boards associated with a permitted eating and drinking establishment, which shall not count toward freestanding sign allocations set forth in Article VI, Division 7, shall be a maximum of fifty (50) square feet, with a maximum height of eight (8) feet.

Sec. 5-11. - Eating and drinking establishments.

- (a) Applicability. The supplemental regulations of this section shall apply to any eating and drinking establishment, including breweries, micro-breweries, distilleries, and micro-distilleries, permitted by this appendix, by right or by special use permit.
- (b) Standards. Seating areas outside of enclosed buildings and intended for service to or consumption of food or beverages by patrons may be provided, but not within any public right-of-way, and provided that:
 - (1) No deck, patio, terrace or other outside area for the service or accommodation of patrons shall be situated within 100 feet of any property in any residential or R-B district;
 - (2) Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets;
 - (3) No music or public address system shall be operated in a manner that sound produced is audible beyond the boundaries of the premises.

Sec. 5-12. - Flags and Flagpoles.

- (a) On a lot developed with a single-family dwelling or two-family dwelling, the height of a flagpole is limited to 30 feet. On a lot developed with a principal use other than a single-family dwelling or two-family dwelling, the height of a flagpole is limited to 60 feet.
- (b) Flagpoles, whether freestanding or attached to another structure, shall be located no closer than five feet from any front lot line or street line and are subject to the side and rear setback regulations for accessory structures in [Sec. 6-8](#).
- (c) A maximum of three (3) flags are permitted per lot.
- (d) The Town Council may approve an increase in flagpole height in accordance with special use permit process.

Sec. 5-13. - Homestays.

- (a) Applicability. The supplemental regulations set out in this section shall apply to any homestay units permitted by this appendix, by right or by special use permit.

- (b) Registration and other requirements.
 - (1) No host occupant shall operate a homestay or advertise a residential property for homestay use without first registering and obtaining a permit for homestay with the town.
 - (2) The host occupant shall register with the department of finance to collect and remit the town's transient lodging tax and other applicable fees and taxes as set forth in chapter 86, taxation.
 - (3) The registration shall be valid from January 1st (or from whatever date the registration first occurs) through December 31st of the calendar year, and shall be renewed annually.
- (c) Use regulations.
 - (1) The dwelling shall be the principal residence of the host occupant.
 - (2) Rooms shall be rented only on a daily or weekly basis. Stays shall not exceed fourteen (14) days. The minimum contract rental period for the guest party shall be 24 hours.
 - (3) The maximum number of adult guests in a homestay unit is limited to six (6) and no more than five (5) sleeping rooms can be utilized during any one stay.
 - (4) The principal guest of a homestay unit shall be at least eighteen (18) years of age.
 - (5) No outdoor signs in conjunction with the homestay shall be displayed on the property.
 - (6) No recreational vehicles, buses, watercraft, personal utility trailers, or recreational equipment trailers shall be parked on the adjoining street or on the property in conjunction with the homestay use.
 - (7) The garbage and recycling collection schedule and guidelines shall be posted in a prominent location inside the dwelling.
 - (8) The name and telephone number of the host or the host's designee shall be conspicuously posted within the homestay unit. The host shall answer calls twenty-four (24) hours a day, seven (7) days a week for the duration of each short-term rental to address any problems associated with the homestay unit.
- (d) Safety Regulations.
 - (1) There shall be a working fire extinguisher located in the kitchen.
 - (2) The unit shall have working smoke alarms and carbon monoxide detectors meeting current Underwriters Laboratory standards that are continually inspected and maintained, and are installed as follows:
 - (A) In all sleeping areas.
 - (B) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
 - (C) In each story within the sleeping unit, including basements.
 - (3) Any sleeping area must have one (1) other adequate method of egress beyond the entrance point.
 - (4) As part of the registration process, the host shall certify that the homestay unit meets the requirements of this section. The registration forms shall also provide that, as part of the registration, the host is agreeing to permit inspections of the home (at reasonable times and after notice has been provided) during the initial registration process, subsequent annual registration renewals, and to address complaints. The failure to permit such an inspection is grounds for registration suspension.
- (e) Registration suspension or cancellation.
 - (1) A registration may be suspended or cancelled for the following reasons:

- (A) Failure to collect and/or remit the transient occupancy tax.
- (B) Three or more substantiated complaints within a 12-month period for violations of the Vinton Town Code or the use regulations and safety regulations outlined in this section.
- (C) The failure of any homestay host to maintain his or her principal place of residence or domicile at the dwelling unit used as a limited residential lodging.

(2) Before any suspension or cancellation can be effective, a duly designated officer of the town shall give written notice to the homestay host. The notice of suspension or cancellation issued under the provisions of this appendix shall contain:

- (A) A description of the violations constituting the basis of the suspension or cancellation;
- (B) If applicable, a statement of acts necessary to correct the violation; and
- (C) A statement that if no request for a hearing is made within ten (10) days from the date of the notice, the registration will be suspended or cancelled;

(3) The notice shall be given to the host by delivering a copy of the notice in person. If the host cannot be found, such notice shall be sent by:

- (A) Certified mail or e-mail to the addresses in the registration form; and
- (B) A copy of the notice shall be posted in a conspicuous place on the premises.

(4) If requested, a hearing shall be held before the town manager or the town manager's designee. It is the burden of the host to demonstrate, by a preponderance of the evidence, why the suspension or cancellation should not go into effect. The decision of the town manager or designee may be appealed to the town council.

(f) **Penalty.**

It shall be unlawful to operate a homestay without registering as required by this article, after a registration has been suspended or cancelled or in violation of any other requirement of this article; the penalty shall be a fine of one thousand dollars (\$1,000.00) per occurrence.

Sec. 5-14. - Manufactured home park standards.

The following development standards shall be applicable to manufactured home parks in addition to the requirements set forth in Article VIII of this appendix pertaining to special use permits:

- (a) *Minimum site size.* Five contiguous acres.
- (b) *Maximum density.* Six units per gross acre.
- (c) *Minimum area of manufactured home space.* Five thousand square feet.
- (d) *Minimum dimensions of manufactured home space.* Fifty feet in width and 100 feet in length.
- (e) *Street frontage.* Every manufactured home park shall have not less than 200 feet of frontage on an improved public street. Each manufactured home space shall have frontage on and access to a public street or private street constructed in accordance with standards approved by the town council.
- (f) *Yards.*
 - (1) *Yards in general.* No manufactured home or other building or structure shall be located within ten feet of a boundary of a manufactured home space.
 - (2) *Front yards.* No manufactured home, accessory structure or other building or structure within a manufactured home park shall be located within 20 feet of an interior roadway or within 25 feet of any public street right-of-way.

- (3) *Separation between manufactured homes.* No manufactured home shall be located within 30 feet of any other manufactured home.
- (g) *Buffer.* A landscaped buffer area of not less than 25 feet in width shall be provided adjacent to all boundaries of a manufactured home park. Such buffer area shall not be occupied by any manufactured home space, building, structure, parking area, or improved area for active recreation purposes or roadway, other than an approved means of access to an abutting public street. Along exterior boundaries abutting properties other than public streets, such buffer area shall include continuous solid fencing or evergreen vegetative material not less than six feet in height with no openings to adjoining privately owned properties.
- (h) *Recreation area.* Every manufactured home park shall include within its boundaries areas for indoor or outdoor recreation purposes for common use by residents of the park. Such areas shall in the aggregate consist of not less than ten percent of the gross area of the manufactured home park.
- (i) *Improvement requirements.*
 - (1) *Sewer and water systems.* Every manufactured home park shall be served by public sewer and public water systems connected to each manufactured home unit and each building or structure containing plumbing facilities.
 - (2) *Storm drainage.* These improvements, if required, shall be done in accordance with the "Stormwater Management Ordinance of the County of Roanoke, Virginia," as amended, under the direction of the administrator of its Virginia Stormwater Management Program (VSMP).
 - (3) *Streets, roadways and parking spaces.* Streets, roads and parking spaces shall be paved with dust free, all-weather hard surface material such as asphalt, asphalt and gravel seal coat, concrete, unit pavers or similar material. The width of private streets shall be not less than 20 feet. In any case where parking is situated along a street, additional width shall be provided as necessary to meet required parking space dimensions and to maintain a usable trafficway width of not less than 20 feet.
 - (4) *Traffic control.* Signs shall be installed within a manufactured home park as needed for purposes of traffic control and safety.
 - (5) *Lighting.* Lighting shall be installed along streets within a manufactured home park and adjacent to common facilities serving residents of the park.
 - (6) *Underground utilities.* All utilities within a manufactured home park shall be installed underground, provided that waiver of this requirement may be recommended by the planning commission and approved by the town council when it is determined that soil or topographic conditions make such requirement impracticable.
 - (7) *Refuse facilities.* Refuse containers of adequate capacity to meet the needs of all manufactured home units and common facilities shall be provided for the deposit and collection of refuse. Containers serving individual manufactured home units and containers serving common facilities within the manufactured home park shall be located or screened so as not to be visible from public or private streets or properties adjacent to the park.
 - (8) *Delineation of spaces.* Each manufactured home space shall be clearly delineated with permanent markers at each corner and shall be identified with the space number as shown on the approved plans.
- (j) *Installation of manufactured homes.*
 - (1) *Completion of improvements.* No manufactured home shall be installed until all required improvements have been completed and the Zoning Administrator has certified that all applicable requirements of this appendix and the approved special use permit are met.

- (2) *Compliance with building code.* All manufactured homes shall be anchored and installed in accordance with applicable requirements of the Virginia Uniform Statewide Building Code. A zoning permit shall be required for each manufactured home prior to installation.
- (3) *Skirting.* Skirting shall be installed and maintained around each manufactured home to conceal from view the frame, axles, wheels, crawl space and all utility connections. Skirting shall be constructed of weather resistant material and shall meet the requirements of the Virginia Uniform Statewide Building Code.

Cross-reference— Manufactured homes and trailers, Ch. 58.

Sec. 5-15. - Mixed-use buildings.

- (a) **Applicability.** The supplemental regulations of this section shall apply to any mixed-use building permitted by this appendix, by right or by special use permit.
- (b) **Standards in the GB and CB Districts.**
 - (1) Dwelling units shall be located above the first floor of the building or to the rear of other permitted uses;
 - (2) Dwelling units shall be designed as an integral part of a building or group of buildings.
- (c) **Additional Standards in the R-B Residential-Business District.**
 - (1) Non-dwelling uses permitted by right in this district may be located in the same building as a permitted dwelling use, provided that applicable building code and fire safety requirements are met and lot area requirements for the dwelling use are met. Areas used for parking and related access aisles and driveways for non-dwelling uses shall not be included in calculating required lot area for any dwelling use.
 - (2) Lots containing a mixed-use building shall not have more than two (2) dwelling units.

Sec. 5-16. - Motor vehicle sales and service establishments.

- (a) **Applicability.** The supplemental regulations of this section shall apply to any motor vehicle sales and service establishments permitted by this appendix, whether by right or by special use permit.
- (b) **Standards.**
 - (1) No service or repair of vehicles or storage of inoperable vehicles shall be conducted outside a completely enclosed building;
 - (2) Any such use located within 100 feet of a residential or R-B district shall be provided with screening as set forth in Article VI of this appendix;
 - (3) All areas for parking or display of vehicles shall be paved;
 - (4) Outdoor activities related to the use shall not be conducted within five feet of any side or rear property lines, and all areas devoted to the parking, circulation or display of vehicles shall be separated ten (10) feet from public street lines;
 - (5) The storage or display of vehicles in the planting strip required in [subsection 6-26 \(a\)](#) shall be prohibited;
 - (6) The minimum lot area for such use shall be 10,000 square feet, and the minimum lot width shall be 100 feet;
 - (7) Outdoor lighting, if provided, shall be permanently affixed;
 - (8) A permanent structure or structures meeting the requirements of the Uniform Statewide Building Code shall be provided for such use;
 - (9) No newly constructed building shall be situated so that motor vehicle entrances to or exits from the building face a public street.

- (9) No sale, service, repair, or storage of recreational vehicles or watercrafts shall occur in conjunction with such use.

Sec. 5-17. - Motor vehicle or trailer painting and body repair.

- (a) General standard. All painting or body repair activities associated with any motor vehicle or trailer painting and body repair establishment permitted by this appendix, as of right or by special use permit, shall occur in a wholly enclosed building.
- (b) Additional standards in the GB District. In addition to the general standard set forth in subsection (a), above, a motor vehicle or trailer painting and body repair establishment in the General Business District (GB) shall be subject to the following regulations:
 - (1) There shall be no outdoor storage of damaged motor vehicles or trailers, equipment, parts, or other materials; and
 - (2) The minimum gross floor area of the building shall be not less than ten thousand (10,000) square feet.
- (c) Additional standards in the M-1 and M-2 District. In addition to the general standard set forth in subsection (a), above, a motor vehicle or trailer painting and body repair establishment in the Limited Industrial District (M-1) or General Industrial District (M-2) shall be subject to the following regulations:
 - (1) The lot area shall contain a minimum of twenty thousand (20,000) square feet; and
 - (2) The outdoor storage area shall be accessory to a building on the same lot and shall have a maximum area of no greater than eighty (80) percent of the gross floor area of the building.

Sec. 5-18. - Multifamily dwellings.

- (a) Applicability. The supplemental regulations of this section shall apply to any multifamily dwelling permitted by this appendix, by right or by special use permit.
- (b) Standards in the R-3 Residential District.
 - (1) Minimum lot size: Twelve thousand (12,000) square feet
 - (2) Minimum lot width: One hundred (100) feet in width
 - (3) Side yard setback: Twenty-five (25) feet
 - (4) Yards between buildings on the same lot. Where two or more buildings devoted to dwelling use are located on the same lot, yards shall be provided between such buildings as follows:
 - (A) A yard of not less than 60 feet shall be provided where building walls facing one another both contain windows.
 - (B) A yard of not less than 40 feet shall be provided where only one of two building walls facing one another contains windows.
 - (C) A yard of not less than 30 feet shall be provided where building walls facing one another contain no windows, or where corners of buildings are located at 90-degree angles to one another and no building wall faces directly opposite another building wall.
 - (5) Maximum density: Shall not exceed 24 dwelling units (du) per gross acre.
 - (6) Shall be served by both public sewer and public water systems.

Sec. 5-19. - Outdoor display areas.

Outdoor display areas, where permitted by this appendix as accessory uses, shall comply with the following standards:

- (a) Such outdoor display area shall be located on the same lot as the principal use and shall be customarily incidental to the principal use;
- (b) Such outdoor display area shall be limited in square footage to fifteen (15) percent of the area of the principal building;
- (c) The maximum height of stacked displayed merchandise in such outdoor display area shall be limited to six (6) feet;
- (d) Such outdoor display area shall be furnished with a surface material such as asphalt or concrete; and
- (e) Merchandise shall not be placed or located so as to interfere with pedestrian or building access or egress, required vehicular parking and handicap parking, drive aisles, site access or egress, loading spaces or access thereto, public or private utilities, drainage systems, fire lanes, alarms, hydrants, standpipes or other fire protection equipment, or emergency access or egress.
- (e) An obstruction-free area at least five feet wide shall be maintained through the entire length of the display area or between it and adjacent parking areas so as to allow pedestrians and handicapped persons to safely and conveniently travel between parking areas or drive aisles to the building and along the front and side of the building, without having to detour around the display area.
- (e) Merchandise shall not encroach into required setbacks, buffer yards, or the public right-of-way, except for vehicle display areas addressed in Sec. 5-8 and Sec. 5-16.

Sec. 5-20. - Outdoor lighting.

Outdoor lighting, provided as accessory to any use or to illuminate any parking area, sign or similar device, shall be located, directed or shielded so as not to shine directly on or to result in glare on nearby properties or to create a potential traffic hazard on adjacent streets as a result of glare or similarity to or confusion with traffic signals, warning lights or lighting on emergency vehicles. The exterior of a building, structure or portion thereof shall not be illuminated by outlining such with lights, except for purposes of temporary seasonal decoration or illumination of display windows of permitted businesses.

Sec. 5-21. - Outdoor storage.

Where permitted by this appendix, outdoor storage shall comply with the following requirements:

- (a) Outdoor storage areas shall not be located in any required yard, in any area included in the calculation of required open space, or in any required off-street parking spaces, vehicular or pedestrian access, or landscaped areas.
- (b) Outdoor storage areas shall not be located closer to a public street than the primary building façade on the lot.
- (c) Outdoor storage areas shall be situated on an improved surface as identified in Sec. 6-39 (a) or on a gravel or similar surface. The Zoning Administrator may require a development plan including satisfactory specifications for a sub-base, and the size, tamping, and containment of gravel and documentation that dust will not be generated in an amount in excess of that which would be generated by a paved surface or permeable pavement system prior to approval.
- (d) Storage of bulk material, including, but not limited to sand, gravel, mulch or soil shall be contained on site to prevent material deposition into or upon public or private streets or alleys, any adjacent properties, or storm drainage system or waterway. Such containment shall be shown on a development plan submitted to the Zoning Administrator for approval and shall be in place prior to commencement of the storage activity.
- (e) Areas devoted to outdoor storage of materials, supplies, equipment or outdoor servicing, truck loading and unloading, trash collection or similar activity shall not be located within any required

yard, and shall be screened from all adjacent streets and properties by buildings or by solid structural or vegetative screening material not less than six feet in height. Structural and vegetative screening shall follow the standards for buffer yard planting and screening set forth in Article VI, Division 5.

Sec. 5-22. - Parking of recreational vehicles, watercraft, personal utility trailers, and recreational equipment trailers in residential and R-B districts.

- (a) All recreational vehicles, watercraft, personal utility trailers, and recreational equipment trailers shall be parked in a rear yard, a side yard behind the front line of the main building and not within the required side yard, or inside of a completely enclosed garage or building. In the instance of a corner lot that fronts on two streets, each yard that fronts a street shall be considered a front yard.
- (b) A recreational vehicle, watercraft, utility trailer, or recreational equipment trailer may be parked in front of the main building for a period not exceeding 120 hours for maintenance, loading and unloading purposes, provided that such motor vehicle or equipment shall:
 - (1) Be licensed for the current year;
 - (2) Be at least 15 feet from the front property line;
 - (3) Not cause a site visibility problem for motorists;
 - (4) Not be over 32 feet in length or nine feet in height;
 - (5) Not be parked in front of the main building for more than a total of 120 hours in a 14-day period.
- (c) A recreational vehicle, watercraft, utility trailer, or recreational equipment trailer may not be inhabited for a period exceeding twenty-four (24) hours.

Sec. 5-23. - Parking of commercial vehicles in residential districts.

- (a) No truck or commercial vehicle, as defined in Article XI of this appendix, nor any utility trailer when used for commercial purposes, shall be parked or stored outside of a completely enclosed building in a residential district, except while being used to perform a service on the premises;
- (b) No construction machinery or equipment shall be parked or stored in a residential district unless such machinery or equipment is incidental to construction activity occurring on the premises with an active building permit;
- (c) Any commercial vehicle or trailer covered by this section may be parked on the property for a period not exceeding 48 hours for the purposes of performing a service on the premises, provided that such vehicle or trailer shall:
 - (1) Be at least 15 feet from the front property line;
 - (2) Not cause a site visibility problem for motorists.
- (d) These provisions shall not apply to vehicles being used in conjunction with agricultural use of the premises.
- (e) These provisions shall not apply to a property within the R-B residential business district if the property is used for commercial purposes. These provisions will apply to home occupations.

Cross-reference— Licenses, § 86-246 et seq.; parking generally, § 90-101 et seq.

Sec. 5-24. - Raising and keeping of livestock.

The raising and keeping of livestock, including private stables, permitted by this appendix shall be subject to the following standards:

- (a) Standards in the R-LD Residential District.

- (1) Minimum lot size: Two (2) acres in area, provided that not more than one animal per acre shall be kept on lots of less than five acres
- (2) No pen or structure for the keeping of livestock, other than grazing areas, shall be located within 100 feet of any side or rear lot line.

Sec. 5-25. - Research and development facilities.

- (a) Applicability. The supplemental regulations of this section shall apply to any research and development facility permitted by this appendix, by right or by special use permit.
- (b) Standards.
 - (1) No exterior odor, dust, noise, or other objectionable impacts shall be produced as a result of the use;
 - (2) Where appropriate to protect adjacent uses, hours of operation may be restricted.

Sec. 5-26. - Retail stores and shops, boutique.

- (a) Applicability. The supplemental regulations of this section shall apply to any boutique retail store or shop permitted by this appendix, by right or by special use permit.
- (b) Standards in the R-B Residential-Business District.
 - (1) The maximum gross floor area dedicated to a boutique retail use for an individual business within a building shall not exceed 2,500 square feet;
 - (2) Shall not include fuel pumps or the selling of fuel for motor vehicles;
 - (3) Shall not include the selling of tobacco products, nicotine vapor products, alcoholic beverages, or lottery tickets or shares.
 - (4) Shall not include a use that offers the sale of antiques as its principal activity. An antique for the purposes of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

Sec. 5-27. - Satellite dish antennas, location and height.

No satellite dish antenna, guy anchorage or other support for a satellite dish antenna shall be located in any required front yard or side yard along a street or within three feet of any interior side or rear property line. No ground-mounted satellite dish antenna, together with its structural support, shall exceed a height of 20 feet. All satellite dish antennas and structural supports shall be installed in accordance with applicable requirements of the Virginia Uniform Statewide Building Code.

Sec. 5-28. - Tourist homes.

- (a) Applicability. The supplemental regulations of this section shall apply to any tourist home permitted by this appendix, by right or by special use permit.
- (b) Standards in the R-3 Residential District.
 - (1) Minimum lot size: Ten thousand (10,000) square feet
 - (2) Minimum lot width: Fifty (50) feet in width

Sec. 5-29. - Townhouse development standards.

The following development standards shall be applicable to all townhouses permitted by this appendix, by right or by special use permit:

- (a) *Density and lot area.* The density of a townhouse development shall not exceed 12 units per gross acre in the development site. Lot areas for individual townhouses shall be not less than 1,800 square feet for interior lots and 2,500 square feet for end lots.

- (b) *Minimum lot width.* Individual townhouse lots shall be not less than 18 feet in width from center of wall to center of wall for interior lots and from center of wall to outside face of the end wall for end lots.
- (c) *Front yard.* A front yard of not less than 25 feet shall be provided adjacent to public streets. A front yard of not less than 20 feet shall be provided adjacent to common parking areas, drives, streets and other areas.
- (d) *Side yard.* A side yard of not less than 15 feet shall be provided at each end of a series of townhouse units, except that a side yard of not less than 30 feet shall be provided adjacent to the boundary of a development site.
- (e) *Rear yard.* A rear yard of not less than 25 feet shall be provided for each townhouse unit, except that a rear yard of not less than 40 feet shall be provided adjacent to the boundary of a development site.
- (f) *Location of accessory buildings.* No accessory building shall be located in any required front or side yard. An accessory building not exceeding ten feet by ten feet may be located in any rear yard.
- (g) *Number of contiguous units.* Not more than ten townhouse units shall be attached in a series or continuous row. Variations in the setbacks and architectural treatment of the facades of townhouses attached in a series shall be provided so that no more than four contiguous units have the same setback and architectural treatment.
- (h) *Height limit.* No townhouse unit shall exceed a height of 35 feet. No accessory building shall exceed a height of 15 feet.
- (i) *Sewer and water.* All townhouses shall be served by public sewer and public water systems.
- (j) *Street frontage and common areas.* Every townhouse development shall have frontage on and access to an improved public street. Individual townhouse lots within a development site may front on private streets, drives, parking areas or other common areas owned and maintained by a homeowners' association, provided that street design and construction standards are approved by the Zoning Administrator and town engineer in accordance with town policies. Suitable easements, covenants and restrictions providing for access to all lots and maintenance of all streets, access drives, parking areas, open spaces and other common facilities owned by a homeowners' association shall be approved as to form by the town attorney and recorded.

Sec. 5-30. - Two-family dwellings.

- (a) Applicability. The supplemental regulations of this section shall apply to any two-family dwelling permitted by this appendix, by right or by special use permit.
- (b) Standards in the RB District. Any two-family dwelling located in the Residential Business District (RB) shall be subject to the following standards:
 - (1) Two-family dwellings shall be located on lots of not less than 12,000 square feet and 75 feet in width, except as provided in [Sec. 4-5](#) of this division.
- (c) Standards in the R-2 and R-3 Districts. Any two-family dwelling located in the R-2 and R-3 Residential Districts shall be subject to the following standards:
 - (1) Two-family dwellings shall be located on lots of not less than 12,000 square feet in area and 75 feet in width.

Sec. 5-31. - Vehicle storage or impoundment lots.

- (a) Applicability. The supplemental regulations of this section shall apply to any vehicle storage or impoundment lot permitted by this appendix, by right or by special use permit.
- (b) Standards.

- (1) There shall be no storage of any damaged, inoperative, or impounded motor vehicles or trailers for a period exceeding one hundred twenty (120) calendar days, unless documentation is provided that is satisfactory to the Zoning Administrator evidencing that such a damaged, inoperative, or impounded motor vehicle or trailer is the subject of an ongoing law enforcement or insurance investigation or is the subject of a proceeding being pursued as expeditiously as possible by the establishment operating on the property.
- (2) Service and towing vehicles used for the operation of the establishment may also be stored on the property.
- (3) This use shall not include the dismantling, wrecking, repair, or sale of any motor vehicles or trailers or their parts.
- (4) The outdoor storage areas for this use shall be screened in such a way that they are not visible from surrounding properties or roads. The screening requirements for such areas dedicated to this use are set forth in Article VI, Division 5.

ARTICLE VI. - DEVELOPMENT STANDARDS

DIVISION 1. - APPLICABILITY

Sec. 6-1. - Applicability of article.

The regulations set forth in this article are additions or exceptions to and shall be construed to qualify, supplement or modify, as the case may be, the regulations and requirements set forth in the district regulations contained in Article IV of this appendix.

DIVISION 2. - BUILDINGS AND LOTS

Sec. 6-2. - Location on a lot required.

Every building or structure hereafter erected, constructed, reconstructed or moved and every use hereafter established shall be located on a lot of record as defined herein.

Sec. 6-3. - More than one main building on a lot.

More than one main building containing a permitted principal use may be located on a single lot when all lot area, yard, open space, yard between buildings and other applicable requirements of the district in which such lot is situated are met, provided that no main building containing a single-family dwelling or a two-family dwelling shall be located on a lot with any other main building.

Sec. 6-4. - Public street frontage and access required.

Every building or structure hereafter erected, constructed, reconstructed or moved and every use hereafter established shall be located on a lot having frontage on and access to an improved public street, except as permitted in a townhouse development or specifically approved by the town council in a PD district. In any case where public street frontage and a minimum lot width are required for a use, other than a townhouse, such lot shall also be provided with at least 30 feet of frontage on a public street.

DIVISION 3. - SUPPLEMENTARY YARD AND HEIGHT REGULATIONS

Sec. 6-5. - Exceptions to yard requirements.

Except for required visibility at intersections as provided in this division, the following may be located within required yards:

- (a) *Fences and walls standards in residentially zoned districts (R-LD, R-1, R-2, R-3, R-B).* Fences and walls not exceeding four feet in height may be located within required front and street side yards. Fences and walls not exceeding 6.5 feet in height may be located within required side and rear yards. An additional one foot of fence or wall height shall be permitted for posts, columns or gates. All other fences and walls shall be subject to all yard requirements applicable to buildings and structures.
- (b) *Fences and walls standards in CB Districts.* Fences and walls on a lot may be located in any required yard with a maximum height of 8 feet, except that fences and walls located between a street and front building line shall not exceed four feet in height.
- (c) *Fences and walls standards in GB Districts.* Fences and walls on a lot may be located in any required yard with a maximum height of 8 feet.
- (d) *Fences and walls standards in M-1 and M-2 Districts.* Fences and walls may be located in any required yard with a maximum height of 10 feet.
- (e) *Yard accessories.* Poles, posts, similar customary yard accessories and ornaments, and permitted signs for which no specific yard requirement is specified elsewhere in this appendix, may be located within required yards.

Sec. 6-6. - Permitted projections into required yards.

- (a) *Certain architectural features.* Sills, belt courses, bay windows, cornices, eaves, roof overhangs, chimneys, pilasters and similar architectural features of a building may project into required yards not more than two feet.
- (b) *Uncovered porches, steps, and decks.* Uncovered porches, steps, landings, patios, decks and other similar building features may project into required yards, provided that such features do not exceed a height of 30 inches above the adjacent natural ground level, and provided that no such projection shall extend closer than two feet from any lot line. Covered building projections and projections exceeding 30 inches in height shall be subject to all yard requirements.

Sec. 6-7. - Yards on corner lots and through lots.

- (a) *Front and street yards on corner lots.* On a corner lot, a front yard as required in the district shall be provided along one street frontage and a second front yard of not less than 15 feet shall be provided on the street frontage.
- (b) *Rear yards on corner lot.* On a corner lot, a rear yard as required in the district shall be provided. The Zoning Administrator shall have the authority to determine the rear yard that best suits the development of the property.
- (c) *Front yards on through lots.* On through lots, there shall be a front yard as required in the district along each street frontage, and no rear yard shall be required.
- (d) *Front yard requirements for infill developments.* On a vacant lot that adjoins other lots containing buildings, the required depth of the front yard shall be equal to the depth of the adjoining front yards. No front yard shall have a depth of less than 15 feet and no greater than the front yard depth normally required in the district.

Sec. 6-8. - Yards for accessory structures.

- (a) *Yards for structures accessory to a residential dwelling use.*
 - (1) An accessory structure shall be located behind the front building line of the principal structure and comply with the minimum front yard setback for the underlying zoning district.
 - (2) Minimum side and rear yards for structures accessory to a residential dwelling use shall be five feet.
- (b) *Structures considered part of the main building.* Garages, porches and other structures attached to a main building shall be considered part of the main building for purposes of applying required yards.

Sec. 6-9. - Yards along streets less than 50 feet in width or streets to be widened.

- (a) *Streets less than 50 feet in width.* The required front yards and street side yards set forth in this appendix are applicable adjacent to public streets having a right-of-way width of 50 feet or greater. The required depth of any front yard or street side yard along a public street having a right-of-way of less than 50 feet in width shall be increased by 25 feet from that which is stated in this appendix, and shall be measured from the centerline of the street right-of-way instead of from the street line.
- (b) *Streets to be widened.* In any case where there are plans approved by the Virginia Department of Transportation or the town council for the widening of any public street or highway, the Zoning Administrator may recommend that the required front yard set forth in this appendix be measured from the future street line.

Sec. 6-10. - Yards and screening for swimming pools and tennis courts.

Swimming pools, pool deck areas and tennis courts shall not be located within required front and side yards. Swimming pools, pool deck areas or tennis courts accessory to any use other than a single-family dwelling and situated within 50 feet of adjacent property in a residential district shall be screened from such property by solid walls, fences or evergreen vegetative material not less than six feet in height.

Sec. 6-11. - Visibility at intersections.

- (a) *Purpose.* The purpose of this provision is to prohibit the planting of shrubbery or low trees or the construction of solid fences, walls, signs or other structures that would block the visibility of oncoming vehicles to motorists at a street intersection. This provision shall not be applicable to public utility poles, official street signs, fire hydrants and other appurtenances installed by a governmental agency for public safety purposes, or to tree trunks which do not materially impair visibility and shall not be construed to require the removal of any mature trees existing at the effective date of this provision.
- (b) *Visibility triangle.* On a corner lot in any district other than a CB central business district, nothing that would materially obstruct the vision of operators of motor vehicles shall be erected, placed, planted or allowed to grow between the heights of three feet and eight feet above the the grade of the intersection of the centerlines of the adjacent intersecting streets within the following described area:

A triangular shaped area on the ground bounded on two sides by the street lines abutting the lot, and bounded on the third side by a line joining points on said street lines 20 feet from the point of their intersection.

Cross-reference— Traffic and vehicles, Ch. 90.

Sec. 6-12. - Zero lot line option.

- (a) *Applicability.* In an approved subdivision of five or more lots located in an R-1, R-2, or R-3 district, one interior side yard on a lot devoted to single-family dwelling use may be equal to zero, provided that the requirements of this section are met.
- (b) *Standards.*
 - (1) The minimum lot area, front yard and rear yard requirements of the district in which the property is located shall be met.
 - (2) The minimum lot width shall be 50 feet.
 - (3) The zero side yard shall not be located along a street or adjacent to any property not designated for the zero lot line option.
 - (4) The minimum width of the side yard opposite the zero yard shall be 15 feet for all structures, and in no case shall the distance between two main buildings be less than 15 feet.
 - (5) Not less than 50 percent of the overall depth of the dwelling unit shall be provided along the designated zero lot line. No doors, windows or other similar openings shall be permitted in the building wall facing the designated zero lot line within five feet of the property line.
 - (6) A perpetual easement of not less than five feet in width shall be provided on the adjacent lot to permit maintenance of structures abutting a zero lot line. Such easement and the buildable area of the lot shall be shown on the subdivision plat and described in the deed for each property.

Sec. 6-13. - Exceptions to height regulations.

The height regulations set forth in this appendix shall not apply to church spires, belfries, cupolas, barns or silos used for agriculture or feed storage or mixing, water or cooling towers, accessory antennas, ventilators, chimneys, flues, solar energy equipment or similar appurtenances or mechanical structures attached to a building and not intended for human occupancy and containing no signs or other advertising. Parapet walls may exceed the height limit applicable in a district by not more than four feet.

DIVISION 4. - ACCESSORY BUILDINGS AND TEMPORARY BUILDINGS**Sec. 6-14. - Height Limits.**

- (a) *Applicability.* This section shall apply to any accessory building permitted by this Appendix.
- (b) *Standards in all districts.*

- (1) No accessory building shall exceed the height of the main building on the lot.
- (c) Additional Standards in the R-LD, R-1, R-2, R-3, and RB districts
 - (1) No accessory building located within 25 feet of a property line shall exceed 15 feet in height.

Sec. 6-15. - Dwelling use prohibited.

No accessory building shall be used for dwelling purposes except by domestic employees or caretakers whose principal occupation is rendering services on the premises for benefit of persons who occupy or use the main building on the lot, with the exception that:

- (a) Dwelling use shall not be prohibited for temporary family health care structures, subject to the provisions of [section 6-17.2](#).
- (b) Dwelling use shall not be prohibited for accessory dwelling units, subject to the provisions of [section 5-3](#).

Sec. 6-16. - Permits and relation to main building.

No accessory building for which a building permit is required shall be constructed or located on a lot until a building permit has been issued, and no permanent accessory building shall be constructed until a permit for construction of the main building has been issued. No permanent accessory building shall be used, except related to construction on the site, until a certificate of use and occupancy is issued for the main building.

Sec. 6-17.1. - Temporary buildings and construction trailers.

When used in conjunction with construction work taking place on the site, temporary buildings and construction trailers are permitted in any district during the period when construction work is in progress as evidenced by a valid building permit. Such buildings and trailers shall be removed immediately upon completion of the construction work.

Sec. 6-17.2. - Temporary family health care structures.

- (a) In all residential districts, temporary family health care structures shall be allowed to be placed on a lot, provided that:
 - (1) The primary use of the property is a single-family detached dwelling;
 - (2) The occupant of the temporary family health care structure meets the qualifications of a mentally or physically impaired person as defined in subsection (b) below, and a letter of certification, written by a physician licensed in Virginia, has been provided to the Zoning Administrator;
 - (3) The property is occupied by the caregiver as his/her residence;
 - (4) The temporary family health care structure shall comply with all setback requirements that apply to the primary structure, and with any maximum floor area ratio limitations that may apply to the primary structure;
 - (5) Only one temporary family health care structure shall be allowed on a lot or parcel of land;
 - (6) The proper permits shall be obtained before a temporary family health care structure may be placed on a lot or parcel of land. Required permits may include, but are not limited to, zoning permit, building permit, electrical permit, mechanical permit, and plumbing permit.
- (b) For purposes of this section:
 - (1) *Activities of daily living* or *ADLs* means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding.
 - (2) *Assistance* means aid that is required to be provided by another person in order to safely complete the activity.

- (3) *Caregiver* means an adult who provides care for a mentally or physically impaired person within the commonwealth. A caregiver shall be related either by blood, marriage, or adoption to, or be the legally appointed guardian of the mentally or physically impaired person for whom he/she is caring;
- (4) *Mentally or physically impaired person* means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, as certified in a writing provided by a physician licensed by the commonwealth.
- (5) *Temporary family health care structure* means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in Code of Virginia § 63.2-2200, as certified in writing by a physician licensed in the commonwealth, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (Code of Virginia § 36-70 et seq.) and the Uniform Statewide Building Code (Code of Virginia § 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or allowed.
- (c) Any temporary family health structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable codes and requirements, including permits, for such connection.
- (d) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
- (e) A letter of certification, written by a licensed physician, shall be provided to the Zoning Administrator on an annual basis to ensure continued compliance with this section. The Zoning Administrator may inspect the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance inspection.
- (f) No signage advertising or otherwise promoting the existence of the temporary family health care structure shall be permitted either on the exterior of the structure or elsewhere on the property.

DIVISION 5. - LANDSCAPING, SCREENING, AND BUFFER YARD REQUIREMENTS

Sec. 6-18 - Purpose.

- (a) *Purpose.* The purpose of this section is to provide for landscape planting. Landscaping standards are intended to:

- (1) Promote public health, safety and resilience;
- (2) Prevent soil erosion;
- (3) Provide shade;
- (4) Conserve natural resources;
- (5) Enhance the overall appearance of development sites;
- (6) Mitigate potential negative impacts from development on adjoining lands;
- (7) Provide a transition between private lands and the public realm;
- (8) Create an attractive edge along the street for motorists and pedestrians; and
- (9) Improve stormwater infiltration in certain locations.

Sec. 6-19. - Applicability.

- (a) *Applicability.* All of the following types of development shall comply with the standards in this section:

- (1) The requirements of this division apply to any development for which a site plan review is required by Article VIII, Division 3, "Site Plan Review."
- (2) The town council shall also have the authority to apply any of these requirements as a condition of a special use permit approved by the Council.

Sec. 6-20. - Enforcement procedures and penalties.

(a) All landscaping, buffering, and screening materials must be in place prior to issuance of a certificate of zoning compliance. In situations where a building, structure, or property, must be occupied or used prior to completion of landscaping requirements, the Town may issue a temporary or partial certificate of zoning compliance. A bond in the amount of forty (40) percent of the total cost of landscaping shall be held until final zoning approval.

(b) Any violations shall be subject to Article VIII, Division 5 of the Town of Vinton Zoning Ordinance.

Sec. 6-21. - Landscaping plan.

(a) *Landscaping Plan.* A landscaping plan shall be submitted with an application for any development subject to the requirements of this section. The plan shall depict how the proposed development complies with the standards of this section.

(b) *Landscaping Plan Preparation.* A landscaping plan, when required through site plan review, shall be prepared by a Virginia Licensed Landscape Architect, Virginia Certified Landscape Designer, Certified Horticulturist or Arborist, or professional engineer.

(c) Proposed planting chart shall be indicated on the landscaping plan. A landscape planting chart showing the planting schedule, minimum size at planting, total canopy percentage, species, and total canopy coverage for the site.

Sec. 6-22. - General standards for landscaping and screening.

(a) *General Requirements.*

- (1) Acceptable vegetative ground cover consists of shrubs and ground cover including grass. Using standards from recognized texts on the subject, the Zoning Administrator shall decide the appropriateness of any such trees and ground cover.
- (2) Species of trees shall not be planted if the roots cause damage to public utilities, the branches are subject to a high incidence of breakage, or the fruit is considered a nuisance or high maintenance, as determined by the Zoning Administrator.
- (3) Landscaping within a sight distance triangle shall not include any evergreen tree and, furthermore, shall not include shrubs or ground cover exceeding thirty (30) inches in height above the graded ground level.
- (4) When a determination of the number of required trees or shrubs, as set forth in this division, results in a fraction, any fraction shall be counted as one (1) tree or shrub.
- (5) If the development of any portion of a lot includes the creation of a slope of two to one (2:1), horizontal to vertical, or greater, such slope shall be planted with vegetative cover, subject to determination of the Zoning Administrator that the methods of planting will hold the soil in place and that the proposed vegetative cover and rate of planting will ensure stabilization of the slope.
- (6) Trees planted to meet any of the requirements below may also be used to meet any other screening or landscaping requirement within this article.

(b) *Planting materials.* Where landscaping is required by this division, the following standards shall apply:

- (1) Trees used to meet the requirements of this division shall be selected from the current list of landscape trees approved and published by the Zoning Administrator. Such list shall specify minimum height or minimum caliper at planting, the 20-year canopy of trees in square feet, and the suitability of each species for parking areas, site canopy, or buffer yards.
- (2) Existing vegetation which meets the standards prescribed by this division, as determined by the Zoning Administrator, may be preserved and may be used to meet some or all of the landscaping requirements. Any existing vegetation to be preserved and incorporated into the landscape must be adequately protected during construction to insure their survival, as specified in the protection and preservation methods section below ([Sec. 6-23](#)).
- (3) All required landscaping materials shall meet the specifications and standards of the AmericanHort, previously the American Nursery and Landscape Association. Native plantings are encouraged when compatible with the surrounding land use. Every effort should be made to incorporate healthy existing trees into the landscape and avoid the use of highly invasive species.
- (4) Where the planting of trees which have a height at twenty-year maturity which would interfere with overhead utility lines, the Zoning Administrator may, as a part of development plan approval, permit the substitution of trees with a lesser height at maturity, provided the substitute trees shall be provided at a rate that will result in the same amount of total tree canopy.

(c) *Installation.* The installation of required tree canopies, landscaping, buffering, and screening shall meet the following requirements:

- (1) Landscaping required by this ordinance shall be planted during an opportune planting season, and shall be in place and in good condition prior to a final certificate of zoning compliance being issued for the site.
- (2) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association, the Virginia Society of Landscape Designers, and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.
- (3) *Minimum tree and shrub size.* New and existing tree and shrub types shall be defined by the height, caliper, and diameter at breast height per the Table below, Minimum Tree and Shrub Size.

Table 1. Minimum Size and Spacing Requirements			
	Height At Planting	Final Height	Screening and Spacing Requirements
Small shrubs	12"	2' minimum	N/A
Large shrubs (evergreen or deciduous)	24"	6' minimum	5' on center
Small evergreen trees	5'	15' minimum	15' on center
Large evergreen trees	6—8'	50' minimum	20' on center
Small deciduous trees	1½" caliper	15' minimum	N/A
Large deciduous trees	2" caliper	50' minimum	N/A

(4) *Maintenance.* After approval by the Zoning Administrator that all landscaping required by this appendix is complete and in healthy condition, the property owner shall be responsible for the ongoing protection and maintenance of all required landscaping in a manner that complies with the requirements of this appendix and in conformance with the approved development plan. Where necessary to comply with the requirements of this appendix and the approved development plan, dead or damaged landscaping materials shall be replaced by the property owner within six (6) months of notification by the Town

Sec. 6-23. - Protection and preservation methods.

(a) Vegetation designated for protection and/or preservation shall be enclosed in a protection zone which establishes limits of construction disturbance to the root area of designated plant material. All protection zones and measures shall be established to the satisfaction of the Zoning Administrator. During construction, plastic or wood fencing shall be installed at the perimeter of all protection zones.

- (1) Vegetation of specimen quality, historic designation or cultural value: Provide extraordinary measures to ensure complete protection/preservation.
- (2) Type of material specified may vary due to site-specific determinants. Silt, erosion control, or geotechnical fabric materials are not acceptable for use as vegetation protection.

(b) Areas designated for protection and/or preservation shall not be violated throughout the entire construction period by actions including, but not limited to the following:

- (1) Placing, storing, or stockpiling backfill or construction related supplies.
- (2) Felling trees into the designated area.
- (3) Burning within or in close proximity.
- (4) Modifying site topography in a manner which causes damage by collection/ponding or flow characteristics of site drainage.

- (5) Trenching or grading operations.
- (6) Operating equipment or machinery.
- (7) Parking of construction vehicles.
- (8) Temporary or permanent paving or impervious surface installation.
- (9) Temporary or permanent utility construction installation.
- (10) Disposal of construction debris or chemical pollutants.

(c) Work or construction related activities within areas designated for protection and/or preservation of existing vegetation shall be accomplished only with prior approval of the Zoning Administrator.

Sec. 6-24. - Canopy coverage requirements.

- (a) *Definition of tree canopy.* For purposes of this section, "tree canopy" shall include all areas of coverage by existing plant materials exceeding five (5) feet in height, and the extent of planted tree canopy at maturity shall be based on the "canopy at 20 years" as set forth in the current list of landscape trees referenced above in [Sec. 6-22](#).
- (b) Trees shall be provided within the limits of construction to the extent that at twenty years from the date of planting, tree canopies or covers will provide at least the following minimums:

Table 2. Canopy Coverage Requirements by District	
<u>Zoning District</u>	<u>Tree Canopy</u>
R-LD	20%
R-1, R-2	20%
CB	20%
R-3	10%
GB, R-B, M-1, M-2	10%
PD, MUD	Per Uses Above

- (c) Existing trees or wooded areas which are to be preserved, at the applicants option may be included to meet all or part of the canopy requirements, provided the site plan identifies such trees and the trees meet the standards of size, health, placement, etc. set out in this section. The Zoning Administrator shall evaluate the use of existing trees to ensure they have adequate health and strength to allow such use.
- (d) Existing trees designated to be included as part of these requirements shall be protected during construction by fencing placed at a distance in feet equal to or greater than the diameter of the tree in inches at the height of 4½ feet.
- (e) This section does not replace, or negate full compliance with, the requirements of any other section of this appendix. However, if the trees provided to satisfy the requirements of street yard trees ([Sec. 6-26](#)), buffer yards ([Sec. 6-28](#)), and parking areas ([Sec. 6-25](#)) equal or exceed the tree canopy required by this section, no further planting of trees or tree replacement is required in order to comply with the requirements of this section.

Sec. 6-25. - Parking lot landscaping.

- (a) The following provisions are intended to require that 5% of the entire parking lot, excluding the access drive, be landscaped with trees and vegetative ground cover. The area of the parking lot is the square foot area of the parking spaces and aisles and interior parking lot islands, excluding access drives that do not contain either parallel or perpendicular parking spaces.
- (b) Within the parking lot, there shall be planted one tree per ten spaces, rounded down to the closest whole number.

- (c) Planter islands or peninsulas containing trees shall be located within the parking lot, such that each island or planter is surrounded on at least three (3) sides by parking lot or an access road to the parking lot. Their minimum size shall be 162 square feet in area, or equal total area in irregular shapes such that adequate space is provided for adequate tree canopy maturation and protection of the landscaping materials planted therein.
- (d) Planter islands may be combined or placed together such that more than one tree may be provided in the combined planter island, so long as the total space equals a multiple of the requirements above.
- (e) Perimeter plantings may be used to satisfy this requirement in parking facilities less than forty-two feet in width.
- (f) Perimeter planting beds at least 10 feet in width shall be provided whenever a parking area is immediately adjacent to a public right-of-way. If a question arises as to whether or not a parking area is immediately adjacent to a public right-of-way, the Zoning Administrator shall make the determination.
 - (1) Plantings within this area shall include trees and vegetative ground cover.
 - (2) Berms may be used in addition to, but not instead of plantings.

Sec. 6-26. - Adjacent right-of-way/street side plantings.

- (a) Where a new or expanded development or reconfigured parking area is proposed adjacent to a public street right-of-way, a planting strip shall be established between the areas devoted to the parking or circulation of vehicles and the adjacent right-of-way. The planting strip shall have a minimum width of ten (10) feet.
 - (1) In the CB central business district, the required minimum width of this planting strip shall be reduced to five (5) feet.
- (b) Within this planting strip, a minimum of one (1) large deciduous tree shall be planted every thirty (30) linear feet along the public street right-of-way. Small trees planted every twenty (20) linear feet, may be used where an overhead power line or other obstruction is present.
- (c) The trees shall be planted adjacent to the public right-of-way on the site being developed, or with the concurrence of the developer and the Zoning Administrator, in the public right-of-way.
- (d) The Zoning Administrator may reduce or eliminate this standard based on the size, street frontage, existing vegetation, and specific conditions of the site.

Sec. 6-27. - Applicability of buffering and screening requirements.

- (a) A buffer yard shall be required of any lot in any zoning district when the lot in that district abuts a zoning district of lower intensity, as shown on the table in Sec. 6-28.
- (b) Screening shall be provided within a buffer yard to ease the transition of one (1) land use or activity to another, to achieve the purposes of the buffer yard. Screening may be accomplished through architectural or vegetative materials by following the requirements and standards set forth in Sec. 6-29.
- (c) Screening shall be provided using the standards set forth in Sec. 6-29, in addition to the requirements listed above, for:
 - (1) All articles or materials being stored, maintained, repaired, processed, erected, fabricated, dismantled, or salvaged, such that the activity is not visible from surrounding properties or roads.

- (2) The storage, dismantling, or salvaging of any impounded or inoperable motor vehicles associated with a permitted use such that these activities are not visible from surrounding properties or roads.
- (2) Refuse storage and loading areas such that these activities are not visible from surrounding properties or roads.
- (3) Rooftop and ground level mechanical equipment such that it is not visible from surrounding properties or roads.
- (4) All trash dumpsters or containers used for recycling shall be screened so that it is not visible from surrounding properties or roads. At minimum, the dumpster or container shall be screened on three (3) sides with architectural screening. Screening shall be based upon the standards above and subject to the approval of the Administrator.
 - (A) Four (4) foot tall architectural screening is acceptable when household style trash containers are used in place of dumpsters.
- (d) Changes in use that require site plan approval, or a change in use of an existing development where an existing use is replaced with a new more intense use (e.g., from a residential use to an institutional use, or from a commercial use to an industrial use), shall be subject to these buffering and screening requirements to the maximum extent practicable.

Sec. 6-28. - Perimeter buffer yard standards.

- (a) *Buffer Yard Standards*
 - (1) *Location and depth.* A buffer yard shall be provided in any case where a side or rear lot line of a lot abuts or is situated across an alley from property located in a district of lower intensity, as shown on the following table. The buffer yard shall be provided on the lot in the higher intensity district.
 - (2) Buffer yards containing specified screening and plantings shall be required between zoning districts of different intensities as shown in Table 3. For each required buffer yard type, the developer of the site shall choose which option to install based on the requirements shown in Table 4. Buffer yards shall be installed in the higher intensity zoning district.
 - (3) Required buffer yards shall be located such that they provide a visual and physical barrier between abutting zoning districts of different intensities and shall buffer and screen all exterior storage, service, refuse, maintenance, repair, processing, salvage, and other similar areas. No use of the site may be extended beyond the required buffer yard.
 - (4) Required buffer yards shall not be located on any portion of any existing or dedicated public or private street or right-of-way, shall not obstruct the visibility of traffic circulation, and shall not interfere with the use of adjoining properties.

Table 3. Type of Required Buffer Yard

Zoning District	Abutting Zoning District		
	R-LD, R-1, R-2, or R-3	RB	GB or CB
RB	A	N/A	N/A
GB or CB	B	A	N/A
M-1 or M-2	C	C	B

Note: Buffer yard types are defined in the table below.

Table 4. Buffer Yard Requirements		
Type of Buffer Yard	Option 1: Architectural	Option 2: Vegetative
A	Six-foot screen	Five-foot buffer yard, one row of large evergreen shrubs
B	Six-foot screen, 10-foot buffer yard, one row of small evergreen trees	25-foot buffer yard, one row of small evergreen trees, one row of large evergreen shrubs
C	Eight-foot screen, 25-foot buffer yard, one row of large evergreen trees, one row of small evergreen trees	50-foot buffer yard, one row of large evergreen trees, one row of small evergreen trees, and one row of large evergreen shrubs

- (5) The buffer yard shall be reserved solely for screening and plantings, except for required pedestrian or vehicular access driveways to the property, passive recreation areas, or pedestrian or bicycle trails, which can be accommodated in a manner that preserve the intended screening function between abutting zoning districts of different intensities. In no case shall any portion of a required buffer yard be used for parking, service, refuse, storage, maintenance, or any other use that impairs the intended buffer function.
- (6) The property owner or lessee shall have the continuing responsibility to maintain the required buffer yards, screening and plantings such that they continue to meet the specified standards and intent of this section. All materials shall be properly installed and of durable construction.

Sec. 6-29. - Standards for buffer yard planting and screening.

- (a) Planting required by this section for vegetative screening purposes shall be provided in accordance with the following standards:
 - (1) Vegetative material shall consist of evergreen shrubs or evergreen trees of such species, size, shape and spacing as will provide effective visual screening in accordance with the requirements of this section.
 - (2) Where necessary to provide the required screening effect, the planting pattern shall be staggered.
 - (3) Where required, all evergreen shrubs shall have a height of at least 24 inches at the time of planting and an ultimate height of six feet or more. Some evergreen shrubs that meet these standards are various types of hollies, yews, and junipers.
 - (4) Where required, each small evergreen tree shall have a height of at least five feet at time of planting and an ultimate height of 15 feet or greater. Some small evergreen trees that meet these standards are various types of pines, hollies, upright arborvitae and junipers.
 - (5) Where required, each large evergreen tree shall have a height of at least six to eight feet at the time of planting and an ultimate height of 50 feet or greater. Some large evergreen trees that meet these standards are various types of pines, firs and hemlocks.
 - (6) Existing evergreen trees and shrubs which meet the requirements of this section may be counted as contributing to total planting requirements.
 - (7) All portions of buffer yard areas not containing plantings shall be seeded with lawn grass or other approved vegetative ground cover.
- (b) Architectural screening required by this section shall be provided in accordance with the following standards:
 - (1) Screening shall be visually opaque and shall be constructed of a durable material. It shall be installed within the required buffer yard, and shall be continuously maintained.
 - (2) Acceptable screening materials shall include stockade fences, decorative masonry walls, brick walls, and/or earth berms. Chainlink, wire mesh or similar fence material shall not be permitted for required screening purposes.

- (3) Alternate materials may be approved, if in the opinion of the Zoning Administrator, their characteristic and design meet the intent and standards of this section.

Sec. 6-30. - Modifications.

- (a) Screening, landscaping, and buffer yards required by this section shall be applied equally to all similarly situated properties. The Zoning Administrator may grant modifications to these standards in writing if the Administrator finds any of the following circumstances exist on the proposed building site, or surrounding properties:
 - (1) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent of this section.
 - (2) Innovative landscaping or architectural design is employed on the building site to achieve an equivalent screening or buffering effect.
 - (3) The required screening would be ineffective at maturity due to the proposed topography of the site, and/or the location of the improvements on the site.
 - (4) The topography of adjacent and surrounding sites is such as to render required screening ineffective at maturity.
 - (5) The size or character of the area or equipment to be screened is such that screening may be ineffective in carrying out the intention of this section.
- (b) When the acreage of a site is significantly larger than the area proposed for physical improvements or active usage, buffer yards shall be reserved as required by the section. However, to achieve the intent of this section, the administrator may approve an alternative location and design for required screening and plantings.
- (c) When property lines abut an adjacent jurisdiction, the administrator shall determine the specific screening and buffering requirements along that property line(s) after consideration of the zoning designation and/or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated/zoned property within the Town.
- (d) When a site plan is submitted to modify or expand an existing building or site improvements, or accommodate a change in land use, buffer yard and screening requirements shall only be applied to those portions of the site that are directly affected by the proposed improvements, or change in land use, as determined by the administrator.
- (e) The areas of any required buffer yard shall not be required to exceed fifteen (15) percent of the site proposed for development. In such cases, the administrator shall allow the width or location of certain buffer yards to be reduced or eliminated. The administrator shall require additional landscaping and/or screening within the remaining buffer yards, or elsewhere on the site.
- (f) No landscaping or screening shall be required which in the opinion of the administrator interferes with traffic safety, or which violates the provisions that govern the establishment of sight triangles.

Sec. 6-31. - Credit toward other standards.

- (a) Buffer yard areas and associated vegetation within such areas may be credited toward compliance with the Canopy coverage requirements in [Sec. 6-24](#), above.

DIVISION 6. - OFF-STREET PARKING REQUIREMENTS

Cross reference— Parking generally, § 90-101 et seq.

Sec. 6-32. - Number of spaces required.

- (a) *Generally.* The minimum number of off-street parking spaces required for particular uses shall be as set forth in the following schedule. The requirements shall apply to any new building constructed, any enlargement of an existing building, any new use established or any conversion of or change in an existing use.
- (b) *Existing buildings and uses.* In the case of any enlargement, expansion or change in an existing building or use that is nonconforming with regard to these requirements, the required number of spaces

shall be the sum of the spaces provided prior to the enlargement, expansion or change and any additional spaces required by the schedule as a result of the enlargement, expansion or change.

- (c) *Requirements in the central business district.* Off-street parking shall not be required for uses in the CB central business district, except hotels, motels, tourist homes and bed and breakfast establishments, and dwelling units in a building with nonresidential use.
- (d) *Reduction for on-street parking.* The total number of required off-street parking spaces as set forth in schedule of parking requirements in subsection (f) may be reduced by one (1) space for every twenty (20) feet of lot frontage on a street to the extent that on-street is permitted along the same frontage. The Vinton Public Works Department shall determine if on-street parking is permitted along the said frontage used for this reduction.
- (e) *Reduction for proximity to public transit.* Where a use is located within one thousand two hundred (1,200) feet of a public transit route, the total number of required off-street parking spaces, unassigned to specific persons, may be reduced to eighty (80) percent of that otherwise required as set forth in the schedule of parking requirements in subsection (f). For the purpose of this provision, the distance shall be measured from the public transit route to the property line of the use via a normal pedestrian route of travel.
- (f) *Schedule of parking requirements.*

Table 6-32.1. Schedule of Parking Requirements

Use	Number of Spaces	Maximum Parking
<i>Accessory Uses</i>		
Accessory uses	None	N
<i>Residential Uses</i>		
Dwelling, single-family	2 per dwelling unit	N
Dwelling, two-family	2 per dwelling unit	N
Dwelling, multifamily	2 per dwelling unit	N
Dwelling unit in RB, GB, or CB district in a building with nonresidential use	1.5 per dwelling unit	N
Townhouse	2 per dwelling unit	N
Manufactured home park	2 per manufactured home	N
<i>Accommodations and Group Living</i>		
Assisted care or assisted living facility	1 per 4 beds, plus 1 per employee	N
Bed and breakfast	2, plus 1 per lodging unit	N

Boardinghouse or rooming house	1 per lodging unit, plus 2 per permanent residence	N
Group home or Halfway house	2, plus 1 per employee	N
Hotel, motel, or tourist home	1 per lodging unit; add spaces for meeting or restaurant areas as additional principal uses.	Y
Nursing home	1 per 3 beds, plus 1 per employee	N
<i>Commercial Uses: Office and Related Uses</i>		
Bank, other financial institution	1 per 250 sq. ft. floor area	Y
Laboratories or research and development facilities	1 per 1,000 sf net floor area	Y
Medical and Dental Clinics	1 per 250 sq. ft.	Y
Office	1 per 300 sq. ft. floor area	Y
Outpatient mental health or substance abuse clinic	1 per 250 sq. ft.	Y
<i>Commercial Uses: Miscellaneous</i>		
Animal hospital, veterinary clinic, or pet daycare facility	1 per 500 sf net floor area	Y
Community market	Not applicable	N
Flea market	1 per 500 sf of indoor or outdoor display area	Y
Funeral home	1 per 150 sq. ft. of assembly area	Y
Kennel	1 per 1,000 sf net floor area	Y
Mixed-use building	Subject to the requirements of the uses in the building	Y
<i>Commercial Uses: Retail Sales and Service</i>		
Bakery, confectionary, or similar food production, retail	1 per 300 sf net floor area	Y
Building supplies and materials, retail	1 per 300 sf net floor area	Y

Business support services, not otherwise listed in this table	1 per 300 sf net floor area	Y
Self-service or automated auto wash	See Sec. 5-10 , Drive-up Facilities	Y
Contractor or tradesman's shop, general or special trade	1 per 600 sf net floor area	Y
Dry cleaning and laundromat	1 per 250 sq. ft. floor area	Y
Auto, truck service and repair, or self-serve or gasoline station	4 per service bay	Y
Motor vehicle rental establishment	1 per 1,000 sf net floor area	Y
Motor vehicle sales and service establishment, new or used	1 per 750 sf net floor area	Y
Music and dance instruction	1 per 250 sq. ft. floor area	Y
Greenhouses or garden centers, commercial	1 per 1,000 sf of indoor floor sales area plus 1 space for every 1,000 sf of greenhouse or net outdoor sales and customer display area	Y
Personal service establishment, not otherwise listed in this table	1 per 250 sq. ft. floor area	Y
Retail sales establishment – large appliances, furniture, household fixtures, carpet, swimming pools, hot tubs, spas,	1 per 1,000 sf retail showroom area	Y
Retail store or shop not otherwise listed	1 per 500 sq. ft. floor area	Y
Shopping center	1 per 250 sq. ft. floor area	Y
<i>Industrial</i>		
Manufacturing, processing or fabricating plant, research, or other industrial use	1 per 1,250 sq. ft.	N
<i>Warehousing and Storage</i>		
Distribution center, not otherwise listed in this table	1 per 5,000 sf up to 50,000 sf of building area, then 1 space for every 10,000 sf of remaining building area	N
Mini warehouse	3 plus 1 per 100 storage units	N

Warehouse	1 per 5,000 sf up to 50,000 sf of building area, then 1 space for every 10,000 sf of remaining building area	N
<i>Assembly and Entertainment</i>		
Adult uses	1 per 500 sf building area	Y
Amphitheater	1 per 6 seats or 600 sf of total assembly area, whichever is greater	Y
Amusement, commercial, indoor	1 per 250 sf net floor area	Y
Amusement, commercial, outdoor	1 per 1,000 sf of activity area	Y
Club, lodge, civic, social, or fraternal organization	1 per 300 sf of net floor area	N
Community center	1 per 300 sf of net floor area	N
Eating and drinking establishment	1 per 175 sq. ft. of enclosed assembly area	Y
Entertainment establishment not otherwise listed	1 per 175 sq. ft. of enclosed assembly area	Y
Exhibition, convention, or conference center	1 per 8 persons of maximum load occupancy	Y
Golf course, country club	40 per 9 holes, plus 1 per employee	Y
Health and fitness center	1 per 5 persons of maximum load occupancy	Y
Park or playground, not otherwise listed in this table	None	N
Church, other place of worship	1 per 50 sq. ft. of assembly area	Y
Recreation, indoor—Bowling alley	4 per lane, plus 1 per table or booth for restaurant area	Y
Recreation, indoor—Ice skating or roller skating rink	1 per 200 sf of skating area	Y
Recreation, indoor or outdoor—Basketball courts	1 per 0.5 court	Y
Recreation, indoor or outdoor—Batting cages	1 per 0.5 cage	Y

Recreation, indoor or outdoor—Skateboarding course	1 per 500 sf of skating area	Y
Recreation, indoor or outdoor—Swimming pools	1 per 75 sf of water area	Y
Recreation, indoor or outdoor—Tennis or other racquet courts	1 per 0.75 court	Y
Recreation, outdoor—Athletic fields	1 per 2,000 sf field area	Y
Recreation, outdoor—Miniature golf course	1.5 per hole, plus 1 per employee	Y
Recreation, indoor, not otherwise listed in this table	1 per 500 sf of activity area	Y
Recreation, outdoor, not otherwise listed in this table	1 per 1,000 sf of activity area	Y
Sports Complex	1 per 5 seats	Y
Theater, auditorium, stadium, similar place of public assembly	1 per 5 seats	Y
<i>Public, Institutional or Community Facilities</i>		
Art gallery	1 per 500 sq. ft. floor area	Y
Cemetery	None	N
Community garden	None	N
Day care center, adult	2, plus 1 per nonresident employee	Y
Day care home, adult	2, plus 1 per employee	N
Day care center, child	1 per employee, plus 1 per 20 children enrolled, plus 1 for each facility vehicle	Y
Day care home, family	2, plus 1 per nonresident employee	N
Public or private school	2 per classroom, plus 1 per 300 sq. ft. other teaching space.	Y
Educational facilities, business school or nonindustrial trade school	1 per 4 students	Y
Educational facilities, elementary	1 per 0.5 classroom	Y

Educational facilities, middle	1 per 0.5 classroom	Y
Educational facilities, secondary	1 per 7 students	Y
Educational facilities, industrial trade school	1 per 5 students	Y
Educational facilities, school for the arts	1 per 300 sf	Y
Fire, police, or emergency services	1 per 500 sq. ft.	N
Government offices or other government facility, not otherwise listed in this Table	1 per 300 sf net floor area	Y
Hospital	1 per 2 beds, plus 1 per employee on largest shift including doctors	Y
Library	1 per 500 sf net floor area	Y
Museum	1 per 1,000 sf net floor area	Y
Post office	1 per 400 sf net floor area	Y
<p>"sf" means the net floor area in square feet for the principal structure, or use if the use occupies only part of a structure, unless otherwise noted in the table.</p> <p>"Y" means the maximum parking regulations set forth in Sec. 6-43 shall apply.</p> <p>"N" means the maximum parking regulations shall not apply.</p>		

Sec. 6-33. - Method of determining number of spaces.

For purposes of determining the number of off-street parking spaces required for a particular use, the following rules shall apply:

- (a) Floor area shall include the area of the floor space devoted to the use, including space used for related incidental purposes, and shall be measured along exterior faces of enclosing walls or, in the case of different uses in attached buildings or in the same buildings, shall be measured along the center lines of shared walls.
- (b) Number of employees or staff shall be construed as the maximum number of persons employed on any working shift.
- (c) When computation of required number of spaces results in a fractional number, the required number of spaces shall be the next whole number.
- (d) When a building or premises is devoted to more than one use, the total number of spaces required shall be the sum of the spaces required for each use.
- (e) Required off-street parking spaces may be provided within garages, carports or enclosed building space when the provisions of this article pertaining to dimensions and accessibility of spaces are met.

- (f) The minimum number of off-street parking spaces required for a use not specifically listed on the schedule shall be as required for the most similar use listed as determined by the Zoning Administrator.

Sec. 6-34. - Location of required parking spaces.

Required off-street parking spaces shall be located on the same lot or on a contiguous lot under the same ownership as the use for which they are required, provided that spaces for any use in the CB, GB, MUD, M-1, or M-2 district, where applicable, may be located off the premises in the form of off-site, off-street parking, when all of the following conditions are met:

- (a) The parking area within which such parking spaces are provided shall comply with the use regulations and all other requirements of the district in which it is located;
- (b) All such parking spaces shall be located within 500 feet by normal pedestrian route of a principal entrance to the building they serve. For the purpose of this requirement, the distance from off-street parking spaces to the lot served shall be measured from the nearest parking space to the principal entrance to the building on the lot of the use served;
- (c) Off-site, off-street parking shall be designated for the purpose of the off-site use it serves and shall not be used to meet the minimum off-street parking requirements of another use, unless the Zoning Administrator determines that the uses for which the off-street parking spaces are designated do not constitute simultaneous use of the parking spaces;
- (d) The off-site, off-street parking area shall either be owned by the owner of one (1) of the uses or leased for at least a 20-year term or through a permanent easement by the owner of the uses being served;
- (e) No changes shall be made to the shared parking area which would reduce the parking provided for the uses, unless the owner of one (1) of the uses makes other arrangements to provide parking. No such changes shall be made without Zoning Administrator approval;
- (f) Handicap parking spaces cannot be shared, unless the uses that are to share the spaces are adjacent to the handicap spaces and no inconvenience to the users of such spaces would be created;
- (g) Any proposed change in the use of a structure that shares a parking area will require proof that adequate parking is available. Should ownership or lease agreement terminate, the use for which off-site parking was provided shall be considered nonconforming and any and all approvals, including a special use permit, shall be subject to revocation. Continuation or expansion of the use shall be prohibited unless the use is brought into compliance with the parking regulations of this appendix.

Sec. 6-35. - Parking space dimensions.

- (a) Minimum dimensions. Required off-street parking spaces shall be not less than nine feet in width and 18 feet in length, except that spaces arranged parallel to their means of access shall be not less than eight feet in width and 22 feet in length. The width and length of parking spaces shall be measured perpendicular to one another so as to form a rectangle with dimensions as required herein. Parking spaces required to be accessible to persons with disabilities by the provisions of the Virginia Uniform Statewide Building Code shall comply with the requirements of that Code.
- (b) Allowance for vehicle overhang area. Up to 30 inches of the required length of off-street parking spaces may be provided as vehicle overhang area and need not be paved, provided that wheel stops are installed. Such overhang area shall be clear of any obstruction to vehicles utilizing the parking space and shall not encroach into any other parking space, access aisle, public right-of-way, adjacent property, pedestrian walkway or required yard within which parking is not permitted.

Sec. 6-36. - Criteria for access and maneuvering space.

All required off-street parking spaces shall be provided with access and maneuvering space meeting the following criteria:

- (a) *Driveway or access aisle.* Each required off-street parking space shall be provided with a driveway or common access aisle directly serving such space and of sufficient dimensions to enable vehicles to maneuver into and out of such space without encroaching into another parking space or extending beyond the designated driveway or access aisle area.
- (b) *Obstruction of streets prohibited.* No area devoted to parking or access thereto shall be designed, operated or maintained so as to cause any public street, alley or sidewalk area to be obstructed by vehicles entering, leaving or maneuvering within the parking area. Maneuvering space of sufficient arrangement and dimensions shall be provided within parking areas in order to avoid such obstruction.
- (c) *Access aisle dimensions.* The minimum dimensions of access aisles serving off-street parking spaces for uses other than single-family and two-family dwellings shall be as set forth in the following schedule, provided that greater widths may be required where necessary for purposes of fire access to buildings. Aisle widths for parking arrangements not listed shall be determined by the Zoning Administrator based on the nearest arrangement listed.

		Aisle Width (in feet)	
Arrangement of Parking		Two-way Traffic	One-way Traffic
90		25	24
60		24	20
45		24	16
30 or parallel		24	12

Sec. 6-37. - Parking spaces accessible to persons with disabilities.

Off-street parking spaces accessible to persons with disabilities shall be provided in accordance with the requirements of the Virginia Uniform Statewide Building Code. Such spaces shall be included in the calculation of total number of spaces required by this article.

Sec. 6-38. - Driveways and curb cuts.

The location and design of all curb cuts and entrance and exit driveways connecting with public streets shall conform to the standards of the Virginia Department of Transportation and shall be approved by the town engineer.

Sec. 6-39. - Paving, drainage and delineation of spaces.

- (a) *Paving required.* Parking areas containing five or more spaces and all related entrances, exits and driveways shall be paved with dust free, all-weather hard surface material such as asphalt, asphalt and gravel seal coat, concrete, unit pavers or similar material approved by the Zoning Administrator.
- (b) *Exemption for certain parking areas.* The requirements of paragraph subsection (a) of this section shall not apply to parking areas serving the following:

- (1) Places of worship and other public and semipublic uses which, in the judgment of the Zoning Administrator, involve intermittent, infrequent or nondaily parking use, provided that sufficient improvements are made to ensure that the parking area is usable and that proper access and drainage are provided.
- (2) Areas dedicated solely to the storage of impounded or inoperable vehicles on lots where such a permitted use is allowed to occur shall not be considered parking spaces for the purposes of this section. However, off-street parking spaces utilized by employees, staff, customers, and for the storage of service and towing vehicles used for the operation of such permitted establishments shall be considered parking spaces for the purposes of this section.

(c) *Pervious or Semi-Pervious Surfacing.* The use of pervious or semi-pervious parking lot surfacing materials—including, but not limited to—pervious asphalt and concrete, open joint pavers, and reinforced grass/gravel/shell grids may be approved for off street parking and loading areas except on industrial and other sites where there is reasonable expectation that petroleum and other chemical products will be spilled, and provided such surfacing is subject to an on-going maintenance program (e.g., sweeping, annual vacuuming). Any pervious or semi-pervious surfacing used for aisles within or driveways to parking and loading areas shall be certified by a design professional as capable of accommodating anticipated traffic loading stresses and maintenance impacts or as approved by the Director of Public Works. Where possible, such materials should be used in areas proximate to and in combination with onsite stormwater control devices.

(d) *Drainage and grades.* All parking areas shall be designed and constructed with respect to drainage so as to prevent damage to abutting properties and public streets. No finished grade within any parking area shall exceed ten percent.

(e) *Delineation of parking spaces.* Parking spaces shall be delineated by markings on the pavement surface. Wheel stops, curbs, walls, fences, shrubbery or other means shall be provided along the edges of parking areas where necessary to prevent parked vehicles from encroaching onto adjacent properties or into public streets and alleys, required yards or public walkways.

Sec. 6-40. - Supplemental parking area requirements in certain districts.

In addition the applicable general requirements for areas devoted the parking or circulation of vehicles included in this article, additional requirements shall apply in the following zoning districts:

- (a) Additional requirements in the R-B residential-business district.
 - (1) Off-street parking spaces and access aisles serving uses other than single-family and two-family dwellings shall not be located within any required front yard or required side yard along a street in a residential or R-B district. This restriction shall not be construed to prohibit driveways from the street when approved by the appropriate authority.
- (b) Additional requirements in the CB central business district.
 - (1) *Location of parking and circulation areas.* Areas devoted to the parking or circulation of vehicles shall not be located between the main building on a lot and the street line, nor shall such areas be located closer to the street than the main building on the lot. On a lot having more than one street frontage, the provisions of this paragraph shall apply only along the principal street frontage of the lot as defined in article XI of this appendix.
 - (2) *Driveways from streets.* No driveway intersecting a street which constitutes the principal street frontage of a lot shall be permitted when other street frontage or alley access is available to serve such lot. For purposes of this provision, principal street frontage shall be as defined in article XI of this appendix.
 - (3) *Lighting.* Parking areas and parking lots containing five or more spaces and available for use by the general public shall be provided with lighting during the non-daylight hours when such parking areas and parking lots are in use. Such lighting shall be designed and

installed so as to concentrate illumination within the parking area or parking lot and to prevent glare on adjoining properties and streets. The level of illumination and means of providing such lighting shall be in accordance with policies established by the Zoning Administrator and applied in conjunction with the site plan review process.

(4) *Modifications.* Modifications to the provisions of this section may be permitted by the Zoning Administrator, when strict adherence to such provisions would result in substantial injustice or hardship. An appeal from the decision of the zoning administrator may be taken to the board of zoning appeals in accordance with Section 10-7 of this appendix.

Sec. 6-41. - Off-street loading areas.

Space for the loading and unloading of trucks and other vehicles shall be provided on sites developed for commercial and industrial uses. Loading areas shall be so located on the site and shall be of such dimensions as not to occupy or obstruct required off-street parking spaces or to obstruct any public street or any fire lane or emergency access route during the loading or unloading of vehicles. When necessary to meet the criteria, designated loading areas with adequate maneuvering space shall be shown on each site plan submitted for approval for commercial or industrial use and, subject to approval of such site plan, shall be provided and maintained on the site.

Sec. 6-42. - Maintenance of parking.

All parking and off-street loading areas, including those areas with pervious or semi-pervious parking lot surfacing materials shall be subject to an on-going maintenance program, and maintained in safe condition and good repair at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land. All signage and pavement markings shall also be maintained.

Sec. 6-43. - Maximum motor vehicle parking.

In order to minimize the adverse impacts caused by improving large areas with impervious surfaces, including increased storm water run-off, urban heat island effects, and nonpoint source pollution, the total number of motor vehicle parking spaces serving a use delineated in Table 6-32.1 as having maximum parking requirements shall not exceed 150 percent of the minimum parking standards in the parking requirements table, unless either of the following apply:

- (a) Any spaces in excess of 150 percent of the minimum number required are located in a structured parking facility; or
- (b) A landscape plan that provides additional pervious landscape surfaces and increases stormwater filtration has been reviewed and approved by the Zoning Administrator, subject to Sec. 6-39 (c) above.

DIVISION 7. - SIGN REGULATIONS

Sec. 6-44. - Purpose, applicability and definitions.

(a) *Purpose.* The purpose of this division is to provide comprehensive sign regulations, which will promote and carry out the following objectives of the town:

- (1) To regulate the type, placement, and size of signs and other graphic devices within the town;
- (2) To ensure equity in the distribution of the privilege of using the public environment to communicate private information;
- (3) To emphasize assets of community appearance and high environmental quality in promoting business, industry and economic development;
- (4) To promote the public health, safety, and welfare of the public by prohibiting improperly designed or located signs which could distract, confuse, mislead, obstruct vision or create traffic hazards or other hazards to the community;
- (5) To protect property values by improving the quality of the environment;

- (6) To promote the economic growth of the town by creating a community image that is conducive to attracting new business and industrial development;
- (7) To permit reasonable legibility and effectiveness of signs and to prevent their overconcentration, improper placement and excessive height, bulk, density, and area; and
- (8) To provide for the reasonable advertising of business and civic products and services, with recognition of the effects of signage on the character of the community.
- (9) These regulations are not intended to and do not restrict, limit or control the content of any sign message.

(b) *Applicability.* The regulations contained in this division shall be applicable to signs in all districts. No sign shall be erected, constructed, installed or attached except in conformity with all of the provisions set forth in this division for the particular sign in the district in which it is located.

(c) *Definitions.* Definitions of a sign, the various types of signs and the method of measuring the area of signs.

- (1) *A-Frame Sign.* A sign consisting of two sign faces placed together at an angle of 90 degrees or less to form an "A" shape structure that are connected at the top and separated at the base.
- (2) *Awning.* A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a flat position against the building, but not including a canopy.
- (3) *Awning Sign.* A sign that is mounted or painted on or attached to an awning
- (4) *Banner.* A sign applied to cloth, paper, flexible plastic, nylon, canvas or similar material, and generally intended to be displayed on a temporary basis. No banner sign may be converted to a permanent sign.
- (5) *Beacon or searchlight sign:* A beacon or searchlight that utilizes stationary or revolving light that flashes or projects illumination, single color or multicolored, to announce, attract attention, or advertise a use, activity, or event.
- (6) *Billboard.* See "outdoor advertising sign."
- (7) *Building Frontage.* The portion of the principal building of an establishment which faces a public street. If a principal building is arranged on the lot so that the main entrance faces a parking area, then the Zoning Administrator may make a determination that the portion facing the parking area may be considered the building frontage.
- (8) *Canopy.* A structure, other than an awning, made of cloth, metal, or other material which may be totally or partially attached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure and cannot be raised or retracted.
- (9) *Canopy Sign.* A sign that is painted on, printed on, or attached to a canopy.
- (10) *Changeable copy sign.* A sign, or part of a sign, that is designed so that letters or numbers attached to the sign can be changed manually, or mechanically, to display a different copy or message.
- (11) *Directional sign, on-premises.* An on-premises sign designed to guide pedestrian or vehicular traffic on the site by using words such as "Entrance," "Exit," "Parking," "One-Way," or other similar directional language and which sign may contain the name of the establishment or its commercial logo in addition to the directional language.
- (12) *Electronic message board sign.* A computer-generated sign, which is permitted as part of any freestanding sign, that displays messages with letters, pictographic, or symbolic informational content and which can be changed or altered on a fixed display screen by electrically illuminated segments. Such sign displays information on an electronic message board for a

use which is located on the same premises as the sign, on which the intensity of illumination is maintained at a constant level, and shall have the frequency of the change of copy established so that each display of copy remains static with no animation for at least six (6) seconds before changing to new copy. Textual messages may scroll no more than ten words in a sequence. The message shall not flash.

(13) *Feather sign.* A lightweight, freestanding, temporary sign mounted along one edge on a single, vertical, flexible pole the shape of which may resemble a sail, bow, or teardrop. In order to avoid being categorized as a “moving or windblown sign,” a feather sign’s fabric or material must remain taut in order to prevent any sagging or flapping and the pole shall be designed and installed to prevent rotating.

(14) *Flag.* Any generally rectangular or triangular single piece of fabric or other pliant material, regardless of content, attached to a flagpole only along one straight side.

(15) *Flashing sign.* A sign with either flashing, running, or laser-generated lights or with lights that flash, blink pulse, strobe, scroll, or create an illusion of movement or that have a conspicuous and intermittent variation in illumination, appearance, color, or pattern.

(16) *Freestanding sign.* Any affixed sign which is a monument sign or which is supported by upright poles, posts or braces at least three inches in diameter, or five inches if measured diagonally. A freestanding sign shall be considered a structure within the meaning of this appendix.

(17) *Fuel pump sign.* A sign affixed to the top of a fuel dispenser.

(18) *Ground sign.* A freestanding sign, other than a pole sign, placed upon or supported by the ground independently of any other structure.

(19) *Historic site sign.* See Sec. 6-50 for information on this sign type.

(20) *Illuminated sign.* A sign with artificial light projecting through the face or portions of the face or directly shining on the face from an external light source. A neon sign shall be considered an illuminated sign.

(21) *Inflatable sign.* An inflated, nonporous sign filled with air or other gas that does not move, flutter, or undulate and is mounted to a structure, cord, cable or rod or staked to the ground.

(22) *Lot frontage.* The portion of a property boundary or a lot line which abuts a public right-of-way.

(23) *Marquee.* Any fixed hood, other than a canopy or awning, supported solely by the building to which it is attached that projects from the building and extends beyond the building wall. The location of any marquee shall be restricted to the main entrance to a building.

(24) *Marquee sign.* A sign attached to or hung from a marquee.

(25) *Monument sign.* A freestanding sign mounted or affixed to a freestanding base or pedestal secured permanently to the ground and not attached to a building or any other structure.

(26) *Moving or windblown sign.* Any sign of which all or any part is in motion by natural or artificial means (including fluttering, rotating, undulating, swinging, oscillating, digital display animations) or by movement of the atmosphere including pennants, streamers, and balloons. For purposes of this Appendix, the hands of a clock, feather signs as defined by this article, flags displayed in compliance with the provisions of Article V, Sec. 5-12, the changing of messages on electronic message boards so that each display of copy remains static with no animation for at least six (6) seconds before changing to new copy, and rotating barber poles not exceeding six feet in height and one foot in width shall not be considered a moving or windblown sign.

(27) *Nonconforming sign.* A sign which was lawfully existing at the effective date of this appendix or subsequent amendment thereto, and which does not conform with the area, height, location, placement, type, number, lighting or other regulation pertaining to signs set forth in this appendix or an amendment thereto.

(28) *Off-premises Sign.* Any sign which directs attention to a message, or business, commodity, activity, service or product not conducted, sold, or offered upon the premises where the sign is

located. These signs may also be known as location signs, billboards, outdoor advertising signs, or general advertising signs.

(29) *Outdoor advertising sign.* An off-premises sign or sign structure, commonly referred to as a "billboard," with display space available for lease and designed so that the copy or poster on the sign can be changed frequently

(30) *Pennant.* Any generally rectangular or triangular sign attached only along one side, not affixed to a flagpole, and designed to flap in the wind.

(31) *Permanent Sign.* A sign that is intended to be permanently in place for the duration of the permit use. Examples of permanent signs may include, but are not limited to wall signs, projecting signs, freestanding or monument signs, awning and canopy signs, and on-site directional signs (see Figure 6-44 (A): Permanent Sign Type Diagram).

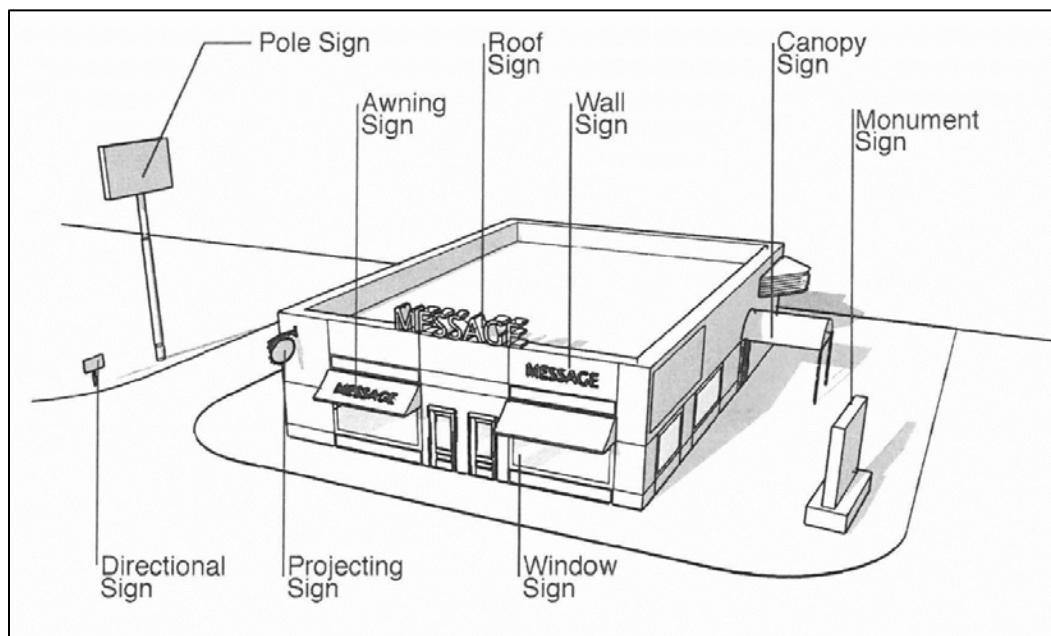


Figure 6-44 (A): Permanent Sign Type Diagram

(32) *Pole Sign.* A freestanding sign erected and maintained on a freestanding mast or pole secured permanently to the ground and not attached to a building or any other structure, but not including a ground sign.

(33) *Portable Sign.* Any sign designed and intended to be transported or movable. Such signs are not attached to a building or anchored within the ground and are capable of being moved easily from one location to another on its own chassis or by other means. Portable signs may not be illuminated or include audio equipment. No portable sign may be converted to a permanent sign. Examples of common features include, but are not limited to:

- Signs with wheels or with wheels removed.
- Signs with chassis or support constructed without wheels, including portable changeable message cabinets.
- Signs designed to be transported by trailer, wheels or motorized vehicle.
- Signs mounted on a motor vehicle for advertising purposes parked off the public right-of-way, except when the motor vehicle is being used in the normal, routine operations of the business.

(34) *Premises.* A contiguous parcel of land with its appurtenances and buildings that functions as a unit. For the purpose of this Ordinance, an outparcel along the perimeter of a shopping center

or similar multitenant use that contains a freestanding building and a parking area separate from the shopping center as indicated on an approved site plan shall be considered a premises separate from the premises of the shopping center.

(35) *Projecting Sign.* A sign which is attached to and projects from a wall of a building so that the face of the sign is perpendicular or nearly perpendicular to the face of such wall and projects more than 15 inches from such building.

(36) *Public service message board.* Any sign having a conspicuous and intermittent variation in illumination, message, color, or pattern powered by electricity and which displays different copy changes on the same lamp bank or message facility and installed on land owned by the Town or any other governmental entity established by the Commonwealth of Virginia.

(37) *Roof sign.* A sign that is mounted or painted on the roof of a building, or that is wholly dependent upon a building for support and that projects above the highest point of a building with a flat roof, the lowest eave line of a building with gambrel, gable or hip roof or the deck line of a building with a mansard roof.

(38) *Sign.* A presentation of letters, numbers, figures, pictures, emblems, insignia, lines of colors, or any combination thereof which can be viewed from a public place, a public right-of-way, any parking area or right-of-way open to use by the general public, and which is displayed for the purpose of information, direction or identification or to advertise or promote a business, service, activity, interest or product, or any otherwise lawful message that does not attract attention to a business operated for profit or to a commodity or service offered for sale. For nonresidential developments, this definition is not intended to include private streets or other privately maintained access ways that do not directly connect to a public street and which are not visible in the spaces described above.

(39) *Sign area.* That area of the sign which is or can be used for visual representation or communication. The term includes any background or surrounding material, panel, trim or ornamentation, color, and direct or self-illumination that differentiates the sign from the building, structure, backdrop surface, or object upon or against which it is placed. A pole, post or similar structural support for a freestanding sign, including pole covers, shall be considered as part of the sign area if such pole, post, structural support or pole cover contains or forms an integral part of the sign display, as determined by the Zoning Administrator.

(40) *Sign height.* The distance from the highest point of a sign to the finished elevation of the road providing principal access to the site on which the sign is located as measured from the bottom of the curb or edge of pavement (see Figure 6-44 (B): Sign Height).

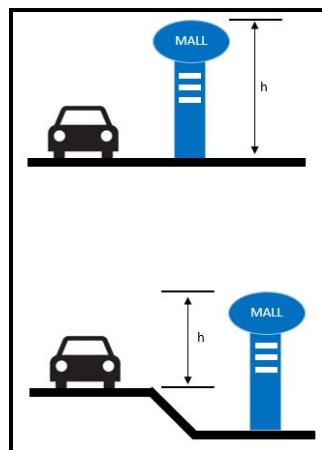


Figure 6-44 (B): Sign Height

(41) Sign structure. Any portion of a sign, including the area devoted to message or display, and all poles, posts, supports, uprights, bracing, framework, border, background and structural trim.

(42) *Temporary Sign.* A sign constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight material not well suited to provide a durable substrate or, if made of some other material, is neither permanently installed in the ground nor permanently affixed to a building or structure which is permanently installed in the ground. Temporary signs are designed to be easily moved and are not illuminated. Examples include, but are not limited to, A-frame signs, banners, posters, temporary window signs, site signs, and yard signs (see Figure 6-44 (C): Temporary Sign Type Diagram).

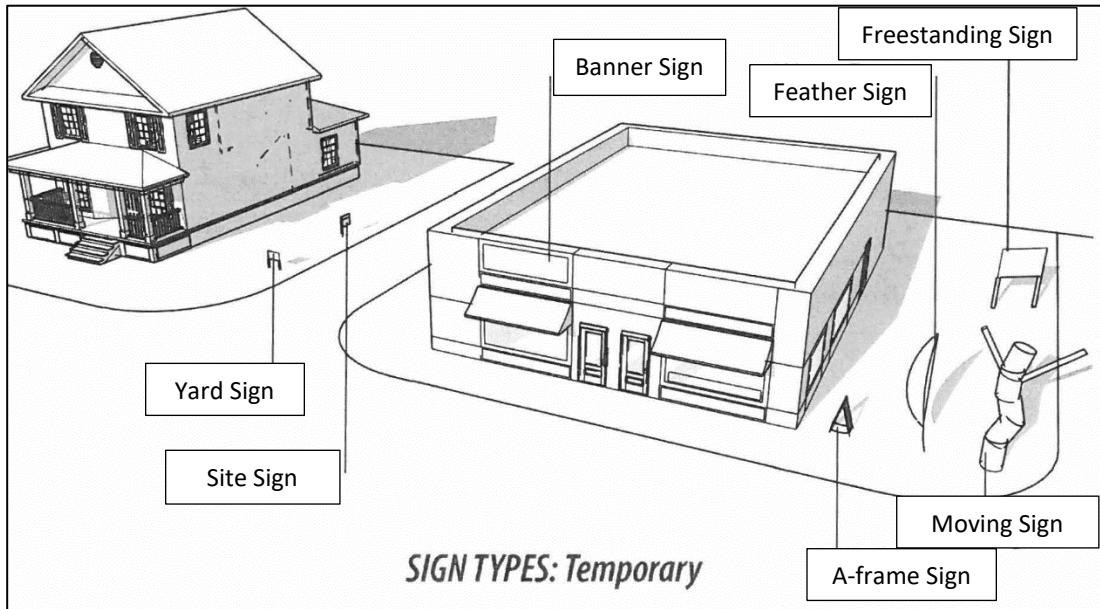


Figure 6-44 (C): Temporary Sign Type Diagram

(43) *Wall Sign.* A sign painted or etched directly on the outside wall or window of a building, or attached to and erected parallel to the face of a building and supported throughout its length by such wall or window of the building, and which extends no more than 15 inches from the building, and the message portion of which is parallel or nearly parallel to the surface to which the sign is attached. For purposes of this article, temporary window and glass door signs defined herein are not wall signs.

(44) *Window and Glass Door Sign.* A sign that is applied or attached directly to the interior or exterior of a window or door, or that is suspended from or located within one foot of a window or door, so that it is visible from any street, sidewalk, or public or private outdoor common space. This term shall not include merchandise located in a window.

(45) *Window and Glass Door Sign, Permanent.* Any window sign designed to withstand fading, chipping or peeling over time that is not constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight material.

(46) *Window and Glass Door Sign, Temporary.* Any window sign that is composed of ink, paint or other applied product which is not designed to withstand fading, chipping or peeling over time or that is constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight material not well suited to provide a durable substrate.

(47) *Yard Sign.* A freestanding temporary sign placed upon or supported by the ground independently of any other structure, but not including any A-frame sign.

Sec. 6-45. - Standards and general provisions.

(a) Any sign displayed in the Town of Vinton, shall comply with the following:

- (1) All provisions of this article;
- (2) All applicable provisions of the Uniform Statewide Building Code (USBC) and all amendments thereto; and
- (3) All state and federal regulations pertaining to the display of signage.

(b) If any two or more sections of the above referenced regulations are in conflict, the provision that provides the most restrictive standard shall apply.

Sec. 6-45.1. - Signs in all districts

(a) All signs shall conform to applicable provisions of the Uniform Statewide Building Code (USBC) and all amendments thereto.

(b) Moving or windblown signs, including pennants, streamers, and balloons, and inflatable signs shall be permitted as special event signs in the R-B, CB, GB, M-1, or M-2 districts, provided such signs meet the following requirements:

- (1) A special event sign permit shall be required to allow for the display of any signs included in this subsection. Every application for a special event sign permit shall be submitted to the Zoning Administrator by the owner or tenant of the property involved or by an agent of the owner or tenant of the property.
- (2) Permits for such signs shall be limited to twelve (12) days per calendar year per lot.
- (3) Such signs shall not be located within 15 feet of any street line or other property line.
- (4) Signs permitted in this subsection shall not be illuminated or utilize lighting in any form.

(c) No sign shall be permitted to be nailed or otherwise affixed to any existing sign structure or light pole unless it is to become an integral part of such existing sign structure.

(d) No sign shall be located, arranged or designed so that it interferes with traffic by any of the following means: glare; blocking of reasonable sight lines for streets, sidewalks or driveways; confusion with a traffic control device because of its color, location, shape, or other characteristic; or any other means. If sign is to be placed on a corner lot, it shall be located outside of the visibility triangle, as described in Article VI, Sec. 6-11, visibility at intersections, of this appendix.

(e) Except as specifically permitted in the CB district, no portion of any sign or its supporting structure shall extend beyond the property lines of the lot on which it is located or extend into or project over the right-of-way of a public street or alley.

(f) No wall sign or other sign shall be attached to or obstruct any window, door, stairway or other opening intended for ingress or egress or for needed ventilation and light.

(g) No person except a public officer or employee in performance of a public duty shall paste, paint, print, nail, tack, erect, place or fasten any sign, pennant, banner or notice of any kind within, facing or visible to any public street or public open space, except as provided for in this appendix.

(h) A sign permit shall be required for each permanent sign or for any changes or additions to existing permanent signs.

(i) *Window or glass door signs.* The total window and glass door, both permanent and temporary, sign display area at a given establishment shall not cover more than 25 percent of the total window and glass door area on the lot. Window signs are not permitted in any window of a space used for residential use. Window signs are prohibited on a floor above the first floor of a building unless the

business advertised is only on the floor where the window sign is displayed. For the purpose of calculating the total maximum permitted sign area for permanent or temporary signs as provided in this division, temporary or permanent window signs shall not be included.

Sec. 6-45.2. - Exempted signs, displays and devices.

Notwithstanding the general rules set forth in Sec. 6-45.1, the following signs and sign-related activities shall be exempt from the sign permit requirement to the extent indicated. Except where indicated in this subsection, such signs shall also not be counted towards the maximum sign allotment allowed for the applicable use or premises.

- (a) On-premises directional signs not exceeding four (4) square feet in sign area, and four (4) feet in height for freestanding directional signs. Directional signs shall be located at least three (3) feet from a street line or other property line, with no more than one (1) sign per one-way curb cut and two (2) directional signs per two-way curb cut;
- (b) Permanent signs not exceeding two square feet in area and required to be placed by governmental authority, or identifying owner or occupant of the property;
- (c) Temporary signs erected or required by governing bodies;
- (d) Integral decorative or architectural features of a building, except for moving parts or moving lights;
- (e) Signs erected by governmental agencies that do not exceed 32 square feet in area.
- (f) Historic signs as permitted by Sec. 6-50;
- (g) Signs, not exceeding four square feet, that provide directions to a public use that are erected and maintained by a public agency or not-for-profit organization;
- (h) Signs placed by a public utility at or near the location of underground facilities;
- (i) Signs on the inside of establishments, except those specified in subsections 6-45.3 (d), (f), and (g) or if such signs meet the definition of window or glass door signs by this division;
- (j) Street address signs, not exceeding four square feet in area;
- (k) Clocks;
- (l) Signs displayed on a truck, bus, or other vehicle while in use in the normal conduct of business. This section shall not be interpreted to permit the parking for display purposes a vehicle to which a sign is attached or the use of such a vehicle as a portable sign;
- (m) All signs placed within public right-of-way, including the Virginia Department of Transportation's Integrated Directional Signage Program, shall fall under the authority of the town manager or his authorized agent;
- (n) Routine sign maintenance or changing of lettering or parts of signs designed to be regularly changed, including sign face changes;
- (o) Uniform road signage, including any sign erected in compliance with the provisions and standards of the Manual of Uniform Traffic Control Devices (MUTCD);
- (p) Wall graphics;
- (q) Window covers placed on the inside of a window(s) of a vacant storefront, or unit under construction as evidenced by an active building permit, to shield the interior of the building from view. Window covers shall not be subject to the maximum window and glass door coverage requirements of Sec. 6-45.1 of this article;
- (r) Signs displaying only the word "open" or "closed," or the hours of operation, illuminated or otherwise, provided such signs do not exceed one (1) per individual tenant per lot and do not exceed four (4) square feet in sign area;

- (s) Bulletin boards on a lot containing a permitted public or civic use. Not more than two (2) bulletin boards with an aggregate area not exceeding 32 square feet shall be mounted on a wall. Bulletin boards shall be excluded only for public uses or permitted civic uses if placed by a governmental agency or a civic organization;
- (t) Flags, subject to the regulations in Article V, Sec. 5-12.

Sec. 6-45.3. - Prohibited Signs.

Except where specifically permitted by the regulations of the applicable zoning district or overlay district, all of the following signs are prohibited in all zoning districts.

- (a) Any sign that due to its size, location, color, or illumination obscures a sign displayed by a public agency for the purpose of giving traffic or safety instructions or directions.
- (b) Any sign, except an official public notice, which is nailed, tacked, posted, or in any other manner attached to any utility pole, or structure supporting wire, cable, or pipe; or to public property of any description.
- (c) Any sign located within a public right-of-way, except for signs displayed by a duly constituted governmental authority, or those signs for which written authorization has been obtained from the town manager or his authorized agent.
- (d) Flashing or revolving lights, beacon or searchlight signs, or any similar device otherwise displayed that imitates by its design or use, emergency service vehicles or equipment.
- (e) A sign which is false or misleading such that it creates a threat to vehicular, bicycle, or pedestrian safety, and which contains the words "STOP," "GO," "SLOW," "CAUTION," "DANGER," "WARNING," or similar words.
- (f) Any sign displaying flashing or intermittent lights, or lights of changing degrees of intensity of color, or that is not in accordance with Sec. 6-45.1.
- (g) Moving or windblown signs, not including the hands of a clock, feather signs as defined by this article, flags displayed in compliance with the provisions of Article V, Sec. 5-12, the changing of messages on electronic message boards so that each display of copy remains static with no animation for at least six (6) seconds before changing to new copy, and rotating barber poles not exceeding six feet in height and one foot in width shall not be considered a moving or windblown sign. Moving or windblown signs may be permitted as a special event sign under the provisions of Sec. 6-45.1(b).
- (h) Signs advertising activities or products that are illegal under federal, state, or town law.
- (i) A portable sign, but not including an A-frame sign or freestanding temporary sign (e.g. yard sign) displayed in compliance with the provisions of this article.
- (j) An awning sign or canopy sign that projects vertically above or below or horizontally beyond the physical dimensions of the awning or canopy upon which it is affixed.
- (k) Roof signs, except for signs permitted in Sec. 6-51 below.
- (l) A sign located on a zoning lot where no principal use exists, except for a temporary sign located on a lot being offered for sale or lease at the time of application for the sign permit.
- (m) Inflatable signs, except when permitted as a special event sign under the provisions of Sec. 6-45.1(b).
- (n) Signs placed on mannequins, costumed characters, or similar objects, except in the interior of a building or a window display.
- (o) A sign which is structurally unsafe and hazardous.

Sec. 6-46. - Temporary Signs.

The following temporary signs are allowed but cannot be illuminated, and, unless otherwise stated, do not require a sign permit:

- (a) Temporary signs are permitted provided they meet the standards of this section. The area of any temporary sign maintained per this section shall not count for the allowable permanent sign area for any lot or structure.
 - (1) Unless otherwise noted, all temporary signs shall be located no closer than 5 feet from any street line or other property line.
- (b) Signs posted by or under the direction of any public or court officer in the performance of official duties, or by trustees under deeds of trust, deeds of assignment or other similar instruments. These signs must be removed no later than 10 days after the last day of the period for which they are displayed.
- (c) Signs that are displayed on a lot or property that is actively marketed for sale, rent or lease, as follows:
 - (1) A single building-mounted or freestanding sign is allowed, except that two (2) signs are permitted on a corner lot when each sign faces a different street frontage. Such sign(s) must be removed within 7 days of the settlement, rental or lease of the property.
 - (2) Sign(s) located on a property developed with, or planned for development of, a single-family detached or attached dwelling unit, cannot exceed 6 square feet in area and a height of 6 feet.
 - (3) Sign(s) located on a property developed with, or planned for development of, a multiple family dwelling unit cannot exceed 12 square feet in area and a height of 8 feet.
 - (4) Sign(s) located on a property developed with, or planned for development of, any nonresidential use, cannot exceed 32 square feet in area and a height of 8 feet.
- (d) Signs during active construction or alterations to residential, commercial, and industrial buildings are permitted, as follows:
 - (1) For a new residential, commercial or industrial development, one sign per development, not to exceed 60 square feet in area and a height of 10 feet. For lots containing multiple road frontages, one additional sign per street frontage is allowed, limited to 32 square feet in area and a height of 8 feet. All signs must be removed within 14 days following completion of the construction of the development, as determined by the Zoning Administrator, and no sign may be displayed for more than 2 years from the date of the issuance of the first building permit for the development. If construction has not been completed within this timeframe and building permits are active for the development, a sign permit is required to allow the continued display of any sign.
 - (2) For an individual single-family dwelling unit undergoing construction, improvement or renovation, one sign, not to exceed 4 square feet in area or a height of 4 feet is allowed. No sign can be displayed before commencement of the improvement or renovation work, and the sign must be removed within 7 days after the improvement or renovation is completed with all necessary inspections approved, or within 6 months, whichever is less.
- (e) Signs on any lot developed with a residential use cannot exceed 12 square feet in total area and a height of 4 feet.
 - (1) Signs do not promote commercial products or services.
 - (2) Signs that do not comply with the requirements of this section shall be subject to the permit requirements, sign area, setback and other provisions of this division. All signs shall comply with the general sign regulations per Sec. 6-45.
- (f) For nonresidential uses, temporary signs are permitted as follows:
 - (1) For nonresidential uses located on a lot with frontage on a public right-of-way, building-mounted and freestanding temporary signs are allowed, not to exceed twenty-four (24) square feet in total sign area per lot. If freestanding, no more than two (2) such signs are

allowed per lot with a maximum height of 4 feet, except for feather signs, as defined by this article which may exceed this height limit. Feather signs shall only be displayed during business hours.

- (g) For nonresidential uses where permitted, window and glass door signs are permitted as follows:
 - (1) The total sign display area at a given establishment, including both permanent and temporary window signs, does not cover more than 25 percent of the total window and glass door area on the lot.
 - (2) Temporary window and glass door signs are not included in the total permanent or temporary sign area calculation.
- (h) For nonresidential uses, a single A-frame sign not to exceed 16 square feet in area and a height of 4 feet is allowed. The sign must also conform to the following regulations:
 - (1) Signs shall be located within 25 feet of a building or designated site entrance that provides access to the use, and cannot impede pedestrian or vehicular traffic.
 - (2) Such signs shall not project over any portion of a street nor shall they obstruct the sidewalk to less than four feet in width.
 - (3) All such signs shall be of durable construction, and when displayed shall be anchored in a manner approved by the Zoning Administrator.
 - (4) Such signs shall only be displayed during business hours.
 - (5) One (1) sandwich board sign is permitted for each business and for shopping centers are not to exceed a total of 12 sandwich board signs.
- (i) Each temporary sign shall be maintained in good, safe condition, and securely affixed to a building or the ground.

Sec. 6-47. - Sign permits required for signs.

- (a) No sign, unless specifically exempted by the provisions of this division, shall be erected or installed unless a sign permit for such sign has been issued by the Zoning Administrator after determination that such sign conforms to all applicable provisions of this appendix.
- (b) No sign containing electrical components shall be erected or installed unless an electrical permit for such sign has been issued by the Roanoke County Office of Building Safety after determination that such sign conforms to all applicable provisions of this appendix.
- (c) Other permits may be required, as applicable.
- (d) Applications for sign permits, as well as other applicable permits, shall be submitted and considered in accordance with the provisions of Article VIII of this appendix. Failure to obtain the required permits shall constitute a violation of this appendix.
- (e) No sign permit shall be required for signs placed within public right-of-way. However, written authorization must be obtained from the town manager prior to any sign being placed within a right-of-way.

Sec. 6-48. - Sign Measurement Rules.

- (a) When building frontage is used to calculate allowable sign area, the following applies:
 - (1) Building frontage is the linear width of the wall taken at a height no greater than 10 feet above grade.
 - (2) On buildings with a single tenant or with multiple tenants that access the building via a common outside entrance(s), building frontage is the face or wall that is architecturally designed as the front of the building and that contains the main public entrance, as determined by the Zoning Administrator.

- (3) On buildings with more than a single tenant where each tenant has its own outside entrance(s), building frontage for each tenant is the wall that contains that tenant's main public entrance, as determined by the Zoning Administrator.
- (b) When calculating any building and/or wall-mounted sign area, the following applies:
 - (1) Building and/or wall-mounted sign area is that area within a single continuous rectilinear perimeter of not more than eight (8) straight lines intersecting at right angles, which encloses the outer limits of all words, representations, symbols, and/or pictorial elements, together with all material, color and/or lighting forming an integral part of the display or used to differentiate the sign form the background against which it placed (see Figure 6-48 below).
 - (2) The area of building-mounted signs composed of individual letters and/or symbols is calculated by one of the following methods:
 - (A) If the space between the proposed individual letters or symbols is less in dimension than the width of the largest letter or symbol, sign area is calculated in accordance with subsection 6-48(b)(1) above.
 - (B) If the space between the proposed individual letters or symbols is greater than the width of the largest letter or symbol, sign area is calculated as the total combined area of rectangular enclosures surrounding each individual letter or symbol.



Figure 6-48: Eight-Line Measurement Methodology Example

- (c) The following provisions apply to calculating the sign area of any freestanding signs:
 - (1) The supports, uprights or structure on which any freestanding sign is supported are not included in calculating sign area unless they contain or form an integral part of the sign display, as determined by the Zoning Administrator.
 - (2) The area of a freestanding sign designed with more than one sign face is calculated as follows:
 - (A) If the sign faces are separated by an interior angle of thirty (30) degrees or more, all sign faces are calculated in the sign area.
 - (B) If the sign faces are separated by an interior angle that is less than thirty (30) degrees, sign area is calculated based on the area of the largest single face.
 - (C) Signs shall be located facing the street, lot line, or building frontage from which the allotment is computed.

(3) The height of a freestanding sign is calculated as the distance from the highest point of a sign to the finished elevation of the road providing principal access to the site on which the sign is located as measured from the bottom of the curb or edge of pavement (see Figure 6-44 (A): Sign Height).

Sec. 6-49. - Illuminated Signs.

(a) Permanent signs may be illuminated either through the use of internal illumination, backlighting, neon lighting, or direct lighting from an external light source provided the following standards are met:

- (1) Information on any illumination proposed as part of a sign must be provided by the applicant on the sign permit application.
- (2) No light from any illuminated sign shall cause direct glare into or upon any building other than the building to which the sign is related.
- (3) No light from any illuminated sign shall cause direct glare onto any adjoining piece of property or any adjoining right-of-way.
- (4) Arrows or other directional indicators on a sign may not be illuminated.
- (5) No receptacle or device housing a permitted light source which is attached to the sign itself shall protrude more than 15 inches from the face of the sign or building to which it is attached (no more than 60 inches for outdoor advertising signs). If ground lighting is used to illuminate a sign, the receptacle or device should not protrude more than 12 inches.
- (6) In no event shall the illumination of any sign resulting from any internal or external artificial light source exceed 100 lumens.

(b) Any sign containing electrical components shall conform to current UL, ETL, CSA, or ULC standards and display a label from one of these recognized testing labs; or as an alternative, shall be designed and constructed to standards that would allow one of the above-referenced labels to be affixed and thereafter inspected to insure compliance with these standards.

Sec. 6-50. - Historic Signs.

(a) Intent. Identify the architectural, cultural, and historic significance to the town and encourage their preservation, enhancement, and maintenance.

(b) Designation. A sign may be designated historically significant if it was installed prior to January 1, 1960, and meets at least three or more of the following criteria:

- (1) The sign exemplifies, symbolizes, or manifests elements of the cultural, social, economic, political or historic heritage of the town;
- (2) The sign identifies with a person or persons or groups who significantly contributed to the history and development of the town, regional, state or national culture and history;
- (3) The sign exemplifies one of the best remaining architectural type in a community; or contains outstanding or exemplary elements of attention to architectural design, detail, materials, or artisanship of a particular historic period.
- (4) The sign is in a unique location or singular physical characteristic(s) represents an established and familiar visual feature of the neighborhood, community or the town;
- (5) The sign has been in existence for more than 40 years and it possesses integrity of location, design, setting, materials, workmanship, feeling and association;
- (6) The sign has been continually displayed for more than 40 years, with the exception of routine maintenance, repair or restoration;

(c) Designation of historic sign(s) shall be subject to approval by the Zoning Administrator.

(d) A sign permit will be required for a historic sign and any historic sign displayed shall comply with all applicable provisions of the IBC and all amendments thereto.

- (e) A historic sign shall be restored to its original condition.
- (f) A historic sign shall only be allowed in the following zoning districts: CB, GB, RB, M-1, and M-2 and shall be exempted from being included in the maximum permitted sign area and the maximum number of signs allowed in the designated districts.

Sec. 6-51. - Rooftop Screening Wall Signs.

- (a) Intent. Allow for signs to be mounted onto rooftop screening walls of establishments in the CB Central Business District in a way that does not distract, confuse, mislead, obstruct vision or create traffic hazards or other hazards to the community.
- (b) Applicability. This sign type shall only be allowed in the CB Central Business District. The supplemental regulations of this section shall apply to any rooftop screening wall sign permitted by this appendix.
- (c) General standards.
 - (1) Only one (1) rooftop screening wall sign shall be allowed per lot;
 - (2) Such sign shall be counted towards the maximum sign allotment allowed for the applicable use or premises;
 - (3) The sign must be mounted flat against the wall, and no part of the sign can extend above or beyond the perimeter of the wall;
 - (4) The sign cannot be installed more than eight (8) feet above the building roof supporting the screening wall measured from the top of the sign;
 - (5) Such sign shall not be illuminated through any means.
- (d) Zoning district where permitted.
 - (1) This sign type shall be permitted by right in the CB Central Business District.

Sec. 6-52. - Other Permitted Signs.

The following signs shall be permitted in all districts, and the area of such signs shall not be included in calculating the maximum permitted area of signs on any lot.

- (a) *Fuel pump signs.* Gasoline service stations, self-service gasoline stations and auto service centers are permitted two (2) additional square foot of sign area for fuel pump signs to be displayed on top of each fuel dispenser.
- (b) *Signs relating to public or civic uses.* The following signs shall be permitted for any public-owned property to identify schools, parks, playgrounds, community centers and other public or permitted civic uses, subject to approval by the Zoning Administrator.
 - (1) In any case, where the provisions of this section are less restrictive or permit a sign of greater area, height or dimension than permitted in any other zoning district where public or permitted civic uses are permitted, the provisions of this section shall govern.
 - (2) Signs not exceeding in the aggregate 32 square feet in area along each street frontage. Such signs shall be attached flat against a main building or may include one freestanding sign along each street frontage;
 - (3) Not more than two bulletin or notice boards with an aggregate area not exceeding 32 square feet. Such bulletin or notice boards shall be mounted on a wall or on a freestanding structure.

Sec. 6-53. - Signs regulations in residential districts.

In addition to the regulations generally applicable to signs in all districts, the signs shall be permitted, unless otherwise noted as prohibited, and the following regulations shall apply in the R-LD, R-1, R-2 and R-3 residential districts.

- (a) *Illuminated signs and electronic message board signs.* Illuminated signs and electronic message board signs shall not be permitted in the R-LD, R-1, R-2, and R-3 residential districts.
- (b) *Signs identifying residential neighborhoods.* One (1) freestanding sign identifying the name of the residential neighborhood is permitted at each principle entrance to a residential development within a residential zoning district.
 - (1) A maximum of two (2) freestanding identification signs per neighborhood.
 - (2) The maximum area per sign face shall be 32 square feet.

Land Use	Building-Mounted/ Wall Signs	Freestanding Signs
Single-Family, Two-Family, Semi-Detached Dwelling and individual Townhouse units	Not permitted	Not permitted
Multi-Family and Townhouse Developments	Maximum aggregate area: 32 sq. ft.	Maximum area of sign: 32 sq. ft.
	Maximum height: Height of the wall to which it is attached	Maximum number per lot: 1 Maximum height: 8 ft. Setback: 10 ft. from any street line or other property line
Nonresidential uses, including public and civic uses as defined in Article XI.	Maximum aggregate area: 32 sq. ft.	Maximum area of sign: 32 sq. ft. Maximum number per lot: 1
	Maximum height: Height of the wall to which it is attached	Maximum height: 8 ft. Setback: 10 ft. from any street line or other property line

- (c) In addition to the signs in the table, the following signs may be erected:
 - (1) *Temporary signs.* Temporary signs are permitted as set forth in [Sec. 6-46](#) of this Division.

Sec. 6-54. - Signs regulations in the R-B district.

In addition to the regulations generally applicable to signs in all districts, the following signs shall be permitted and the following regulations shall apply for a lot containing a nonresidential use in the R-B residential-business district. For a lot containing a residential use in the R-B residential-business district, the regulations set forth in [Sec. 6-53](#) shall apply.

- (a) *Signs permitted in residential districts.* Any sign permitted in residential districts as set forth in Section 6-53 of this article shall be permitted. In any case, where the provisions of this section are less restrictive or permit a sign of greater area, height or dimension than permitted in a residential district, the provisions of this section shall govern.
- (b) *Maximum number of signs.* Not more than four permanent signs shall be provided on a lot.
- (c) *Maximum permitted sign area.* The aggregate area of all permanent signs located on a lot shall not exceed 76 square feet.

(d) *Installation requirements.* Any projecting, wall, or window and glass door sign (whether permanent or temporary), shall not be installed on any surface above the first floor of a building in this zoning district.

Sign Type	Number of Signs Allowed (Maximum)	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Freestanding	1 per lot	32 square feet	10 feet	10 feet from any street line or other property line.
Projecting ¹	1 per lot	12 square feet	Height of the wall to which it is attached	Not closer than two feet from any curb line
Wall	Not applicable	32 square feet (total area of all wall signs)	Height of the wall to which it is attached	Same as that applicable to the structure

(e) The following apply to the corresponding sign types and standards for which superscript numbers are in the table above:

(1) *Projecting signs.* Signs, including poles or other support structures, shall not project greater than three feet from the face of the building, shall not be closer than two feet from any curb line, and shall provide a minimum under-clearance of seven feet. Signs that extend less than six inches from the surface of the building shall be considered wall signs.

(f) In addition to the signs in the table, the following signs may be erected:

(1) *Temporary signs.* Temporary signs are permitted as set forth in [Sec. 6-46](#) of this Division.
 (2) *Window and glass door signs.* The total sign display area at a given establishment does not cover more than 25 percent of the total window and glass door area on the lot.

Sec. 6-55. - Signs regulations in the GB and M-1 district.

In addition to the regulations generally applicable to signs in all districts, the following signs shall be permitted and the following regulations shall apply in GB general business and M-1 limited industrial districts.

(a) Maximum permitted sign area. For lots with a combined width of 33 feet or less along their principal street frontage, the combined surface area of all signs for the lot shall not exceed 50 square feet. For all other lots the aggregate area of all permanent signs located on a lot shall not exceed one and one-half square feet for each linear foot of lot frontage along the street, nor in any case 500 square feet, provided that:

(1) In the case of a lot having frontage on more than one street, permitted sign area shall apply along each street frontage;
 (2) In the case of a shopping center, the maximum area of signs attached to any portion of a building devoted to a particular tenant shall not exceed one and one-half square feet for each linear foot of building frontage devoted to such tenant, nor in any case 500 square feet. In addition thereto, each shopping center shall be permitted freestanding signs subject to the restrictions set forth in paragraph subsection (c) (2) of this section.

(b) Maximum number of signs. Not more than five permanent signs shall be provided on a lot except a shopping center as defined in article XI of this appendix.

(1) In the case of a lot having frontage on more than one street, and the main building having multiple tenants, not more than six permanent signs shall be allowed on the lot. In no such case shall more than four permanent signs be displayed on a single lot frontage.

Sign Type	Number of Signs Allowed (Maximum)	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Awning and Canopy ¹	1 on each awning or canopy	50 square feet each sign	Extremities of the awning or canopy	Not closer than two feet from any curb line
Freestanding ²	1 per street frontage of 100 feet or more in length	100 square feet each sign	25 feet	5 feet from any street line or other property line.
Projecting ³	1 permitted on the face of the main building frontage	32 square feet	The height of the wall it is attached	Not closer than two feet from any curb line
Wall	Not applicable	Not applicable	The height of the wall it is attached	Same as that applicable to the structure

(c) The following apply to the corresponding sign types and standards for which superscript numbers are in the table above:

(1) *Awning and canopy signs.*

- a. One awning or canopy containing a sign shall be permitted to be attached to each building frontage, provided that no projecting sign shall be attached to the same building frontage
- b. Awnings and canopies with less than 15 feet clearance above the sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. In no case will an awning or canopy be allowed to have an under-clearance of less than seven feet.
- c. Stanchions or columns that support awnings and canopies shall be located not less than two feet in from the curb line.
- d. Any awning or canopy which is not securely fastened or becomes torn or damaged, as determined by the Zoning Administrator, shall constitute a violation of this article and shall be removed or repaired upon written order by the Zoning Administrator.

(2) *Freestanding signs.*

- a. No freestanding sign shall be located within 50 feet of any lot in a residential district, or within five feet of any street right-of-way line, other property line or driveway intersecting a street.

- b. Where more than one freestanding sign is permitted on a lot as a result of the lot having multiple street frontages, the distance between freestanding signs on the same lot shall be not less than 100 feet.
- c. In the case of a shopping center, one freestanding sign not exceeding 200 square feet in area or 35 feet in height shall be permitted when no other freestanding signs are located on the shopping center site or any adjacent out-parcel or pad site.

(3) *Projecting signs.*

- a. Signs, including poles or other support structures, shall not project greater than four feet from the face of the building and shall not be closer than two feet from any curb line.
- b. Projecting signs with less than 15 feet clearance above the sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. In no case will a projecting sign be allowed to have an under-clearance of less than seven feet.
- c. Projecting signs that extend less than six inches from the surface of the building shall be considered wall signs.

(d) In addition to the signs in the table, the following signs may be erected:

- (1) *Temporary signs.* Temporary signs are permitted as set forth in [Sec. 6-46](#) of this Division.
- (2) *Window and glass door signs.* The total sign display area at a given establishment does not cover more than 25 percent of the total window and glass door area on the lot.

Sec. 6-56. - Signs regulations in the CB district.

In addition to the regulations generally applicable to signs in all districts, the following signs shall be permitted and the following regulations shall apply in the CB central business district.

(a) Maximum permitted sign area. For lots with a combined width of 33 feet or less along their principal street frontage, the combined surface area of all signs for the lot shall not exceed 50 square feet. For all other lots the aggregate area of all permanent signs located on a lot shall not exceed one and one-half square feet for each linear foot of building frontage along the street, nor in any case 50 square feet, provided that:

- (1) In the case of a building having frontage on more than one street, permitted sign area shall apply along each street frontage;
- (2) Where more than one main building is located on a lot, the aggregate area of all signs attached to each building shall not exceed one and half square feet for each linear foot of building frontage along the street, nor in any case 50 square feet.

Sign Type	Number of Signs Allowed (Maximum)	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Awning and Canopy ¹	1 on each awning or canopy	12 square feet	Extremities of the awning or canopy	Not closer than two feet from any curb line (*)
Freestanding ²	1 per street frontage	20 square feet	12 feet	Not applicable
Projecting ³	1 per main building frontage	12 square feet	The height of the wall it is attached	Not closer than two feet from any curb line
Wall	Not applicable	Not Applicable	The height of the wall it is attached	Same as that applicable to the structure

* exception to the sign setback minimum mentioned below in subsection(b)(1)(d)

(b) The following apply to the corresponding sign types and standards for which superscript numbers are in the table above:

(1) *Awning and canopy signs.*

- a. One awning or canopy containing a sign shall be permitted to be attached to each building frontage, provided that no projecting sign shall be attached to the same building frontage
- b. Awnings and canopies with less than 15 feet clearance above the sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. In no case will an awning or canopy be allowed to have an under-clearance of less than seven feet.
- c. Stanchions or columns that support awnings and canopies shall be located not less than two feet in from the curb line.
- d. * Awnings or canopies containing signs conforming with the provisions of this section shall be permitted to extend over the sidewalk portion of a right-of-way of a public street when authorized by the town council.
- e. Any awning or canopy which is not securely fastened or becomes torn or damaged as determined by the Zoning Administrator, shall constitute a violation of this article and shall be removed or repaired upon written order by the Zoning Administrator.

(2) *Freestanding signs.*

- a. Where more than one freestanding sign is permitted on a lot as a result of the lot having multiple street frontages, the distance between freestanding signs on the same lot shall be not less than 100 feet

(3) *Projecting signs.*

- a. Signs, including poles or other support structures, shall not project greater than four feet from the face of the building and shall not be closer than two feet from any curb line.
- b. Projecting signs with less than 15 feet clearance above the sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. In no case will a projecting sign be allowed to have an under-clearance of less than seven feet.
- c. Projecting signs that extend less than six inches from the surface of the building shall be considered wall signs.

(d) In addition to the signs in the table, the following signs may be erected:

- (1) *Temporary signs.* Temporary signs are permitted as set forth in [Sec. 6-46](#) of this Division.
- (2) *Window and glass door signs.* The total sign display area at a given establishment does not cover more than 25 percent of the total window and glass door area on the lot.

Sec. 6-57. - Signs regulations in the M-2 district.

In addition to the regulations generally applicable to signs in all districts, the following signs shall be permitted and the following regulations shall apply in the M-2 general industrial district.

(a) Signs permitted in GB and M-1 districts. Any sign permitted in GB and M-1 districts as set forth in section 6-55 of this appendix shall be permitted.

(b) *Billboard signs.* Billboard signs shall be permitted provided that:

- (1) No billboard sign shall exceed 378 square feet in area;
- (2) There shall be no more than one billboard sign attached to or painted on a sign structure, except that two billboard signs may be attached back-to-back on a single structure, in which case such arrangement shall be considered double-faced sign for purposes of calculating permitted area;
- (3) No billboard sign or sign structure shall exceed a height of 35 feet, nor shall any billboard sign be installed on the roof of any structure;
- (4) No billboard sign shall be located within 500 feet of another billboard sign;
- (5) No billboard sign shall be located within 15 feet of any street line or other property line, or within 200 feet of any residential or R-B district.

Sec. 6-58. - Signs regulations in the planned development district.

In addition to the regulations generally applicable to signs in all districts, the following signs shall be permitted in the planned development district:

(a) Signs permitted in residential districts. Any sign permitted in residential districts as set forth in Section 6-53 of this appendix shall be permitted.

(b) Signs permitted in the CB district. Any sign permitted in the CB district as set forth in Section 6-56 of this appendix shall be permitted for commercial uses.

Sec. 6-59. - Signs regulations in the public/open space district.

In addition to the regulations generally applicable to signs in all districts, the following signs shall be permitted and the following regulations shall apply in the public/open space district.

Sign Type	Number of Signs Allowed (Maximum)	Sign Area (Maximum)	Sign Height (Maximum)	Sign Setback (Minimum)
Identification Sign	2 per lot	32 square feet	8 feet	10 feet from any residential property; 15 feet from any street line

(a) The following apply to the corresponding sign types and standards for which superscript numbers are in the table above:

(1) *Temporary signs.* Temporary signs are permitted as set forth in [Sec. 6-46](#) of this Division.

Sec. 6-60. - Sign Maintenance, Repair, and Removal.

(a) It shall be unlawful for any person to maintain or permit to be maintained on any premises owned or controlled by said person any sign which is in a damaged or deteriorated condition and constitutes a danger or hazard to public safety.

(b) Sign components and materials shall be kept in good repair which shall include the sign being free of holes, chipping, cracking, peeling, fading, rusting or nonfunctional components that are detectable from beyond the property line. Any sign in violation of this section shall be removed or repaired by the owner of the sign or the owner of the premises. A permit may be required for maintenance work.

(c) Temporary signs showing evidence of deterioration, such as rips, tears, color fading, frayed edges or otherwise showing need of general maintenance that can be seen from the property line shall be removed, repaired or replaced promptly (provided the replacement complies with all other portions of this Appendix).

(d) The Zoning Administrator shall have the authority to order the removal, without compensation, of any sign or sign structure that due to neglect or damage poses a clear danger to the health, safety, and welfare of the public.

(e) The town may collect the cost of such removal, obliteration or abatement from the person erecting, using, operating, posting or displaying such signs.

Sec. 6-61. - Signs identifying nonconforming uses.

One sign identifying a nonconforming use located in a residential district shall be permitted; provided that such sign shall be attached flat against the building occupied by the use and shall not exceed eight square feet in area. Signs identifying nonconforming uses located in districts other than residential districts shall conform to the sign regulations applicable in the district in which the use is located.

Sec. 6-62. - Nonconforming signs.

A nonconforming sign shall be permitted to remain subject to the restrictions and limitations set forth in this section.

(a) *Maintenance and alteration.* A nonconforming sign may be maintained and repaired, provided that such sign shall not be moved, replaced, structurally altered, or modified as to size, shape or height except in conformity with the provisions of this article. Lighting or illumination shall not be added to a nonconforming sign. The face of a nonconforming sign or the copy thereon may be changed when all other provisions of this paragraph are met.

(b) *Restoration or removal of damaged signs.* Any nonconforming sign damaged to the extent that it represents a public hazard as determined by the building official or Zoning Administrator or any nonconforming sign damaged by any casualty **to** an extent exceeding 50 percent of its replacement cost, shall be removed or made to conform to the provisions of this article. In the case of damage of 50 percent or less of the replacement cost of a nonconforming sign damaged by any casualty, such sign may be restored as before the damage, if such restoration is completed within six months of the damage.

(c) *Removal of abandoned non-conforming signs.* The Zoning Administrator may order the removal of any nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business or use for which the sign was erected has not been in operation for a period of at least two (2) years. Such nonconforming sign(s) and its supporting structure shall be removed by the owner of the property on which the sign is located, or the agent for the property owner, or tenant or lessee of the property having beneficial use of the property upon which the sign(s) is located, within thirty (30) days of written notice by the Zoning Administrator.

- (d) *Signs nonconforming due to lighting or animation.* Any sign that is nonconforming due to lighting or animation shall be eliminated or made to conform to the regulations pertaining to lighting and animation within 90 days from the effective date of this provision.
- (e) *Nonconforming portable or temporary signs.* Any nonconforming portable sign or nonconforming temporary sign shall be eliminated or made to conform to the regulations set forth in this article within 90 days from the effective date of this appendix.

Sec. 6-63. - Obsolete signs.

- (a) Obsolete signs. In the event that a use or activity has ceased operating on the site for a period of two (2) years, all related sign faces shall be painted out or otherwise removed or made to comply with this article by the owner, agent, or person having the beneficial use of the building, structure or lot upon which such sign is located within 30 days of such cessation.
- (b) Upon failure to comply within the time specified, the Zoning Administrator is hereby authorized to order painting over or removal of such sign within 30 days of written notification, and any incidental expenses thereto shall be paid by the owner of the building, structure or lot on which such sign is located.

DIVISION 8. - RESERVED.

DIVISION 9. - TELECOMMUNICATION FACILITIES

Sec. 6-64. - Purpose and short title.

This division may be referred to as the "Town of Vinton Telecommunications Zoning Ordinance." The Virginia Zoning Enabling Act, Va. Code §§ 15.2-2280 et seq., to ensure the orderly development of land within the Town and to protect the public health, safety, general welfare, and as good zoning practice, and to further those public purposes set forth in section 15.2-2283 of the Code of Virginia, 1950, as amended.

(Statutory Reference: Va. Code § 15.2-2280 et seq., 15.2-2316.3 et seq.)

Sec. 6-65. - Applicability.

- (a) The requirements set forth in this division shall govern the location of all telecommunications towers, monopoles, antennas, small wireless facilities, and amateur radio antennas, constructed to a height greater than 16 feet 6 inches in height from ground level, as well as all base stations.
- (b) This division applies to all wireless facilities located or to be located on all property located within the incorporated limits of the Town of Vinton, regardless of the use, ownership, or dedication of such property to public use or the use of a certificated public service company.

(Statutory Reference: Va. Code § 15.2-2281, cross-ref.: § 15.2-2030.)

Sec. 6-66. - Development standards for small wireless facilities attached to existing structures.

- (a) Emissions from small wireless facilities attached to existing structures shall not materially interfere with existing communications facilities or facilities planned for future public safety communications.
- (b) If, during the site plan, plot plan, or scaled elevation approval process, a public safety agency identifies a public safety concern or a critical public safety need, the small wireless facility shall be disapproved.

- (c) For small wireless facilities in the public rights-of-way or other publicly-owned or publicly-controlled property, such facilities must be painted or otherwise be designed to match the color and texture of the structure upon which they are affixed.
- (d) No small wireless facility shall fail to have and provide all required approvals from all departments, authorities, and agencies with jurisdiction over the property, provided that the Zoning Administrator may grant preliminary approval prior to other approvals being granted, but such preliminary approval shall not be a final approval authorizing establishment of any use or structure and must be followed with a final plot plan and scaled elevation for approval based on the final permits, and shall not be construed as an approval that would vest a right.
- (e) No small wireless facility may collocate on a structure that is illegally nonconforming until and unless such nonconforming structure is brought into compliance with the provisions of this Appendix.

Sec. 6-67. - Development standards for new support structures for small wireless facilities.

- (a) Small wireless facility support structures may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of a small wireless facility support structure on such lot.
- (b) When a new small wireless facility support structure is a replacement for an existing structure or is in the line of existing structures of similar height and bulk, e.g., a replacement for an electric pole or a new faux streetlight, the structure shall be designed so as to resemble, as closely as practical, the form and type of the existing structure or the structures in the same line.
- (c) Wiring, cable, and conduit requirements:
 - (1) All wiring and cables must be firmly secured to the utility distribution or transmission pole or other support structure.
 - (2) All mounting brackets and wiring, cables, and conduits that are not located in a fully enclosed structure must be same color as, or otherwise demonstrated to match or blend with, the new structure on which they are mounted.
 - (3) Spools or coils of excess fiber optic or cables or any other wires may not be stored on the new structure except completely within approved enclosures or cabinets.
- (d) Equipment and facilities standards:
 - (1) All equipment and support structures located on the new structure:
 - a. Must be the same color or material as the new structure and covered by rustproof treatment or material.
 - b. Must be flush-mounted to the new structure or supported by mounting brackets.
 - c. The support brackets may not extend beyond the new structure by more than eight inches.
 - d. Must not exceed 32 cubic feet in volume.
 - (2) Ground-mounted equipment (or base stations associated with a small wireless facility) must:
 - a. In public rights-of-way abutting single-family residential districts or areas in which attached or detached single-family dwellings are the predominant use or development pattern, each small cell facility is limited to one cabinet or structure that

does not exceed five feet in height and a total of 70 cubic feet in volume. Ground-mounted equipment cabinets must be located adjacent to the support structure.

b. When the related equipment is not located on property that meets subsection a., each provider is limited to a cabinet or structure which does not exceed 12 feet in height and a total of 500 square feet in gross area. The cabinet or structure must be adjacent to the pole. The cabinets or equipment must be secured by a wall, berm, or evergreen hedge sufficient to screen it from view from the street, or with an eight-foot fence, wall, berm, or landscaping combination.

(e) The minimum horizontal distance between poles is:

- (1) When located in zoning districts that are zoned for single-family dwellings and are or areas in which attached or detached single-family dwellings are the predominant use or development pattern, not less than 300 feet.
- (2) When located in all other areas, not less than 100 feet.

Sec. 6-68. - Application requirements for legislative process projects.

Each applicant for a monopole or tower shall submit six copies of a scaled concept plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, height and antenna location requirements, setbacks, ingress/egress, parking, fencing, landscaping, easements, adjacent uses, and other information deemed necessary to assess compliance with the regulations of this ordinance. Additionally, the applicant shall provide actual photographs of the site from designated relevant views that include a simulated photographic image of the proposed monopole or tower. The photograph with the simulated image shall include the foreground, the midground, and the background of the site. An engineering report, certifying that the proposed monopole or tower is compatible for collocation with a minimum of three compatible users including the primary user, must accompany the application.

Sec. 6-68.1. - Provisions for legislative process projects.

(a) A wireless support structure for a wireless facility that is not a small wireless facility, a small wireless facility support structure, a small wireless facility collocation, or an eligible facilities request, shall be permitted only upon approval of a special use permit by the town council as set forth in Article VIII of the zoning ordinance and in accordance with the following provisions:

- (1) No advertising or signs shall be allowed on an antenna.
- (2) No signals, lights, or illumination shall be permitted on an antenna unless required by the FCC, FAA, or the Town of Vinton.
- (3) A base station shall not contain more than 750 square feet of gross floor area or be more than 12 feet in height.
- (4) A base station or wireless support structure shall meet all zoning and building code requirements including, but not limited to, minimum yard requirements for primary structures.
- (5) A base station shall be landscaped with a buffer of plant materials that effectively screens the view of the base station from adjacent property. The standard buffer shall consist of a landscaping strip of at least four feet wide outside the perimeter of the enclosure. Existing mature tree growth and natural land form on the site shall be preserved to the maximum extent possible. In locations where the visual impact of the unmanned equipment building would be minimal, the landscaping requirement may be reduced or waived by the council as part of the special use permit approval.

(b) Wireless support structures and base stations subject to the legislative process shall be subject to the following provisions:

- (1) The height of wireless support structures shall not exceed 199 feet, including antennas.
- (2) Monopoles or towers either shall maintain a galvanized steel finish or, subject to any applicable standards of the FCC or FAA, be painted a neutral color, unless an alternative camouflage is approved by the town council as part of the special use permit process.
- (3) The design of base stations and other related structures shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and the built environment. Dish antennas and covers will be of a neutral, non-reflective color with no logos or markings not required for identification or safety markings required by applicable codes.
- (4) Base stations shall not contain more than 750 square feet of gross floor area or be more than 12 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which they are located.
- (5) Transitional yard and screening shall be provided on accordance with the provisions of article V of the zoning ordinance. Monopole or tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support buildings from adjacent property. Existing mature tree growth and natural land form on the site shall be preserved to the maximum extent possible.
- (6) Monopoles and towers shall not be artificially lighted, unless required by the FCC or FAA. If lighting is required, the council may review the available lighting alternatives and approve the design that would cause the least disturbance to surrounding views.
- (7) Signs shall only be permitted on a wireless support structure as may be provided in Article V, Division 7 of this appendix.
- (8) All monopoles or towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas and their construction methods. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards as required. To ensure the structural integrity of monopoles and towers, the owner of such shall ensure that it is constructed and maintained in compliance with standards contained in applicable federal, state, and local building codes and regulations.
- (9) Wireless support structures must satisfy the minimum zoning district setback requirements for primary structures. For wireless support structures in the public rights-of-way that are subject to the legislative process, the setback shall be 40 feet from the edge of the existing pavement or sidewalk, whichever is closer, and one-half the height of the support structure, including antennas if they extend beyond the top of the structure, from the nearest existing structure.
- (10) Monopoles or towers shall be enclosed by security fencing not less than six feet in height and shall be equipped with appropriate anticlimbing device.
- (11) No new legislative process facility shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the council that no existing monopole, tower, or other structure can accommodate the proposed antenna.

Sec. 6-69. - Special provisions on disapproval of a legislative process facility.

- (a) The town council shall provide an applicant a written statement of the reasons for disapproval within three business days following the disapproval. The council may delegate the preparation of the statement to the Zoning Administrator and the town attorney.
- (b) Upon request, Town Freedom of Information Act Officer shall provide a copy of the written record of the application in accordance with the provisions of the Virginia Freedom of Information Act, Chapter 37 of Title 2.2 of the Code of Virginia, 1950, as amended.

Sec. 6-70. - Abandoned wireless support structures on private property.

Abandoned wireless support structures and wireless facilities are hereby declared to be public nuisances and shall be abated as provided in the Vinton Town Code Sec. 14-144. If the use of a wireless support structure or wireless facility is discontinued for a continuous period of 24 months or more, such wireless support structure or wireless facility shall be presumed abandoned. In the event the owner wishes to extend the time for removal, he or she shall provide an application, accompanied by an application fee of \$250.00, giving a statement of the reasons for the extension. For good cause shown, the Zoning Administrator may grant the owner up to a 60-day grace period before taking action to abate the nuisance.

(Statutory Reference: Va. Code § 15.2-900, 15.2-230)

ARTICLE VII. - NONCONFORMING USES, FEATURES, STRUCTURES AND LOTS

Sec. 7-1. - Purpose.

The purpose of this article is to regulate nonconforming uses, structures, and lots. The intent of these regulations is to:

- (a) Permit such nonconforming uses, structures, and lots to remain until removed, discontinued, abandoned, or changed to conform with the regulations of this appendix;
- (b) Recognize that nonconforming uses, structures, and lots are generally incompatible with the character of the districts in which they occur and, as such, in certain circumstances, such continuances should not be indefinite and that the nonconforming uses should gradually be removed in favor of uses, structures, and lots that conform to this appendix and the official zoning map; and
- (c) Recognize that nonconforming uses, structures, and lots need not be entirely unchanged, and that under certain circumstances may change according to law and the provisions of this appendix.

Sec. 7-2. - Generally.

- (a) Within the zoning districts established by this ordinance, or by future amendments which may later be adopted, or by legitimate and legal actions taken by the town council or any other governmental agency, there exists or may exist lots, parcels, structures, uses of land and structures, and characteristics of site design and/or use, which were lawful before this ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance, or future amendment. Some of such structures, lots, parcels, uses, and characteristics are considered nonconforming.
- (b) A nonconforming use, structure, lot, or parcel may continue, as it existed when it became nonconforming, until removed, discontinued, abandoned, or changed to conform to the regulations of this ordinance. It is the intent of this ordinance that the continuance of nonconformities should not be indefinite, and that the nonconforming uses, structures, or characteristics should gradually be removed.
- (c) Except as provided within this article, no nonconforming use, structure, or lot shall be changed, moved, increased, enlarged upon, expanded, extended, or resumed after removal, discontinuance, or abandonment, or used as grounds for adding other lots, structures, uses of land and structures, or characteristics of use not in keeping with the regulations for the district in which such nonconformity exists.

Sec. 7-3. - Nonconformities; establishment of vested rights.

- (a) Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a property owner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to this appendix, when the property owner:
 - (1) Obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project;
 - (2) Relies in good faith on the significant affirmative governmental act; and
 - (3) Incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.
- (b) For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project:

- (1) The town council has accepted proffers or proffered conditions which specify use related to a zoning amendment;
- (2) The town council has approved an application for a rezoning for a specific use or density;
- (3) The board of zoning appeals has approved a variance;
- (4) The town council or its designated agent has approved a preliminary subdivision plat, site plan, or plan of development for the property and the applicant pursues approval of the final plat or plan within a reasonable period of time under the circumstances; or
- (5) The town council or its designated agent has approved a final subdivision plat, site plan, or plan of development for the applicant's property.
- (6) The Zoning Administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification, or reversal under Subsection C of § 15.2-2311 of the Code of Virginia (1950), as amended.

(c) Nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of this ordinance, or amendments thereto, and upon which actual building construction was carried out diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing building has begun in preparation for rebuilding, such activities shall be deemed actual construction provided the work has been carried out diligently.

Sec. 7-4. - Nonconforming uses.

- (a) Where, at the effective date of this ordinance, or amendment thereto, lawful use exists of buildings, structures or land, individually or in combination with another structure, which use is no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued provided:
 - (1) The use is not abandoned for more than two years and so long as the structure in which such use is located is maintained in its then structural condition. Abandonment means the actual cessation of the nonconforming use of the property for more than two years regardless of whether or not the owner of the property intends to resume the nonconforming use at some point in the future.
 - (2) Should a structure in which such nonconforming use is located be enlarged, extended, reconstructed, or structurally altered, except as otherwise permitted by the provisions of this article, the use of such a structure thereafter shall conform to the regulations of the district in which it is located.
- (b) No nonconforming use shall be enlarged, intensified or increased, or extended to occupy a larger square footage of building or lot area than was occupied on the effective date of the adoption or subsequent amendment of this ordinance. Such intensification, increase, or extension shall include enlargement of the building or other structure, expansion of the use on the premises, or the erection of an additional principal or accessory structure associated with such nonconforming use on the property on which the nonconforming use is located.
- (c) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel unoccupied by such use at the time of the adoption or subsequent amendment of this ordinance.
- (d) No building or structure not conforming to the requirements of this ordinance shall be erected in connection with the nonconforming use of land.
- (e) Where nonconforming use status applies to a building or structure, removal of the building or structure shall eliminate the nonconforming status of the building or structure or land.

(f) Any legally established use which existed prior to the adoption of this ordinance, or any subsequent amendments, shall not be considered a nonconforming use where a special use permit is now required for establishment of such use. The use shall be allowed to continue operation, as well as reconstruct or structurally alter the building or structure without the necessity of obtaining a special use permit. However, approval of a special use permit shall be required, in accordance with special use provisions, when either of the conditions below are present, in the opinion of the Zoning Administrator.

- (1) There is a ten percent or greater net increase in the square footage of the use or structure proposed for expansion or enlargement; or
- (2) The expansion or enlargement will substantially alter the site design and layout as it relates to circulation, parking or other site characteristics so as to adversely affect surrounding properties.
- (3) This section shall not apply to broadcasting towers and associated antenna allowed by right as set forth by the ordinance.

(g) A manufactured home park legally established prior to June 1, 1986 shall be allowed to continue operation in conformance with the provisions, provided the use as a park has not been discontinued for a period of more than two years.

(h) Notwithstanding (a) through (g) above, a nonconforming manufactured home existing on an individual lot of record that has served as an active dwelling for at least six months may be replaced with another manufactured home provided:

- (1) The replacement home is installed on the lot within two years of the removal of the home to be replaced; and
- (2) The replacement home is installed in approximately the same location on the lot, and is installed to comply with the district setback regulations for principal structures; and
- (3) The installation of the replacement home complies with the use and design standards for manufactured homes.

(i) Notwithstanding any provision in this article to the contrary, a single family home legally established prior to a zoning amendment that renders the property nonconforming may continue to be used as a single family home so long as the use is not converted or replaced, in whole or in part, by a use permitted in the district regulations, and the building or structure of the home is maintained in its then structural condition. If the home is damaged, it shall comply with section 7-9 of this article.

Sec. 7-5. - Alterations to buildings devoted to nonconforming use.

- (a) Except as otherwise provided in this article, no building or portion of a building devoted to a nonconforming use shall be enlarged, extended, structurally altered, or moved, unless such building or portion of a building is thereafter devoted to a use which conforms with the use regulations of this appendix. Nothing in this article shall be construed to prohibit repair, maintenance or incidental alteration of a building or the alteration, strengthening or restoring of a building to safe condition as may be required by law.
- (b) A single-family dwelling which is a nonconforming use in a GB, CB, M-1 or M-2 district may be structurally altered and may be enlarged or extended, and a building or structure accessory thereto may be altered, enlarged or constructed, provided that in no case shall the total amount of floor area, including all enclosed and unenclosed space and garage or carport space, be increased more than 800 square feet. No existing lot area, lot width or yard shall be reduced to less than required for single-family dwelling use in the R-3 residential district.

Sec. 7-6. - Change of nonconforming use.

- (a) A nonconforming use of land or a nonconforming use of a building may be changed to a use which conforms with the use regulations of the district in which it is located or to a use, other than a multifamily dwelling, which is first permitted by right in a more restricted zoning district. Whenever a nonconforming use has been changed to a conforming use or to a more restricted use, such use shall not thereafter be changed back to the original nonconforming use.

(b) For purposes of this article, a more restricted zoning district shall be construed to be a district in which the permitted uses and intensity of use are more limited. The term "use" shall be construed to be a type of activity as listed in the use regulations of a zoning district, and a change in occupancy, ownership or management shall not in itself constitute a change in use.

Sec. 7-7. - Discontinuance of nonconforming uses.

(a) Unless otherwise provided herein, whenever a nonconforming use of land or a nonconforming use of a building is discontinued for a period of more than two years (except if the premises is damaged or destroyed as a direct result of conditions resulting in a federal disaster declaration as set forth in section 7-9 herein), whether or not equipment or fixtures intended for such uses are removed, any subsequent use shall conform with the use regulations of the district in which the property is located.

(b) In case of determination by the Zoning Administrator that a nonconforming use has been changed to an illegal use, such illegal use shall cease and any subsequent use of the premises shall be in conformity with the use regulations of this appendix, or the illegal use may be changed to the last lawful nonconforming use to occupy the premises, so long as it has not been more than two years since the non-conforming use ceased.

Sec. 7-8. - Use and alteration of buildings with nonconforming features.

(a) A building which is nonconforming with respect to the bulk regulations or other feature required by this appendix may nonetheless be converted to and occupied by a use permitted in the district in which the building is located, provided that off-street parking and other requirements applicable to the new use are satisfied.

(b) A building which is devoted to a conforming use and is nonconforming with respect to the bulk regulations or other feature required by this appendix may be enlarged, extended or structurally altered, provided that the degree or extent of any nonconforming feature is not increased.

(c) An increase in the height of any portion of a building which is nonconforming with respect to a yard requirement shall be deemed to be an increase in the extent of the nonconforming yard of the building.

Sec. 7-9. - Damage to nonconforming buildings and uses.

(a) *Damage not exceeding 50 percent of value.* A building having a nonconforming feature or a building devoted to a nonconforming use which is damaged by an accidental fire, or an explosion, natural disaster or other act of God or the public enemy to an extent not exceeding 50 percent of its most recent assessed taxable value may be restored, repaired, reconstructed and used as before the damage, provided that the degree or extent of any nonconforming feature that existed prior to the damage shall not be increased, and the area devoted to any nonconforming use prior to the damage shall not be increased. For purposes of this section, an "act of God" shall be defined as any natural disaster or phenomena including, but not limited to, a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God.

(b) *Damage greater than 50 percent of value.* Whenever a building having a nonconforming feature or a building devoted to a nonconforming use is damaged or destroyed by a natural disaster or other act of God to an extent greater than 50 percent of its most recent assessed taxable value, and cannot be repaired, rebuilt, or replaced except to restore it to its original non-conforming condition, the owner shall have the right to do so. However, the owner shall apply for a building permit and any work done to repair, rebuild, or replace such building shall be in compliance with the provisions of the Virginia Uniform Statewide Building Code (Code of Virginia § 36-97, et seq.) and the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.

(c) Notwithstanding the foregoing, any restoration, repair, reconstruction, or reuse undertaken pursuant to this section shall be completed within two years of the date of damage. If the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then any restoration must be started and

completed within forty-eight (48) months of the date of the damaging event. Owners of property damaged by an accidental fire shall have the same right to rebuild such nonconforming property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit arson under Code of Virginia §§ 18.2-77 or 18.2-80, and obtain vested rights under this section.

Sec. 7-10. - Nonconforming lots of record.

- (a) Pursuant to Code of Virginia (1950) § 15.2-2261(F), an approved final subdivision plat that has been recorded, from which any part of the property subdivided has been conveyed to third parties (other than to the developer or local jurisdiction), shall remain valid for an indefinite period of time unless and until any portion of the property is subject to a vacation action as set forth in Code of Virginia, §§ 15.2-2270 through 15.2-2278, as amended.
- (b) A lot of record that is nonconforming due to lack of adequate frontage, width, depth, or area may be developed, provided the development proposed on the lot is in accordance with the applicable use and design standards contained in the district regulations.
- (c) Any lot of record to which Code of Virginia § 15.2-2261(F) does not apply that has legal access but is nonconforming because it has no public street frontage, may be developed or an existing structure on the lot may be expanded, provided the Town reviews and grants a special use permit for the proposed development, expansion, and use in accord with the standards and procedures contained in this ordinance.

Sec. 7-11. - Intermittent, temporary or illegal use.

Intermittent, temporary or illegal use of land or buildings shall not be construed to establish the existence of a nonconforming use for the purposes of this article, provided that a lawful seasonal use that was in operation for at least two consecutive seasons immediately prior to the adoption of this appendix or subsequent amendment thereto shall be considered a nonconforming use for seasonal purposes only and shall be subject to the provisions of this article.

Sec. 7-12. - Wireless facility modifications.

Any eligible facilities request for a modification of an existing, lawfully-established wireless tower or base station that does not substantially change the physical dimensions of such tower or base station shall not be treated as a nonconforming use or extension of a nonconforming use and shall be approved. Upon submission of an application for a site plan, plot plan, or scaled elevation in accordance with and meeting all standards of Article VIII, Division 3 of this appendix, and in conformance of this section, such approval shall be granted.

(Statutory Reference: 47 U.S.C. § 1455, 47 C.F.R. § 1.6100, Va. Code § 15.2-2307.)

ARTICLE VIII. - ADMINISTRATION AND ENFORCEMENT

Cross reference— Administration, Ch. 2.

DIVISION 1. - ZONING ADMINISTRATOR

Sec. 8-1. - Designation of Zoning Administrator.

The provisions of this appendix shall be administered and enforced by the Zoning Administrator, who shall be designated by the town council, and who may hold other appointed office in the town. It shall be the responsibility of all other appointed officers and employees of the town to cooperate with the Zoning Administrator in the administration and enforcement of this appendix.

Sec. 8-2. - Duties of Zoning Administrator.

The Zoning Administrator and his authorized agent (both of whom hereafter in this section will be referred to as Zoning Administrator) shall have all necessary authority on behalf of the town council to administer and enforce this appendix and carry out the duties prescribed in this article and elsewhere in this appendix, including the authority to make findings of fact in connection with the administration, application and enforcement of this appendix in specific cases. Duties of the Zoning Administrator shall include the following:

- (a) *Interpretation of ordinance.* Subject to appeal to the board of zoning appeals as provided in article IX of this appendix, the Zoning Administrator shall be the final authority in the interpretation of the provisions of this appendix.
- (b) *Review and approval of zoning permits.* The Zoning Administrator shall review all applications for zoning permits required by this article and shall approve or disapprove each zoning permit based on compliance or noncompliance with the provisions of this appendix.
- (c) *Issuance of certificates of zoning compliance.* The Zoning Administrator shall review all requests for certificates of zoning compliance required by this article and shall issue such certificates when the provisions of this appendix are met.
- (d) *Review and approval of site plans.* The Zoning Administrator shall review all site plans submitted under the provisions of this appendix and shall approve or disapprove each site plan based on compliance or noncompliance with the provisions of this appendix.
- (e) *Enforcement and correction of violations.* The Zoning Administrator shall use his or her best efforts to prevent violations of this appendix and to detect and secure the correction of violations in accordance with the provisions of this article.
- (f) *Maintenance of records and map.* The Zoning Administrator shall maintain records of all official actions taken with respect to administration and enforcement of this appendix and shall retain copies of all zoning permit applications, certificates of zoning compliance, site plans and related information as a permanent record. The Zoning Administrator shall also maintain the official zoning map.
- (g) *Other duties.* The Zoning Administrator shall have such additional duties as specifically described elsewhere in this appendix.

DIVISION 2. - PERMITS

Sec. 8-3. - Zoning permit required.

No building or other structure shall be constructed, reconstructed, erected, enlarged, structurally altered, moved, or converted to accommodate a different use until the Zoning Administrator has issued a zoning permit for such building or structure. A zoning permit shall not be required for any fence, wall, deck or patio for which a building permit is not required under the provisions of the uniform statewide building code.

Sec. 8-4. - Application for zoning permit.

- (a) Every application for a zoning permit shall be submitted to the Zoning Administrator by the owner of the property involved or by an agent of the owner or tenant of the property, with the written consent of the owner.
- (b) Applications shall be submitted on forms provided by the Zoning Administrator for such purpose and shall include all plans, documents and information necessary to determine compliance or noncompliance with this appendix.
- (c) Every application for a zoning permit shall include the following, together with any additional information required by the Zoning Administrator:
 - (1) Statement by the public works director that necessary sewer and water facilities are or will be available to serve the site in accordance with town policies and regulations.
 - (2) Statement of the intended use of buildings and structures, and the number of dwelling units, if applicable.

Sec. 8-5. - Plans to be submitted with zoning permit application.

- (a) Every application for a zoning permit which does not require site plan review as specified in Division 3 of this article shall be accompanied by three copies of a plot plan legibly drawn and showing the following:
 - (1) Area, shape and dimensions of the property involved and existing and proposed easements, watercourses, drainage ways and floodplains.
 - (2) Dimensions and heights of proposed buildings, structures or additions and existing buildings and structures to remain, and the dimensions of yards and setbacks with respect to property lines and existing and proposed street lines.
 - (3) Existing and proposed driveways providing access to the site and the arrangement, dimensions and improvement of off-street parking and vehicular circulation areas.
 - (4) Any additional information deemed necessary by the Zoning Administrator to determine compliance with specific requirements of this appendix or other applicable provision of the town Code.
- (b) Every application for a zoning permit which requires site plan review as specified in division 3 of this article shall be accompanied by such plans as required by that division. No such zoning permit shall be issued until the required site plan is reviewed and approved by the Zoning Administrator as provided in that division.

Sec. 8-6. - Waiver of certain plan requirements.

With prior approval by the Zoning Administrator, particular information may be omitted from required plans when, due to the nature or limited scope of a project, such information is not necessary for evaluation of the zoning permit application or for purposes of maintaining a record of zoning permit approval.

Sec. 8-7. - Sign permit application requirements.

- (a) Every application for a sign permit permitted by this appendix shall be accompanied by a plot plan legibly drawn and showing existing permanent signs to remain and proposed permanent signs, including location, sign height, building elevation drawings, lettering, dimensions, lighting, and means of attachment or support.
- (b) In any case, where a sign is approved in conjunction with a site plan review process for construction, alteration or conversion of a building or structure, a separate sign permit for such sign shall not be required.

Sec. 8-8. - Issuance of zoning permit.

The Zoning Administrator shall issue a zoning permit only if he or she is satisfied that the proposed construction and use are in conformity with applicable provisions of this appendix.

Sec. 8-9. - Expiration of zoning permit.

A zoning permit shall be valid for a period of one year from the date of issuance by the Zoning Administrator and shall become null and void if, within such period, no building permit pursuant thereto has been issued. In a case where no building permit is required, a zoning permit shall become null and void if, within one year from the date of its issuance, the feature authorized by the zoning permit has not been established. In any case, where a zoning permit has expired, application may be made for a new zoning permit in accordance with the provisions of this article.

Sec. 8-10. - Certificate of zoning compliance required.

- (a) A certificate of zoning compliance issued by the Zoning Administrator shall be required prior to any of the following:
 - (1) Use or occupancy of a building after completion of any construction, reconstruction, erection, enlargement, structural alteration, moving, or conversion for which a zoning permit is required by this article;
 - (2) Change in use or occupancy of an existing building, including a change in tenant of a building or premises, provided that change in occupancy or tenant of an existing dwelling use shall not be subject to this requirement; and
 - (3) Use of land or any change in use or occupancy of land, except for agricultural or forestry uses permitted by this appendix.
- (b) The certificate of zoning compliance shall certify that the building or premises and the proposed use and occupancy thereof comply with the applicable provisions of this appendix. Where a certificate of zoning compliance required by this section involves a nonconforming use or the use or occupancy of a nonconforming building, such certificate shall state the nature and extent of the nonconformity.

Sec. 8-11. - Procedure for issuance of certificate of zoning compliance.

- (a) Application for a certificate of zoning compliance shall be made by the owner of the property involved or by an agent of the owner or tenant of the property, with the written consent of the owner.
- (b) The Zoning Administrator shall issue the certificate of zoning compliance if the Zoning Administrator is satisfied that the building or premises and the proposed use and occupancy thereof comply with the applicable provisions of this appendix. Otherwise, the certificate of zoning compliance shall not be issued, and the building, premises or use shall be deemed to be in violation of this appendix.

Sec. 8-12. - Temporary certificate of zoning compliance.

- (a) To the extent that such action does not conflict with any provisions of the uniform statewide building code, the Zoning Administrator may issue a temporary certificate of zoning compliance for a specified period not to exceed six months and under such conditions and safeguards as deemed necessary by the Zoning Administrator to protect the health, safety and welfare of occupants of the building or premises and the general public. Such temporary certificate shall be issued only for purposes of enabling limited or partial use or occupancy of a building or premises pending completion of construction or site improvements.
- (b) The Zoning Administrator may require a bond with surety or other performance guarantee approved by the town attorney, payable to the town and in an amount adequate to ensure satisfactory completion of required improvements.
- (c) The Zoning Administrator may grant one extension of a temporary certificate of zoning compliance for a period not to exceed six months.

Sec. 8-13. - Building permit; relation to zoning and sign permits.

No building permit or permit to erect a sign, when applicable, shall be issued by the building official until a zoning and/or sign permit, as required by this article, has been issued by the Zoning Administrator and the building official has been provided with a copy thereof.

Sec. 8-14. - Certificate of use and occupancy and certificate of zoning compliance.

No certificate of use and occupancy shall be issued by the building official until a certificate of zoning compliance, as required by this article, has been issued by the Zoning Administrator and the building official has been provided with a copy thereof.

Sec. 8-15. - Land disturbing permit; relation to zoning.

No land disturbing permit required by the provisions of the erosion and sediment control ordinance applicable within the town shall be issued until the Zoning Administrator has reviewed the application for such permit and certified that the proposed land disturbing activity and the intended use of the property will not result in any violation of the provisions of this appendix.

DIVISION 3. - SITE PLAN REVIEW

Sec. 8-16. - Purpose of site plan review.

The purpose of site plan review is to provide sufficient plans and information for review and approval by the Zoning Administrator to ensure compliance with the regulations contained in this appendix and ensure that the purpose and intent of the appendix are met.

Sec. 8-17. - Applicability of site plan review.

Site plan review shall be required prior to issuance of any zoning permit, building permit or land disturbing permit for any of the following:

- (a) Construction of a new building, other than a single-family dwelling or building accessory thereto.
- (b) Enlargement of an existing building, other than a single-family dwelling or building accessory thereto, when such enlargement exceeds ten percent of the floor area of the building or 500 square feet, whichever is less.
- (c) Construction of a parking area for five or more vehicles, or any addition to or alteration of the arrangement or means of access to an existing parking area for five or more vehicles.
- (d) Small wireless facilities applications shall require a plot plan and a scaled elevation.
- (e) Wireless facilities applications other than small wireless facilities shall require a site plan and a scaled elevation.

(Statutory Reference: Va. Code § 15.2-2286(A)(8), § 15.2-2246.)

Sec. 8-18. - General requirements for site plans.

Site plans shall be prepared by a professional engineer, certified land surveyor, licensed architect or certified landscape architect in accordance with criteria established by the Zoning Administrator regarding scale and format. Plot plans and scaled elevations need not be prepared by a licensed design professional, but must be clear, neat, and to scale in accordance with criteria established by the Zoning Administrator.

(Statutory Reference: Va. Code § 15.2-2241(A)(1).)

Sec. 8-19. - Required information on site plans.

Six copies of site plans drawn to scale and containing the following information shall be submitted:

- (a) Location of the property by an insert vicinity map at appropriate scale.
- (b) Identification of the property by street address, tax parcel number and subdivision name, block and lot number.
- (c) North arrow, scale of plans, preparation date, revision date(s) and names, addresses and telephone numbers of preparer, owner and developer.
- (d) Existing zoning classification of and zoning district boundaries located on the property and adjoining properties.
- (e) Boundary survey of the property showing property lines, distances and bearings and existing and proposed easements and street right-of-way lines.
- (f) Width of existing streets, location and size of existing sanitary and storm sewers, culverts, curbs and gutters, water lines, gas lines and other utilities.
- (g) Floodplain and floodway boundaries, including base flood elevation, and watercourses and other prominent physical features of the property and of adjoining property.
- (h) Existing wooded areas on the property, and significant trees and other vegetated areas to be retained.
- (i) Existing topography of the property prior to grading and proposed finished grades with contour intervals of not greater than two feet and spot elevations where needed.
- (j) Existing and proposed uses of land, buildings and structures, and the number and types of dwelling units on the property, where applicable, and the present uses of adjoining properties.
- (k) Locations, dimensions, height, number of floors and floor areas of proposed buildings and structures, existing buildings and structures to remain and additions or alterations to existing buildings and structures, including dimensions of yards and setbacks.
- (l) Entrances, driveways, parking and loading spaces, access aisles, fire lanes and other areas for vehicular circulation and related pedestrian walkways, including the arrangement, dimensions and surface improvements of such areas and a schedule showing numbers of parking spaces provided.
- (m) Utilities plans, including proposed water and sanitary sewer pipe locations, sizes, types, grades, related capacity and strength calculations and connections to town or other systems, and proposed gas lines, other utility lines and all utility easements.
- (n) Stormwater management plan and related calculations, and detailed plans showing locations, sizes, types and grades of ditches, catch basins, pipes and other drainage structures, including connections to existing drainage systems or suitable outlets.
- (o) Provisions for the adequate control of erosion and sedimentation in accordance with applicable erosion and sedimentation control standards and practices, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading and construction.
- (p) Locations, dimensions and functions of proposed recreation areas, open spaces and similar amenities and improvements, including pedestrian walkways.
- (q) Buffers, screening, fencing, major landscaping and similar features required by this or other town ordinance, including location and improvement of trash receptacle areas.
- (r) Location, type, height and intensity of outdoor lighting, if provided.
- (s) Existing permanent signs to remain and proposed permanent signs, including location, lettering, dimensions, lighting, and means of attachment or support.
- (t) Any additional information deemed necessary by the Zoning Administrator to determine compliance with specific requirements of this appendix, other town ordinances, requirements of the Virginia Department of Transportation or other applicable requirements.

Sec. 8-19.1. - General requirements for plot plans.

Plot plans must be neat, clear, drawn to scale, and otherwise meet the standards set by the Zoning Administrator, but do not need to be stamped by a design professional. A plot plan must include:

- (1) Location, by a vicinity map at appropriate scale.
- (2) Identification of the property by street address, tax parcel number, and owner name, if a parcel; or by reference to number of feet to the nearest intersection if in the public right-of-way.
- (3) A north arrow and scale.
- (4) Existing zoning classification, or zoning classification of nearest parcel, if in the public right-of-way.
- (5) Width of existing streets, location and size of existing sanitary and storm sewers, culverts, curbs and gutters, water lines, gas lines, and other utilities.
- (6) Location and extent of existing buildings or structures and buildings or structures proposed to be constructed.
- (7) Screening methods.
- (8) Such other and further materials as the Zoning Administrator may determine necessary to confirm compliance with applicable laws.

Sec. 8-19.2. - General requirements for scaled elevations.

Scaled elevations must be neat, clear, drawn to scale, and otherwise meet the standards set by the Zoning Administrator, but do not need to be stamped by a design professional. A scaled elevation must include:

- (1) Location, by a vicinity map at appropriate scale.
- (2) Identification of the property by street address, tax parcel number, and owner name, if a parcel; or by reference to number of feet to the nearest intersection if in the public right-of-way.
- (3) Existing zoning classification, or zoning classification of nearest parcel, if in the public right-of-way.
- (4) Existing grades for the area of the proposed or existing structure.
- (5) The height and extent of existing buildings or structures and buildings or structures proposed to be construed.
- (6) If the existing or proposed structure is a small wireless facility or support structure that proposes to qualify as a small wireless facility by comparison to other existing structures, a table of the heights and locations of the existing structures.
- (7) Screening or camouflage methods proposed for the wireless facility.
- (8) A sketch of the appearance of the proposed wireless facility, or a photograph or photographs of a substantially identical facility in a similar installation.
- (9) Such other and further materials as the Zoning Administrator may determine necessary to confirm compliance with applicable laws.

Sec. 8-20. - Waiver of certain site plan requirements.

Required plans described in sections 8-19, 8-19.1, and 8-19.2 are intended in cases where extensive plans and information are necessary to determine compliance with the provisions of this appendix. With prior approval by the Zoning Administrator, particular information may be omitted from

required plans when, due to the nature or limited scope of a project, the Zoning Administrator determines such information is not necessary for evaluation of the plan or for maintaining a record of plan review.

(Statutory Reference: Va. Code § 15.2-2242(1).)

Sec. 8-21. - Procedure for site plan review and approval.

- (a) Every site plan shall be submitted to the Zoning Administrator, who shall review such plan for compliance with the applicable provisions of this appendix and other applicable requirements. Within 10 days after submission of a site plan application, with the required fee, the Zoning Administrator shall make a preliminary determination of completeness. If the site plan application is complete, the Zoning Administrator shall circulate the site plan to the town engineer and other relevant town and state agencies and officials for review and comment prior to taking action. If the application is incomplete, the Zoning Administrator shall return the plan to the applicant, together with the application fee and a cover letter setting forth the reasons why the application is incomplete. A determination of completeness shall in no manner be construed to be an approval of a site plan, in whole or in part.
- (b) The Zoning Administrator shall approve, approve with modifications or conditions, or disapprove the site plan within 60 days from receipt of a complete application if no outside agency review is required, or within 35 days after receiving all outside review comments if such comments are necessary, whichever is later. The Zoning Administrator shall notify the applicant in writing of the action taken. In the case of approval with modifications or conditions or disapproval of the site plan, such notification shall describe the modifications or conditions of approval or reasons for disapproval, including changes which would make the site plan acceptable.
- (c) The Zoning Administrator shall act upon site plans previously deemed complete but disapproved and resubmitted within 45 days of submission or within 35 days following receipt of all state agency approvals, whichever is later.
- (d) All site plans approved by the Zoning Administrator shall comply with the district regulations, supplementary regulations and other applicable requirements of this appendix. The Zoning Administrator shall have no authority to waive such regulations or requirements unless specific authority to do so is set forth in this appendix.

(Statutory Reference: Va. Code § 15.2-2258, § 15.2-2259.)

Sec. 8-21.1. - Procedure for approval of plot plans and scaled elevations for small wireless facilities.

The timelines in this section govern processing of plot plans and scaled elevations for small wireless facilities.

- (a) *Base Calculation.* The period to act for an application for a plot plan or scaled elevation for a small wireless facility is the sum of:
 - (1) The number of days of the presumptively reasonable time period for the pertinent type of application, pursuant to subsection (b); and
 - (2) The number of days of tolling period, if any, under subsection (c).

All dates are calculated in calendar days, not business days. If the last day to complete an approval falls on a weekend or holiday, the last day shall be construed to be the next following business day.

- (b) *Review periods for specific applications.* The following are the presumptively reasonable periods of time to act on site plans, plot plans, and scaled elevations for wireless facilities:

- (1) Application to collocate a small wireless facility on an existing structure: 60 days.
 - (2) Application to deploy a small wireless facility using a new structure: 90 days.

If a single application plot plans or scaled elevations multiple sites, all of which fall within the same category, then the presumptively reasonable time is equal to that for a single deployment within

that category. If a single application seeks authorization of deployments to multiple sites that fall within subsections (b)(1) and (b)(2), then the presumptively reasonable period of time is 90 days.

- (c) *Tolling.* The following rules govern tolling of the review periods for specific applications:
 - (1) For an initial application for a plot plan or scaled elevation for a small wireless facility, if the Town notifies an applicant on or before the tenth day after submission that the application is materially incomplete, and specifically identifies the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information, the period to act shall reset to zero on the date on which the applicant submits all documents and information identified by the Town to render the application complete.
 - (2) For all other initial applications, the tolling period shall be the number of days from:
 - (i) The day after the date when the Town notifies the applicant, in writing, that the application is materially incomplete and clearly and specifically identifies the missing documents or information that the applicant must submit to render the application complete and the specific rule or regulation creating this obligation; until
 - (ii) The date when the applicant submits all the documents and information identified by the siting authority to render the application complete;
 - (iii) But only if the notice in subsection (i) is made on or before the thirtieth day after the date when the application was submitted; or
 - (3) For resubmitted applications following a notice of deficiency, the tolling period shall be the number of days from:
 - (i) The day after the date on which the Town notifies the applicant in writing that the applicant's supplemental submission was not sufficient to render the application complete and clearly and specifically identifies the missing documents or information need to be submitted based on the Town's original request for supplementation; until
 - (ii) The date when the applicant submits all the documents and information identified by the Town to render the application complete; but
 - (iii) Only if the notice under subsection (i) is made on or before the tenth day after the date on which the applicant made its supplemental submission.

(Statutory Reference: 47 C.F.R. § 1.6003.)

Sec. 8-22. - Modifications to approved site plan.

- (a) Minor modifications to an approved site plan, plot plan, or scaled elevation may be authorized in writing by the Zoning Administrator when such modifications comply with the requirements of this appendix and do not materially affect approvals granted or permits issued pursuant to the approved plan. Any deviation from an approved plan without the written approval of the Zoning Administrator shall void the plan and require submission of a new plan for consideration in accordance with the provisions of this article.
- (b) Major revisions to an approved plan which, in the judgment of the Zoning Administrator, significantly alter the proposed development or materially affect approvals granted or permits issued pursuant to the approved plan shall require that a new plan be prepared and submitted for consideration.

(Statutory Reference: Va. Code § 15.2-2242(1).)

Sec. 8-23. - Guarantees.

The Zoning Administrator shall have the authority to require execution of an agreement by the applicant to construct required or proposed improvements located within public rights-of-way or easements or connected to any public facility. The Zoning Administrator may require a performance guarantee or surety

in form acceptable to the town attorney in the amount of the estimated cost of such improvements as determined by the applicant and verified by the town engineer.

Sec. 8-24. - Compliance with approved site plan.

- (a) Periodic inspections shall be made during the installation of required on-site and off-site improvements by the Zoning Administrator and public works director or their designated representatives in order to determine compliance with approved site plans.
- (b) The owner or developer shall be responsible for providing adequate supervision at the site during installation of required improvements. A copy of the approved site plan and construction plans shall be maintained at the site at all times work is being performed.

Sec. 8-25. - Expiration of approved site plan.

- (a) An approved final site plan shall be valid for a period of one not less than five years from the date of approval by the Zoning Administrator and shall become null and void if, within such period, work has not proceeded and no building permit pursuant thereto has been issued. In any case, where an approved site plan has expired, the site plan may be resubmitted for review and approval in accordance with the provisions of this article. A site plan shall be deemed final once it has been reviewed and approved by the Zoning Administrator if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.
- (b) Application for minor modifications to final site plans made during the periods of validity of such plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plans.
- (c) If construction of any wireless facility does not commence within 24 months after approval, or, if commenced, is not diligently pursued to completion, the Zoning Administrator may revoke the approval by sending notice of such revocation to the last known address of the owner and marking the plot plan and/or scaled elevation "VOID" in his or her files.

(Statutory Reference: Va. Code § 15.2-2261, § 15.2-2316.4:2(A)(10).)

Sec. 8-26. - Failure to act; appeals.

- (a) Failure to act on any site plan within the time periods set forth in section 8-21, upon an initial submission, shall be appealable to circuit court in the manner provided by law following 10 days' notice to the Zoning Administrator. Failure to act upon a site plan resubmitted following being deemed complete and disapproved within the time periods set forth in this division is deemed approval.
- (b) Failure to act on any plot plan or scaled elevation for a small wireless facility within the time periods set forth in section 8-21.1 shall be deemed approval.
- (c) Notwithstanding the approval or deemed approval of any site plan, plot plan, or scaled elevation, any deficiency in any proposed plat or plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated or deemed as having been approved by the Zoning Administrator.
- (d) If the Zoning Administrator disapproves a site plan, plot plan, or scaled elevation and the applicant contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he or she may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the written disapproval by the Zoning Administrator.

(Statutory Reference: Va. Code § 15.2-2258, § 15.2-2259; 47 C.F.R. § 1.6003.)

DIVISION 4. - SPECIAL USES**Sec. 8-27. - Intent of special use provisions.**

Special use provisions are intended as a means for the town council, after review and recommendation by the planning commission, to authorize certain uses which, although generally appropriate in the district in which they are permitted, have potentially greater impacts on neighboring properties than uses which are permitted by right. The special use permit procedure provides the opportunity for the town council to review each proposed special use and impose such conditions as reasonably necessary to ensure the use will be compatible with the surrounding area and consistent with the purposes of this appendix.

Sec. 8-28. - Special use permit required.

- (a) *When required.* A use indicated as permitted as a special use in Article IV of this appendix shall be authorized only upon approval of a special use permit by the town council in accordance with the provisions of this article.
- (b) *Relation to other permits.* Zoning permits, certificates of zoning compliance, site plans and other reviews and approvals required by this appendix are required for special uses in the same manner as for other uses. No zoning permit or certificate of zoning compliance for a special use or for a building devoted to a special use shall be issued unless a special use permit has been approved.
- (c) *Existing uses.* A use lawfully existing at the effective date of this division which is specified as a special use in the district in which it is located and for which no special use permit has been approved shall not be considered a nonconforming use because of its classification as a special use. No zoning permit or certificate of zoning compliance involving expansion of such use or reconstruction, enlargement or moving a building devoted to such use shall be issued unless a special use permit is approved in accordance with this article.

Sec. 8-29. - Application for special use permit.

- (a) *Submission of applications.* Applications for special use permits shall be submitted to the Zoning Administrator and may be filed by the owner of the property or, with the written consent of the owner, the contract purchaser of the property or an agent of the owner.
- (b) *Applicant's report.* Every application for a special use permit shall be accompanied by three copies of a report from the applicant describing the proposed special use and explaining the manner in which it complies with the requirements and standards of this division.
- (c) *Content of plans.* Every application for a special use permit shall be accompanied by three copies of plans drawn to scale and showing the following:
 - (1) Area, shape and dimensions of the property involved and existing and proposed street lines, easements, watercourses, drainage ways and floodplains.
 - (2) Existing and proposed uses of land, buildings and structures, and the number and types of dwelling units on the property, where applicable.
 - (3) Dimensions and heights of proposed buildings, structures or additions and existing buildings and structures to remain, and the dimensions of yards and setbacks with respect to property lines and existing and proposed street lines.
 - (4) Elevation drawings of proposed buildings and structures and additions or modifications to the exterior of existing buildings and structures.
 - (5) Existing and proposed driveways providing access to the site and the arrangement, dimensions and improvement of off-street parking and vehicular circulation areas.
 - (6) Buffers, screening, fencing, major landscaping, pedestrian walkways and similar features, existing wooded areas, significant trees and other vegetated areas to be retained, location and improvement of trash receptacle areas and location, type, height and intensity of outdoor lighting, if provided.

- (7) Existing permanent signs to remain and proposed permanent signs, including location, lettering, dimensions, lighting, and means of attachment or support.
- (d) *Waiver of plan elements or additional plans.* The Zoning Administrator may waive plan elements that are unnecessary to determine compliance with this appendix and may require such additional information as necessary to determine compliance with this appendix and to assist the planning commission and town council in evaluating potential impacts of a proposed special use.

Sec. 8-30. - Procedure for issuance of special use permits.

- (a) *Review by Zoning Administrator.* The Zoning Administrator shall review each application for a special use permit and forward the application to the planning commission. At such time as requested by the commission, the Zoning Administrator shall submit to it a report indicating the manner in which the proposed special use complies or does not comply with the provisions of this appendix and any recommendations the Zoning Administrator may have regarding approval, disapproval or conditions to be attached.
- (b) *Action by planning commission.* The planning commission shall review each special use permit application for compliance with the provisions of this appendix and shall provide a recommendation to the town council in accordance with the following:
 - (1) The commission shall give notice and hold a public hearing as required by Code of Virginia, § 15.2-2204. A joint public hearing may be held with the town council.
 - (2) After holding a public hearing, the commission may recommend approval or disapproval of the special use permit or that conditions be imposed to ensure compliance with requirements of this appendix. In making its recommendation, the commission shall consider at least the factors indicated in section 8-31 of this article.
 - (3) Action by the commission shall be in the form of a motion, giving the reasons for its action and the vote of each member, and shall be recorded in the commission's records. Each recommendation to the council shall include a statement of the relationship of the proposed use to the comprehensive plan.
 - (4) In any case, where the commission is unable to adopt a motion to recommend approval or disapproval, it shall forward a written report to the council stating such fact and summarizing its discussions on the matter.
 - (5) Failure of the commission to provide a recommendation or report to council within 90 days of receiving the special use permit application shall be considered a recommendation of approval.
- (c) *Action by town council.* The town council shall take action on each special use permit application in accordance with the following:
 - (1) After receiving the recommendation of the planning commission, the town council shall give public notice as required by Code of Virginia, § 15.2-2204, and shall hold a public hearing. A joint public hearing may be held with the planning commission.
 - (2) The town council may approve or disapprove the special use permit application and may impose conditions that it deems reasonable and necessary to ensure the special use will comply with the requirements of this appendix. Action of the town council shall be by ordinance. Conditions imposed in connection with residential special use permits where affordable housing, as defined in Code of Virginia, § 15.2-2201, is proposed by the applicant shall be consistent with the objective of providing affordable housing. When imposing conditions on residential projects specifying materials and methods of construction or specific design features, the town council shall consider the impact of the conditions upon the affordability of housing.
 - (3) The town council shall take action on the special use permit application within one year of the date of submission of the application. Failure of the council to act within such time shall be considered denial of the application.

(4) The town council may require a guarantee or bond to ensure that conditions imposed will be satisfied, and may specify a date for expiration of a special use permit as a condition of approval.

Sec. 8-31. - General requirements for approval of special use permits.

A special use permit shall be approved by the town council only if it finds that the proposed special use and related plans:

- (a) Will not be contrary to the purposes of this appendix as stated in section 1-3;
- (b) Will not be in conflict with the objectives of the comprehensive plan for the town;
- (c) Conform with all applicable provisions of this article and all other applicable requirements of the district in which such use is located; and
- (d) Include satisfactory provision for or arrangement of the following, if applicable:
 - (1) Sewer, water and other public utilities;
 - (2) Ingress and egress, including access for fire and other emergency vehicles;
 - (3) Off-street parking and vehicular circulation, including safety of motorists and pedestrians;
 - (4) Yards, open spaces and other elements of the site plan;
 - (5) Retention of natural vegetation and topographic features; and
 - (6) Landscaping, buffers, screening, fences and other features to protect adjacent properties from potential adverse effects of the special use.

Sec. 8-32. - Modifications or amendments to approved special use permits.

- (a) *Minor modifications.* Minor modifications to approved plans or building details of an approved special use permit may be authorized by the Zoning Administrator when such modifications do not: Significantly alter the boundaries of the property; conflict with specific requirements of this appendix or conditions of the approved special use permit; significantly decrease the width or depth of any yard, setback or buffer area; or significantly alter points of access to the property or the internal arrangement of site plan elements.
- (b) *Change of substance; amendment.* Any change to an approved special use permit other than a minor modification as described in paragraph subsection (a) of this section shall require an amendment subject to the same procedures and requirements as a new application.

Sec. 8-33. - Expiration of special use permits.

An approved special use permit shall become null and void if no application for a site plan to construct the authorized improvements has been submitted within one year of the date of approval by the town council. A special use permit for which no site plan is required shall become null and void if the use is not established within one year of the date of approval by the town council. The town council may specify a longer period in its approval of a special use permit.

Sec. 8-34. - Discontinuance of special use permits.

A special use permit shall run with the land, provided that any use established pursuant to an approved special use permit shall not be reestablished if replaced by a different use or if discontinued for a period of two years or longer.

Sec. 8-35. - Compliance with approved plans.

- (a) *Violation of appendix.* Failure to comply with approved plans or conditions of a special use permit shall constitute a violation of this appendix.
- (b) *Revocation.* Upon determination by the Zoning Administrator of any violation of a special use permit, such permit may be subject to revocation if the violation is not corrected within 90 days of written notice to the owner of the property by the Zoning Administrator. If the violation is not corrected within the

specified time, and the Zoning Administrator is not satisfied that appropriate means are being taken to correct the violation, the town council shall have the authority to revoke the special use permit after notice and hearing as provided by Code of Virginia, § 15.2-2204.

Sec. 8-36. - Reconsideration.

Whenever a special use permit application is denied, substantially the same application shall not be considered again by the town council within one year from the date of denial.

Sec. 8-37. - Appeals.

Appeals from any decision of the town council regarding a special use permit may be taken to the circuit court by any aggrieved party in accordance with the provisions of Code of Virginia, § 15.2-2286.

DIVISION 5. - VIOLATIONS AND PENALTIES

Sec. 8-38. - Notice of violation and order of remedy.

- (a) *Notice and order.* Upon finding that any provision of this appendix is being violated, the Zoning Administrator shall notify in writing the person or persons responsible for such violation and order the remedy of conditions found to be in violation, including the discontinuance of illegal uses of land and buildings, the removal or bringing into compliance of illegal buildings, structures, additions and alterations, and the discontinuance of illegal work being done. Such notice shall specify the provision of this appendix that is being violated, the remedy necessary to correct the violation and a reasonable time period within which the violation shall be corrected.
- (b) *Right to appeal.* Any written notice of a zoning violation or written order of the Zoning Administrator shall include a statement informing the recipient that he or she may have a right to appeal such notice or order to the board of zoning appeals within 30 days, and that the decision of the Zoning Administrator shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until such statement is given.

Sec. 8-39. - Legal action to correct violation.

Should notice of violation and order of remedy fail to result in correction of a violation, the Zoning Administrator shall have the authority to bring legal action to ensure compliance with the ordinance, including injunction, abatement or other appropriate action or proceeding authorized under the laws of the commonwealth.

Sec. 8-40. - Coordination of town attorney and Zoning Administrator.

The Zoning Administrator shall provide to the town attorney a copy of every written notice and order involving a violation of this appendix. The town attorney shall advise and assist the Zoning Administrator in his or her efforts to obtain abatement of such violation.

Sec. 8-41. - Penalties.

Any violation of the provisions of this appendix shall be a misdemeanor punishable upon conviction by a fine pursuant to the applicable provisions of Code of Virginia, § 15.2-2286. Each day a violation exists shall constitute a separate offense.

ARTICLE IX. - AMENDMENTS

DIVISION 1. - GENERALLY

Sec. 9-1. - Authority to amend.

Whenever the public necessity, convenience, general welfare, or good zoning practice require, and subject to the requirements set forth in Code of Virginia, §§ 15.2-2285 and 15.2-2286, the town council may by ordinance amend, supplement, change or repeal the regulations, district boundaries, or classifications of property established by this appendix.

Sec. 9-2. - Initiation of amendments.

Amendments to the provisions of this appendix may be initiated by any of the following methods:

- (a) *Resolution of the town council.* The town council may, by its own resolution, initiate an ordinance to amend any of the provisions of this appendix, including the official zoning map. Every such resolution shall state the public purpose for the amendment.
- (b) *Motion of the planning commission.* The planning commission may, by adoption of a motion, initiate an amendment to any of the provisions of this appendix, including the official zoning map. Every such motion shall state the public purpose for the amendment. The motion shall be forwarded to the town council, which shall cause an ordinance to be prepared for its consideration.
- (c) *Petition of a property owner.* A petition to change the zoning classification of property by amendment to the official zoning map may be filed by the owner of such property or, with the written consent of the owner, the contract purchaser of the property or an agent of the owner.

Sec. 9-3. - Rezoning application.

- (a) A petition on behalf of a property owner to change the zoning classification of property shall be in the form of an application for rezoning addressed to the town council and filed with the Zoning Administrator. The application shall be accompanied by the required fee and a certified plat of the property proposed to be rezoned. The application shall include indication of the current and proposed zoning classification of the property and a statement of the applicant's reasons for requesting rezoning.
- (b) The Zoning Administrator shall review the application for compliance with the requirements of this section. When the Zoning Administrator is satisfied that submission requirements are met, the application shall be forwarded to the town council, with a copy to the planning commission. The town council shall cause an ordinance to be prepared for its consideration of the rezoning application.

Sec. 9-4. - Action by the planning commission.

The town council shall act upon no amendment to this ordinance unless it has been referred by the council to the planning commission for its review and recommendation in accordance with this section.

- (a) *Public notice and hearing.* Before taking action on any amendment, the planning commission shall give public notice and hold at least one public hearing on the proposed amendment as required by Code of Virginia, § 15.2-2204. A joint public hearing may be held with the town council.
- (b) *Report of Zoning Administrator.* The Zoning Administrator shall submit a written report and recommendation to the commission prior to its action.
- (c) *Recommendation of commission.* The commission may recommend that the town council adopt or reject the amendment or may recommend changes in the amendment. In making its recommendation, the commission shall consider the matters listed in Section 1-4 of this appendix.

Failure of the commission to consider the amendment and report to the council within 90 days after the first regular meeting of the commission after the amendment was referred to it by the council shall be considered a recommendation of approval.

- (d) *Form of action by commission.* All actions by the commission shall be in the form of a motion, giving the reasons for the action and the vote of each member. All actions shall be recorded in the commission's records. Each recommendation to the council shall include a statement of the relationship of the proposed rezoning to the comprehensive plan of the town. In any case, where the commission is unable to adopt a motion to recommend approval or disapproval, it shall forward a written report to the council stating such fact and summarizing its deliberations on the matter.

Sec. 9-5. - Action by town council.

Final action shall be taken by town council on all proposed amendments in accordance with the following provisions:

- (a) *Public notice and hearing.* Before taking action on any ordinance to amend the provisions of this appendix, the town council shall give public notice as required by Code of Virginia, § 15.2-2204, and shall hold at least one public hearing on the proposed amendment. A joint public hearing may be held with the planning commission. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan for the property involved.
- (b) *Final action.* After receiving a report from the planning commission and after giving public notice and holding a public hearing, the town council may adopt or reject the proposed amendment, or may make appropriate changes to the amendment, provided that no land may be zoned to a more intensive use classification nor shall a greater area of land be rezoned than was described in the public notice without referral to the planning commission and an additional public hearing after public notice as required by Code of Virginia, § 15.2-2204.
- (c) *Continuance or withdrawal.* Final action on any proposed amendment may be continued by the town council for good cause, provided that all resolutions, motions or petitions for amendments shall be acted upon by the council within one year of the date of the resolution, motion or petition. This provision shall not apply if the petitioner requests or consents in writing to action beyond such period or if a petition is withdrawn by providing written notice to the council.

Sec. 9-6. - Reconsideration of rezoning application.

Whenever a rezoning application is denied, substantially the same application shall not be reconsidered by the town council for one year from the date of denial, except:

- (a) When a new application, although involving all or a portion of the same property, is for a different zoning classification than the original application; or
- (b) When a new application is submitted after a finding by the town council that conditions or circumstances that provided the basis for denial of the original application have changed to an extent sufficient to justify reconsideration.

DIVISION 2. - CONDITIONAL ZONING

Sec. 9-7. - Purpose.

Pursuant to applicable provisions of Code of Virginia, § 15.2-2296, the purpose of conditional zoning is to recognize that frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate, and that in such cases more flexible and adaptable zoning methods are needed to permit differing land uses, and at the same time to recognize the effects of change.

It is, therefore, the intent of this division to provide a more flexible and adaptable zoning method to cope with such situations, whereby a change in the zoning classification of property may be allowed subject to certain conditions proffered by the petitioner for the protection of the community that are not generally applicable to land similarly zoned. It is the intent of the town council that the provisions of this division shall not be used for the purpose of discrimination in housing.

Sec. 9-8. - Procedure.

- (a) *Conditions may be proffered.* In conjunction with an application for rezoning of property and as a part of a proposed amendment to the zoning map as described in Division 1 of this article, the owner of such property may voluntarily proffer in writing reasonable conditions in addition to the regulations specified for the zoning district by this appendix, provided such conditions meet the criteria in this division.
- (b) *Submission of conditions.* The owner may submit such conditions at the time of submission of the application for rezoning or at any other time before the planning commission makes its recommendation on the application to the town council. The planning commission and the town council shall not be obligated to accept any or all proffered conditions.
- (c) *Modifications to conditions.* In the event additions, deletions or other modifications to conditions are desired by the owner of the property that is the subject of the rezoning request, they shall be made in writing to the planning commission before the commission makes its recommendation to the town council. The town council may consider additional conditions, deletions or modifications to conditions after the planning commission makes its recommendation, provided that such are voluntarily proffered in writing prior to the public hearing at which the town council is to consider the application for rezoning. In any case, where modifications to conditions are proposed after the planning commission makes its recommendation, the town council may refer the rezoning application back to the commission for further review and action.

Sec. 9-9. - Permitted conditions.

All conditions proffered shall meet the following criteria:

- (a) The rezoning itself must give rise to the need for the condition.
- (b) The conditions shall have a reasonable relation to the rezoning.
- (c) The conditions shall be in conformity with the town's comprehensive plan.
- (d) The conditions shall not be less restrictive than the provisions of this appendix, and shall not require or permit a standard that is less than required by any law.
- (e) The conditions shall be drafted in such manner as to be clearly understandable and enforceable.

Sec. 9-10. - Enforcement and guarantees.

- (a) *Authority of Zoning Administrator.* The Zoning Administrator shall be vested with all necessary authority on behalf of the town council to administer and enforce conditions attached to a rezoning or amendment to the zoning map, including:
 - (1) The ordering in writing of the remedy of any noncompliance with conditions;
 - (2) The bringing of legal action to ensure compliance with conditions, including injunction, abatement or other appropriate action or proceeding; and
 - (3) Requiring a guarantee satisfactory to the town council in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the town council, or its agent, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.
- (b) *Denial of permits.* Failure to meet all conditions attached to a rezoning or amendment to the zoning map shall constitute cause to deny issuance of any required site plan, zoning permit, certificate of zoning compliance, or other use, occupancy, or building permit, as may be appropriate.

Sec. 9-11. - Records.

The zoning map shall show by appropriate symbol the existence of conditions attached to the zoning on the map. The Zoning Administrator shall maintain and make available for public inspection a conditional

zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district.

Sec. 9-12. - Review of Zoning Administrator's decision.

Any rezoning applicant or any other person who is aggrieved by a decision of the Zoning Administrator made pursuant to the provisions of Section 9-10 of this article may petition the town council for review of such decision by filing a petition with the Zoning Administrator and with the clerk of the town council within 30 days of the decision. Such petition shall specify the grounds upon which the petitioner is aggrieved.

In deciding any such case, the town council shall have the same authority as vested in the Zoning Administrator, but shall not modify or delete any condition attached to a zoning map amendment except by formal amendment pursuant to the provisions of this article.

Sec. 9-13. - Amendments and variations of conditions.

Amendments and variations of conditions attached to a zoning map amendment shall be made only after public notice and hearing in the same manner as an original zoning map amendment and in accordance with the provisions of this article and applicable provisions of Code of Virginia, title 15.2, as amended. However, where an amendment to such proffered conditions is requested pursuant to subsection (A) of the Code of Virginia, Sec. 15.2-2302, and where such amendment does not affect conditions of use or density, the town council may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions.

ARTICLE X. - BOARD OF ZONING APPEALS

Cross reference— Boards and commissions, § 2-136 et seq.

DIVISION 1. - MEMBERSHIP AND ORGANIZATION

Sec. 10-1. - Members.

- (a) *Appointments.* Pursuant to Code of Virginia, § 15.2-2308, there shall be a board of zoning appeals which shall consist of five members who shall be residents of the town and shall be appointed for five-year terms by the circuit court of Roanoke County. Members may be reappointed to succeed themselves.
- (b) *Vacancies.* The secretary of the board shall notify the court at least 30 days in advance of the expiration of any term and shall also notify the court promptly if any vacancy occurs. The filling of vacancies and procedures for removal of members of the board shall be as set forth in Code of Virginia, § 15.2-2308.

Sec. 10-2. - Officers and support.

- (a) *Chairman and vice-chairman.* The board shall elect from among its members a chairman and a vice-chairman who shall serve in the absence of the chairman. The chairman and vice-chairman shall serve annual terms and may succeed themselves.
- (b) *Secretary.* The board shall elect a secretary who may be the Zoning Administrator or other qualified person and may be a member of the board. The secretary shall be responsible for preparing notices of hearings and minutes of meetings, keeping records, conducting official correspondence and such other duties as assigned by the board. The secretary shall not be entitled to vote on matters before the board.
- (c) *Support services.* With the approval of the town council and within limits of funds that may be appropriated for such purposes, the board may employ or contract for such clerical, technical or legal services necessary for it to carry out its responsibilities.

Sec. 10-3. - Rules, forms and records.

- (a) *Rules.* The board shall adopt such rules, as it deems necessary, for the conduct of its business consistent with the provisions of this article and Code of Virginia, title 15.2, as amended. Copies of such rules shall be available to the public.
- (b) *Forms.* The board shall see that standard forms are available for the filing of applications and appeals. Forms shall be provided to applicants by the Zoning Administrator.
- (c) *Records.* The board shall keep records of all its official actions, including minutes of its proceedings with the vote of each member on each question and the reasons of the board for each action taken. Minutes and records shall be public and shall be filed in the office of the board.
- (d) *Annual report.* The board shall submit an annual report of its activities to the town council with a copy to the planning commission.

Sec. 10-4. - Meetings and public hearings.

- (a) *Regular meetings.* The board shall, in accordance with its rules, schedule regular monthly meetings which shall be open to the public. The board may cancel any regular meeting if, by the filing deadline for applications and appeals to be heard at such meeting, there is no business to be brought before the board. The board may hold such other meetings as may be called by its chairman or by a quorum of its members.
- (b) *Public hearings.* The board shall make no decision on any application or appeal until it has conducted a public hearing in accordance with this article, after giving public notice as required by the provisions of Code of Virginia, § 15.2-2204. Such notice provisions shall be incorporated in or attached to the board's rules.

(c) *Quorum.* A quorum of not less than three members of the board shall be required for the conduct of any hearing and the taking of any action.

DIVISION 2. - POWERS AND DUTIES

Sec. 10-5. - Authority.

Pursuant to the provisions of Code of Virginia, § 15.2-2309, the board of zoning appeals shall have such powers and duties as set forth in this division.

Sec. 10-6. - Appeals.

The board shall have the power to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator or any other administrative officer in the administration or enforcement of this appendix.

Sec. 10-7. - Variance.

(a) A variance shall be granted if the evidence shows that the strict application of the terms of this appendix would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and:

- (1) The property interest for which the variance is being requested was acquired in good faith and the hardship was not created by the applicant;
- (2) The granting of the variance will not be of substantial detriment to adjacent property and properties in proximity to the property;
- (3) The condition or situation of the property concerned is not of so general recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this appendix;
- (4) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- (5) The relief or remedy sought by the variance application is not available through a special use permit process.

(b) Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to the property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable.

(c) No variance shall be considered except after notice and hearing as required by § 15.2-2204 of the Code of Virginia, 1950, as amended. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

(d) In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. A property subject to a variance shall be treated as conforming; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

Sec. 10-8. - Interpretation of official zoning map.

The board shall have the power to hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

Sec. 10-9. - Reserved.**Sec. 10-10. - Prohibition on rezoning of property.**

No provision of this article shall be construed as granting the board the power to rezone property, which power shall be vested in the town council.

DIVISION 3. - PROCEDURES**Sec. 10-11. - Appeal procedure.**

- (a) *Who may file appeal.* An appeal to the board of zoning appeals pursuant to section 10-6 of this article may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this appendix. Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given.
- (b) *Filing of appeal.* An appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator and with the board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all papers and other materials constituting the record upon which the action appealed from was taken. A copy of the notice of appeal shall also be transmitted to any other individual, officer, department or agency involved in the appeal.
- (c) *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the board that, by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order granted by the board or by a court of record, on application and with notice to the Zoning Administrator, and for good cause shown.

Sec. 10-12. - Application for variance and interpretation of zoning map.

- (a) *Who may file application.* An application for a variance or interpretation of the official zoning map pursuant to sections 10-7 or 10-8 of this article may be made by any property owner, tenant, government official, department, board or bureau, on forms provided for such purpose by the board and available from the Zoning Administrator.
- (b) *Application procedure.* Applications shall be submitted to the Zoning Administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board, or if the Zoning Administrator serves as secretary of the board, he or she shall place the matter on the docket to be acted upon by the board. The Zoning Administrator shall transmit copies of all applications to the planning commission, which may send a recommendation to the board or appear as a party at the hearing.

(c) *Reconsideration of application.* Substantially the same application for a variance or interpretation of the official zoning map which has been decided by the board shall not be considered again by the board within one year of the date of its decision, except that the board may, pursuant to its rules, reconsider an application if it finds that new or additional information is available which would have a direct bearing on the case and which could not reasonably have been presented at the initial hearing.

Sec. 10-13. - Public hearings and decisions.

(a) *Notice and hearing.* No decision on any application or appeal shall be made by the board until it has conducted a public hearing after giving public notice, including newspaper advertisements and written notices to affected parties, as required by the provisions of Code of Virginia, § 15.2-2204. The board shall fix a reasonable time for the hearing of an application or appeal, give the required public notice thereof, as well as due notice to the parties in interest, and decide the same within 90 days of the filing of the application or appeal.

(b) *Action by the board.* In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or determination appealed from. The concurring vote of not less than three members of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer, or to decide in favor of the applicant in any matter upon which it is required to pass under this appendix, or to effect any variance from the provisions of this appendix.

(c) *Oaths and witnesses.* The chairman of the board or, in his or her absence, the acting chairman may administer oaths and compel the attendance of witnesses.

Sec. 10-14. - Expiration of variance.

A variance granted by the board shall lapse and be of no effect if, after the expiration of one year from the date of such action by the board, no site plan has been submitted, provided that the board may, for good cause shown, specify a longer period of time in conjunction with its action to grant a variance.

Sec. 10-15. - Amendment of variance.

The procedure for amendment of a variance granted by the board, including any changes in the conditions attached thereto, shall be the same as for a new application.

Sec. 10-16. - Enforcement of decisions.

Decisions of the board shall be administered and enforced by the Zoning Administrator. Noncompliance with any action taken by the board, including conditions imposed by the board, shall constitute a violation of the provisions of this appendix.

Sec. 10-17. - Appeals from decisions of the board.

Appeals from decisions of the board shall be presented to the Circuit Court of Roanoke County in accordance with the procedures set forth in Code of Virginia, § 15.2-2314, as amended. Any person or persons jointly or severally aggrieved by any decision of the board, or any taxpayer or any officer, department, board or bureau of the town may present to the circuit court a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the board.

ARTICLE XI. - DEFINITIONS

Sec. 11-1. - Applicability of article.

For the purposes of this appendix, and unless specifically prescribed to the contrary elsewhere in this appendix, certain words and terms shall be interpreted as set forth in this article. Words and terms not defined here or elsewhere in this appendix shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context.

Sec. 11-2. - Words and terms defined.

(a) *General rules.* The following general rules of interpretation shall apply throughout this appendix, as they are appropriate to the context:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (3) The word "shall" is mandatory, and the word "may" is permissive.
- (4) The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied."
- (5) The words "building" or "structure" include any part thereof, and the word "building" includes the word "structure."
- (6) The terms "main" and "principal" are synonymous.
- (7) The word "lot" includes the words "plot" or "parcel."
- (8) The word "land" includes the words "water" and "marsh."
- (9) All references to public officials, agencies and bodies are those of the Town of Vinton, Virginia, unless indicated otherwise.

(b) *Certain words and terms defined.* The following words and terms shall be interpreted as having such meaning as described herein, unless a specific meaning to the contrary is indicated elsewhere in this appendix:

- (1) Accessory building or structure. A building or structure separate from the main building on a lot and used for purposes customarily incidental and clearly subordinate to the principal use of the lot on which it is located. Where such building or structure is attached by walls or roof to a main building, it shall be considered to be a part of the main building.
- (2) Accessory Dwelling Unit. A secondary dwelling unit either in or added to an detached single-family dwelling, or in a separate freestanding accessory structure on the same lot as the principal dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use and is clearly subordinate to the principal dwelling and shall conform to all use, setback and other requirements of this ordinance.
- (3) Accessory use. A use of land or a use of a building or structure for purposes customarily incidental and clearly subordinate to the principal use of the lot on which it is located.
- (4) Adult day care center. A facility which provides supplementary care and protection during a part of the day only to four or more aged, infirm or disabled adults who reside elsewhere, except a facility or portion of a facility licensed by the state board of health or department of mental health, mental retardation and substance abuse services.
- (5) Adult day care home. A single-family dwelling in which is operated a facility which provides supplementary care and protection during a part of the day only to less than four aged, infirm

or disabled adults who reside elsewhere, except a facility or portion of a facility licensed by the state board of health or department of mental health, mental retardation and substance abuse services.

- (6) Agricultural use. Tilling of the soil, general farming, truck gardening, horticulture, cultivation of field crops, orchards, groves and nurseries for growing trees and other plants, and including incidental processing, storing and selling of products raised or produced on the premises, together with structures and activities necessary to support such uses. A garden accessory to a dwelling use shall not be considered agricultural use.
- (7) Alley. A public way affording or intended to afford secondary means of vehicular access to abutting properties and situated along the side or rear of such properties.
- (8) Alternative Financial Institution. Check cashing establishment (as a primary use), motor vehicle title lender, payday lender, or precious metals dealer, as defined in this Article.
- (9) Amphitheater. An establishment for the performing arts with open-air, generally tiered, seating for audiences.
- (10) Amusement, commercial, indoor. An establishment primarily engaged in the provision of four (4) or more amusement or entertainment devices or machines or games of skill, chance, or scoring to the public for a fee, where all such activity occurs enclosed in a building. Such games include billiards, pool, table tennis, dartboards, foosball, pinball, video games, and other similar amusement or entertainment devices, whether or not they are coin-operated. Typical uses include billiard and pool halls, video arcades, and game rooms. "Indoor commercial amusement" establishments may include accessory uses, such as snack bars, which are designed and intended primarily for the use of patrons of the amusement use. "Indoor commercial amusement" establishments do not include gun-firing ranges or any use which is otherwise specifically listed in the Use Tables in Article IV of this appendix.
- (11) Amusement, commercial, outdoor. An establishment primarily engaged in the provision of four (4) or more amusement or entertainment devices or games of skill or scoring to the general public for a fee where any portion of the activity takes place outside of a building, including miniature golf course, golf driving ranges, batting cages, or similar facility. "Outdoor commercial amusement" establishments do not include go-cart or motorcycle courses, raceways, drag strips, overnight camping, or gun-firing ranges, or any use which is otherwise specifically listed in the Use Tables in Article IV of this appendix.
- (12) Animal hospital or veterinary clinic: An establishment for the care, observation, or treatment of domestic animals, including household pets, and which may include medical or surgical treatment and care. The short-term overnight boarding of animals shall be permitted as an accessory use and shall be clearly incidental to the principal operation of the animal hospital or veterinary clinic.
- (13) Assisted care facility. An establishment that provides shelter and other services, which may include meals, housekeeping and personal care assistance, for elderly residents who are typically functionally impaired and socially isolated, but otherwise in good health and able to maintain a semi-independent lifestyle, not requiring the more intensive care of a nursing home.
- (14) Automobile graveyard. Any area outside of a completely enclosed building used for the storage, keeping or parking of two or more motor vehicles of any kind, incapable of being operated and not economically practical to make operative.
- (15) Athletic field: Outdoor site, often requiring equipment, designed for organized athletic competition in field sports such as softball, baseball, soccer, and football, and which is not a "sports complex," as defined in this appendix. Athletic fields may include bleachers, but do not provide locker rooms.
- (16) Bed and breakfast establishment. Facilities within an owner-occupied single-family dwelling operated by the owner of such dwelling for the housing of persons on a transient basis for not

more than seven consecutive nights, containing not more than four lodging units for overnight guests, and where no meals other than breakfast are served to guests.

- (17) Boardinghouse or rooming house. A building in which lodging is provided to more than two but not more than 14 persons for compensation on a weekly or longer basis, and which contains a dwelling unit occupied by the owner or operator.
- (18) Brewery. An establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer, with a capacity of greater than 315,000 gallons per year. A brewery may include a restaurant or public tasting room as an accessory use.
- (19) Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, chattels or activities of any kind.
- (20) Building official. The official designated to enforce the provisions of the Virginia Uniform Statewide Building Code within the jurisdiction of the town.
- (21) Building supplies and materials, retail: Establishments exclusively engaged in wholesale sales, from the premises, of materials which are generally essential to the construction of buildings or structures, including lumber, concrete, bricks, roofing materials, siding, plumbing, heating and electrical equipment, windows, doors, insulation, landscaping supplies, and similar materials.
- (22) Business support services. Establishments or places of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.
- (23) Check cashing incidental use. Cashing of checks, drafts or money orders for compensation, as accessory to a permitted use other than check cashing primary use.
- (24) Check cashing primary use. Person or establishment engaged in the business of cashing checks, drafts or money orders for compensation, and registered with the state corporation commission pursuant to Code of Virginia.
- (25) Child day care center. A facility complying with applicable state licensing requirements and operated for the purpose of providing care, protection and guidance to a group of 13 or more children separated from their parents or guardians during a portion of the day.
- (26) Clinic. A facility providing medical, dental, optical, surgical or psychiatric services to persons exclusively on an outpatient basis, and involving no overnight stay of patients. The term "clinic" includes the term "office" when used in conjunction with such services.

(Commercial Vehicle—See Truck or Commercial Vehicle)

- (27) Commercial motor vehicle sales, rental, and service establishment. An establishment which engages in only the sale, rental, or lease of new and used commercial motor vehicles, the performance of any repair or maintenance work of such commercial motor vehicles, and financial services conducted as an accessory use to the establishment.
- (28) Commission. The planning commission of the town.
- (29) Community Center. A place, structure, area, or other facility used as a place for meetings, recreation, or social activity and not operated for profit. Such facility is generally open to the public and designed to accommodate and serve significant segments of the community. Such facilities may include those owned or operated by the city to serve a designated segment of the community; those owned or operated by a neighborhood organization and used for meetings or activities of such neighborhood organization; or such facilities owned or operated by a homeowners association, condominium association, or similar entity and located within or adjacent to such residential development for use solely by the residents or guests of such development.

(30) Community Market. Any area of land, buildings or structures, open or enclosed, offering for retail sale of fresh produce, prepared food items, other agricultural items, or handmade crafts directly to the consumer from stalls or tables, where the vendors are generally individuals who have raised the vegetables or produce or have made the crafts or have taken the same on consignment for retail sale.

(31) Completely enclosed building. A building enclosed on all sides and having no outside openings other than ordinary doors, windows and means of ventilation.

(32) Contractors' offices, shops and display rooms, general or special trade. An establishment where a general contractor engaged in the construction of residential or commercial structures, a special trade contractor that assists in building construction or remodeling including carpentry, electrical, masonry, painting, metalworking, cabinetmaking, flooring installation, duct work, plumbing, heating, air conditioning, and roofing, a landscape contractor engaged in the decorative and functional alteration, planting, or maintenance of grounds, furniture refinishing or upholstery, sign making, or similar work, maintains its principal office or a permanent business office, where the establishment may engage in the retail sale or rental of goods manufactured, assembled, or serviced on the premises, and where such establishment engages in one (1) or both of the following:

- (A) The fabrication, assembly, servicing, or storage of products or materials on site within a wholly enclosed building; or
- (B) Where permitted by this appendix, the outdoor storage of construction equipment and other materials customarily used in the trade carried on by the contractor but not including any construction or demolition debris or waste materials.

(33) Contractors' shop, heavy construction. An establishment where a heavy construction contractor engaged in such activities as paving, highway construction, utility construction, or similar work, maintains its principal office or a permanent business office, and where such establishment engages in one (1) or all of the following:

- (A) The storage of products or materials on site within a wholly enclosed building;
- (B) The outdoor storage of construction equipment or other commercial vehicles on the site; or
- (C) Where permitted by this appendix, the outdoor storage of materials customarily used in the trade carried on by the contractor but not including any construction or demolition debris or waste materials.

(34) Convenience store. Any retail establishment offering for sale a relatively limited selection of prepackaged or deli-style food products, tobacco products, household items, and other related goods, not including gasoline or fuel sales, characterized by a rapid turnover of customers and high traffic generation.

(35) Dancehall. An establishment where more than ten percent of the total floor area is designated or used as a dance floor or an establishment where an admission fee is directly collected or some other form of compensation is obtained for dancing, other than an establishment operated exclusively as a studio for the purpose of dance instruction.

(36) Development site. All of the land developed or intended to be developed for townhouse dwellings and related accessory uses, structures and facilities, when such land is contiguous, except for internal streets, and under single ownership or control for purposes of planning and initial development. A development shall include the individual lots on which townhouse dwellings are or will be located, as well as all open spaces, parking areas, driveways, recreational facilities, community areas and other areas owned or to be owned in common by owners of individual lots within the development.

(37) Distillery. An establishment primarily engaged in distilling and blending potable liquors, including mixing them with other ingredients, with a capacity greater than 5,000 gallons of

finished product per year. A distillery may include a restaurant or public tasting room as an accessory use.

(38) Drive-up facility or drive-up window. Any window or other facility where service is rendered to or business is transacted directly with customers who are located within motor vehicles.

(39) Dwelling, multi-family. A classification of housing where multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex. A common form is an apartment building.

(40) Dwelling, single-family. A site built or modular building designed for or used exclusively as one (1) dwelling unit for permanent occupancy.

(A) Attached: Two (2) single-family dwellings sharing a common wall area, each on its own individual lot.

(B) Detached: A single-family dwelling which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

(41) Dwelling, two-family. A building which contains two dwelling units.

(42) Dwelling unit. A room or group of rooms within a building and constituting a separate and independent housekeeping unit occupied or intended for occupancy by one family and containing cooking, sleeping and sanitary facilities. The term "dwelling unit" shall not include a manufactured home, recreational vehicle, or room or group of rooms within a hotel, motel, tourist home, boarding house, rooming house, fraternity or sorority house, or similar lodging facility.

(43) Dwelling use. Any principal use containing dwelling units or lodging units which are not generally available for occupancy for periods of less than one week, as distinguished from units located within hotels, motels, tourist homes and similar facilities intended for transient occupancy. The term "dwelling use" shall also include a bed and breakfast establishment, group home, assisted care facility or nursing home.

(44) Eating and Drinking Establishment. An establishment engaged in the preparation and selling of food to the customer in a ready-to-consume state, and where the customer consumes these foods on or off the premises, including restaurants, cafes, delicatessens, tearooms, coffee houses, ice cream parlors, refreshment stands, catering businesses or similar food and beverage service establishments. This use may also include the function of selling beer, wine, or other alcoholic beverages for consumption on the premises. Such establishment may provide, as an accessory function, live performances with musical instruments or recorded background music and a dance floor not to exceed ten (10) percent of the assembly area of the establishment.

(45) Educational facilities, Business school or nonindustrial trade school: A specialized instructional establishment that provides on-site training of business, commercial, vocational, or trade skills such as accounting, data processing, computer repair, secretarial skills, barbering or hair dressing, or other trades of a nonindustrial nature, and not otherwise defined as a "college/university educational facility," "elementary/middle/secondary educational facility," or a "home occupation." Incidental instruction services in conjunction with another primary use shall not be considered a business or trade school.

(46) Educational facilities, Elementary/middle/secondary: A public, private, or parochial school offering instruction at the elementary (kindergarten through grade 5), middle (grades 6 through 8), or secondary (grades 9 through 12) school level in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

(47) Educational facilities, Industrial trade school: A specialized instructional establishment for teaching industrial trade skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include "college/university educational facility,"

"elementary/middle/secondary educational facility," "home occupation," or incidental instruction services provided in conjunction with another primary use.

(48) Educational facilities, School for the arts: A school where classes in the various fine arts, including painting, sculpting, photography, music, dance, or dramatics are taught, and where such establishment is not otherwise defined as an "elementary/middle/secondary educational facility," "college/university educational facility," "artist studio," or "home occupation."

(49) Entertainment Establishment. An establishment where entertainment is provided, or has a dance floor which occupies more than ten (10) percent of the assembly area of the establishment. Entertainment establishments include theaters, dance halls, auditoriums, club and lodge meeting facilities and assembly halls that are located within completely enclosed buildings, but do not include "indoor commercial recreational facilities" or "indoor commercial amusement" establishments.

(50) Family. One or more persons related by blood, marriage or adoption, including foster children, or not more than five unrelated persons living together as a single housekeeping unit and occupying a single dwelling unit, except as otherwise provided herein. Domestic servants or employees residing on the premises shall be considered as part of a family. The term "family" shall not be construed to include a fraternity, sorority, club or a group of persons occupying a hotel, motel, tourist home, boarding house or institution of any kind, but shall include the occupants of a group home as defined in this article.

(51) Family day care home. A single-family dwelling in which a facility as defined in Code of Virginia, § 63.1-195, is operated for the purpose of providing care for more than five but less than 13 children separated from their parents or guardians during a portion of the day, exclusive of the provider's own children and any children who reside in the home. The care of five or less children for portions of a day shall be considered a home occupation.

(52) Farmer's market. See Community Market.

(53) Flea market. An occasional or periodic market conducted in an open area or in buildings or structures, where groups of individual sellers offer a variety of goods for sale to the public and where there are ordinarily no long-term leases of selling space between sellers and operators.

(54) Flood. A general and temporary inundation of normally dry land areas. (See Article IV, floodplain districts, for additional definitions pertaining to flood and floodplains.)

(55) Floor area. The sum of the horizontal areas of all usable floors of a building as measured from the exterior faces of exterior walls and including all intervening walls, partitions, hallways, corridors, lobbies and stairways. In calculating the floor area of an attached building or the floor area of a use occupying a portion of a building, measurement shall be made to the centerlines of common or shared walls. Floor area shall not include unenclosed porches, balconies, carports, parking garages, or any basement or attic areas which are not improved and available for use and occupancy.

(56) Floral shop. An establishment engaged in the assembling of live or dried floral arrangements and related storage of materials and finished products, and retail sales of such products.

(57) Forestry. The use of land for raising and harvesting timber, pulpwood and other wood products for commercial purposes, including accessory operation of temporary sawmills and similar equipment for harvesting timber on the same or contiguous property.

(58) Frontage. That portion of a lot abutting a street and being situated between the lot lines intersecting the street; also referred to as "street frontage" or "lot frontage."

(59) Garden center. A retail establishment whose exclusive activity is the sale of plants, shrubs, and trees and the sale of any article, substance, or commodity related to such planting, maintenance, or harvesting such as packaged fertilizers, soils, chemicals, or other nursery goods or products in small quantities to the consumer. Such establishment may conduct its activities both within an enclosed building and outside in the open. The exterior display of

vegetative inventory for sale shall not be considered "outdoor storage" or "outdoor display" for purposes of this Appendix.

(60) Gasoline service station or self-service gasoline station. Any establishment involving the dispensing of motor fuels and related products at retail and having pumps, underground storage tanks and other facilities for such activity, and which may include the retail sale or installation of minor automobile parts and accessories and the inspection, servicing or minor repair of motor vehicles in enclosed service bays or stalls. For purposes of this appendix, the definition of "gasoline service station" does not include "motor vehicle or trailer painting and body repair," servicing of recreational vehicles or watercraft, or the storage of wrecked vehicles. Such establishment may also provide the services of a convenience store.

(61) Golf Course. A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par three (3) golf courses. Specifically excluded would be independent driving ranges and any miniature golf course.

(62) Greenhouse, commercial. A structure providing enclosure and protection for the raising of plants which are offered for sale at retail on the premises.

(63) Group home. A residential facility in which not more than eight individuals who are aged, infirmed, disabled, mentally ill, mentally retarded, or otherwise developmentally disabled reside, with one or more resident counselors or other staff persons. For the purposes of this definition, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401. The term "group home" shall include any other residential facility for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority under state law and shall for purposes of this appendix be considered residential occupancy by a single family.

(64) Halfway house. An establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction, to persons re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.

(65) Height. The vertical distance measured from the average of the lowest and highest elevations of the finished grades immediately adjacent to a building or structure to the highest point of a flat roof, mansard roof or parapet, or to the midpoint of a gable, hip or shed roof, or to the highest point of any structure having no roof.

(66) Home occupation. An occupation, profession, enterprise or similar activity conducted within a dwelling unit which is the residence of the practitioner. In order to qualify as a home occupation, an activity as described herein must be clearly secondary to the principal dwelling use of the premises and must meet all of the following criteria, which are intended to distinguish such activity from other business uses and to ensure compatibility with nearby residential uses:

- a. No person other than a member of the family residing on the premises is employed on the premises in the conduct of the activity.
- b. The home occupation is limited to the main building only and does not occupy more than 25 percent of the floor area of the main building or more than 500 square feet, whichever is less.
- c. There are no signs that identify the home occupation use, and no displays or alterations to the exterior of the building that would distinguish it as being devoted to any non-dwelling use.
- d. There is no group instruction or assembly, no housing of persons for compensation, no repair of motor vehicles, and no product offered for sale on the premises.

- e. The type, volume and hours of traffic generated by the home occupation are not inconsistent with characteristics of traffic generated by other dwellings in the neighborhood.
- f. There is no equipment, process or activity conducted that generates any noise, vibration, odor, fumes, glare or electrical interference detectable to the normal senses beyond the premises.

(67) Homestay. The accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for short term transient rental purposes in exchange for a charge for the occupancy. The primary use of the homestay unit shall remain residential. For each booking transaction, all applicable taxes must be collected and remitted to the town as required by Chapter 86 by either the host or the associated hosting platform. Such accessory or secondary use shall not create a landlord/tenant relationship.

(68) Hospital. A facility, licensed by the state, in which the primary function is the provision of diagnosis, treatment and medical and nursing services, surgical or nonsurgical, for sick or injured persons, and which provides inpatient beds, and including ancillary facilities for outpatient and emergency care, training, research, administration and employee, patient and visitor services, but not including a facility exclusively or primarily for the care and treatment of psychiatric patients or persons suffering from substance abuse.

(69) Hotel or motel. A building or group of buildings on the same lot containing lodging units for transient guests principally on a daily basis, for which housekeeping services are provided, and in which each lodging unit has a separate entrance through a common lobby, corridor or directly from the outside. The term "hotel or motel" is intended to apply to inns, lodges and similar facilities except when such conform to the definition of tourist home as set forth in this article.

(70) Inoperable vehicle. Any motor vehicle on which valid license plates or a valid inspection decal is not displayed, or any motor vehicle which is wrecked, partially or totally dismantled or disassembled, such that it cannot be lawfully operated on a public street.

(71) Junkyard. An outdoor area used for the depositing, keeping, storing, buying or selling of discarded materials no longer usable in their present form, including but not necessarily limited to: Scrap metals, building materials, machinery, household appliances, plumbing supplies, furnishings, fixtures, or motor vehicles or parts thereof. The term "junkyard" includes an automobile graveyard as defined herein, but shall not include a garbage dump, tire dump, landfill as defined under the solid waste management regulations promulgated by the Virginia Waste Management Board, or any similar use.

(72) Kennel, boarding. A place or establishment, other than a pound, animal shelter, or pet daycare facility, where companion animals not owned by the proprietor are sheltered, fed, and watered, for a period not exceeding 30 consecutive days, in exchange for a fee.

(73) Laboratory. A facility for scientific laboratory research in technology-intensive fields or a facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials. Alternatively, a laboratory can be a place where chemicals or medicines are manufactured.

(74) Livestock. Animals, other than dogs, cats and other household pets, which are kept or raised for use, profit or enjoyment, including cattle, horses, sheep, goats, swine, fowl, rabbits and similar animals as defined in chapter 10 of the town Code.

(75) Lodging unit. A room or group of rooms within a building, constituting living quarters for one or more persons, and not containing cooking facilities. A room or group of rooms within a hotel, motel or tourist home constituting living quarters for transient guests shall be considered a lodging unit even though it may contain partial or complete kitchen facilities.

(76) Lot. A parcel of land occupied or intended for occupancy by buildings or uses permitted by the provisions of this appendix together with such area, yards and other open spaces as are required by this appendix. "Lot" includes the terms "tract," "parcel" and "property" and may

consist of a single lot of record, a combination of contiguous lots of record, or a unit of land described by metes and bounds.

(77) Lot, corner. A lot abutting upon two or more streets at their intersection, or a lot bounded entirely by streets.

(78) Lot coverage. That portion of a lot, which when viewed from directly above, would be covered by any building or structure.

(79) Lot, interior. A lot, other than a corner lot or through lot, which has frontage on only one street.

(80) Lot line. Any boundary of a lot, including a boundary which constitutes a street line.

(81) Lot of record. A lot which is part of a subdivision recorded in the office of the clerk of the circuit court, or a lot or parcel which is described by metes and bounds and is similarly recorded.

(82) Lot, through. A lot other than a corner lot having frontage along more than one street.

(83) Lot width. The minimum horizontal distance between the side lines of a lot measured between the points where the minimum required front yard line intersects the side lines of the lot. On a corner lot or through lot on which more than one front yard is required, the lot width shall be measured adjacent to the frontage with the least dimension.

(84) Main building. A building in which is conducted the principal or main use of the property on which the building is located.

(85) Manufactured home. Any structure complying with the Federal Manufactured Housing Construction and Safety Standards, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on a site; is built on a permanent chassis; is designed to be used for dwelling purposes by one family, with or without a permanent foundation, when connected to the required utilities; and which includes the plumbing, heating, air conditioning, and electrical systems to be utilized in the structure. The term "manufactured home" includes the term "mobile home."

(86) Manufactured home park. A lot or parcel on which are located, or which is arranged or equipped for the accommodation of, two or more manufactured homes with spaces for such available for rent or lease for periods of not less than one year, and including such open spaces and other facilities as may be provided for the use of or service to residents of manufactured homes located on such lot or parcel.

(87) Massage Clinic. An establishment where all active employees are massage therapists certified by the Virginia Board of Nursing, as evidenced by the holding and continual renewal of a license issued by the Board, carries out measures prescribed by doctors, chiropractors, and other medical professionals.

(88) Massage Parlor. Any establishment having a fixed place of business where massages are administered or any establishment holding itself out through representations of its employees or agents or in any advertising medium as a place where massages are administered. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a duly licensed physician, surgeon, physical therapist, chiropractor, osteopath, a massage therapist who is licensed by the Virginia Board of Nursing, or a barber shop or beauty salon in which massages are administered only to the scalp, face, the neck or the shoulders.

(89) Motor vehicle. A vehicle meeting the definition of "motor vehicle" as defined in the Code of Virginia, § 46.2-100, as amended.

(90) Motor vehicle sales and service establishment. Any establishment for the display and sales of new or used motor vehicles or trailers, including rental, servicing, major and minor mechanical repair, when conducted as accessory uses. Typical uses include oil and lubrication services, tire sales and installation, wheel alignment and brake shops, repair and replacement of cooling, electrical, fuel, and exhaust systems, replacement of batteries, and similar repair and services activities where minor repairs and routine maintenance are conducted; repair

garages, transmission shops, major engine repair, and radiator shops where major engine and transmission repair activities are conducted; motor vehicle upholstery repair or replacement; and motor vehicle radio or stereo system installation or service. Commercial motor vehicles shall not be included in the inventory of a motor vehicle sales and/or rental establishment, except for trucks and trailers serving the purpose of household do-it-yourself movers of personal property; however, no more than 50% of the vehicle stock for an establishment shall be composed of commercial motor vehicles that meet this definition. For purposes of this appendix, the definition of "motor vehicle sales and service establishment" does not include "motor vehicle or trailer painting and body repair," the sale or servicing of recreational vehicles or watercraft, or the storage of wrecked vehicles.

- (91) Motor vehicle service center. An establishment for the servicing and minor repair of motor vehicles or trailers within enclosed service bays or stalls, and which may include the sale, installation and repair of tires, batteries, shocks, exhaust systems and similar minor automobile parts and accessories. For purposes of this appendix, the definition of "motor vehicle service center" does not include "motor vehicle or trailer painting and body repair," the servicing of recreational vehicles or watercraft, or the storage of wrecked vehicles.
- (92) Motor vehicle title lender. Establishment engaged in the business of lending money secured by a non-purchase interest in a motor vehicle.
- (93) Microbrewery. An establishment primarily engaged in brewing ale, beer, malt liquors, and nonalcoholic beer, with a capacity of not more than 315,000 gallons per year. A micro-brewery may include a restaurant or public tasting room as an accessory use.
- (94) Microdistillery. An establishment primarily engaged in distilling and blending potable liquors, including mixing them with other ingredients, with a capacity of not more than 5,000 gallons of finished product per year. A micro-distillery may include a restaurant or public tasting room as an accessory use.
- (95) Mini warehouse. A building or group of buildings intended to provide rental storage space within individual cubicles or compartments enclosed by walls and ceilings, each of which has a separate entrance for loading and unloading of stored goods, and from which no sale of goods or services is conducted.
- (96) Motor vehicle or trailer painting and body repair. Any facility, or portion thereof, used for the repair, replacement, or straightening of a motor vehicle body or frame or painting of motor vehicles. Mechanical service and engine repair may be performed as an ancillary function of the body work.
- (97) Nonconforming building. A building or structure having one or more nonconforming features.
- (98) Nonconforming feature. A feature of a use, as distinguished from the use itself, or a feature of a building, which feature was lawfully existing at the effective date of this appendix or subsequent amendment thereto, and does not conform with the requirements established by this appendix or an amendment thereto. Features of uses or buildings shall be construed to include density, lot area, lot dimensions, yards, open spaces, height, bulk, number of occupants, screening, landscaping, lighting, and off-street parking requirements. A building having any such nonconforming feature may be referred to as a nonconforming building.
- (99) Nonconforming use. A principal or accessory use of land or of a building or structure, which use was lawfully existing at the effective date of this appendix or subsequent amendment thereto and is not a permitted use under the provisions of this appendix or an amendment thereto.
- (100) Not-for-profit. An organization, association or activity which is not operated for purposes of earning a profit, and which has obtained nontaxable status from the United States Internal Revenue Service.
- (101) Nursing home. Any facility or any identifiable component of a facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services

for the treatment and inpatient care of two or more persons and which is licensed by the commonwealth as a nursing home.

(102) Office. An establishment primarily engaged in providing professional, financial, administrative, management, clerical or other services not involving the manufacture, assembly or repair of goods, or the storage or direct transfer of goods to the customer on the premises, except as may be incidental to a service provided on the premises. If the establishment provides counseling, guidance, recuperative, or similar services for persons requiring rehabilitation assistance because of mental illness, alcoholism, detention, or similar conditions, this shall only occur for part of a 24-hour day.

(103) Off-street parking space. An area for the parking of one motor vehicle located other than within a public street or public alley right-of-way and having such dimensions and access as set forth in article VI of this appendix.

(104) Outdoor display area. The placement of goods or merchandise for sale or for advertisement, outside of the building or structure in which the merchandise is normally sold. For purposes of this definition, motor vehicle inventory for sale or lease, motor vehicle rental inventory, operable motor vehicle and commercial motor vehicle fleets associated with a business establishment, and the vegetative inventory of a commercial greenhouse, garden center, or community market shall not be considered an "outdoor display area."

(105) Outdoor storage. The keeping or storing, other than in a wholly enclosed building, of any goods, items, materials, or merchandise for more than twenty-four (24) consecutive hours. "Outdoor storage" shall be permitted only as an accessory use where allowed by this appendix. For purposes of this definition, motor vehicle inventory for sale or lease, motor vehicle rental inventory, operable motor vehicle and commercial motor vehicle fleets associated with a business establishment, and the vegetative inventory of a commercial greenhouse, garden center, or community market shall not be considered "outdoor storage."

(106) Outpatient mental health and substance abuse center. Establishments with medical staff providing outpatient services related to the diagnosis and treatment of alcohol, drug, or other substance abuse. These establishments may provide counseling and/or refer patients to more extensive treatment programs, if necessary. Included in this use type are outpatient alcohol treatment centers, outpatient detoxification centers, outpatient drug and substance abuse centers, which services include the dispensing and administering of controlled substances and pharmaceutical products by professional medical practitioners as licensed by the Commonwealth of Virginia.

(107) Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such building or land.

(108) Owner-occupied unit. A dwelling unit or accessory unit that is the principal residence of at least one owner of record of the lot or parcel upon which the dwelling unit or accessory unit is located, who possesses at least an estate for life or a fifty percent fee simple ownership interest or is the trustor of a revocable living trust.

(109) Parking area. A parcel of land or a portion thereof used for the parking of motor vehicles, including off-street parking spaces as defined herein, as well as the access aisles and maneuvering space directly serving such off-street parking spaces.

(110) Parking garage. A structure or portion of a structure generally available to the public and used for the parking of transient motor vehicles either for compensation, whether by prior rental or lease agreement or on an hourly or daily basis. This use shall not include the parking or storage of recreational vehicles, watercraft, utility trailers, or recreational equipment trailers.

(111) Parking lot. A parcel of land or portion thereof used for the parking of motor vehicles as a commercial enterprise for which compensation is charged, whether by prior rental or lease agreement or on an hourly or daily basis. This use shall not include the parking or storage of recreational vehicles, watercraft, utility trailers, or recreational equipment trailers.

- (112) **Pawnbroker.** Person or establishment that lends or advances money or other things on the pledge and possession of personal property or other valuable things, other than securities or written or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.
- (113) **Payday Lender.** Establishment, other than a bank, credit union, or savings and loan, engaged in the business of making short-maturity loans on the security of a check, any form of assignment of an interest in the account of an individual at a depository institution, or any form of assignment of income payable to an individual, other than loans based on income tax refunds.
- (114) **Personal service business.** An establishment or place of business providing a service directly to persons or involving the repair, alteration, maintenance, cleaning or customizing of personal property worn by or carried on a person, and including, health spas, fitness centers, shoe repair shops, tailor and dressmaking shops, travel agencies, clothing rental stores, watch and jewelry repair shops, photographic studios, studios for music, dance or martial arts instruction, tattoo parlors, hobby and craft instruction, and similar uses.
- (115) **Personal service home occupation.** A home occupation that generally provides services to an individual client related to the care of a person, a person's apparel, or the training and development of a person, including, but not limited to, beauty or barber services, nail services, dressmakers or tailors, music or art lessons, photography or portrait painting, and tutoring, but not including medical services, massage clinics, tattoo parlors, any form of animal-related use, or body piercing establishments.
- (116) **Pet daycare facility.** A facility where companion animals may be groomed, trained, exercised, socialized, and/or boarded overnight. The short-term overnight boarding of companion animals shall be permitted as an accessory use and shall be clearly incidental to the principal operation of the pet daycare facility.
- (117) **Precious metals dealer.** Any person or establishment defined as a dealer in the Vinton Town Code Sec. 74-30 that is not accessory to a jewelry or coin store.
- (118) **Principal residence** means a person's principal home and domicile. If a person maintains more than one residence, their principal residence, for the purpose of this Appendix, shall be the residence where they live for more than half of the calendar year. However, if (1) the person owns another dwelling unit that is not licensed for long term rental; (2) the person's spouse or domestic partner has a different principal residence; (3) the person's driver's license, voter registration or any dependent's school registration shows a different residence address; or (4) the Roanoke County Assessor lists a mailing address from the dwelling unit address, it shall be presumed that the dwelling unit in question is not a principal residence. Provided, however, no presumption shall apply in any criminal proceeding.
- (119) **Principal street frontage.** That frontage of a corner lot in a business district, which is situated along the street which carries the greater volume of pedestrian and vehicle traffic and generally functions as the primary orientation of businesses on properties contiguous to the lot.
- (120) **Principal use.** The main use of a lot, building or structure as distinguished from an accessory use.
- (121) **Property.** Any land which is identified by an official tax map number, any buildings or structures on the land, and including the area in the public right-of-way which is between the property line of the land and the curb or edge of pavement.
- (122) **Public and civic uses.** This category includes public, quasi-public, and private uses that provide unique services that are of benefit to the public as a whole.

- (123) Public sewer or public water system. A sewer or water system owned and operated by the town, or by such other unit of government, or authority or individual as may be authorized by the laws of the commonwealth, when such facility is approved by the council of the town.
- (124) Public utility, major. Services of a regional nature which normally entail the construction of new buildings or structures such as generating plants and sources, electrical switching facilities and stations or substations, community waste water treatment plants, and similar facilities. Included in this definition are also electric, gas, and other utility transmission lines of a regional nature which are not otherwise reviewed and approved by the Virginia State Corporation Commission.
- (125) Public utility, minor. Services which are necessary to support development within the immediate vicinity and involve only minor structures. Including in this use type are distribution lines and small facilities that are underground or overhead, such as transformers, relay and booster devices, stormwater management facilities and well, water and sewer pump stations. Also included are all major utility services which were in existence prior to the adoption of this ordinance.
- (126) Recreation, indoor: The provision of recreation facilities which are predominantly participatory uses, and which are located and conducted entirely within a building. Typical uses include bingo halls, tennis or other racquet courts, swimming pools, bowling alleys, ice skating or roller skating rinks, batting cages, climbing walls, or similar recreation uses. "Indoor commercial recreation" establishments may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. "Indoor recreation" establishments shall not include any use which is otherwise specifically listed in the Use Tables in Article IV of this appendix.
- (127) Recreation, outdoor. The provision of recreation facilities which are predominantly participatory uses, and which are conducted in open or partially enclosed or screened facilities. Typical uses include swimming pools, tennis or other outdoor racquet courts, basketball courts, athletic fields, skateboarding courses, or similar recreation uses. "Outdoor recreation" facilities may include any accessory uses, such as snack bars, pro shops and clubhouses, which are designed and intended primarily for the use of patrons of the principal recreational use. "Outdoor recreation" facilities shall not include paintball fields or areas, go-cart or motorcycle courses, raceways, drag strips, overnight camping, or gun-firing ranges, or any use which is otherwise specifically listed in the Use Tables in Article IV of this appendix.
- (128) Recreational equipment trailers. Wheeled trailers used to transport items including, but not limited to, livestock, watercraft, ATVs, motorcycles, snowmobiles, etc.
- (129) Recreational vehicle. A vehicle built on a single chassis intended to be towed, self-propelled, or attached to the chassis of another vehicle, and designed or used for recreational, travel or sporting purposes or for temporary living quarters in conjunction with such purposes. "Recreational vehicle" shall include, but shall not be limited to, travel trailers, pickup campers, camping trailers, motor homes, and converted trucks and buses.
- (130) Recreational vehicle or boat sales and service. An establishment which engages in the sale of recreational vehicles and/or watercraft, the performance of any repair or maintenance work of such recreational vehicles and/or watercraft, and financial services conducted as an accessory use to the establishment. Included in this use type is the incidental storage of such recreational vehicles and/or watercraft.
- (131) Repair and Service Business. An establishment which rents, services, or repairs audio or video equipment, home appliances, furniture, personal recreational equipment, home, yard and garden equipment, tools, bicycles, locks, computers, office machines and similar household or business items, provided that no products shall be stored or displayed outside a completely enclosed building.
- (132) Research and Development Facility. An establishment which engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include

research and development of communication systems, alternative energy sources, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use. Excluded from this use are any facilities which mass produce one (1) or more products directly for the consumer market.

- (133) Residential district. An R-LD, R-1, R-2 or R-3 district established by this appendix.
- (134) Retail store or shop. A building wherein the principal activity is the sale or rental of goods, merchandise, or products at retail to the general public, and where such merchandise is typically sold in small quantities and broken lots, and not in bulk. For purpose of illustration, "retail stores and shops" shall include: Drugstores; newsstands; food stores and supermarkets; candy shops; dry goods, notions and clothing stores; boutiques and gift shops; hardware, home furnishings and household appliance and electronics stores; antique shops; furniture stores; florist shops; opticians; shoe stores; jewelry stores; auto accessory stores; and music stores. Convenience stores and establishments for the sale in bulk of coal, wood, fuel, building materials and lumber, and establishments for the sale of vehicles, farm implements, boats, trailers, recreational vehicles, machinery and similar items shall not be considered retail stores and shops. The term "retail stores and shops" does not include any use involving the dispensing of motor fuels or any other use involving retail activity specifically listed as a permitted use in any district, unless such use is clearly included among the uses illustrated in this definition.
- (135) Retail store or shop, boutique. A small-scale (less than two thousand five hundred (2,500) square feet of floor space) retail use which offers for sale items of art or crafts, clothing, prepackaged food and beverages, gift bags, limited household supplies and hardware, or which offers for sale items related to a specific theme, e.g., kitchen wares, pet care, Amish products, etc. "Boutique retail stores or shops" shall not include fuel pumps or the selling of fuel for motor vehicles. "Boutique retail stores or shops" shall not include the selling of tobacco products, nicotine vapor products, alcoholic beverages, or lottery tickets or shares. "Boutique retail stores and shops" shall not include a use that offers the sale of antiques as its principal activity. An antique for the purposes of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.
- (136) Retail store or shop, large format. Retail sales uses, including those uses classified more specifically by these use type classifications, located in any newly constructed or enlarged building containing greater than 30,000 square feet of floor area devoted to retail and related accessory use, whether on a single lot or contiguous lots owned or operated as associated, integrated, or cooperative business enterprises.
- (137) Roof line. In the context of building or structure height, roofline means:
 - a. For a flat roof, the highest point of the roof surface;
 - b. For a mansard roof, the deck line; and
 - c. For a gable, hip, or gambrel roof, the mean point between the eaves and ridge.
- (138) Rooming house. See boardinghouse or rooming house.
- (139) Satellite dish antenna. An accessory structure that allows the direct reception of communication of other signals from orbiting satellites or other sources, and which includes an antenna or dish antenna, a low noise amplifier and coaxial cable.
- (140) Setback. The distance a building, structure, feature or activity is separate from a lot line. Depending on the context, the term "setback" may refer to a front yard, side yard or rear yard.
- (141) Shopping center. A group of three or more retail stores or shops or other business establishments on a site of two acres or more planned, developed, owned and managed as a unit and related in its location, size and types of establishments to the trade area which it is intended to serve, and which is provided with off-street parking on the premises.

- (142) Sign. A presentation of letters, numbers, figures, pictures, emblems, insignia, lines of colors, or any combination thereof which can be viewed from a public right-of-way, private road or another property, and which is displayed for the purpose of information, direction or identification or to advertise or promote a business, service, activity, interest or product, or any otherwise lawful noncommercial message that does not attract attention to a business operated for profit or to a commodity or service offered for sale.
- (143) Special use. A use specified in this appendix as permitted in a particular district only upon approval of a special use permit by the town council in accordance with the provisions of Article VIII of this appendix.
- (144) Sports complex. An indoor facility, with or without seating for spectators, and providing accommodations for individual, organized or franchised sports, including, but not limited to, basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, and retail sales of related sports, health or fitness items, and other support facilities.
- (145) Stable, private. The keeping, breeding or raising of horses or ponies exclusively for the personal use and enjoyment of the owner or occupant of the premises on which such facility is located. A facility otherwise meeting the definition of private stable may include the boarding of horses or ponies for persons other than the owner or occupant of the premises, provided other requirements applicable in the district in which the property is located are met.
- (146) Street. The right-of-way within which lies a public or private thoroughfare which affords or is intended for the purpose of affording the principal means of vehicular access to abutting property.
- (147) Street line. The right-of-way line of a street or the boundary line of a private street or access easement.
- (148) Structural alteration. Any change in the supporting members of a structure, including foundations, bearing walls, bearing partitions, columns, beams or girders, or any change in the supporting members of the roof of a structure or in the means of egress of a structure.
- (149) Structure. Anything which is constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground including, but not limited to, buildings, walls, fences, signs, manufactured homes and swimming pools.
- (150) Taxicab business: A service that offers transportation in passenger motor vehicles to persons in return for a fee determined by meter or zone. Such business may include facilities for servicing, repairing, and fueling the taxicabs.
- (151) Tourist home. A building containing not more than ten lodging units, with or without board, where lodging units are available for occupancy by transient guests on a daily basis, in which access to each lodging unit is provided from within the building, and which contains a dwelling unit which constitutes the residence of the owner or manager of the facility.
- (152) Townhouse. A building which contains one dwelling unit located on an individual lot of record and which is attached by means of party walls in a series of three or more buildings, each of which contains one dwelling unit and is located on a separate lot of record. A building meeting the terms of this definition may also be referred to as a single-family attached dwelling.
- (153) Truck or commercial vehicle. Any construction vehicle, tractor or trailer rigs, either as one unit or separately, and vehicles having more than two axles on the road, and similar motor vehicles or trailers not ordinarily used for personal transportation or designed for transportation of commodities, merchandise, produce, freight, animals, vehicles, or passengers, including the following types of vehicles: trucks, tractor cabs, farm tractors, passenger buses, trailers, semi-trailers, limousines, tow trucks, dump trucks, roll back tow trucks, flatbed trucks, step vans or any vehicle designed or used for the transportation of a hazardous material. The term shall also include any construction equipment, cranes, well digging apparatus and other heavy

equipment, except when such equipment is being used for construction activities at sites where active building permits are in force. Commercial motor vehicles shall not include any passenger cars, vans, trailers, or pickup trucks that are customarily used for non-commercial purposes.

- (154) Utility services, major. Services of a regional nature which normally entail the construction of new buildings or structures such as generating plants and sources, electrical switching facilities and stations or substations, community waste water treatment plants, and similar facilities. Included in this definition are also electric, gas, and other utility transmission lines of a regional nature which are not otherwise reviewed and approved by the Virginia State Corporation Commission.
- (155) Utility services, minor. Services which are necessary to support development within the immediate vicinity and involve only minor structures. Including in this use type are distribution lines and small facilities that are underground or overhead, such as transformers, relay and booster devices, stormwater management facilities and well, water and sewer pump stations. Also included are all major utility services which were in existence prior to the adoption of this ordinance.
- (156) Utility trailer. Wheeled trailers used for the transport of livestock, work tools and equipment, hobby equipment, landscaping supplies, or other non-recreational equipment.
- (157) Vehicle Storage or Impoundment Lot. An area designed to temporarily store wrecked, inoperative, or impounded motor vehicles or trailers. Service and towing vehicles used for the operation of the establishment may also be stored on the property. This use does not include the dismantling, wrecking, repair, or sale of motor vehicles or trailers or their parts.
- (158) Warehouse. A building used primarily for the storage of goods and materials.
- (159) Warehousing and distribution. Uses including storage, warehousing and dispatching of goods within enclosed structures or outdoors. Typical uses include wholesale distributors, storage warehouses, and moving/storage firms.
- (160) Watercraft. A boat, ship or other water vehicle.
- (161) Yard. An open space on a lot, unoccupied and unobstructed by any structure or portion of a structure from the ground upward, except as otherwise provided in Article VI of this appendix. (For projections and encroachments in yards and for yards on corner lots and through lots, see Article VI of this appendix.)
 - a. Yard, front. A yard extending the full width of a lot and being adjacent and parallel to the street frontage of the lot.
 - b. Yard, rear. A yard adjacent and parallel to the rear lot line of a lot and extending the full width of the lot.
 - c. Yard, side. A yard adjacent and parallel to the side lot line of a lot and extending from the required front yard to the required rear yard. On irregular shaped lots, any yard adjacent to a lot line to which the yard definitions of this article do not clearly apply shall be considered a side yard.
- (162) Zero lot-line home. The strict definition of a zero lot line home relates to the placement of the home on the building lot. In order for a small building lot to provide usable yard space, one side of the home is placed as close to the property line as possible. This placement typically allows marginal space between two homes on adjacent lots. Therefore, there are generally no windows on the sides of the homes closest to the property line. The zero lot line method of development has also been utilized for attached homes, which are commonly known as duplexes in which case the two homes share a common wall that is aligned with the center of the two adjoining lots.
- (163) Zoning Administrator. The person designated by the town council to administer and enforce the provisions of this appendix.