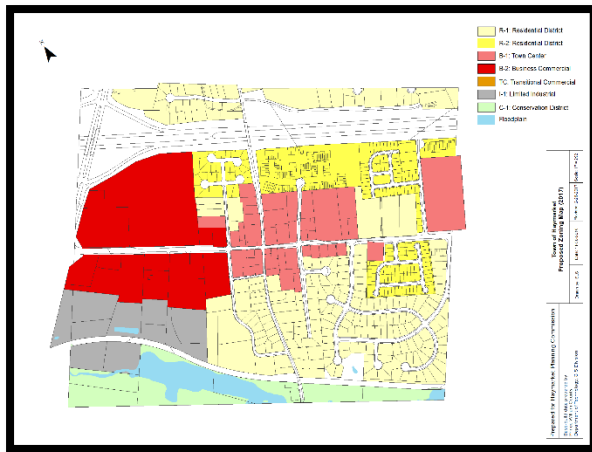


Town of Haymarket Zoning and Subdivision Ordinance



April 6, 2017



Town of Haymarket
15000 Washington Street, #100
Haymarket, VA 20169
703-753-2600

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Chapter 58 - ZONING & SUBDIVISIONS

ARTICLE I. - IN GENERAL

Sec. 58-1.1 – Introduction.

The Town of Haymarket's Comprehensive Plan embodies the community's vision and goals. Two primary mechanisms for achieving the Town's land use goals are the zoning and subdivision ordinances. The zoning ordinance sets forth the regulations that legally enforce land use policies and establishes the rules guiding the development of land within the town. Similarly, the subdivision ordinance establishes the rules by which land can be divided, often setting the stage for subsequent development under the zoning regulations. These two land use tools work hand in hand to help achieve the Town's vision regarding land use and the overall well-being of the community.

Sec. 58-1.2 - Purpose.

To promote the health, safety or general welfare of the public and further accomplish the objectives of Code of Virginia, § 15.2-2200, this chapter is adopted as the zoning and subdivision ordinance of the Town, together with the zoning map. [1](#) This chapter has been designed to:

- ❖ Provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;
- ❖ Reduce or prevent congestion in the public streets;
- ❖ Facilitate the creation of a convenient, attractive and harmonious community;
- ❖ Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, streets, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- ❖ Protect against destruction of or encroachment upon historic areas;
- ❖ 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;
- ❖ Encourage economic development activities that provide desirable employment and enlarge the tax base; and
- ❖ Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment.
- ❖ Protect approach slopes and other safety areas of licensed airports.
- ❖ Promote creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as reasonable proportion of the current and future needs of the planning district within which the locality is situated.
- ❖ Provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard.

Footnotes:

--- (1) ---

Editor's note—The zoning map is located in the Town Hall and is not included in this chapter.

Sec. 58-1.3 - Applicability

This chapter is applicable to all lands within the Town of Haymarket and the superjacent airspace of privately-owned land pursuant to the Code of Virginia §15.2-2293.

Sec. 58-1.4 – Establishment of Districts.

Pursuant to §15.2-2280 of the Code of Virginia, the incorporated area of the Town is hereby divided into the following districts and further described in the following sections:

Residential R-1. The residential district R-1 is composed of quiet, low-density single family homes. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to minimize activities of a commercial nature. Development is limited basically to single-unit dwellings providing homes for the residents plus certain additional uses such as public facilities that serve the residents of the district.

Residential R-2. The residential district R-2 is intended for use within those areas near the central core of the Town. This district should provide a suitable environment for families and persons seeking the amenities and convenience of townhouse living, or as an option, small lot detached single-family lots or conventional single-family lots without fear of encroachment or dissimilar uses. This district is designed to stabilize, protect and promote this type of development.

Town Center B-1. The Town Center District, B-1, provides primarily for retail shopping and personal services to be developed either as a unit or in individual parcels oriented to attracting pedestrian shoppers, tourism and local convenience. Recognizing the economic value of the existing historical area, it shall further be the intent of the district to encourage the retention and rehabilitation of structures and uses in the district that have historic and/or architectural significance. The range, size, hours of operation, lighting, signs and other developmental aspects of permitted uses may be limited in order to enhance the general character and historic nature of the district.

Business Commercial B-2. The primary purpose of the business commercial district B-2 is to concentrate businesses in a coordinated manner and to provide for more intense commercial and industrial uses away from the Town center. Commercial uses located in this district, while traditionally being oriented to automobile traffic, are intended to have a sufficiently high standard in site layout, design and landscaping to minimize traffic congestion on accessory roadways and minimize the impact of the high volume of traffic at an interchange with adjacent land uses.

Transitional Commercial TC. The primary purpose of this district is to create a low-intensity office, commercial and mixed use area as a transition between residential and commercial areas. The uses in the district should buffer residential areas from the commercial core by minimizing traffic, lighting and hours of operation, by establishing buffers and by establishing other site specific development standards to minimize the impact on adjacent residential uses. To enhance its compatibility with its residential surroundings, any development should be located in existing buildings wherever possible. Adaptive reuse of existing structures is to be encouraged if impacts are mitigated.

Limited Industrial I-1. The primary purpose of the limited industrial district I-1 is to permit certain industries, which do not in any way detract from residential desirability, to locate on designated sites. The limitations on (or provisions relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors, and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply and demand base.

Conservation C-1. The primary purpose of the conservation district C-1 is to limit development in areas of poor soil, steep slope and proneness of flooding.

Sec. 58-1.5 - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Where terms are not defined, they shall have their ordinarily accepted meaning, or such as the context may imply.

Generally, the words "used for" include "designed for," and vice versa; the word "building" includes the word "structure"; the word "dwelling" includes the word "residence"; and the word "lot" includes the word "plot." Any words pertaining to gender shall be interchangeable. The word "he" shall mean "she," and "she" shall mean "he." The word "shall" is mandatory; the word "may" is permissive.

Accessory apartment – A separate, independent dwelling unit located on the same property as the primary dwelling unit subject to the following:

- a. A dwelling unit contained within a single-family dwelling that may equal the existing finished square footage of the primary dwelling, such as a basement, attic, or additional level; or,
- b. A dwelling unit attached to the primary single-family dwelling, or as a dwelling unit located above a detached accessory unit; that shall be no more than one half the size of the finished square footage of the primary dwelling unit located on the subject property.

Occupancy of such accessory apartments shall be limited to no more than one family (as defined) or up to three persons (as permitted by code), and shall not be rented in less than six month increments, and the primary dwelling unit must be occupied by the owner of the subject property or an immediate family member (as defined).

Accessory use or structure – A use or structure which is clearly subordinate and customarily incidental to the main use or structure that it is accessory to and located upon the same lot occupied by the main use or structure.

Access-way, private – A semipublic ingress and egress easement dedicated to one or more lots at the time of subdivision for pedestrian and vehicle access to a public street. Any such easement shall be maintained by its supporting lots as set out in this chapter.

Addition – Any increase to the gross floor area of a structure.

Administrator – also referred to as the **Zoning Administrator**; The official charged with the enforcement of the subdivision and zoning ordinances.

Affordable housing – Housing that is affordable to families with incomes at or below 80% of the area median income, provided that the occupant pays no more than 30% of his or her gross income for gross housing costs, including utilities.

Agent – One who represents another, called the principal, in dealings with third persons. The agent undertakes some business by authority of the principal. The principal is the property owner.

Aggrieved person – A person or group of people with an immediate, pecuniary and substantial interest in an action taken by the administrator or board of zoning appeals under this ordinance, as opposed

to a remote or indirect interest. A person is also aggrieved if the person suffers a denial of some personal or property right or imposition of a burden or obligation different from that suffered by the public in general.

Alley – A permanent service way providing a secondary means of access to abutting properties.

Alteration – Any change in the floor area, use, adaptability or external appearance of an existing structure.

Alternative tower structure – Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Amateur radio antenna – Pursuant to all conditions set forth in the Code of Virginia, §15.2-2293.1, an accessory structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.

Antenna – Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.

Applicant – Any person submitting any application required or permitted pursuant to any of the provisions of this chapter, including his successors and assigns.

Architectural features – Pieces or portions of a building that are utilized primarily for aesthetic purposes such as, but not limited to, bay windows, porches, porticoes, balconies, chimneys, eaves and cornices, basement walkups, and flower boxes.

Assisted living facility- Residences for the frail or elderly that provide rooms, meals, personal care, and supervision of self-administered medication. May also provide services including but not limited to recreational facilities, financial services, and transportation. A facility in which no more than eight aged or infirm individuals reside shall be considered as residential occupancy by a single family.

Automobile graveyard – Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. Also see **Junkyard; Salvage and scrap service**.

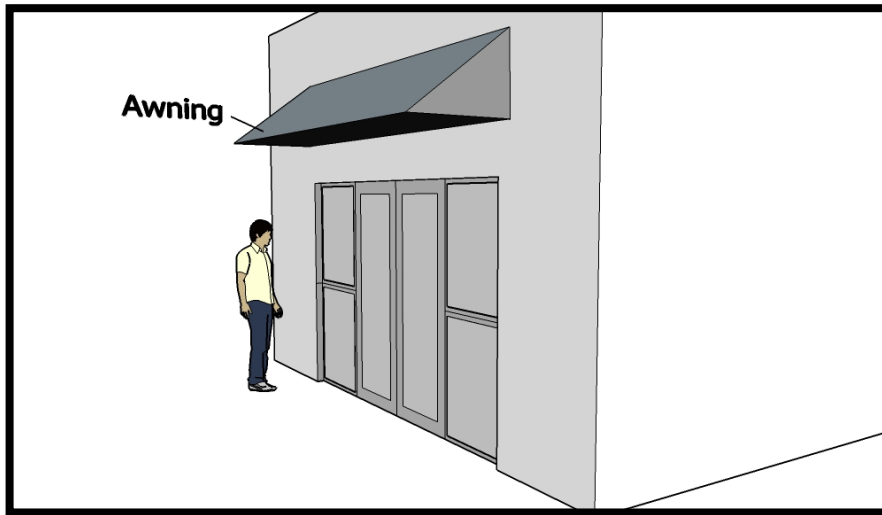
Automobile parts/supply, retail – Retail sales of automobile parts and accessories. Typical uses include automobile parts and supply stores which offer new and factory rebuilt parts and accessories, and include establishments which offer minor automobile repair services, as an accessory use.

Automobile rental/leasing – Rental of automobiles, light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

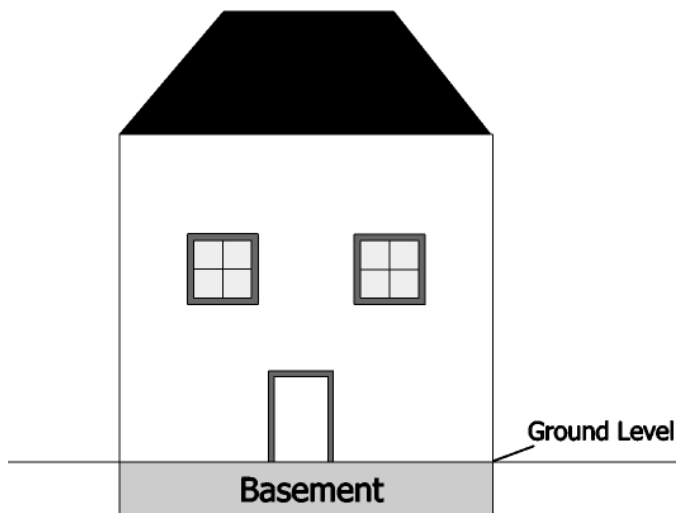
Automobile repair service – Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services, and similar repair and service activities where minor repairs and routine maintenance are conducted.

Aviation facility – also referred to as an airport; Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

Awning – A shelter constructed of rigid or nonrigid materials on a supporting framework, either freestanding, or projecting from and supported by an exterior wall of a building.



Basement – Any floor at least half of which is subgrade (below ground level). A basement shall be counted as a story for the purpose of height regulations.



Bed and breakfast – A dwelling in which not more than twelve bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without breakfast. The serving of meals other than breakfast, or the serving of breakfast to other than overnight guests, shall be considered a **Restaurant**.

Bikeway – A bicycle pathway; either a bike lane, a bike trail, or bike route.

Board of Zoning Appeals – also referred to as the BZA; The term refers to the Town of Haymarket Board of Zoning Appeals.

Boundary line adjustment – The adjustment of the boundary line between two or more lots, or the vacation of a lot line for the purpose of combining two or more lots, but not including any action which would result in a creation of additional building lots or the vacation of any street, alley, easement for public passage, or other public feature.

Brewery or Distillery- The use of land, licensed by the Commonwealth of Virginia, where beer or spirits are manufactured for sale. Consumption on the premises is permitted as an Accessory Use.

Broadcasting or communication tower – Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are **Amateur radio towers**, which are described separately and wireless communication antennas which fit the definition of **Utility services, minor**.

Buffer yard – A yard with screening and landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

Building – Any structure having a roof supported by columns or walls, for the shelter, housing or enclosure of any individual, animal, activity, process, equipment, goods, or materials of any kind.

Building, accessory – A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

Building, face – Any one of the four principal exposures, front, sides or back, of a building. For purposes of sign regulations, the face of a building is that portion exposed to a street, alley, or lot and is measured at a ground level on a linear basis from exposed corner to exposed corner.

Building, height of – see **Height, building**.

Building line or setback line – A line that establishes the area within which the principal building or structure must be erected or placed and which may be located by means of a plat of subdivision or site plan at a distance greater than, but in no case less than, the minimum setbacks or yard spaces required by the zoning ordinance. Bay windows, porches, balconies, chimneys, eaves, basement walkups, and similar architectural features may project two feet into any required setback or building restriction line. Setback and building restriction lines shall not apply to terraces, patios, and unroofed porches on ground level.

Building, main – The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

Building official – The representative of the council who has been appointed to administer and enforce, within the town, the provisions in the Uniform Statewide Building Code.

Building permit – A document issued by the building official granting permission to another person to construct, extend, repair, remove or alter a structure.

Building setback – see **Setback**.

Business or trade school – A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as an **Educational facility**, either primary and secondary, or college and university, or as a **Home occupation**.

Business, short-term rental – A residential dwelling unit that is used or advertised for rent for transient occupancy in increments of 30 days or less. This use type does not include bed-and-breakfast establishments.

Business support service – Establishment or place 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.

Cabaret, adult – A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas for observation by patrons therein.

Caliper – The diameter of the trunk of a tree at the height of 4.5 feet above grade.

Canopy – see **Awning**.

Car wash – Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

Catering, commercial (off-premises) – Preparation of food and related materials for a special event, occasion, or other temporary contract, which are to be delivered to a location other than where prepared.

Cellar – see **Basement**.

Cemetery – A place where human remains are interred, above or below ground, and where plots are sold for that purpose, and perpetual care of the graves is furnished.

Cemetery, private – A place where human remains are interred above or below ground and where plots are not sold.

Central sewage system – Any system of collection and treatment of sewage, as defined by rules and regulations of the state board of health governing the disposal of sewage, serving two or more connections, whether the system is privately or publicly owned and operated.

Central water – Any water supply and distribution system, whether privately or publicly owned and operated, serving two or more individual connections.

Civic use – Public parks and playgrounds, public schools, municipal buildings including police, fire and rescue facilities, and all other publicly owned structures.

Clerk - the clerk of the circuit court of the county.

Clinic – A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors. The term, "clinic" includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

Club – A use providing educational, meeting, or social facilities for civic or social clubs, fraternal/sororal organization, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. A Club does not include a building in which members reside.

Cluster development – A development design technique that concentrates buildings on a part of a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive features.

Cluster subdivision – A development that may allow for a reduction in lot area and bulk requirements, and may provide for an increase in the number of lots permitted under a conventional subdivision (an increase in overall density of development), in proportion to the remaining land area that is devoted to open space.

Code – The Code of the Town of Haymarket Virginia.

Code of Virginia – The Code of Virginia of 1950, as it may be amended from time to time.

Commercial indoor amusement – Establishments which provide multiple coin operated amusement or entertainment devices or machines as other than an incidental use of the premises. Such devices would include pinball machines, video games, and other games of skill or scoring, and would include pool and/or billiard tables, whether or not they are coin operated. Typical uses include game rooms, billiard and pool halls, and video arcades.

Commercial indoor entertainment – Predominantly spectator uses conducted within an enclosed building. Typical uses include, but are not limited to, motion picture theaters and concert or music halls.

Commercial indoor sports and recreation – Predominantly participant uses conducted within an enclosed building. Typical uses include bowling alleys, ice and roller skating rinks, indoor racquetball, swimming, and/or tennis facilities.

Commercial outdoor entertainment – Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

Commercial outdoor sports and recreation – Predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, paintball facilities, and motorized model airplane flying facilities.

Commercial vehicle repair service – Repair of construction equipment, commercial trucks, agricultural implements, and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops, and other similar uses where major repair activities are conducted.

Commission – The Planning Commission of the Town of Haymarket.

Common area – A tract or parcel of land not devoted to residential uses or structures; but directly related to and adjunct to a planned development, cluster development, or subdivision and which is owned and/or controlled by the residents or owners of such development.

Communications service – Establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as **Utility services, major, Broadcasting, or communication towers**. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

Condominium – see **Multi-family dwelling**.

Congregate/continuing care facility– A housing project designed for the care of ambulatory elderly persons, with spouse or companion when applicable. Such facilities shall provide a community atmosphere by providing such facilities as central dining, recreational areas, social activities, and twenty four-hour staffing.

Conservation easement – The granting of a property's development rights to an agency that stipulates that the described land will remain in its natural state and precludes future or additional development.

Construction sales and service – Establishment or place of business primarily engaged in retail or wholesale sales, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

Construction yard – Establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

Consumer repair service – Establishment or place of business primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

Convenience store – see **Store, neighborhood convenience**.

Cottage – A single, permanent detached dwelling unit, which may or may not contain cooking and bathroom facilities, dedicated to temporary occupancy for purposes of recreation, education, or vacation. Rental properties meeting the above description shall be considered cottages.

Coverage – The area of a lot occupied by structures, off-street parking, driveways, outside storage, or any other improvements not considered open space.

Cul-de-sac - a street with one outlet and with an appropriate turnaround for safe and convenient reverse traffic movement.

Cultural services – An establishment for the presentation of art, scientific, cultural or historical materials, music, or live theatrical or musical productions.

Custom manufacturing – Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses, or a single kiln.

Dark sky lighting – A term that refers to shielded light fixtures that cast light downward and generally conform to the specifications endorsed by the International Dark-Sky Association (IDA).

Day care center – Any facility operated for the purpose of providing care, protection, and guidance to 10 or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals including adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

Deck – A structure, without a roof, directly adjacent to a principal building, which has an average elevation of 30 inches or greater from finished grade. Residential decks over 36 inches above grade may project ten feet into the rear yard setback, and decks less than 36 inches above grade may project 15 feet into the rear yard setback. A deck may be constructed of any materials.

Dedication – The transfer of private property to public ownership upon written acceptance.

Developer – see **Applicant**.

Development – Any manmade 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.

District - A district as referred to in Code of Virginia, § 15.2-2282.

Dwelling – Any structure which is designed with dwelling units for residential purposes, except hotels, boardinghouses, lodging houses, tourist cabins, recreational vehicles, and mobile homes.

Dwelling, multi-family – A building or portion thereof which contains three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high rise apartments, apartments for elderly housing, and condominiums.

Dwelling, single-family attached – Two or more single family dwellings sharing two or more common walls, each on its own individual lot. Attached dwellings are not vertically stacked.



Dwelling, Single-Family Attached

Dwelling, single-family detached – A site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy, 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.

Dwelling, townhouse – A grouping of three or more attached single-family dwellings in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

Dwelling, two-family – also referred to as a duplex; The use of an individual lot for two dwelling units which share at least one common wall, each occupied by one family, that separates living space (i.e., living room, kitchen, bedroom, bathroom, etc.). Each dwelling unit may be vertically stacked. The exterior appearance of the whole resembles a single structure.

Dwelling unit – A room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

Easement – A grant by a property owner of the use of land for a specific purpose.

Educational facility, college/university – An educational institution authorized by the Commonwealth of Virginia to award associate, baccalaureate or higher degrees, and facilities associated with it. This term includes academic buildings, administrative facilities, dormitories, special housing, parking areas, dining halls, and other physical plants associated with the college or university use.

Educational facility, primary/secondary – A public, private or parochial school offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

Emergency shelter – A facility providing temporary housing for one or more individuals who are otherwise temporarily or permanently homeless.

Engineer - an engineer licensed by the commonwealth.

Entertainment establishment, adult – Any adult cabaret, adult motion picture theater, adult video-viewing or arcade booth, or adult book store; also referred to as a sexually oriented business.

Equipment sales and rental – Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

Establishment – Any entity or individual conducting a business, profession, or trade; and any entity or individual conducting a civic, community service, or nonprofit activity.

Façade – An entire outside wall of a structure, including wall faces, parapets, fascia, windows, and doors, of one complete elevation.

Fair market value – The price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

Family – Any number of persons living together as a single housekeeping unit under a common housekeeping management plan.

Family day home – A single-family dwelling in which more than five but fewer than 13 individuals, are received for care, protection, and guidance during only part of a twenty-four hour day. Individuals related by blood, legal adoption, or marriage to the person who maintains the home shall not be counted towards this total. The care of 5 or fewer individuals for portions of a day shall be considered as a **Home occupation**.

Family health care structure, temporary – Pursuant to all conditions set forth in the Code of Virginia §15.2-2292.1, 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 §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 (§36-70 et seq.) and the Uniform Statewide Building Code (§36-97 et seq.).

Farmer's market – Retail sale of fresh fruits and vegetables, and other food and related items, at a facility with spaces occupied by several different temporary tenants on a short term or daily basis; indoor or outdoor.

Fence – A freestanding structure of metal, masonry, composition, vinyl or wood, or any combination, resting on or partially buried in the ground and rising above ground level, with posts at regular intervals, and used for confinement, screening, or partition purposes.

Financial institution – An establishment whose principal purpose is the provision of financial services, including but not limited to an insured depository institution, a credit union, a Federal home loan bank, a small business investment company, a depository institution holding company, a mortgage lending business, or other institutions as defined by Federal code.

Flag lot – see **Lot, pipestem**.

Floodplain – An area flooded by a flood of specific frequency or magnitude, which has been delineated as a regulated area by federal, state or local government order through the use of maps, flood elevations, flood profiles or other techniques.

Floor area ratio (FAR) – The ratio of gross floor area of all structures on a lot to total lot area.

Floor area, gross – The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude basements and attics. The surface area of tennis courts, swimming pools, driveways, surface parking spaces, decks, patios, and porches, is not included in the total gross floor area.

Frontage – That side of a lot abutting on a street or right-of-way and ordinarily regarded as the front of the lot. For corner lots, only the side containing the parcel or building's main entrance shall be considered the frontage.

Frontage road – A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

Full cutoff luminaire – An outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal plane; also a type of dark sky lighting.

Funeral home – Establishments engaged in undertaking services such as preparing the dead for burial, as well as related accessory activities, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

Garage, commercial – see **Auto repair service** or **Commercial vehicle repair service**.

Garage, private – An accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of 1½ times as many automobiles as there are dwelling units.

Garden center – Establishments or places of business primarily engaged in retail sales from the premises including trees, shrubs, seeds, fertilizers, pesticides, plants, and plant materials primarily for agricultural, residential and commercial consumers. Such establishments typically sell products purchased from others, but may sell material which they grow themselves.

Gasoline station – Any place of business with fuel pumps and underground storage tanks which provides fuels and oil for motor vehicles. A store associated with automobile fuel sales shall be considered a gasoline station.

Glare – The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

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 3 golf courses. Specifically excluded would be independent driving ranges and any miniature golf course. See **Commercial outdoor sports and recreation**.

Grade – The lowest of:

- Lowest elevation of the street at the curb;
- Established or mean street elevation if curb not established;
- Lowest elevation of finished ground surface on any side of the building or property.

Governing Body- The Mayor and Council of the Town of Haymarket.

Grandfathered – A term referencing a use or structure that is not in conformance with the current ordinance but that was legal at the time it was established or constructed. Also referred to as a legally, non-conforming use/structure.

Greenhouse – A building with transparent walls and roof; for the cultivation and exhibition of plants under controlled conditions; accessory to residential uses.

Greenhouse, commercial – A greenhouse operation in which plants are offered for sale to the public, either at wholesale or at retail.

Greenway – A corridor of open space managed for conservation, recreation, and non-motorized transportation. Greenways often follow natural geographic features such as ridge lines, stream valleys, and rivers, but may also be built along canals, utility corridors, abandoned rail lines, and the like. Greenways may include a trail or bike path or may be designed strictly for environmental or scenic protection.

Gross public floor area – The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), plus aisles, hallways, and entryways serving such areas.

Group home – A licensed residential facility in which no more than eight mentally ill or developmentally disabled persons reside, with one or more resident counselors or other staff persons, and shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of, or addiction to a controlled substance. Such facility shall be licensed by the Virginia Department of Behavioral Health and Developmental Services, in order to qualify as a single-family use.

Guestroom – A room which is intended, arranged, or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking.

Guidance services – A use providing counseling, guidance, recuperative, or similar services for persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar conditions for only part of a twenty-four hour day.

Halfway house – An establishment providing accommodations, supervision, rehabilitation, counseling, and other guidance services 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.

Hazardous waste or materials – A substance listed under United States Public Law 96-510, entitled the Comprehensive Environmental Response Compensation and Liability Act.

Height – When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

Height, building – The vertical distance measured from the adjoining grade at the front entrance of the building or structure to the highest point of the structure. For corner lots, the building height shall be the average of the front height defined above and the building side height adjacent to the street. The building side height shall be defined as the vertical distance measured from the lowest adjoining grade on the side adjacent to the street to the highest point of the structure.



Height, building

Height, structure – The distance between the highest point of any structure, and the lowest grade adjacent to the structure.

Height, tree – The measurement taken from the top of the root ball to the top of the trunk.

Historic area – An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the area, of such significance as to warrant conservation and preservation.

Historic district – A site, structure, landmark, one or more of them, or a group of them, which have unique architectural, historic, cultural, or archaeological importance to the locality, the Commonwealth, or the nation, and which are designated on the official zoning map as constituting a historic district.

Historic resource – A building, place or area in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

Historic building– Any structure that is:

- a. Listed individually in the Virginia Landmarks Registry or 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;
- b. 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;
- c. 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
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs:
 - ❖ 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; or
 - ❖ Designated as a contributing resource or structure by the Town's Comprehensive Plan or similar land use policies.

Home for adults – A dwelling unit providing a residence for the elderly with more than five (5) persons for purposes of providing special training, education, habilitation, rehabilitation, custodial care, or supervision; provided that a licensed residential facility for eight (8) or fewer mentally ill or developmentally

disabled persons, with one or more resident counselors or other support staff, shall be considered a single-family residence.

Home garden – A garden in a residential district for the production of vegetables, fruits, and flowers generally for use and/or consumption by the occupants of the premises.

Home occupation, class A – An occupation conducted primarily on-site involving persons residing on the premises. Such occupations may require the use of accessory structures or outside areas. No more than five clients or customers shall be allowed on the premises at any one time on a regular basis.

Home occupation, class B – An occupation conducted primarily on-site involving persons residing on the premises and not more than two (2) full or part-time outside employees. Such occupations may require the use of accessory structures or outside areas. No more than 10 clients or customers shall be allowed on the premises at any one time on a regular basis.

Hospital – A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis and including ancillary facilities for outpatient and emergency treatment diagnostic services, training, research, administration, and services to patients, employees, or visitors.

Hotel – also referred to as an inn, motel or motor lodge; A building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day or week. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms, and/or recreation facilities. Overnight stays longer than 29 days consecutively are not permitted.

Industrial, light – Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. Use may include, but are not limited to, a machine shop, the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature.

Interior parking lot island – An island or planter that is surrounded on at least three (3) sides by a parking lot or access road.

Junkyard – An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard; and the term shall include garbage dumps and sanitary fills.

kennel – Any place in which more than three (3) dogs more than six (6) months of age are kept, or any number of dogs are kept for the purpose of sale or rental or in connection with boarding, care or breeding, for which any fee is charged.

Laboratory – An establishment whose principal purpose is the research, compounding, and/or packaging of scientific products, which may include light manufacturing.

Landscaping – The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials, or by the alteration of the contours of the ground.

Laundry – Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as **Personal services**. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Life care facility – A residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents. An **Assisted living facility** would be included in this definition.

Light pollution – Any adverse effect of man-made light including sky glow, glare, light trespass, light clutter, and decreased visibility at night.

Light trespass – Light sources casting excessive light upon adjacent property or upon a public right-of-way, also called light spillover.

Liquor – Any alcoholic beverage other than beer, wine, or cider, as those terms are defined in Virginia Code §4.1-100 and 4.1-213.

Loading space, off-street – Space for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

Lot – A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions, or as otherwise permitted by law.

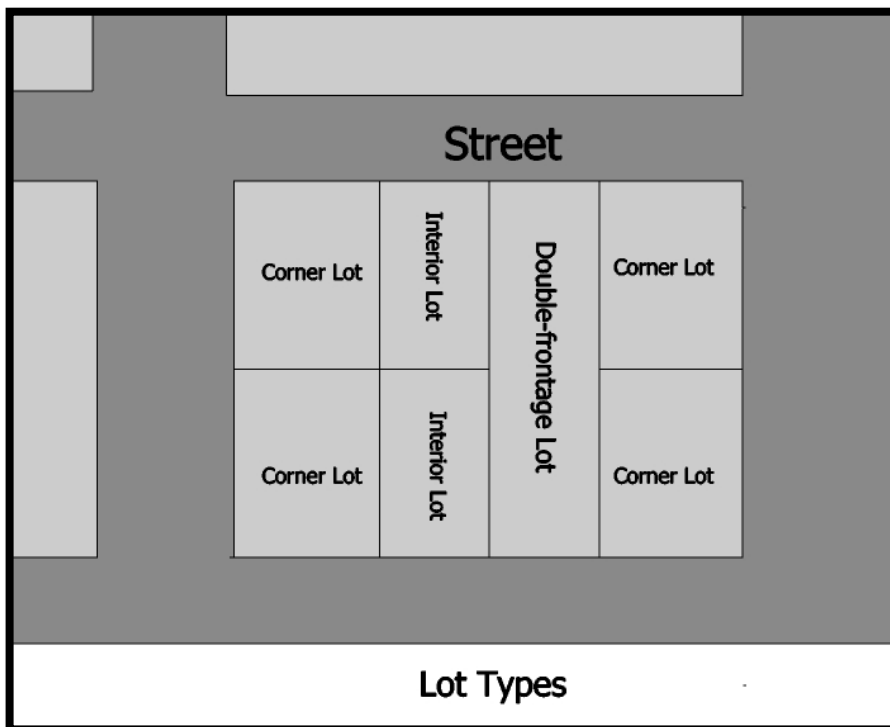
Lot, corner – A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

Lot, depth of – The average horizontal distance between the front and rear lot line.

Lot, double-frontage – An interior lot having frontage on two streets.

Lot frontage – Frontage shall be measured on a line parallel with the proposed front street line at the minimum required setback line.

Lot, interior – Any lot other than a corner lot.



Lot, irregular – A lot of such a shape or configuration that technically meets the area, frontage, and width to depth requirements of this ordinance but meets these requirements by incorporating unusual elongations, angles, curvilinear lines unrelated to topography, or other natural land features.

Lot of record – A lot which has been recorded in the clerk's office of the circuit court.

Lot, pipestem – A "panhandle" or "flag" shaped lot with its widest point set back from the road at the rear of another lot (called the pipe), and having a thin strip of land connecting to the road to provide legal access and frontage (called the stem). Pipestem lots are also referred to as panhandle lots or flag lots.

Lot width – The width of any lot at the setback line, calculated by measuring back a uniform distance from the street line as required by the setback regulation. If the street line curves or angles, the setback

line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the curve or angle setback line.

Manufacture and/or manufacturing – The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

Manufactured building – also referred to as an *industrialized building*; any structure, or component thereof which is wholly, or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation on a building site; which has been manufactured in such a manner that all parts, or processes cannot be inspected at the installation site without disassembly, damage, or destruction thereof.

Manufactured home – A structure subject to federal regulations, which is transportable in one or more sections; is eight feet in body 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 site; is built on a permanent foundation; is designed to be used as a single-family dwelling when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Some manufactured homes are also referred to as mobile homes. Building design and construction material shall be approved by the Architectural Review Board.

Manufactured home park – also referred to as a mobile home park or trailer park; Any area designed to accommodate two or more manufactured homes intended for residential use.

Media, adult – Magazines, books, videotapes, movies, slides, CD-ROMs, or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Medical office – Use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. Emergency treatment is not the dominant type of care provided at this facility.

Mini-warehouse – A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods.

Mobile classroom – A dwelling unit of vehicular, portable design built on a permanent chassis and designed to be moved from one site to another and to be used without a permanent foundation for one school year.

Modular building (see dwelling, single-family detached – A dwelling unit primarily manufactured off-site in accordance with the Virginia Uniform Statewide Building Code standards and transported to the building site for final assembly on a permanent foundation.

Motion picture theater, adult – An establishment that shows sexually oriented movies, distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas, as a significant part of its business.

National Register of Historic Places – The official list, maintained by the National Park Service of the United States Department of the Interior, of historic resources considered by that agency to be worthy of preservation.

Nonconforming activity – The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the zoning ordinance of September 19, 1983, or as a result of subsequent amendments to such ordinance or this chapter.

Nonconforming lot – An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of the

zoning ordinance of September 19, 1983, or as a result of subsequent amendments to such ordinance or this chapter.

Nonconforming sign – Any sign, the area, dimensions, or location of which were lawful at the time the sign was erected, but which fail to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

Nonconforming structure – An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the zoning ordinance of September 19, 1983, or as a result of subsequent amendments to such ordinance or this chapter.

Nonprofit organization – An organization that is exempt from paying federal income taxes under section 501 of the Internal Revenue Code (26 USC 501).

Nursing home – A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Occupancy – The period during which one owns, rents, uses, or occupies a certain premises or land.

Occupant – A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.

Off-street parking – Space provided for vehicular parking outside of the dedicated street or access way right-of-way.

Office, general – The use of land wherein the primary use is the conduct of a business or profession such as, but not limited to accounting, architecture, computer software, or information systems research and development, engineering, insurance, law, management, organization and association offices, psychology, theology, real estate, and travel. Retail Sales do not comprise more than an Accessory Use of the primary activity of a General Office. This definition does not include Medical Office as defined by this chapter.

Office, medical – Use of a site for facilities which provide diagnoses, minor surgical care, and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. Emergency treatment is not the dominant type of care provided at this facility.

Open space – Any parcel of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Open space may include active recreational facilities such as swimming pools, play equipment, ball fields, court games, and picnic areas.

Open space, common – Land within or related to a development, not individually owned or dedicated for public use, which is intended for the common use or enjoyment of the residents of the development and may include such complementary structures as are necessary and appropriate. Common open space may include, recreation centers, swimming pools, tennis and basketball courts, and similar facilities.

Open space, required – Any space required in any front, side or rear yard.

Outdoor display – Outdoor portion of a retail use open to the public and dedicated to the display of wares for customer inspection.

Outdoor gathering – Any temporary organized gathering expected to attract 200 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be entertainment and music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section.

Outdoor storage – The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours.

Parcel or parcel of land – A lot or parcel which is described by a plat or other legal description.

Parking facility – A site for surface parking or a parking structure use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

Parking lot area – The square foot area of the parking spaces and aisles and interior parking lot islands, excluding access drives that do not have parking spaces within them.

Parking space, compact – A space for parking one passenger automobile that is 16 feet long and 8 feet wide and is marked “Compact car.”

Parking space, normal – A space for parking one passenger automobile that is 18 feet in length and 9 feet in width.

Patio – A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches from finished grade, and without walls or a roof. A patio may be constructed of any materials.

Pawn shop – A use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the incidental sale of such property.

Pedestrian ways – Paved, marked or otherwise designated pedestrian treatments meeting AASHTO standards.

Person – An individual, firm, corporation, or association.

Personal improvement services – Establishments primarily engaged in the provision of informational, instructional, personal improvements, and similar services. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft, and hobby instruction.

Personal services – Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; grooming of pets; seamstresses, tailors, or shoe repairs; florists; and laundromats and dry cleaning stations serving individuals and households.

Plat – A map or plan of a parcel of land that is to be, or has been subdivided. When used as a verb, “plat” is synonymous with “subdivide.”

Plat, final - the map or plan of a subdivision of land prepared by a licensed engineer or surveyor which meets all the requirements of this chapter, including any accompanying material, as described in article V of this chapter.

Plat, preliminary - means the map or plan of a subdivision of land prepared by a licensed engineer, land surveyor, owner of the land, land planner, architect, certified landscape architect or others having training or experience in subdivision planning or design which meets the requirements of this chapter, including any accompanying material, as described in article V of this chapter.

Porch – A roofed open area, which may be glazed or screened, usually attached to or part of and with direct access to or from, a building.

Premises – see **Lot**.

Preservation – The act or process of applying measures to sustain the existing form, integrity, and material of a site, structure, or landmark, and their existing vegetative cover. Preservation may include initial stabilization work, where necessary, as well as ongoing maintenance of these elements.

Principal building or structure – A building or structure in which the primary use of the lot on which the building is located is conducted.

Principal use – The main use of land or structures as distinguished from a secondary or accessory use.

Property – Any tract, lot, parcel or several of such tracts, lots or parcels collected together.

Public – Unless otherwise specifically indicated, public shall mean anything owned, operated, provided, and/or maintained by a local, state, or federal government.

Public assembly – Facilities that accommodate public assembly for sports, amusements, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, and incidental sales and exhibition facilities.

Public maintenance and service facility – A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment services centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

Public parking – Any area used primarily or regularly for parking motor vehicles; or to any parking space or area required to be provided by any law; except for parking provided solely to reserve a single-family dwelling.

Public use – Any use for exclusively public purposes without reference to the ownership or structures or the realty upon which it is situated by any department or branch of the federal government, commonwealth, or locality.

Public water or sewerage system – A water or sewerage system owned and operated by the Town, or owned and operated by a private individual or a corporation approved by the Council and properly licensed by the state corporation commission, and subject to special regulations as set forth in this chapter. See **Utility service, major**.

Public utility – Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing, under federal, state, or municipal regulations, to the public electricity, gas, steam, communications, telegraph, transportation, or water.

Recreation, active – Those recreational pursuits which require physical alteration to the area in which they are performed including, but not limited to, pedestrian ways, bikeways, tennis courts, swimming and boating areas, playgrounds, and play fields.

Recreation, passive – Recreational activities that generally do not require a developed site such as hiking, horseback riding, and picnicking.

Recreation facility, private – A private recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

Recreation facility, public – Publicly owned or operated recreation facilities.

Recreational vehicle – A vehicle which is (a) built on a single chassis; (b) 400 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.

Recycling center – A facility used by the general public for the collection of materials for recycling or reuse, including bins, boxes, buildings, self-propelled motor vehicles, trailers, and other enclosures or receptacles. Except for municipal or other governmental sponsored programs to collect and/or recycle household hazardous wastes, this definition shall not include facilities for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances, or similar materials.

Refuse collection site – Facility for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances, or similar materials.

Religious assembly – A use located in a permanent building and providing regular organized religious worship and related incidental activities, except primary or secondary schools and day care facilities.

Replacement cost – The cost of restoring a damaged building or structure to its original condition. Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the Assessor to determine the percentage of the cost of improvements.

Research and development – A business which engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multi-media, and video technology. Development and construction of prototypes may be associated with this use.

Residential density – A measure of dwelling units per acre. The number of units shall be rounded up to the next whole unit (e.g. a 5.2 unit/acre average would be counted as 6 units/acre).

Restaurant – Any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafeterias, cafes, tearooms, confectionery shops, refreshment stands, and drive-ins.

Restaurant, drive-in – An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery, or table service, served in disposable containers at a counter and a drive-up or drive through service facility, or which offers curbside service.

Restaurant, fast food – Any restaurant whose design or principal method of operation includes two or more of the following characteristics: (1) 40 percent or more of the floor area is devoted to food preparation, employee work space, and customer service area; (2) standardized floor plans are used over several locations; (3) customers pay for food before consuming it; (4) furnishing plan indicates hard-finished, stationary seating arrangements and (5) most main course food items are prepackaged rather than made to order.

Restaurant, general – An establishment engaged in the preparation of food and beverages containing more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers.

Restaurant, mobile – Also referred to as “food trucks”; motorized vehicles with on-board power, refrigeration, food preparation facilities, and room for a limited number of employees.

Restaurant, small – An establishment engaged in the preparation of food and beverages containing no more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers. Typical uses include cafes, coffee shops, and eat-in delis.

Retail – The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

Right-of-way – A legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded, and which is occupied or intended to be occupied by a street, utility service, water main, sanitary or storm sewer main, or other similar use.

Road – see **Street**.

Salvage and scrap service – Place of business primarily engaged in the storage, sale, dismantling, or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses included paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail, and/or wholesale sales of used automobiles parts and supplies.

Screening – A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation. Screening is intended to substantially, but not necessarily totally, obscure visual impacts between adjoining uses.

Setback – The minimum distance by which any building or structure must be separated from the front lot line.

Setback line – see **Building line**.

Shelter – A facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

Shopping Center – A group of commercial establishments planned, constructed and managed as a total entity with shared access, customer and employee parking provided onsite, provision of goods, delivery separated from customer access, aesthetic considerations, and protection from the elements.

Shooting range, indoor – The use of a structure for archery or firearms for the purposes of target practice or competitions.

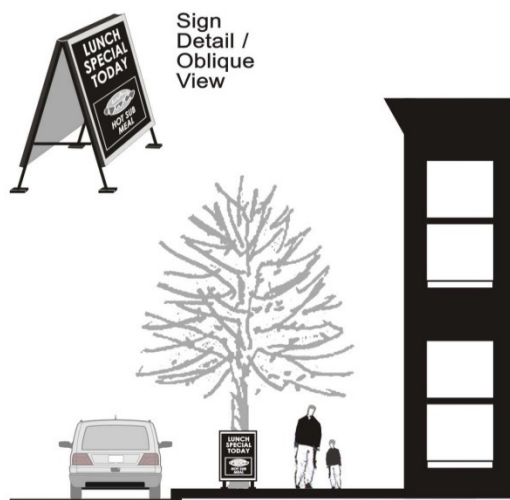
Shrub – A woody plant producing multiple shoots or stems from the base height, with a total height of 15 feet or less. Also, when used to meet the landscaping criteria of the zoning ordinance, a perennial planting that, at the time of planting, has a minimum height of two (2) feet measured from the ground elevation after planting.

Sign – Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations, by any means whereby they are made visible for the purpose of making anything known, where such display is made on, attached to, or as part of a structure, surface, or any other thing, including but not limited to the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which it is made. A display of less than one square foot in area is excluded from this definition.

The categories of signs referred to in this chapter are as follows:

Illustrations show only the form of defined signs. Dimensional standards are shown only in the text of this article.

A-Frame sign. A temporary, portable sign used at a place of business to provide information to pedestrians and slow moving vehicles. The sign may be one or two sided.



A-Frame Sign

Animated sign. A sign which changes physical position or involves the use of motion, rotation, or the appearance of motion.

Awning sign. See **canopy sign**.

Banner sign. A temporary sign made of cloth, paper, vinyl, or like material attached to a wall so as to remain in a generally stationary position.

Bench sign. A sign painted, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public place or roadway.

Billboard sign. See **off-premises sign**

Canopy sign. A sign placed directly on or attached to the surface of an awning or canopy.



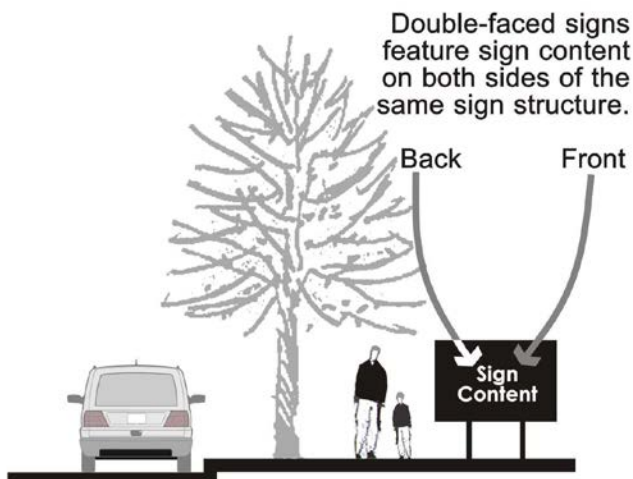
Canopy/Awning Sign



Canopy/Awning Sign

Changeable copy sign. A sign or part of a sign that is designed so that characters, letters, or illustrations can be mechanically or physically changed or rearranged without altering the face or surface of the sign.

Double-faced sign. A sign with two parallel or nearly parallel faces, back to back, upon which advertising is displayed.



Double-Faced Sign

Electronic message board. Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

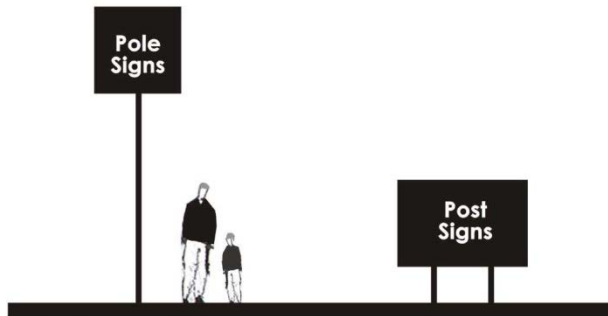
Flags. Cloth or similar flexible fabric attached to a pole at one end such that the material can bend or flutter from the point (s) of attachment.



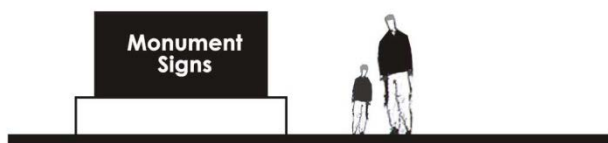
Flag Sign

Flashing sign. Any illuminated sign on which there is artificial light which is not stationary or constant in intensity or color at all times when such sign is in use.

Freestanding sign. Sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure, or a monument form without separate supporting elements.



Freestanding Signs



Freestanding Sign

Government sign. Government signs that are approved by the Town Council or installed for the public benefit by the Town of Haymarket.

Hanging sign. See **projecting sign**.

Illuminated sign. A sign illuminated in any manner by an artificial light source, whether internally or externally lit. Externally illuminated signs are those that have a light source projecting onto the face of the sign either by downlighting or indirectly with fluorescent, halogen, or a source that gives off natural white light. Internally illuminated signs are those that have a light source inside or behind the sign structure or sign face which projects lights through or from the sign face.

Individual letter sign. A sign made up of letters only that are attached directly to the building.



Individual Letter Sign

Inflatable sign. Any display capable of being expanded by air or other gas and used on a temporary or permanent basis to advertise a product or event.

Marquees sign. See **canopy sign**.

Minor sign. A small, adjunct sign for specific functional purposes. Examples include trespassing signs, security warning signs, on-site directional signs, and the like.

Moving or Rotating sign. An environmentally activated sign or other display with mechanical motion powered by natural, manual, mechanical, electrical, or other means, including but not limited to pennant strings, streamers, spinners, propellers, and search lights. Hand held signs are not included; see **portable sign**.

Neon sign. A sign that uses light-emitting gas to convey a message in a form such as letters, numbers, and figures.

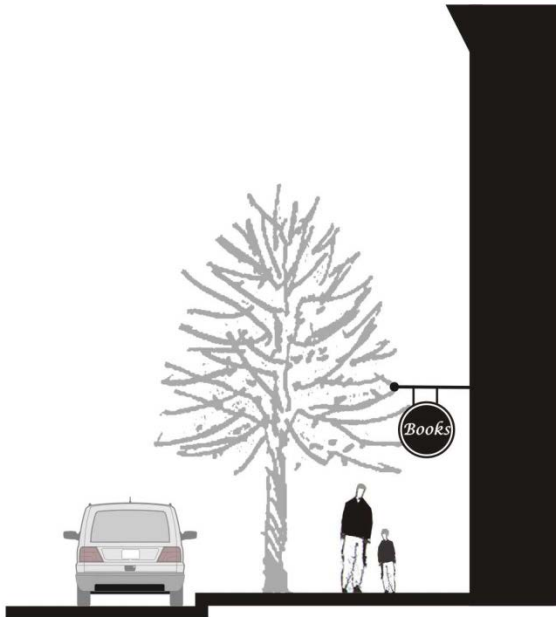
Off-premises sign. A sign which directs attention to a business, commodity, service, or establishment that is conducted, sold, or offered at a location other than the premises on which the sign is erected.

Painted sign. Any sign painted on the exterior surface of a building; includes a mural sign.

Parasail sign. Any sign that is inflated, either by the wind or by mechanical means, and has motion in accord with air currents or air pumps.

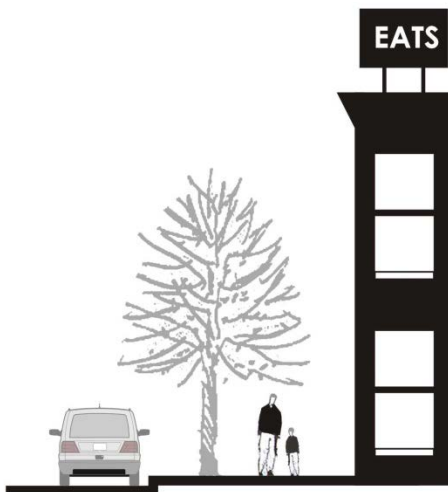
Portable sign. Any sign not permanently affixed to a building, structure, or the ground. This category includes, but is not limited to, signs attached to or placed on vehicles not used for the daily conduct of the business, banners, balloons, and similar devices used to attract attention, including hand held signs.

Projecting sign. A sign attached to a building, approximately perpendicular to the building wall. See also **hanging sign**.



Projecting/Hanging Sign

Roof sign. Any sign erected, constructed, and maintained wholly upon or over the roof of any building (not permitted by this ordinance).



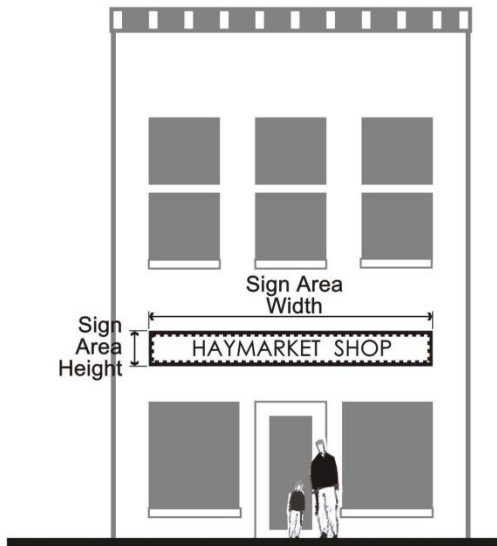
Roof Sign (Not Permitted)

Seasonal sign. A temporary sign identifying an open-air market, farmers' market or the sale of seasonal products, regulated the same as other temporary message signs.

Warning sign. Signs posted on private property warning the public against trespassing, or similar messages (subsumed under "minor signs").

Sign. Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations, by any means whereby they are made visible for the purpose of making anything known, where such display is made on, attached to, or as part of a structure, surface, or any other thing, including but not limited to the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which it is made. A display of less than one square foot in area is excluded from this definition.

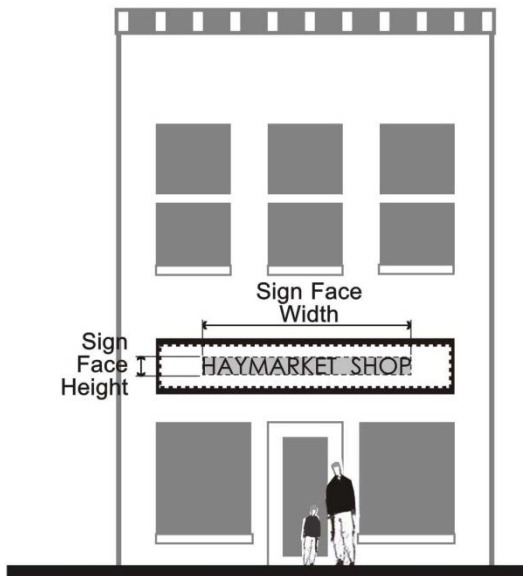
Sign area. The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure. Sign area is calculated by standard mathematical formulas such as height times width for rectilinear signs, πr^2 for circular signs, and the applicable standard mathematical formula for other geometrical shapes.



Sign Area

For area calculation, see definition in ordinance.

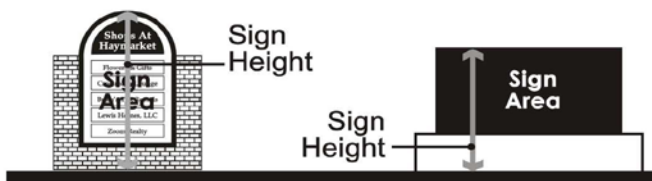
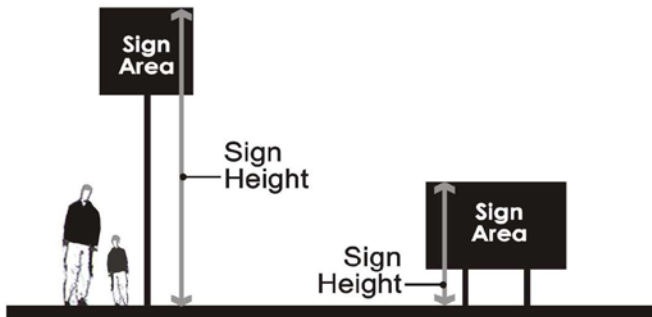
Sign face. The area or display surface used for the message, not including any framing, trim or molding, or the support structure. Face area is calculated using the same mathematical formulas as for sign areas.



Sign Face

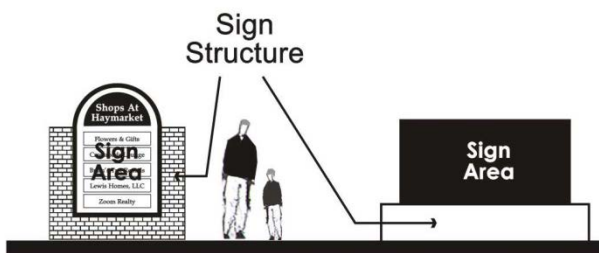
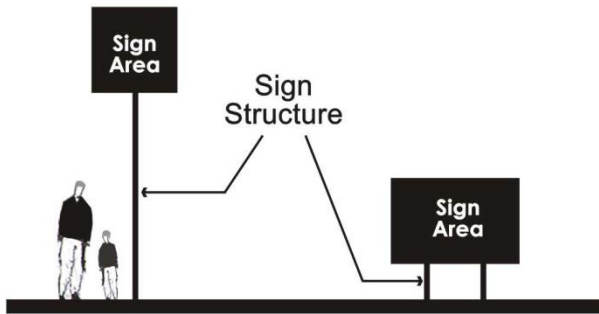
For area calculation, see definition in ordinance.

Sign height. Distance measured in feet and inches from the ground below the sign to highest point of sign to include sign structure, or in the case of wall signs on upper floors, from the floor level immediately below the sign to the highest point of the sign. Artificially increasing the height of the sign by berming or mounding dirt or other material at the sign base is prohibited.



Sign Height

Sign structure. Sign structure includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, V-type, or otherwise exhibiting sign.



Sign Structure

Temporary sign. A sign designed or intended, based on materials and structural components, to be displayed for a specified or limited period of time, regardless of type or style of sign. Examples include real estate signs, contractor's signs, and one-time event signs.

Vehicle sign. A sign on a truck, bus, or other vehicle, while in use in the normal course of business. Refer to Sec. 58-14.4 for limitations on vehicle signs.

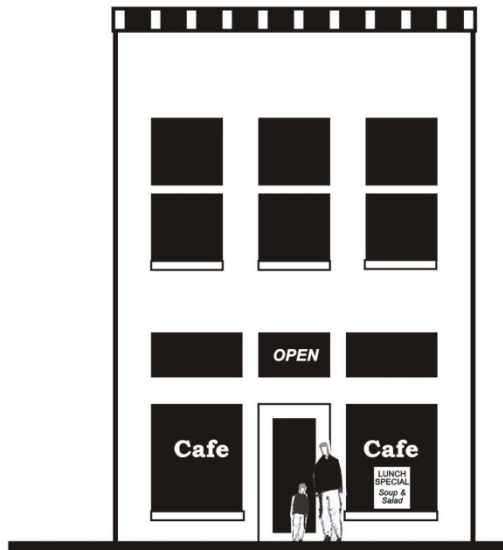
Vehicle sign, parked. A sign placed, affixed or painted on a motor vehicle or trailer parked with the primary purpose of providing signage not otherwise allowed by this article. Refer to Sec. 58-14.4 for limitations on vehicle signs.

Wall sign. Any signs or lettering, projecting not more than eight inches, which are placed against or attached to the front, rear, or side wall of a building, but shall not include painted or mural signs, or roof signs as defined herein.



Wall Sign

Window sign. A sign painted, stenciled, or affixed on a window.



Window Sign

Site plan – A plan prepared by a professional engineer or land surveyor licensed by the state showing all proposed improvements to the site in accordance with article XIII of this chapter.

Site plan, major – A Major Site Plan is a required submission for development where the land disturbance will be 2,500 square feet or greater, increase of gross floor area is 1000 square feet or more, or outside agency review is required, prepared in accordance with this chapter, and is a detailed engineering drawing of the proposed improvements required in the development of a property.

Site plan, minor – A Minor Site Plan is a required submission for development where the land disturbance will be less than 2,500 square feet, increase of gross floor area is below 1000 square feet, no outside agency review is required, or the use is an addition to an existing permitted use or an accessory

use to a permitted principal use prepared in accordance with this chapter, and is a detailed drawing of the proposed improvements required in the development of a property.

Special exception – A special use exception or yard, area or height exception specifically listed in this chapter which may be permitted by the board of zoning appeals in a specified district or in all districts in accordance with the provisions of this chapter.

Special use – A use listed in this chapter as requiring a special use permit and which may be permitted under certain conditions, by the Town Council after public hearing and report by the Planning Commission, in accordance with the procedures specified by the Zoning Ordinance and applicable state law.

Specified anatomical areas –

- (1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities – Human genitals in a state of sexual stimulation, arousal, acts of human masturbation, sexual intercourse, sodomy, fondling, or other erotic touching of human genitals, pubic region, buttock, or female breast.

Square feet, gross – All enclosed, usable space within a structure, including unfinished service areas such as stairwells and elevators.

Square feet, net – All enclosed, usable finished space within a structure, not including unfinished service areas such as stairwells and elevators.

State road – A street or roadway that is part of the Virginia State Highway System or Secondary Highway System.

Store – Retail stores and shops.

Store, adult – An establishment that: offers for sale or rent items from any of the following categories: (a) adult media, (b) sexually oriented goods, or (c) goods marketed or presented in a context to suggest their use for specified sexual activities; and the combination of such items constitutes more than 15 percent of its stock in trade or occupies more than 15 percent of its gross public floor area; and where there is no on-site consumption of the goods, media or performances for sale or rent.

Store, general – Buildings for display and sale of merchandise at retail.

Store, grocery – A retail business primarily engaged in the sale of unprepared food for personal or household preparation and consumption. Such a facility may also engage in incidental sales of prepared foods for personal consumption on-or off-site.

Store, liquor – Any privately owned store (i) licensed by the Commonwealth of Virginia to sell liquor for off-premises consumption, but excluding Breweries or Distilleries as defined by this chapter, and (ii) in which liquor makes up more than 10 percent of its stock in trade or occupies more than 10 percent of its net floor area.

Store, neighborhood convenience – Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

Story – That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, "story" means the space between the floor and the ceiling next above it.

Story, half – A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

Street – A dedicated strip of land or right-of-way subject to vehicular or pedestrian traffic providing means of access to property.

Streetscape – The combination of buildings, uses, landscaping, and furniture located in the area that may either abut or be contained within a public or private street right-of-way or access way that create the visual image of the street.

Street line – The dividing line between a street or road right-of-way and the contiguous property.

Street, major - any existing or future street identified in an adopted plan, which carries traffic, or anticipated traffic, exceeding 500 vehicles per day.

Street, minor - a street that is used primarily as a means of public access to abutting properties, with anticipated traffic of less than 500 vehicles per day.

Street width – The total right-of-way width of the strip of land dedicated or reserved for public travel, including roadways, curbs, gutters, sidewalks, and planting strips.

Street, privately maintained – Any roadway that is restricted as to the hours of access by the general public or by those who may use it. The definition shall be construed to include public roads that are maintained by the individuals living along or otherwise served by the road or by a property owners association created for purposes including maintenance of streets.

Street, public – A street which affords principal means of access to abutting property, and encompassed by a right-of-way dedicated to public use and maintained by the Commonwealth as a part of the state primary or secondary road system. The right-of-way shall not be less than 50 feet.

Street, service drive – also referred to as a **Frontage road**; A public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by controlling ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

Structure, permanent – Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, and signs.

Structure, temporary – Anything constructed or erected without a permanent foundation or footings and that extends eight inches or more above the adjacent yard surfaces, but excluding a Manufactured home as defined by this chapter.

Studio, fine arts – A building, or portion thereof, used as a place of work by a sculptor, artist, or photographer; or used as a place to exhibit and offer for sale works of the visual arts (other than film).

Subdivide – The process of dividing land to establish a subdivision.

Subdivider – A person or his agent who has applied for approval of, or has duly recorded a plat for, the subdivision of a tract of land.

Subdivision – The division or redivision or consolidation of a parcel(s) of land into lots or parcel (s), for the purpose of transfer of ownership or building development. In addition, any division or redivision of existing real property for condominium development shall be considered a subdivision.

Subdivision, major – Any subdivision which involves four (4) or more lots, or which involves the creation of any new public street, regardless of the number of lots involved.

Subdivision, minor – Any subdivision which involves three (3) or fewer lots, all of which front on an existing dedicated and accepted public street and which does not require the creation of any new public street.

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

Substantial improvement – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration

of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Surveyor – A certified land surveyor licensed by the Commonwealth of Virginia.

Tattoo parlor and/or body piercing salon – Any business that provides tattooing or body-piercing as those terms are defined in Virginia Code § 54.1-700, or both tattooing and body-piercing.

Travel trailer – see **Recreational vehicle**.

Truck camper – A portable structure designed to be loaded onto or affixed to the bed or chassis of a truck. It is designed to be used as temporary living accommodations for recreation, camping and travel use.

Utility service, major – Service of a regional nature which normally entails 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. All overhead service, distribution and transmission lines are included in this definition.

Utility service, minor – Service which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are small facilities such as transformers, relay and booster devices, and well, water and sewer pump stations. Also included in this use type are wireless communication antennas which are attached to an existing building or structure, including but not limited to utility poles, signs, broadcasting or communication facilities, and water towers, and which are not greater than 20 feet in length.

Variance – A reasonable deviation from the provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure in accordance with Section 15.2-2201 of the Code of Virginia, as amended. It shall not include a change in use, which change shall be accomplished by a rezoning or a conditional rezoning.

VDOT – The Virginia Department of Transportation.

Vegetative buffer – Deciduous and evergreen plants, shrubs, or trees that are mature enough to act as an effective visual and audible buffer.

Vegetative filter strip – Perennial vegetation established or left undisturbed adjacent to the shoreline of a watercourse intended to filter out sediment and other non-point source pollutants from runoff before it reaches a watercourse.

Veterinary hospital/clinic – Any establishment rendering surgical and medical treatment of animals. Boarding of domestic animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.

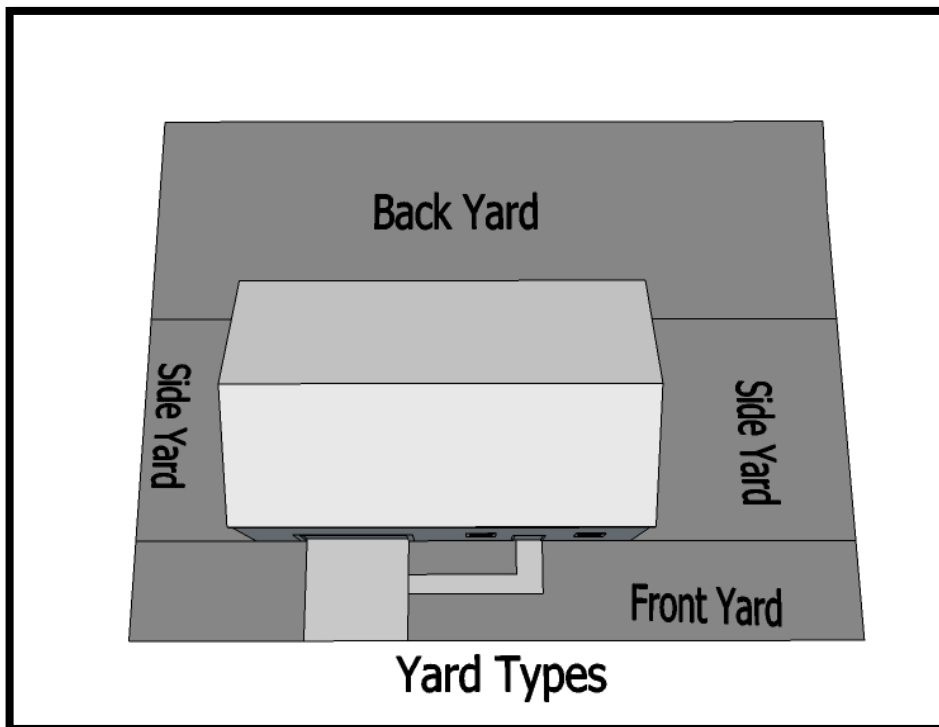
Video-viewing booth or arcade booth, adult – An enclosure designed for occupancy by no more than five persons, used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means of media, or live performances or lingerie modeling, for observation by patrons therein.

Virginia Landmarks Register – The official list, maintained by the Department of Historic Resources, of historic resources considered by the Board of Historic Resources to be worthy of historic preservation.

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.

Yard – An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

- (1) Front yard – An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.
- (2) Rear yard – An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.
- (3) Side yard – An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.



Wetlands – Waters of the United States, including land where, at least some of the time, water saturates the soil enough to result in a hydric soil (soil that is characterized by an absence of free oxygen some or all of the time). Wetlands limits must be determined in accordance with the current federally approved method of delineation.

Zoning administrator – The Zoning Administrator of the Town of Haymarket, Virginia, or an authorized agent thereof, also referred to in this ordinance as the Administrator.

Zoning permit – A document issued by the zoning administrator authorizing the use of lots, structures, lots and structures, and the characteristics of uses.

Sec. 58-1.6 - Schedule of fees, charges, expenses and required materials.

- (a) The Council shall establish a schedule of fees, charges, expenses and required materials, and collection procedure for building permits, certificates of occupancy, appeals and other matters pertaining to this chapter. The Schedule of Fees which is adopted by reference and declared to be a part of this chapter shall be posted in the Town office and may be altered or amended only by the

Council. Sufficient fees shall be collected to cover the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter.

- (b) Until all applicable fees, charges, and expenses have been paid in full, and all required material has been submitted, no action shall be taken on any application or appeal.
- (c) Council may require the applicant to produce satisfactory evidence that any delinquent accounts (i.e., real estate taxes, nuisance charges, stormwater management utility fees, or any other charges that constitute a lien on the subject property, or that are owed to the Town and have been properly assessed against the subject property) have been paid by any qualified party (i.e., the property owner, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent), prior to the initiation of any land use related application (i.e., special exception, special use permit, variance, rezoning, building permit, erosion and sediment control or stormwater permit or other land disturbing permit, or any final land use approval).
- (d) Pursuant to §15.2-2286, the Town may enter into a voluntary agreement with a landowner that results in the downzoning of the landowner's undeveloped or underdeveloped property in exchange for a tax credit equal to the amount of excess real estate taxes that the landowner has paid due to the higher zoning classification.

Sec. 58-1.7 - Special uses.

- (a) The purpose of the special use procedure is to provide for certain uses which, by their nature, can have an undue impact upon or be incompatible with other uses of land within a certain zoning district and therefore require the exercise of planning judgment. An application for a special use permit may be made by a property owner, for his property, for any use which is listed as a special use in the zoning district in which his property is located. A duly authorized agent for an owner may make application, provided a legally sufficient power of attorney, as approved by the Town Attorney, has been executed.
- (b) The Council, under the provisions of this section, shall evaluate the impact and compatibility of each such use, and shall specify such condition and restrictions as will assure the use being compatible with the area in which it is to be located, or where that cannot be accomplished, shall deny the use as not in accord with adopted plans and policies or as being incompatible with the existing uses permitted by right in the area.
- (c) In consideration of an application filed with the zoning administrator, the Town Council, after public hearings conducted by the Planning Commission and the Town Council, may authorize the special use of those uses that are expressly listed as special uses in a certain zoning district or elsewhere within the ordinance; however, no such special use procedure shall be required for a use allowed as a permitted use in such district.
- (d) A special use shall be approved if its design, location, construction, method of operation, special characteristics and other aspects satisfy the following standards:
 - (1) The proposed use at the stipulated location shall be in accordance with the official policies of an adopted comprehensive plan, and with any specific element of such plan.
 - (2) The proposed use shall be in accordance with the general purpose and intent of the applicable zoning district requirements.
 - (3) The proposed use shall not adversely affect the use or values of surrounding properties and structures.
 - (4) The proposed use shall not adversely affect the health, safety or general welfare of persons residing or working in the neighborhood.
 - (5) Pedestrian and vehicular traffic generated by the proposed use shall not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

- (6) Utility, drainage, parking, loading and other necessary facilities provided to serve the proposed use shall be adequate.
- (e) Affordable Housing. Wherein the applicant proposes affordable housing, the conditions in connection with the residential special use permit shall be consistent with the objective of providing affordable housing. The Council shall consider the impact of the conditions upon the affordability of the housing when imposing conditions on residential projects specifying material and methods of construction or specific design features.

ARTICLE II. - REVIEW AND APPROVAL PROCEDURES

Sec. 58-2.1 - Licenses, permits; issuance; validity.

All department, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

Sec. 58-2.2 - Zoning permits.

- (a) Any new construction, reconstruction, enlargement or alteration shall be started only after all requirements of this chapter have been met and a zoning permit has been obtained from the administrator.
- (b) Each application for a zoning permit, shall be accompanied by three copies of a scale drawing. The drawing shall show the size of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of the parcel of land and to the right-of-way of any street or highway adjoining the parcel of land. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit.
- (c) Submission and approval of a plan of development shall be completed prior to the issuance of building permits to ensure compliance with all regulations contained in this zoning ordinance.
- (d) Prior to approval of the development plans, the applicant shall be required to disclose and remediate any contamination or other adverse environmental conditions of the property.

Sec. 58-2.3 Pre-Application Meetings

The applicant shall schedule a meeting with the Zoning Administrator to discuss the process and proposed action prior to submitting an application.

Sec. 58-2.4 - Procedures and requirements.

Before a building permit shall be issued or construction commenced on any permitted use, or a permit issued for a new use or a change of use, a site plan prepared in accordance with this chapter shall be submitted for review. If the change of use does not require additional parking, change in ingress/egress, or other exterior modifications, then the site plan requirement may be waived by the Zoning Administrator.

A site plan is processed as either a minor or a major site plan as defined by this ordinance. Minor site plans shall be approved administratively by staff within the established review times and process. The

Planning Commission shall have final purview over major site plans with an appeal process to the Board of Zoning Appeals. Modification of the plans may be required by staff or the Planning Commission as dictated by ordinance requirements.

Preliminary and final site plans, where required, shall conform with the following procedures and requirements:

- (1) An applicant shall submit a preliminary site plan for review. Such preliminary site plan, prepared by a licensed engineer or land surveyor, or in the case of minor site plans, in a form acceptable to the Administrator, shall be reviewed and returned to the applicant with comments within 60 days. This requirement for a preliminary site plan may be waived by the Administrator where the information has already been submitted.
- (2) The preliminary site plan shall include the following minimum information unless waived by the Administrator:
 - a. Name and address of development, owner and applicant and date of plan.
 - b. Seal and signature of the design professional engineer or land surveyor shall be on each sheet.
 - c. Depiction of the following elements 1) Existing topography with a maximum five-foot contour intervals referenced USGS Datum, extending a minimum of 50' beyond the parcel(s) property line; 2) north point; 3) scale (not to exceed one inch equals 100 feet); 4) boundary of the entire tract by courses and distances; 5) vicinity map no smaller than 1"=3000'; 6) total project site acreage.
 - d. Owner, present zoning, GPIN and present use of the project parcel(s) and all contiguous or abutting properties. Provide plan name and plan number of any adjacent projects.
 - e. A Zoning Tabulation showing required and provided front yards/setback, side yards, back yards, buffers to adjacent properties, site coverage, and height restrictions. For residential site plans, also provide required and provided density.
 - f. Approximate plan view location of all existing structures and improvements, including 1)existing storm drainage on the parcel(s) and within 50'of the property lines with type, size and direction of flow labeled; 2)streams, ponds, marshes, approximate boundaries of wetland areas on the project parcel(s) , and within 50' of the property lines; 3)RPA boundary or a note indicating there are no mapped RPA's on the site; 4)the approximate 100-year flood area boundary and the source of the information; 5) the location of all cemeteries and other historic sites on the parcel or note indicating that there are none on site.
 - g. Plan view representation of proposed front yards/setbacks, side yards, rear yards, buffers, and lot layout with lot numbers, if applicable.
 - h. Proposed open spaces and recreation areas, and provisions for the perpetual maintenance thereof.
 - i. Location of all existing and proposed easements, their widths and uses.
 - j. Plan view location of all proposed structures with their proposed uses and distances to property lines and other buildings; and all proposed improvements, including signs, sidewalks/bike paths, streetlights, fencing and screening.
 - k. For residential site plans, a Lot Tabulation including: 1) Individual lots and open spaces; 2) Lot/open space area; 3) Lot coverage; 4) Frontage length at the setback line.
 - l. Number of stories, gross and net floor areas for each existing and proposed nonresidential structure labeled on the plan view.
 - m. Parking layout shown in plan view including typical size, number of spaces by location and aisle widths; tabulation showing total number of required and provided parking spaces.
 - n. Proposal for on-site vehicular circulation, including all streets, travel lanes, entrances and exits, service drives and points of access to adjacent properties. Street widths and VDOT classification noted.
 - o. Estimate of existing, if applicable, and proposed daily vehicular trips generated by the site.

- p. Typical roadway pavement and design section for all proposed public streets.
 - q. Street right-of-ways, including name, recordation deed book and page references, or route numbers, and widths. Location of right-of-way for future or proposed roadways on sites where such facilities are shown on the comprehensive plan.
 - r. Location and general character of all existing and proposed utilities and structures, such as water, sewer, gas, electric, telephone, wells and drainfields on the project parcel (2) and within 50' of the property lines.
 - s. Estimate of anticipated sewage flows in gallons per day.
 - t. Preliminary stormwater management and BMP locations identified and type noted.
 - u. Preliminary storm drainage layout.
 - v. General limits of proposed clearing and grading.
 - w. Preliminary landscape plan.
 - x. Plan for the phasing of development, if any.
 - y. Revisions shall have a completed revision block on each sheet identifying the revisions. A revision to an approved plan shall include a detailed narrative outlining the proposed revisions.
- (3) A final site plan shall be prepared and certified by an engineer and/or surveyor and shall include the following minimum information:
- a. Name and address of development, owner and applicant and date of plan.
 - b. Seal and signature of the design professional engineer or land surveyor shall be on each sheet.
 - c. Depiction of the following items: 1) Existing topography with a maximum two-foot contour intervals referenced USGS Datum, extending a minimum of 50' beyond the parcel(s) property line; 2) north point; 3) scale (not to exceed one inch equals 30 feet); 4) boundary of record for the entire tract by courses and distances and with 1/10,000 closure ratio; 5) vicinity map no smaller than 1" = 3000'; 6) total project site acreage;
 - d. Owner, present zoning, GPIN and present use of the project parcel(s) and all contiguous or abutting properties. Provide plan name and plan number of any adjacent projects.
 - e. A Zoning Tabulation showing required and provided front yards/setback, side yards, back yards, buffers to adjacent properties, site coverage, and height restrictions. For residential site plans, also provide required and provided density.
 - f. Approximate plan view location of all existing structures and improvements, including 1)existing storm drainage on the parcel(s) and within 50'of the property lines with type, size and direction of flow labeled; 2)streams, ponds, marshes, approximate boundaries of wetland areas on the project parcel(s) , and within 50' of the property lines; 3)RPA boundary or a note indicating there are no mapped RPA's on the site; 4)the approximate 100-year flood area boundary, the source of the information; the hydrologic, hydraulic, input and output summaries, cross sections and profiles must be added to the plan; 5) the location of all cemeteries and other historic sites on the parcel or note indicating that there are none on site.
 - g. Plan view representation of proposed front yards/setbacks, side yards, rear yards, buffers, and lot layout with lot numbers, if applicable.
 - h. Proposed open spaces and recreation areas, and provisions for the perpetual maintenance thereof.
 - i. Location of all existing and proposed easements, their widths and uses.
 - j. For residential site plans, a Lot Tabulation including: 1) Individual lots and open spaces; 2) Lot/open space area; 3) Lot coverage; 4) Frontage length at the setback line.
 - k. Number of stories, gross and net floor areas for each existing and proposed nonresidential structure labeled on the plan view.
 - l. Parking layout shown in plan view including typical size, number of spaces by location and aisle widths; tabulation showing total number of required and provided parking spaces.

- m. Plan view location of all proposed structures with their proposed uses and distances to property lines and other buildings; and all proposed improvements, including signs, sidewalks/bike paths, handicap access curb ramps, guardrail, streetlights, fencing and screening. Sizes and widths annotated.
 - n. Proposal for on-site vehicular circulation, including all streets, travel lanes, entrances and exits, service drives, driveways and points of access to adjacent properties. Street widths, VDOT classification, rates of superelevation, vertical curves with sight distance noted. Horizontal and vertical sight distances verified at all intersections. All entrances labeled to proper standards and percent of grades noted at all commercial entrances.
 - o. Estimate of existing, if applicable, and proposed daily vehicular trips generated by the site.
 - p. Typical roadway pavement and design section for all proposed public streets.
 - q. Street rights-of-way, including name, recordation deed book and page references, or route numbers, and widths. Location of right-of-way for future or proposed roadways on sites where such facilities are shown on the comprehensive plan.
 - r. Location and character of all existing and proposed utilities and structures, such as water, sewer, gas, electric, telephone, wells and drainfields on the project parcel and within 50' of the property lines with sizes and types labeled. Profiles for proposed water, sewer and gas included in the plans. Fire flow calculations shall be submitted separately to Town Clerk.
 - s. Current Prince William County Service Authority Information Sheet included, filled out and signed.
 - t. Floodplain study, if applicable.
 - u. Storm drainage system including, all required computations, on the project parcel(s) and within 50' of the property line with sizes, type of pipe, gradients, invert elevations, profiles, direction of flow, drainage divides and areas for each structure.
 - v. Stormwater Management and BMP facilities, including 10- and 100-year water surface elevations, and all required computations, BMP map, and access and maintenance easements.
 - w. Final Grading Plan.
 - x. Limits of proposed clearing and grading.
 - y. Erosion and Sediment Control Plans including devices, locations, notes, and narratives. Erosion and Sediment Control Checklist per the Virginia Erosion and Sediment Control Handbook included in plans.
 - z. Documentation and analysis for adequate outfall.
 - aa. Final Landscape Plan.
 - bb. Final Lighting/Photometric Plan.
 - cc. Comprehensive Sign Plan, if applicable.
 - dd. Unit Price List for Bonds and Escrows completed using current Prince William County Unit Price List.
 - ee. Any approved waivers, variances or proffers included in plan set.
 - ff. Plan for the phasing of development, if any.
 - gg. Names of streets. Prior to being placed on any agendas, each proposed building shall be annotated with premise address assigned by the County Mapping Office.
 - hh. Plat, draft deed(s) and draft stormwater management agreement shall be submitted with first submittal.
 - ii. Revisions shall have a completed revision block on each sheet identifying the revisions. In addition, a revision to an approved plan shall include a detailed narrative outlining the proposed revisions and all revisions shall be circled in red.
- (4) The Administrator may request additional information, which is deemed necessary and appropriate to demonstrate compliance with this article or other conditions imposed by this chapter.

Sec. 58-2.5 - Number and size of sheets; number of copies.

- (a) A site plan may be prepared in one or more sheets to show clearly the information required by this article, to facilitate review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join.
- (b) The sheet to be used shall be a maximum of 24 inches by 36 inches in size.
- (c) A total of five complete sets of blue or black line copies of a final site plan, prepared in accordance with the requirements of this article, shall be submitted for approval under this section.
- (d) Prior to approval of final site plans, each proposed building shall be annotated with premises addresses assigned by the Prince William County Geographic Information Systems Division of the Department of Information Technology.
- (e) Written approval letters from all necessary outside governing agencies, including but not limited to state department of transportation, Prince William Service Authority, state department of health, etc., shall be included. Written approval letters from VDEQ for VSMP on projects greater than 1 ac shall also be included.

Sec. 58-2.6 - Fee to be paid upon filing of site plan.

- (a) A fee, payable to the Town, shall be paid at the time of submission of the application for review and action on a preliminary site plan and a final site plan, in accordance with the fee schedule adopted by the Town Council.
- (b) A fee, payable to the Town, shall be paid prior to the issuance of zoning/building permits for construction pursuant to an approved final site plan, according to the fees established by the Town Council.

Sec. 58-2.7 - Procedure for review.

- (a) An applicant shall file his proposed preliminary site plan or his proposed final site plan with the Town. The Town staff shall then refer major site plan applications to the Planning Commission for its review and approval.
- (b) In compliance with Code of Virginia §15.2-2259, the Planning Commission or other agent shall act on any proposed final site within 60 days of the plan being officially submitted. If approval of a feature(s) by a state agency or other public authority is necessary, the Commission or agent shall forward the plan to the appropriate state agency or agencies for review within 10 business days of receipt of the plan. The state agency shall response in accordance with the requirements set forth in §15.2-2221, which shall proportionally extend the time for the action by the Town. The reasons for disapproval shall identify deficiencies in the plan and shall identify modifications that will permit approval of the plan. The local Planning Commission or other agent shall act on any proposed site plan that it has previously disapproved within 45 days after the plan has been modified, corrected, and resubmitted for approval. Once approved, the recorded site plan or plan of development is valid for a period of five years in accordance with §15.2-2261 of the Code of Virginia.

Sec. 58-2.8 - Period of validity of approved site plan; construction in accordance with plan.

- (a) An approved final site plan shall be valid for a period of not less than five years from the date of approval thereof or for such longer period as the local Planning Commission or other agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirement remaining to be satisfied in order to obtain a building permit is the

posting of any bonds and escrows. Construction or development may begin upon approval of the final site plan, posting of the required assurances, payment of fees, recordation of plats (if necessary), and acquisition of required permits. Any person who fails to secure the required permits or allows those permits and/or assurances to expire within the time period set forth in this section shall thereafter be required to file a new final site plan which conforms with current Town standards and requirements at the time of the new application, and shall pay an appropriate review fee.

- (b) In accordance with §15.2-2209.1 of the Code of Virginia, any site plan valid under subsection (a) above, and outstanding as of January 1, 2011, shall remain valid until July 1, 2017, or such later date provided for by the terms of the locality's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality.
- (c) No permits shall be issued by the Administrator unless they are in strict accordance with the approved final site plan (including approved minor adjustments).
- (d) It shall be a violation of this article to construct, develop, erect, alter or change in any way any structure or land except in accordance with the approved final site plan (including approved minor adjustments).
- (e) Final subdivision, easement or other record plats associated with site plans are valid for six months from the date of approval. The approval of these plats shall be null and void if the plat is not offered for recordation within six months after the date of approval.

Sec. 58-2.9 - Minor adjustments; deviations from final site plan.

After a final site plan has been approved, minor modifications, which comply with the spirit of this article and other provisions of this chapter and with the general purpose of the comprehensive plan for the development of the area, may be approved by the Administrator without formal review when such modifications:

- (1) Do not reduce or alter the percentage of land shown as grass or landscaped area under the original plan.
- (2) Do not expand the building size or area of lot surface in active use.
- (3) Do not reduce or change the efficiencies of the stormwater system.
- (4) Meet all applicable state, federal and local guidelines for the use or design proposed.

Sec. 58-2.10 – Compliance with approved plan.

- (a) If during the course of construction, it becomes necessary to deviate from the approved plan, the property owner/contractor must notify the zoning administrator immediately and submit to the Town clerk a revised site plan with the changes proposed. The zoning administrator shall then determine if such changes may be approved under section 58-2.8 or if full review will be required. The deviation proposed may not be made until the plan is approved by the Town.
- (b) When any person fails to follow such steps to deviate from the plan, or when any person constructs without a plan in conformance with this article, the Building Official may notify the property owner and/or contractor on site of the violation and issue a stop work order on such nonpermitted construction.

Sec. 58-2.11 – Performance Guarantees

- (1) As a condition to the approval of a final site plan, the owner or developer shall be required to guarantee completion of the public and other site-related improvements associated with the development prior to approval of the final plat.
- (2) The following performance guarantees shall be required as applicable to the site:

- a. Any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline or any improvements dedicated for public use;
 - b. Erosion and sediment control measures and stormwater management facilities;
 - c. Any privately-owned site-related improvements, including but not limited to fencing, landscaping, buffering, internal sidewalks, lighting, and paving as required by this chapter but not completed prior to issuance of a certificate of occupancy.
 - d. Other site-related improvements required by local or state ordinance.
- (3) Performance guarantees shall only include the cost of any facility or improvement shown or described on the approved plat or plan of the project for which such guarantee is being furnished.
- (4) The required guarantee shall be provided in an amount equivalent to the total estimated cost of construction based on unit prices for new public or private sector construction in the Town. The owner or developer shall submit a written itemized estimate of the total cost of construction, certified as being accurate, as part of the development application and subject to Town approval.
- (5) The following forms of guarantees may be used to satisfy the requirements of this section. The owner or developer may furnish to the Town, subject to the approval of the Zoning Administrator:
- a. a certified check or cash escrow in the amount of the estimated costs of construction;
 - b. a personal, corporate or property bond with surety in an amount sufficient for the construction of the proposed facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount;
 - c. a bank or saving institution's letter of credit on certain designated fund.
- (6) All performance guarantees shall provide that such bond, letter of credit, or other agreement shall not be terminated, canceled, or modified without at least 30 days' prior written notice by certified mail to the Administrator.
- (7) All performance guarantees shall provide for the completion of construction of all facilities within a time determined by the Administrator.
- (8) Extensions of time. If guaranteed facilities are not completed in a timely manner acceptable to the Town, the Administrator may proceed via the provisions for default, below, or grant an extension of time for the completion of facilities, not to exceed one year provided:
- a. All surety consents have been acquired and approved by the Town;
 - b. The owner has submitted an acceptable schedule for completion; and
 - c. Inspection of existing physical improvements is found to be satisfactory.
- (9) Partial release of performance guarantee.
- a. Upon completion of at least 30% of the improvements covered by a performance guarantee, the applicant may file a written request for partial release of such guarantee.
 - b. The Administrator shall act upon each written request for a periodic partial release within 30 days of receipt. The Administrator may inspect the facilities for conformance to the terms and conditions of the approved plan and specification for the facility.
 - c. If no action is taken by the Administrator during the 30-day period, the request for partial release shall be deemed approved.
 - d. The Administrator shall have the authority to require that each request be accompanied by the certification of a professional licensed to make such determination that the required improvements are partially or finally completed in accordance with the approved plans and specifications.
- (10) Final release of performance guarantee.
- a. Upon final completion of the facilities, the applicant may file a written request for final release of the performance guarantee. The Administrator may inspect the facilities for

conformance with the terms and conditions of the approved plan and specifications for the facilities subject to the performance guarantee.

- b. Landscaping performance guarantees. Once 90 percent of the landscaping has been installed, inspected and approved by the Administrator, 90 percent of the performance guarantee shall be released. The remaining ten percent (10%) shall be held in escrow for a minimum of two years. The final ten percent shall be released at the end of the two-year period upon inspection and approval by the Administrator.
 - c. Within 30 days of the receipt of the written request, the Administrator shall either accept the request and release the remaining guarantee or notify the applicant of specific defects or deficiencies and suggest corrective measures.
 - d. If the Administrator fails to act within the 30-day period, the applicant may make an additional request in writing for final release, sent by certified mail to the Town Manager. The Town Manager shall act within 10 working days of receipt of this request. If no action is taken, the request shall be deemed approved and the final release granted to the applicant.
 - e. Final release of any performance guarantee for public facilities shall not occur prior to receipt of as-built plans demonstrating compliance with all Town requirements.
 - f. The Administrator shall have the authority to require the request be accompanied by the certification of a professional licensed to make such determination that the required improvements are partially or finally completed in accordance with the approved plans and specifications.
- (11) Default. In the event of default in the construction of guaranteed facilities, the Administrator is authorized to take such actions as may be required to protect the Town and the public, including, but not limited to:
- a. Require recalculation and reassessment of security;
 - b. Draw or make demand on the owner or developer's security;
 - c. Contract for the completion of the work;
 - d. Enter the property for purposes of completing the work; and
 - e. Bring an action at law against the owner, developer, and or/surety.
- (12) Whenever a performance guarantee is required by the terms of conditional rezoning, the Administrator shall employ the procedures provided in this section to establish the amount and form of the guarantee in accordance with this section.
- (13) As-built plan requirements. The Town uses the Prince William County As-Built Checklist.

Sec. 58-2.12 - Inspection and supervision during installation.

- (a) Inspections during the installation of required off-site and on-site improvements shall be made by the town building inspector, or appropriate county or state inspector, to assure compliance with the approved final site plan and applicable standards. The owner or developer shall notify the inspector three days prior to the commencement of any street or storm sewer work shown to be constructed on the final site plan, in order that inspections may be scheduled.
- (b) The owner shall provide adequate supervision on the site during the installation of all required improvements, and there shall be a responsible superintendent or foreman, together with one set of approved plans, profiles and specifications, available at the site at all times work is being performed.
- (c) Upon satisfactory completion of the installation of required improvements, the owner shall receive a certificate of approval from the zoning administrator, upon the application for such certificate.

Sec. 58-2.13 -Vacation of interests as granted to the Town

Any interest in streets, alleys, easements for drainage, and easements for a public utility granted to the Town as a condition of approval of a site plan may be vacated according to the provisions of the Code of Virginia:

ARTICLE III. - AMENDMENTS

Sec. 58-3.1 - Statement of purpose and intent.

The Council finds that a portion of the police power of the commonwealth has been delegated to each Town, to be exercised reasonably in determining the manner of its development. The state legislature has left much discretion to the Town in making such determinations, relying on the local governing body's knowledge of local conditions and the needs of its individual communities. Public necessity, health, safety, convenience, general welfare, and good zoning practice provide guiding factors for the Council in its quest to exercise its legislative mandate in formulating a reasonable policy of Town planning for the general good and welfare.

Sec. 58-3.2 - Amendments generally.

The intent of this section is to provide (pursuant to §15.2-2296-15.2-2303 of the Code of Virginia), a more flexible and adaptable zoning method to cope with situations found in zones whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

Sec. 58-3.3 - Conflict of interest.

When a zoning application is filed by a property owner, such petition shall be sworn to under oath before a notary public, stating whether any member of the Council or the Commission has an interest in such property, whether individually, by ownership of stock in a corporation owning such land or by partnership, or whether a member of the immediate household of any member has such interest. For the purpose of this section, own or have any interest in shall mean being a holder of ten percent or more of the outstanding shares of stock in or serving as a director or officer of any corporation owning such land, directly or indirectly, by members of his immediate household.

Sec. 58-3.4 - Notice of hearings.

The Commission shall not recommend nor the Council adopt any plan, ordinance or amendment, change in district boundaries or classification of property until the notice and public hearing requirements as required by the Code of Virginia have been satisfied.

Sec. 58-3.5 - Review and action.

In accordance with Code of Virginia, tit. 15.2, proposed amendments to this chapter, changes in district boundaries or classifications of property shall be referred to the Planning Commission for its recommendation.

Sec. 58-3.6 - Limitation on refiling of petition following denial.

Upon denial of any petition to change a zoning district, no further petition concerning any or all of the same property for amendment to the same zoning district as applied for in the petition denied shall be filed within one year of such denial.

Sec. 58-3.7 - Withdrawal of petition.

An application for an amendment may be withdrawn at any time; provided that, if the request for withdrawal is made after the notice of public hearing, no application for the reclassification of any or all of the same property shall be filed within six months of the withdrawal date. There shall be no refund of fees in the case of a withdrawal.

Sec. 58-3.8 - Deferral upon request of applicant.

Nothing in this article shall deny the applicant the consideration to request deferral of his petition. However, any request for deferral must be submitted in writing nine days prior to any scheduled meeting or public hearing affecting the application in question; and the Planning Commission or Town Council, upon receipt of such request, must agree that such deferral may allow for the production of substantial information affecting the appropriateness of the request with the comprehensive plan.

Sec. 58-3.9 - Matters to be considered in reviewing proposed amendments.

Proposed amendments shall be considered with reasonable consideration for the:

- (1) Existing use and character of the area;
- (2) Suitability of the property for various uses;
- (3) Trends of growth or change;
- (4) Current and future requirements of the Town as to land for various purposes as determined by population and economic studies and other studies;
- (5) Transportation requirements of the community and the Town's requirements for parks, playgrounds, recreation areas, other public services, or the conservation of natural resources and preservation of floodplains; and
- (6) Conservation of properties and their values and the encouragement of most appropriate use of land throughout the Town.

These considerations shall include but are not limited to comprehensive plans or their parts, capital improvement programs, relation of development to roads and construction programs, and the proximity of the development to utilities and public facilities.

Sec. 58-3.10 - Conditions as part of rezoning or zoning map amendment.

A landowner may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the Council, in addition to the regulations provided for the zoning district or zone by this chapter, as a part of a rezoning or amendment to a zoning map, provided that the rezoning itself gives rise to the need for the conditions, such conditions have a reasonable relation to the rezoning, and all such conditions are in conformity with the comprehensive plan as defined in Code of Virginia, § 15.2-2223, as amended. Once proffered and accepted as part of an amendment to this chapter, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however,

such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. This section is subject to Code of Virginia, § 15.2-2303.4.

Sec. 58-3.11 - Zoning of boundary adjusted area.

Any area incorporated into the Town after the effective date of the zoning ordinance, shall be automatically classified as an R-1 district until a zoning plan for such area has been adopted by the Council. The Planning Commission shall prepare and present a zoning plan of the new area within six months to the Council.

ARTICLE IV. – ENFORCEMENT

Sec. 58-4.1 -Inspection Warrants

The zoning administrator or his agent may make an affidavit under oath before a magistrate or circuit court, and if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court issue the zoning administrator or agent an inspection warrant to enter and inspect the subject dwelling. The zoning administrator or his agents shall make reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.

Sec. 58-4.2 – Notice of Zoning Violation

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may issue written notice of such violation to the person committing or permitting the violations. Notice shall be mailed by registered or certified mail or hand delivered.
- (b) The notice of violation shall state the nature of the violation, date that it was observed, the remedy or remedies necessary to correct the violation and a reasonable time period for the correction of the violation.
- (c) Every written notice of violation of the Administrator shall include a statement informing the recipient that he or she may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with this section. The decision shall be final and unappealable if not appealed within 30 days.
- (d) If the recipient chooses to appeal, an appeal fee shall be submitted as established by a Council adopted Fee Schedule.
- (e) Appeals shall be heard by the Board of Zoning Appeals in accordance with the procedures set forth in Article VII of this chapter.

Sec. 58-4.3 - Penalties for violation of chapter.

- (a) Upon becoming aware of any violation of the provisions of this chapter, the Administrator may proceed to issue a civil summons consistent with Code of Virginia, § 15.2-2209.
- (b) Any violation of this chapter shall be a misdemeanor punishable by a civil fine as established by a Council adopted Fee Schedule.
- (c) The violation may be prosecuted as a criminal misdemeanor.
- (d) If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate offense punishable by an additional civil fine and any other penalties as ordered by the court.

- (e) The description of any lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring a lot shall not exempt the transaction from any penalties for violation of the subdivision ordinance, or from the remedies provided in this chapter.

State Law reference— Penalties for violation of zoning ordinance, Code of Virginia, § 15.2-2286(A)(5).

ARTICLE V. - PROVISIONS FOR APPEAL^[9]

Footnotes:

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State Law reference— Boards of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

Sec. 58-5.1 - Board of zoning appeals generally.

- (a) A board of zoning appeals (BZA) consisting of five members shall be appointed by the circuit court of the county.

Sec. 58-5.2 - Rules and regulations of board of zoning appeals.

- (a) The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.
- (b) All meetings of the board shall be open to the public unless a closed session consistent with the VFOIA is properly convened and certified.
- (c) The Administrator shall maintain all records of the BZA.

Sec. 58-5.3 - Appeal procedure.

- (a) Appeals shall be conducted in a manner consistent with the Code of Virginia.
- (b) Appeals requiring an advertised public hearing shall be accompanied by a fee as set by the Town Council, payable to the Treasurer of the Town.

ARTICLE VI. MINIMUM OFF-STREET PARKING AND LOADING

Sec. 58-6.1 - Minimum off-street parking and loading.

- (a) Minimum standards. At the time of erection of any main building, or at the time any main building or its accessory uses is enlarged or the use changed, all provisions of article XIII shall be met along with minimum required off-street parking and loading space with adequate provision for entrance and exit of motor vehicles, in accordance with the following table. Modifications to these requirements may be approved if shared parking is provided in accordance with sec. 58-6.1(b).
- (b) Shared parking. The minimum required parking spaces may be reduced if a land owner can provide parking that will be shared by complementary adjacent land uses. Such a proposal must be prepared using the methods set forth in the latest edition of the Shared Parking Manual of the Urban Land Institute (ULI). The necessary calculations and other data that show the suitability of a shared parking proposal must be submitted to the Town in conjunction with a site plan or other applicable development application, and will be evaluated by the Town as part of the normal application review process.
- (c) Parking space as required in this section shall be on the same lot with the main building; except that in the case of buildings other than dwellings, spaces may be located as far away as 600 feet. Every parcel of land used as a public parking area and motor vehicle ways shall be surfaced with asphalt or concrete. It shall have appropriate guards where needed as determined by the administrator. Any lights used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

Table of Parking Requirements

Abbreviations:

GFA means gross square feet of floor area, as defined

NFA means net square feet of floor area, as defined. For the purposes of these parking standards, Net Floor Area is equivalent to 75% of the Gross Floor Area

SF means square feet

DU (d.u.) means dwelling unit

BR means bedroom

| Uses | Minimum Parking ¹ | Minimum Loading |
|--|---|-----------------|
| Residential Uses | | |
| Single family detached dwelling | 2 per dwelling unit exclusive of garage | |
| Single family attached dwelling (townhouse) and two-family dwelling (duplex) | 2.25 per d.u. (inclusive of minimum of 0.25 for visitor parking which must be distinct from d.u.) | |
| Apartments on the second floor of structures designed for commercial uses | 1.5 per d.u. (spaces must be assigned to each dwelling) | |
| Elderly/independent | 1 per 4 d.u. plus 1 per employee | |
| Active adult/age restricted | 1.5 per d.u. | |
| Accessory apartment as defined | 1 per d.u. | |
| Group home | See standard for the residential unit type ² | |

¹ Employee always refers to the number of employees on the largest shift

² Code of Virginia, § 15.2-2291 requires that group homes be regulated like single family homes

| Uses | Minimum Parking ¹ | Minimum Loading |
|---|--|-----------------|
| Commercial Uses | | |
| Home occupations | Meet the residential requirement plus 1 per non-resident employee | |
| Lodging, hotels, motels | 1.1 per room (restaurants/meeting rooms subject to separate standards) | |
| Bed and breakfast facilities | Meet residential requirement plus 1 per guest room | |
| Medical clinics, medical or dental clinics, medical or dental offices | 1 per 200 square feet of gross floor area (GFA) | |

| | | |
|--|---|---|
| Retail store (stores or shops for the conduct of retail business) | 1 per 250 SF of GFA | None for first 10,000 SF then 1/30,000 up to 70,000 SF plus 1/100,000 SF thereafter |
| Other low-intensity commercial and personal service uses, as defined | 1 per 300 SF of GFA | Same as retail |
| (other) Retail sales and services and similar uses not addressed, including shopping centers | 1 per 300 SF of GFA | Same as retail |
| Food store, grocery store, supermarket (excluding quick-service food store) | 1 per 250 SF of GFA | 1 up to 12,000 GSF, then 1 per 24,000 GSF |
| Funeral home, mortuary, or wedding chapel | 1 per 4 seats plus 1 per 2 employees plus 1 for each hearse | 1 |
| Motor Vehicle Repair: | | Same as industrial |
| Indoor display, sales, waiting, and offices | 1.0 per 400 SF of GFA of enclosed area plus 1.0 per employee, and | |
| Service area | 3.0 per service bay | |
| Retail Fuel Sales: | In addition to pump spaces: | |
| Fuel Only | 1 per fueling position | 1 |
| Fuel w/service | 0.75 per fueling position plus 1 per 200 SF of GFA | 1 |
| Nursery/garden center | 1 per 200 SF of GFA plus 1 per 1,300 square feet of outdoor area | 1 per 60,000 GSF |
| Office, general business or professional | 1 per 300 SF of GFA | None for first 30,000 SF then one/100,000 SF thereafter |
| Quick service food store (convenience store) | 1 per 200 SF of GFA plus 1 per 1,300 square feet of outdoor area | |
| Recreational Uses: | | |
| Bowling Alley | 4 per lane | |
| Fairground/Carnival/Circus | 1 per 400 SF of NFA | |
| Miniature Golf | 2 per tee for 36 tees, then 1 per tee | |

| | | |
|---|------------------------------------|---------------------|
| Public Recreational Facility or Club; commercial, indoor, fitness and sports activities | 1 per 300 SF of GFA | |
| Active recreational uses, parks and playgrounds | 3 per acre | |
| Hard or soft courts | 4 per court | |
| Swimming Pools | 1 per 150 SF of water space | |
| Restaurants: | | |
| Freestanding restaurant (w/o drive-in or fast food) | 1 per 100 SF of GFA | 1 per 40,000 SF GFA |
| Freestanding drive-in, drive-up, drive-through, including fast food | 1 per 100 SF of GFA | 1 per 40,000 SF GFA |
| Outdoor craft/antique shows/sales; farmer's markets | 1 per 500 SF of GFA of sales area | |
| Veterinary or dog or cat hospital, kennels | 1 per 300 SF of GFA | |
| Theater and similar establishment | 1 per 3.5 seats by design capacity | |
| Any other commercial use not otherwise listed | 1 per 300 SF of GFA | |

¹ Employee always refers to the number of employees on the largest shift

² Code of Virginia, § 15.2-2291 requires that group homes be regulated like single family homes

| Uses | Minimum Parking ¹ | Minimum Loading |
|--|--|-------------------------|
| Institutional Uses | | |
| Schools, public and private | 1 per classroom and other room used by students plus 0.2 per student above driving age | |
| Municipal building | 1 per 300 SF of GFA | |
| Other public uses | (Same as municipal building) | |
| Places of assembly, including religious assembly, private clubs, lodges or meeting halls | 1 per 4 seats of design capacity | 1 per 100,000 SF of GFA |

| Uses | Minimum Parking ¹ | Minimum Loading |
|---|---|------------------------|
| Industrial Uses | | |
| Self-storage center/mini warehouse | 1 per 250 SF of GFA of office space plus 1 per employee | |
| General manufacturing, assembly and manufacture | 1 per 1,000 SF of GFA | 1 per 50,000 SF of GFA |
| Cabinets, furniture and upholstery shops | 1 per 1,000 SF of GFA | 1 per 50,000 SF of GFA |
| Laboratories, pharmaceutical and/or medical | 1 per 300 SF of GFA | 1 per 50,000 SF of GFA |
| Outdoor storage of equipment | 1 per 300 SF of GFA of office area | 1 per 50,000 SF of GFA |
| Warehouse and wholesale businesses, storage warehouses | 1 per 1,000 SF of GFA | 1 per 50,000 SF of GFA |
| If office space exceeds 50% of net floor area of any industrial use | (Parking for the office areas must meet parking requirements for office uses) | |

| |
|---|
| <p>¹ Employee always refers to the number of employees on the largest shift</p> |
| <p>² Code of Virginia, § 15.2-2291 requires that group homes be regulated like single family homes</p> |

ARTICLE VII. - RESIDENTIAL DISTRICT R-1

Sec. 58-7.1 - Intent.

The residential district R-1 is composed of quiet, low-density single family homes The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to minimize activities of a commercial nature. Development is limited basically to single-unit dwellings providing homes for the residents plus certain additional uses such as public facilities that serve the residents of the district.

Sec. 58-7.2 - Use regulations.

In residential district R-1, the following uses are permitted by-right:

Residential

- Accessory apartment
- Family health care structure, temporary
- Group home
- Guest room
- Single family detached

Commercial

Business, short-term rental (STRB)
Family day home
Home occupation, Class A

Civic

Religious assembly

Miscellaneous

Amateur radio antenna
Garage, private
Greenhouse
Recreation facility, private
Utility service minor

Sec. 58-7.3 - Special uses.

The following uses may be permitted in the R-1 district with a special use permit:

Residential

Cottage

Civic

Civic use
Educational facility, primary/secondary
Recreation facility, public

Commercial

Bed and breakfast
Life care facility

Miscellaneous

Parking facility
Utility service, major

Sec. 58-7.4 – Occupancy regulations.

The number of unrelated individuals permitted to occupy a single-family residential dwelling unit is limited to a maximum of three (3) in the R-1 district.

Sec. 58-7.5 - Area regulations.

The minimum lot area shall be 10,000 square feet.

Sec. 58-7.6 - Setback regulations.

Structures in the R-1 district shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 50 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

Sec. 58-7.7 - Frontage regulations.

For permitted uses in the R-1 district, the minimum lot width at the setback line shall be 75 feet or more.

Sec. 58-7.8. - Yard regulations.

- (a) Side. The minimum side yard for each main structure in the R-1 district shall be ten feet, and the total width of the two side yards shall be at least 20 feet.
- (b) Rear. Each main structure shall have a rear yard of 25 feet.

Sec. 58-7.9 - Height regulations.

- (a) Permitted uses in the R-1 district may be erected up to 35 feet in height from grade: building not be more than three stories above grade.
- (b) Accessory buildings more than five feet from any lot line in the R-1 district may be erected to a height no more than 15 feet above grade.
- (c) Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are permitted up to 50 feet in height. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-7.10 - Corner lots.

- (a) Of the two sides of a corner lot in the R-1 district, the front shall be deemed to be the shorter of the two sides fronting on the streets.
- (b) The side yard on the side facing the street shall be 20 feet or more for both main and accessory buildings.

Sec. 58-7-11. - Maximum lot coverage.

The maximum lot coverage shall be 30 percent.

For single family detached dwellings on lots containing 36,000 square feet or less in the R-1 district, all parking for vehicles or trailers in a front yard shall be on a surfaced area, provided, however, that this shall not be deemed to preclude temporary parking on an unsurfaced area in a front yard for a period not to exceed 48 hours for loading, unloading, cleaning or repair of vehicles or trailers. In addition, no more than 25 percent of any front shall be surfaced area for a driveway or vehicle/trailer parking area; provided, however, that these limitations may be exceeded for a surfaced area that is:

- A. Directly contiguous with, and providing primary access to, two side-by-side parking spaces as long as the surfaced area is not more than 25 feet long and 18 feet wide;
- B. On a lot which has its primary access from a major thoroughfare and consists of two side-by-side parking spaces and a vehicular turn-around area as long as the surfaced area is not more than 25 feet long and 18 feet wide and the turn-around area does not exceed 150 square feet; or
- C. Provided as an accessibility improvement as approved by the zoning administrator.

Surfaced area shall include asphalt, poured or precast concrete, brick, stone, gravel, other approved impervious surfaces, grass pavers or other approved pervious surfaces.

ARTICLE VIII. - RESIDENTIAL DISTRICT R-2

Sec. 58-8.1 - Intent.

The residential district R-2 is intended for use within those areas near the central core of the Town. This district should provide a suitable environment for families and persons seeking the amenities and convenience of townhouse living, or as an option, small lot detached single-family lots or conventional single-family lots without fear of encroachment or dissimilar uses. This district is designed to stabilize, protect and promote this type of development.

Sec. 58-8.2 - Use regulations.

In residential district R-2 the following uses are permitted by-right:

Residential

- Accessory apartment
- Family health care structure, temporary
- Group home
- Guest room
- Single-family dwelling, attached
- Single-family dwelling, detached
- Townhouse
- Two-family dwelling

Civic

- Recreation facility, public
- Religious assembly

Commercial

- Business, short-term rental (STRB)
- Family day home
- Home occupation, Class A

Miscellaneous

- Amateur radio antenna
- Garage, private
- Greenhouse
- Recreation facility, private
- Utility service, minor

Sec. 58-8.3 - Special uses.

The following uses may be permitted in the R-2 district with a special use permit:

Residential

- Cottage

Civic

- Civic use

Club
Educational facility, primary/secondary

Commercial

Bed and breakfast
Home occupation, Class B

Miscellaneous

Parking facility
Utility service, major

Sec. 58-8.4 – Occupancy Regulations.

The number of unrelated individuals permitted to occupy a single-family residential dwelling unit is limited to a maximum of four (4) in the R-2 district.

Sec. 58-8.5 - Area regulations.

- (a) The minimum lot area in the R-2 district shall be 8,000 square feet.
- (b) For lots designed for the development of townhouse structures, the average lot area of all lots within any development phase must equal 2,000 square feet or more with no lot containing less than 1,500 square feet, exclusive of designated common area and open space.
- (c) For lots designed for the development of small lot detached single-family dwellings, the average lot area of all lots within any development phase must equal 4,200 square feet or more with no lot containing less than 4,000 square feet, exclusive of designated common area and open space.
- (d) For lots containing or intended to contain a permitted use, except townhouses and small lot detached single-family dwellings, not more than 30 percent of the gross lot area may be covered by buildings, including accessory structures. For lots designed as part of a townhouse development or of small lot detached single-family dwellings, not more than 40 percent of the gross parcel area may be covered by townhouse structures or small lot detached single-family dwellings and their accessory structures. In computing the total coverage on any lot or development, an area of 400 square feet per required parking areas and travel ways shall be included as part of such coverage unless private garage facilities are otherwise provided on such lot.
- (e) Within any single-family development, the maximum number of units permitted per gross acre shall be four. Within any townhouse development, the maximum number of units per gross acre shall be eight. Within any small lot detached single-family dwelling development, the maximum number of units per gross acre shall be six. The term "gross acre" for the purpose of this section shall include all lands within the exterior boundaries of the lot under development, including drives, parking areas, walkways, parks, school sites and such other open space as may be designated for common use, and public streets established as part of the development.

Sec. 58-8.6 - Frontage regulations.

- (a) For lots containing or intended to contain a permitted use in the R-2 district, except townhouse units and small lot detached single-family dwelling developments, a minimum 75 feet of lot frontage on a public street shall be provided. Frontage shall be measured on a line parallel with the proposed front street line at the minimum required setback line.

- (b) For lots containing a townhouse structure, the minimum lot frontage on a public street, private accessway, or common area shall be 20 feet, and on end units a minimum total lot width of 35 feet is required.
- (c) For small lot detached single-family dwellings, the minimum lot frontage at the building restriction line on a public street, private accessway, or common area shall be 40 feet, and on corner lots a minimum total lot width of 55 feet is required.

Sec. 58-8.7 - Yard regulations.

- (a) Front. Each lot in the R-2 district shall have a front yard with a minimum depth of 15 feet from building face to the front property line. Such yard area may be encumbered by required driveway areas to garages, but not by accessory structures.
- (b) Side. Each lot shall provide a minimum side yard of 15 feet from building wall to side property line, except in the case of:
 - (1) Interior townhouse units where the party wall creates a zero lot line;
 - (2) End loading units which may have an open porch not more than five feet or more in which an open deck may encroach an additional ten feet towards the property line; and
 - (3) Small lot detached single-family dwellings where the minimum setback from building wall to property line shall not be less than three feet to any property and shall be not less than 20 feet in the aggregate between adjoining structures.
- (c) Rear. Each lot intended for a permitted use, except a townhouse and a small lot detached single-family dwelling, shall provide a minimum rear yard not less than 25 feet in depth measured from the rear building line to the rear property line. Each townhouse and a small lot detached single-family dwelling shall have a rear yard of 20 feet. Accessory buildings may be located to within five feet of the rear property line and shall be 80 square feet or less.

Sec. 58-8.8 - Height regulations.

For a main building in the R-2 district, the maximum height shall be 2½ stories, but not over 35 feet; except that a building height may be extended to three stories or a maximum of 40 feet if each side yard is increased one-half foot for each additional foot of building height. Accessory buildings shall be limited to a maximum height of 15 feet within a required yard area.

ARTICLE IX. - TRANSITIONAL COMMERCIAL ZONING DISTRICT TC

Sec. 58-9.1 - Intent.

The primary purpose of this district is to create a low-intensity office, commercial and mixed use area as a transition between residential and commercial areas. The uses in the district should buffer residential areas from the commercial core by minimizing traffic, lighting and hours of operation, by establishing buffers and by establishing other site specific development standards to minimize the impact on adjacent residential uses. To enhance its compatibility with its residential surroundings, any development should be located in existing buildings wherever possible. Adaptive reuse of existing structures is to be encouraged if impacts are mitigated.

Sec. 58-9.2 - Use regulations.

In the transitional commercial district, the following uses shall be permitted by-right:

Residential

- Accessory apartment
- Group home
- Guest room
- Single-family dwelling, attached
- Townhouse

Civic

- Civic use
- Cultural services
- Educational facility, primary/secondary
- Recreation facility, public
- Religious assembly

Commercial

- Bed and breakfast
- Brewery (500 barrels or less annually) or Distillery (5,000 gallons or less annually)
- Business or trade school
- Business, short-term rental (STRB)
- Communications service
- Consumer repair service
- Day care center
- Farmer's market
- Greenhouse, commercial
- Guidance services
- Home occupation, Class A
- Life-care facility
- Nursing home
- Office, general
- Office, medical
- Personal improvement services
- Personal services
- Restaurant, general
- Restaurant, mobile
- Restaurant, small
- Store, general
- Store, grocery
- Store, neighborhood convenience
- Studio, fine arts

Miscellaneous

- Parking facility
- Utility service, minor

Sec. 58-9.3 - Special uses.

The following uses may be permitted in the transitional commercial district with a special use permit:

Residential

Two-family dwelling

Civic

Recycling center

Commercial

Automobile repair service
Brewery (over 500 barrels annually) or Distillery (over 5,000 gallons annually)
Cemetery
Commercial indoor amusement
Commercial indoor entertainment
Commercial outdoor entertainment
Commercial indoor sports and recreation
Commercial outdoor sports and recreation
Financial institution
Funeral home
Garden center
Halfway house
Home occupation, Class B
Hotel
Veterinary hospital/clinic

Sec. 58-9.4 – Occupancy regulations.

The number of unrelated individuals permitted to occupy a single-family residential dwelling unit is limited to a maximum of 4 in the TC district.

Sec. 58-9.5 - Area regulations.

- (a) For lots in excess of one acre, no more than 50 percent of the gross area shall be comprised of residential uses.
- (b) For residential uses, the minimum lot area shall be 5,000 square feet.

Sec. 58-9.6 - Setback and yard regulations.

- (a) Front. Structures in the transitional commercial district may be located to within ten feet of any street right-of-way, provided all sidewalk, easement and streetscape requirements are met.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar commercial uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.

Sec. 58-9.7 - Height regulations.

Permitted and special uses shall be less than 35 feet in height from grade and all buildings not more than two stories above grade.

Sec. 58-9.8 - Coverage regulations.

Maximum structure or building coverage shall not exceed 75 percent of the total lot area, except for adaptive uses of existing structures. Total impervious coverage of a lot shall not exceed 85 percent.

ARTICLE X. - TOWN CENTER DISTRICT B-1 [\[3\]](#)

Sec. 58-10.1 - Intent.

The Town Center District, B-1, provides primarily for retail shopping and personal services to be developed either as a unit or in individual parcels oriented to attracting pedestrian shoppers, tourism and local convenience. Recognizing the economic value of the existing historical area, it shall further be the intent of the district to encourage the retention and rehabilitation of structures and uses in the district that have historic and/or architectural significance. The range, size, hours of operation, lighting, signs and other developmental aspects of permitted uses may be limited in order to enhance the general character and historic nature of the district.

Sec. 58-10.2 - Use regulations.

The following uses shall be permitted in the B-1 district by-right:

Residential

- Accessory apartment
- Guest room

Civic

- Civic use
- Club
- Cultural services
- Educational facility, primary/secondary
- Recreation facility, public
- Shelter

Commercial

- Bed and breakfast
- Brewery (500 barrels or less annually) or Distillery (5,000 gallons or less annually)
- Business, short-term rental (STRB)
- Business support service
- Communications service
- Consumer repair service
- Day care center
- Farmer's market
- Financial institution
- Hotel
- Office, general
- Personal improvement services
- Personal services
- Restaurant, general
- Restaurant, mobile

- Restaurant, small
- Store, general
- Store, grocery
- Store, liquor
- Store, neighborhood convenience
- Studio, fine arts
- Veterinary hospital/clinic

Miscellaneous

- Utility service, minor

Sec. 58-10.3 - Special uses.

The following uses may be permitted in the B-1 district with a special use permit:

Residential

- Multi-family dwelling
- Townhouse

Civic

- Educational facility, college/university
- Emergency shelter
- Public assembly
- Recycling center
- Refuse collection site
- Religious assembly

Commercial

- Brewery (over 500 barrels annually) or Distillery (over 5,000 gallons annually)
- Business or trade school
- Custom manufacturing
- Funeral home
- Office, medical
- Restaurant, fast food

Miscellaneous

- Outdoor gathering
- Parking facility

Sec. 58-10.4 – Occupancy regulations.

The number of unrelated individuals permitted to occupy a single-family residential dwelling unit is limited to a maximum of three (3) in the B-1 district.

Sec. 58-10.5 - Area regulations.

There are no area regulations in the B-1 district, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be set by the local health official.

Sec. 58-10.6 - Setback and yard regulations.

- (a) Front. Structures in the B-1 district may be located to within five feet of any street right-of-way.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar commercial uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.

Sec. 58-10.7 - Height regulations.

Permitted uses in the B-1 district may be erected up to 50 feet in height from grade: building not more than four stories above grade. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-10.8 - Coverage regulations.

Maximum buildable lot coverage in the B-1 district shall not exceed 85 percent of the total lot area.

ARTICLE XI. - BUSINESS COMMERCIAL DISTRICT B-2⁴¹

Sec. 58-11.1 - Intent.

The primary purpose of the business commercial district B-2 is to concentrate businesses in a coordinated manner and to provide for more intense commercial and industrial uses away from the Town center. Commercial uses located in this district, while traditionally being oriented to automobile traffic, are intended to have a sufficiently high standard in site layout, design and landscaping to minimize traffic congestion on accessory roadways and minimize the impact of the high volume of traffic at an interchange with adjacent land uses.

Sec. 58-11.2 - Use regulations.

In the B-2 district, the following uses shall be permitted by-right:

Residential

Accessory apartment

Civic

Civic use
Club
Cultural services
Education facility, primary/secondary
Recreation facility, public
Shelter

Commercial

Automobile parts/supply, retail
Brewery (500 barrels or less annually) or Distillery (5,000 gallons or less annually)
Brewery (over 500 barrels annually) or Distillery (over 5,000 gallons annually)
Business, short-term rental (STRB)
Business support service
Catering, commercial (off-premises)
Commercial indoor amusement
Commercial indoor entertainment
Commercial indoor sports and recreation
Communications service
Consumer repair service
Day care center
Farmer's market
Financial institution
Garden center
Gasoline station
Greenhouse, commercial
Guidance services
Halfway house
Hotel
Laundry

- Life care facility
- Nursing home
- Office, general
- Office, medical
- Pawn shop
- Personal improvement services
- Personal services
- Restaurant, fast food
- Restaurant, general
- Restaurant, mobile
- Restaurant, small
- Store, general
- Store, grocery
- Store, liquor
- Store, neighborhood convenience
- Studio, fine arts
- Veterinary hospital/clinic

Miscellaneous

- Parking facility
- Utility service, minor

Sec. 58-11.3 - Special uses.

The following uses may be permitted in the B-2 district with a special use permit:

Residential

- Multi-family dwelling
- Townhouse

Civic

- Educational facility, college/university
- Emergency shelter
- Public assembly
- Public maintenance and service facility
- Recycling center
- Refuse collection site
- Religious assembly

Commercial

- Automobile rental/leasing
- Automobile repair service
- Bed and breakfast
- Business or trade school
- Car wash
- Commercial outdoor entertainment
- Commercial outdoor sports and recreation
- Commercial vehicle repair service
- Construction sales and service

Custom manufacturing
Equipment sales and rental
Funeral home
Hospital
Restaurant, drive-in
Tattoo Parlor and/or body piercing salon

Industrial

Warehousing and distribution

Miscellaneous

Outdoor gathering

Sec. 58-11.4 – Occupancy regulations.

The number of unrelated individuals permitted to occupy a single-family residential dwelling unit is limited to a maximum of three (3) in the B-2 district.

Sec. 58-11.5 - Area regulations.

There are no area regulations in the B-2 district, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be set by the local health official.

Sec. 58-11.6 - Setback and yard regulations.

- (a) Front. Structures in the B-2 district may be located to within ten feet of any street right-of-way.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar commercial uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.

Sec. 58-11.7 - Height regulations.

Buildings in the B-2 district may be erected up to a height of 50 feet. For buildings over 50 feet in height, approval shall be obtained as a special use. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-11.8 - Coverage regulations.

Maximum buildable lot coverage in the B-2 district shall not exceed 75 percent of the total lot area. Maximum lot coverage in the B-2 district shall not exceed 85 percent.

ARTICLE XII. - LIMITED INDUSTRIAL DISTRICT I-1 [\[5\]](#)

Sec. 58-12.1 - Intent.

The primary purpose of the limited industrial district I-1 is to permit certain industries, which do not in any way detract from residential desirability, to locate on designated sites. The limitations on (or provisions

relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors, and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply and demand base.

Sec. 58-12.2 - Use regulations.

In the I-1 district, the following uses shall be permitted by-right:

Civic

- Civic use
- Public maintenance and service facility
- Recycling center

Commercial

- Automobile parts/supply, retail
- Automobile rental/leasing
- Automobile repair service
- Brewery (500 barrels or less annually) or Distillery (5,000 gallons or less annually)
- Brewery (over 500 barrels annually) or Distillery (over 5,000 gallons annually)
- Business or trade school
- Business support service
- Catering, commercial (off-premises)
- Commercial indoor amusement
- Commercial indoor entertainment
- Commercial indoor sports and recreation
- Commercial vehicle repair service
- Communications service
- Construction sales and service
- Consumer repair service
- Custom manufacturing
- Entertainment establishment, adult
- Farmer's market
- Kennel
- Mini-warehouse
- Restaurant, drive-in
- Restaurant, fast food
- Restaurant, general
- Restaurant, small
- Shooting range, indoor
- Store, grocery
- Veterinary hospital/clinic

Industrial

- Industrial, light
- Laboratory
- Research and development
- Warehousing and distribution

Miscellaneous

- Parking facility
- Utility service, minor

Sec. 58-12.3 - Special uses.

The following uses may be permitted in the I-1 district with a special use permit:

Civic

- Public assembly
- Refuse collection site
- Religious assembly

Commercial

- Car wash
- Commercial outdoor entertainment
- Commercial outdoor sports and recreation
- Construction yard
- Equipment sales and rental
- Funeral home
- Garden center
- Gasoline station
- Tattoo Parlor and/or body piercing salon

Industrial

- Outdoor storage
- Salvage and scrap service

Miscellaneous

- Broadcasting or communication tower
- Outdoor gathering
- Utility service, major

Sec. 58-12.4 - Area regulations.

There are no area regulations in the I-1 district.

Sec. 58-12.5 - Setback and yard regulations.

- (a) Front. Structures in the I-1 district may be located to within ten feet of any street right-of-way.
- (b) Side. Side yards shall have the same regulations as front yards when abutting a street right-of-way. There are no side yard regulations when abutting adjoining similar uses. There shall be a side yard of 25 feet or more when abutting a residential district.
- (c) Rear. Rear yards shall have the same regulations as side yards.
- (d) Fences. Fences shall not exceed seven feet in height and shall not be less than three feet in height.
- (e) Screening and buffer yards. Section 58-17.11 shall apply in the I-1 district.

Sec. 58-12.6 - Height regulations.

Buildings in the I-1 district may be erected up to a height of 50 feet. For buildings over 50 feet in height, approval shall be obtained as a special use. Chimneys, flues, cooling towers, flagpoles, or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls may be permitted per the building code above the height of the building on which the walls rest.

Sec. 58-12.7 - Coverage regulations.

Maximum lot coverage in the I-1 district shall not exceed 85 percent.

ARTICLE XIII. - CONSERVATION DISTRICT C-1^[6]

Sec. 58-13.1 - Intent.

The primary purpose of the conservation district C-1 is to limit development in areas of poor soil, steep slope and proneness of flooding.

Sec. 58-13.2 - Use regulations.

The following uses shall be permitted in the C-1 district by-right:

Civic

Civic use
Recreation facility, public

Commercial

Commercial outdoor sports and recreation
Garden center
Greenhouse, commercial

Miscellaneous

Greenhouse
Utility service, minor

ARTICLE XIV. - OLD AND HISTORIC HAYMARKET DISTRICT OVERLAY

Sec. 58-14.1 - Definitions.

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

Board means the Architectural Review Board.

Sec. 58-14.2 - Purpose.

(a) This article is enacted pursuant to Code of Virginia, § 15.2-2306, as amended, for the purpose of imposing special requirements in addition to the requirements pertaining to the underlying zoning in

the Town, in order to protect and perpetuate those areas or structures which are of historic, architectural or cultural interest.

- (b) Regulations imposed in this district are intended to protect against destruction of, or encroachment upon, such historic resources, to encourage uses which will continue to preserve them and to prevent the creation of adverse environmental influences.

Sec. 58-14.3 - Creation; boundaries.

- (a) In order to preserve the unique cultural heritage of the Town, there is hereby established an overlay district to be known as the "Old and Historic Town of Haymarket," which shall include all that area which lies within the corporate limits of the Town.
- (b) Prior to any expansion of the historic district the Town shall identify and inventory all structures being considered for inclusion in such a district and shall establish written criteria to be used in making such determination. The Town shall the identify all landmarks and designate by ordinance any building, structure, district, object, or site as part of a local historic district, subsequent to soliciting public input in a manner consistent with Code of Virginia, § 15.2-2204. The owners of such property proposed for designation shall be given written notice of the public hearing on the ordinance.

Sec. 58-14.4 - Certificate of appropriateness required to erect, reconstruct, alter, restore or raze a building.

- (a) In order to promote the general welfare, through the preservation and protection of historic places and areas of historic interest, all buildings within the Old and Historic Town of Haymarket which are 50 years old or older are designated historic buildings. No historic building may be demolished, in whole or in part, nor may any architectural features of such buildings which are subject to public view from a public street be altered without prior application to the Architectural Review Board, unless the building official consistent with the Uniform Statewide Building Code, determines that it constitutes such a hazard that it shall be razed, demolished or moved.
- (b) No building, structure or sign shall be erected, reconstructed, altered or restored within the Old and Historic Town of Haymarket, unless and until an application for a certificate of appropriateness shall have been approved by the board or, on appeal, by the Town Council after consultation with the board. Review of such application by the board will include analysis of external architectural features which are subject to public view from a public street, way or place, in light of their architectural compatibility with the historic buildings in the district.
- (c) The term "altered," as used in this article, means any readily apparent change, including painting. The zoning administrator shall determine whether a change is readily apparent, subject to appeal to the board of zoning appeals.

Sec. 58-14.5 - Application for certificate of appropriateness.

Application for a certificate of appropriateness shall be made to the Architectural Review Board. Any decision of the Architectural Review Board shall be appealable by any member of the Town Council or any aggrieved party to the Town Council.

Sec. 58-14.6 - Architectural review board; creation, membership.

- (a) For the purpose of making effective the provisions of this article, an Architectural Review Board is established. The board shall consist of up to seven members, but not fewer than five, appointed by the Town Council, and shall be legal residents of the Town. Where qualified and acceptable candidates

are available, one member of the board shall be a licensed professional engineer, architect or land surveyor; one board member will be appointed from the Town Council and one from the Planning Commission; one member should be a person with knowledge of local real estate conditions, and one member should be appointed primarily on the basis of a knowledge and demonstrated interest in the historical heritage of the Town.

- (b) The term of office of the members shall be for three years, except that the term of the Council member and Planning Commission member shall correspond to their official tenure of office. Members may be removed from office by Town Council at will and without notice. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves.

Sec. 58-14.7 - Chairman, vice-chairman and secretary of the board.

The Board of Architectural Review shall elect its chairman and vice-chairman from its membership, and the Town Clerk shall be its secretary.

Sec. 58-14.8 - Procedure for meetings.

- (a) The Board of Architectural Review shall adopt and maintain bylaws governing the procedure for meetings and following the membership requirements and other procedures set forth by this article.
- (b) In matters regarding the procedure for meetings not covered by this section (e.g., schedules for regular periodic meetings), the board may establish its own rules, provided they are not contrary to the spirit of this article.

Sec. 58-14.9 - Matters to be considered by board in acting on appropriateness of erection, reconstruction, alteration, restoration or demolition of building or structure.

The board shall not consider interior arrangement, relative size of the building or structure, detailed design or features not subject to any public view, and shall not make any requirements regarding such matters. The board shall consider the following in passing upon the appropriateness of architectural features:

- (1) Exterior architectural features, including all signs, which are subject to public view from a public street, way or place.
- (2) General design arrangement.
- (3) Texture, material and color.
- (4) The relation of the factors, subsections (1), (2), and (3) of this section, to similar features of the buildings and structures in the immediate surroundings.
- (5) The extent to which the building or structure would be harmonious with or obviously incongruous with the old and historic aspect of the surroundings.
- (6) In the case of a building to be razed, a primary consideration will be the extent to which its continued existence would tend to protect irreplaceable historic places and preserve the general historic atmosphere of the Town.
- (7) The extent to which the building or structure will promote the general welfare of the Town, and all citizens, by the preservation and protection of historic places and areas.
- (8) The extent to which the building or structure will promote the general welfare by:
 - a. Maintaining and increasing real estate value;
 - b. Generating business;
 - c. Creating new positions;

- d. Attracting tourists, students, writers, historians, artists and artisans, and new residents;
- e. Encouraging study of and interest in American history;
- f. Stimulating interest in and study of architecture and design;
- g. Educating citizens in American culture and heritage; and
- h. Making the Town a more attractive and desirable place in which to live.

Sec. 58-14.10 - Issuance of certificate of appropriateness.

Decisions of the board will be incorporated in approved certificates of appropriateness or written reasons for disapproval. Immediately upon approval by the board of any application to erect, reconstruct, alter, restore or raze a building, a certificate of appropriateness, signed by the chairman of the board and bearing the date of issuance, shall be made available to the applicant. The zoning administrator shall refuse to honor any request for a building permit without such certificate of appropriateness, but a certificate of appropriateness will in no way affect the requirement to comply with the other provisions necessary to obtain a building permit.

Sec. 58-14.11 - Right of appeal.

- (a) Whenever the board shall approve or disapprove an application for a certificate of appropriateness or fail to take action within 45 days of its filing, any aggrieved party shall have the right to appeal and be heard before the Town Council provided such person files with the Town Clerk on or before seven days after the decision of the board a written notice of appeal. Upon receipt of such notice, the Town Clerk shall place such appeal on the agenda for the next regular meeting of the Town Council.
- (b) Any party may appeal the decision of the Town Council to the circuit court pursuant to this section.
 - (1) A party is any applicant or any person who owns property adjacent to the property which the application concerns. For the purposes of this section, the term "adjacent" includes any property separated from the applicant's property only by a road and which would be adjacent if the road were not present.
 - (2) Appeal shall be by petition at law setting forth the alleged illegality of the action of the Town Council.
 - (3) The appellant must file the appeal with the circuit court of the county within 30 days of the Town Council's decision.
- (c) In addition to the right of appeal, the owner of an historic landmark, building or structure shall have a right to raze or demolish such landmark, building or structure provided he has complied with the provisions of the second paragraph of Code of Virginia, § 15.2-2306(A)(3), as amended.

Sec. 58-14.12 - Deterioration by neglect.

- (a) No owner of an officially designated historic building within the historic district shall allow it to deteriorate to the point where it is not economically feasible to repair or restore it. Specifically, no owner may permit:
 - (1) Deterioration of the exterior of a historic building to the extent that it creates or permits a hazardous or unsafe condition;
 - (2) Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster or mortar, of a historic building to the extent that it adversely affects the character of the historic district or could reasonably lead

to irreversible damage to the structure. In determining whether deterioration adversely affects the character of the historic district, the zoning administrator shall be guided by the comprehensive plan and, if adopted, the strategic plan and capital improvements budget.

- (b) If the Town Building Inspector determines that a historic structure is violating the Property Maintenance Code, he shall so notify the owner, the zoning administrator, and the chairman of the Architectural Review Board of this conclusion, stating the reason for such determination, and shall give the owner 30 days from the date of the notice in which to commence work rectifying the specifics, or to initiate a request to demolish, move or relocate such structure. If appropriate action is not timely taken, the Town Building Inspector shall initiate appropriate legal action.

ARTICLE XV. - SIGNS

Sec. 58-15.1 - Findings, purpose and intent; interpretation.

- (a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech and in a manner consistent with the Town's Comprehensive Plan. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article, which can be given effect without the invalid provision.
- (b) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the Town Council are forbidden.
- (c) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.
- (d) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.
- (e) These regulations distinguish between portions of the Town designed for primarily vehicular access and portions of the Town designed for primarily pedestrian access.
- (f) These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the Town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.
- (g) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of

communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

(Ord. of 12-7-2009)

Sec. 58-15.2 - Applicability.

The provisions of this article apply to all property within the corporate limits of the town.

Sec. 58-15.3 - Permit Required.

Except when otherwise exempted by this article, no sign shall be erected, constructed, posted, painted, altered, or relocated, unless and until a zoning permit has been issued by the zoning administrator and where provided for in this article, subsequent to an approval of a certificate of appropriateness by the architectural review board (ARB).

Sec. 58-15.4 - Exemptions.

Sign permits shall not be required for the following signs; however, all applicable regulations of this chapter shall apply.

- (a) Signs erected by a governmental body or required by law, including official traffic signs or sign structures, provisional warning signs or sign structures, and temporary signs indicating danger.
- (b) Minor Signs not exceeding three (3) total signs per separate road frontage per lot, and not less than 30 feet apart.
- (c) Change of message or content of an approved Sign.
- (d) Flags, provided, however, that no single flag shall exceed twenty-four (24) square feet in area and no single lot shall display more than three flags in commercial or industrial zoning districts.

Sec. 58-15.5 - Prohibited signs.

The following signs are prohibited:

- (a) Flashing Signs or signs lighted in a varying degree including strobe lights. For the purposes of this article, a sign that has a change rate or dwell time of four (4) seconds or longer does not fit within the prohibition noted herein.
- (b) Moving or Rotating Signs.
- (c) Portable Signs with the exception of A-frame Signs.
- (d) Off-premises signs.
- (e) Inflatable signs.
- (f) Signs or parts of a sign located anywhere on the roof or wall of a building so that they shall extend above or beyond the perimeter of the building's roof, wall or parapet wall or into a front, side or rear yard setback.
- (g) Signs illuminated with sodium halide lights; and any illuminated sign that emits lighting levels in excess of the limitation.
- (h) Electronic message boards.
- (i) Abandoned sign structures.
- (j) Changeable copy signs, except as specifically permitted by this Zoning Ordinance.
- (k) Any signs, including posters and handbills, affixed to any structures, trees or other natural vegetation, rocks or poles.
- (l) Any sign that may be confused with or obstruct the view of any authorized traffic sign or signal, or

obstruct the sight-distance triangle at any road intersection, or extend into the public right-of-way or otherwise create a distraction for drivers.

- (m) Portable signs, including those on wheels, except A-Frame/sandwich boards.
- (n) Signs that prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of a roof to any other part or otherwise adversely affect safety or are in violation of any building code or other applicable law.
- (o) Signs that emit smoke, visible vapors, particles, normally detectable sound or odor shall not be permitted, including open flames used to attract public attention.
- (p) Mirrors or mirror devices on, in, or as part of a sign.
- (q) Parasail Signs.

Sec. 58-15.6 - Temporary signs

- (a) *Permit not required.* Temporary signs may be erected or constructed without a permit in all zoning districts; however, all applicable code requirements in this chapter shall apply.
- (b) *Temporary Signs in Commercial Zoning Districts.* These signs shall be either Freestanding Signs, Wall Signs, Window Signs, Banner Signs, or A-Frame Signs, and may be displayed for up to 45 consecutive days. The zoning administrator may extend the time limit by up to 45 days upon application by the owner at the end of the initial 45-day period, if the applicant shows that the sign is maintained in sound condition and the purpose for it still pertains. Temporary Freestanding Signs, Wall Signs, Banner Signs, shall not exceed one sign per location, nor eight (8) square feet in area and six (6) feet in height. Temporary Window Signs shall not obstruct more than twenty (20) percent of the area of the window on which the sign is located. A-Frame Signs must not be more than an aggregate of twelve (12) square feet or less in a sandwich board design as defined herein. The sign may only be displayed during business hours. The placement of the sign shall not impede pedestrian, wheelchair, or vehicular traffic flow. Only one such sign is permitted per business, or one sign per thirty (30) linear feet of sidewalk, whichever is more restrictive.
- (c) *Temporary Signs in Residential Zoning Districts.* These signs shall be either Freestanding Signs, Wall Signs, Window Signs or Banner Signs. Freestanding and Wall Signs shall not exceed sixteen (16) square feet in area per property. No sign shall exceed six (6) feet in height, except Window Signs. Window signs shall not obstruct more than twenty-five (25) percent of the total area of all windows on each building façade on the property.
- (d) *Temporary Signs in Industrial Zoning Districts.* These signs shall be either Freestanding Signs, Wall Signs, Window Signs or Banner Signs, subject to the same standards and limitations as temporary signs for the commercial districts (Sec. 58-341 (2)).
- (e) *Temporary Signs required to be posted by law.* Any such sign shall be removed the day after the last day for which it is required to be displayed. The administrator may require proof of legal requirement for the posting of the sign. These signs are permitted in all zoning districts.

(Ord. of 12-7-2009)

Sec. 58-15.7 - Process for permitting.

- (a) *Permit required.* Except when otherwise exempted by this article, no sign shall be erected, constructed, posted, painted, altered, or relocated, unless and until a zoning permit has been issued by the zoning administrator and where provided for in this article, subsequent to an approval of a certificate of appropriateness by the architectural review board (ARB).

- (b) *Permit process.* Before any zoning permit is issued, the applicant shall submit to the administrator a sign permit application and an application for certificate of appropriateness when applicable provided by the administrator, together with drawings and/or specifications as may be necessary to fully advise and acquaint the administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, and number of signs applied for, and the style of the wording of the sign or advertisement to be carried on the sign.
- (c) *Approval of permit.* For signs not requiring architectural review, the zoning administrator shall act on the permit application within 14 days of acceptance of the application. For signs requiring action by the architectural review board, the board shall act on the application within sixty (60) days after acceptance of the application by the zoning administrator, in accordance with this chapter, and the Historic District Design Guidelines adopted by the Town Council, as amended, unless such timeline is extended by the applicant in writing. The zoning administrator shall issue a zoning permit within three (3) business days following approval by the ARB.
- (d) *Building codes; inspections.* Structural and safety features and electrical systems shall be in accordance with the requirements of the Uniform Statewide Building Code and Town ordinances.
- (e) *General permit application requirements.* Submission requirements for architectural review board sign guidelines as set forth in the Historic District Design Guidelines adopted by the Town Council, as amended, shall be followed for selecting the type of sign, location, colors, lettering style, materials and type of illumination (if applicable). Sign permit application(s) also require:
 - (i) An application for a certificate of appropriateness, as applicable.
 - (ii) A plat showing location of existing and proposed sign(s) on building façade(s) or grounds and exterior dimensions of buildings subject to the sign permit.
 - (iii) Scaled drawings showing dimensions, scale, and elevation of proposed sign(s) to include specific materials, hardware, and methods of mounting and illumination.
- (f) All signs shall be erected within one year from the date of approval of the sign permit; otherwise, the permit shall become null and void and a new permit shall be required. The zoning administrator may grant one extension of the permit for a period of six (6) months, but in no case shall a permit be valid for more than a total of eighteen (18) months. Extensions may be granted only when the proposed sign is in compliance with all current applicable regulations.

(Ord. of 12-7-2009)

Sec. 58-15.8 - Enforcement.

Violations of this Article constitute violations of the zoning code and the Town may obtain compliance through any of the methods available for other zoning violations. In addition, a nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Such structure sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign structure, the zoning administrator or designee shall give the owner fifteen (15) days' written notice to remove it. Upon failure to comply with this notice, the zoning administrator or designee may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

Sec. 58-15.9 - General requirements for all signs.

- (a) Sign area computations.

- (1) The surface area of any sign permitted under this article is determined by measuring the entire face of the sign including any wall work incidental to its decoration, but excluding support elements whose sole purpose and function is to support the sign, except as noted below:
- (2) The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.
- (3) Whenever one sign contains information on both sides, one side only shall be used in computing the surface area of the sign.

(b) Placement of signs

Signs shall be placed so they do not obstruct vehicles, pedestrians, or the signs of adjacent businesses and so that they follow architectural review board placement guidelines. Unless otherwise provided for in this chapter, permanent signs shall be located:

- (1) At least ten (10) feet from any lot line within the Gateway Sign Area, or no closer than the building façade is to the lot line, whichever is less.
- (2) At least five (5) feet to any lot line within the Core Sign Area, or no closer than the building façade is to the lot line, whichever is less.
- (3) At least ten (10) feet to any lot line within the Residential Sign Area, or no closer than the building façade is to the lot line, whichever is less.

(c) Materials, colors, and styles

All materials, colors, and styles of non-temporary signs are subject to approval by the architectural review board in accordance with the Historic District Design Guidelines adopted by the Town Council, as amended.

(d) Lighting.

No sign shall be permitted to have an illumination spread of more than 0.05 foot candle at the lot line, shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling unit.

(e) Substitution.

Wherever this Article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height and construction.

Sec. 58-15.10 - Permanent sign standards - type, number, area, and height of signs.

(a) Signs in Commercial and Industrial Zoning Districts

| Table (a)(i) | | | | | | |
|--|---|-----------------------|---------------------|---|-----------------------|---------------------|
| Maximum Limits on Sign Dimensions for Lots in B-1 Zoning District | | | | | | |
| Sign Type | B-1 Zoning in Core and Residential Sign Map Areas as shown on Zoning Map | | | B-1 Zoning in Gateway Sign Map Area as shown on Zoning Map | | |
| | Number | Area (Sq. Ft.) | Height (Ft.) | Number | Area (Sq. Ft.) | Height (Ft.) |
| | | | | | | |

| | | | | | | |
|--|---|--|--------------------------|---|--|--|
| Window ⁵ | Not limited | Lesser of 20% of window area or 6 Sq. Ft. | Not limited | Not limited | Lesser of 20% of window area or 6 Sq. Ft. | Not limited |
| Freestanding | 1 per road front; 2 maximum per lot | 18 per sign; 24 Total | 8 | 1 per road front; 2 maximum | 24 Sq Ft per sign; 36 Total | 10 |
| Projecting ¹ | 1 per business | 9 | No less than 9 | 1 per business | 9 Sq. Ft | No less than 9 |
| Wall ² | 1 per business per road frontage | 12 | 15 ft. above floor level | 1 per business per road front. | 12 Sq Ft per business for front façade; 36 Sq Ft per building on rear or side facades only | 15 ft. above floor level, except no limit for rear or side facades |
| Individual Letter | 1 per business per road frontage | 1.5 Ft. letter height. 18 Sq. Ft. total area. | 15 ft. above floor level | 1 per business per road frontage | 1.5 ft. letter height; 18 S. F. total area. If setback 100 ft. or >, 2 Ft. Ht., 20 S. F. total area. | 15 ft. above floor level |
| Directory (Wall or Freestanding) (In addition to other permitted Freestanding or Wall signs) | 1 per multi-tenant building or site, in addition to other permitted signs | 32 if less than 100 Ft road frontage. 48 if 100 Ft. or more lot width on any side. | 8 | 1 per multi-tenant building or site, in addition to other permitted signs | 32 if less than 100 Ft road frontage. 56 if 100 Ft or more lot width on any side. | <u>10</u> |
| Canopy ³ | Permitted | Letters not more than 12 inches high. | Not limited | Permitted | Letters not more than 12 inches high. | Not limited |
| Secondary Entrance | 1 per business | 4 | Not limited | 1 per business | 4 | Not limited |
| Minor signs (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) |
| Internally Illuminated | Not permitted except one neon window sign not more | n/a | n/a | Not permitted except one neon window sign not | n/a | n/a |

| | | | | | | |
|--|--|-----|--------|---|--|------------------------|
| | than 15" high by 24" wide ⁴ | | | more than 15" high by 24" wide ⁴ | | |
| A-Frame (see in Sec. 58-15.6(b)) | 1 per 30 feet of frontage | 12 | 5 feet | 1 per 30 feet of frontage | 12 | 5 |
| Off premises | Not permitted | n/a | n/a | Not permitted | n/a | n/a |
| Painted | Not permitted | n/a | n/a | 1 on side or rear wall | Shall not exceed 15% of that wall area | As per other standards |
| Temporary (freestanding, banner, or wall only) | 1 per lot | 8 | 4 | 1 per lot | 8 | 4 |

¹Shall be mounted perpendicular to principal building façade; shall project no greater than four (4) feet from building and no closer than one foot to back of curb.

²Shall be mounted flat on building façade; letters shall not exceed 18 inches in height and shall not extend more than six inches from surface of building. Signs shall be no higher than 15 feet above the floor level on which the sign is placed.

³To be placed only in valance of the building with a margin of a minimum of one inch above and below the letters.

⁴Such signs shall not flash and shall be "on" only during posted hours of business.

⁵May include a neon sign subject to the size limits contained in this table under internally illuminated signs.

| Table (a)(ii) Maximum Limits on Sign Dimensions for Lots in B-2 and I-1 Zoning Districts | | | | | | |
|---|---|---|-------------------------|-------------------------------------|--|-------------------------|
| | B-2 Zoning as shown on Zoning Map | | | I-1 Zoning as shown on Zoning Map | | |
| Sign Type | Number | Area In square feet (S. F.) | Height In feet (Ft.) | Number | Area In square feet (S. F.) | Height In feet (Ft.) |
| Window ⁸ | Not limited | Lesser of 20% of window area or 6 S. F. | Not limited | Not limited | Lesser of 20% of window area or 10 S. F. | Not < 5 Ft. |
| Freestanding | 1 per road front; 2 maximum per lot | 24 per sign; 36 total | 10 | 1 per road front; 2 maximum per lot | 36 total | 15 |
| Projecting ¹ | 1 per business | 12 | No less than 9 | 1 per business | 12 | No less than 9 |
| Wall ² | 1 per business, plus 1 for end units | 9 | 15 above floor level | 1 per tenant | 12 ;1 SF per linear foot of property width ⁴ | 15 above floor level |
| Individual Letter | 1 per business per road frontage | 1.5 Ft. letter height. 18 Sq Ft. total area. If setback 100 ft or >, 2 ft. ht. 20 S. F. area. | 15 above floor level | 1 per business per road frontage | 1.5 ft. letter height per 10 ft bldg. height. w/ maximum 2 ft. letter ht. and 20 S. F. area. | 15 above floor level |
| Canopy ³ | Permitted | letters not > 12 inches high | Not limited | Permitted | letters not more than 12 inches high | Not limited |
| Secondary Entrance | 1 per business | 4 | Not limited | 1 per business | 4 | Not limited |
| Minor signs (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) |
| Internally Illuminated | Not permitted except one neon sign window not more than 15" high by 24" wide ⁷ | n/a | n/a | Permitted for freestanding signs | As per other standards in this article | As per other standards |
| A-Frame (see Sec. 58-15.6(b)) | 1 per 30 feet of frontage | 12 | 5 | Not permitted | n/a | n/a |

| | | | | | | |
|---|------------------------|--|------------------------|--|------------------------|------------------------|
| Off premises | Not permitted | n/a | n/a | 1 freestanding sign on contiguous lot ⁶ | As per other standards | As per other standards |
| Painted | 1 on side or rear wall | Shall not exceed 15% of that wall area | As per other standards | Not permitted | n/a | n/a |
| Temporary (freestanding, banner or wall only) | 1 per lot | 8 | 4 | 1 per lot | 8 | 4 |

¹ Shall be mounted perpendicular to principal building façade; shall project no greater than four (4) feet from building and no closer than one foot to back of curb.

² Shall be mounted flat on building façade; letters shall not exceed 18 inches in height and shall not extend more than six inches from surface of building. Signs shall be no higher than 15 feet above the floor level on which the sign is placed, or to the top of the ceiling height of that floor. For industrial zoning, a maximum 3 SF sign is allowed for each tenant if a common entrance, or maximum 8 SF per tenant for each multiple entrance. For shopping centers in B-2, all property signage must be located in the sign band provided above the building canopy. The sign shall occupy a maximum sign area not taller than 18 inches and not longer than 65 percent of the tenant's unit width. Such signs will not exceed 48 square feet in area. Any store in excess of 10,000 sq ft shall have a maximum sign area not taller than 24 inches and not longer than 40% of tenant's unit width.

³ To be placed only in valance of the building with a margin of a minimum of one inch above and below the letters.

⁴ Applies to retail shopping space constructed in excess of 75 feet from edge of public right of way and not within 500 feet of residential property. If the tenant is located in an end unit, it is permitted to install an additional sign. Total area of second sign may not exceed the result of one and one half times the width of the store. All property signage must be located in the sign band provided above the building canopy. The sign shall occupy a maximum sign area not taller than two feet and not longer than 80 percent of the tenant's unit width. Such signs will not exceed 48 square feet in area. Any store in excess of 40,000 square feet shall occupy a maximum sign area not taller than 3.5 feet and not longer than 80 percent of the tenant's unit width.

⁵ Such signs shall be no closer than 10 feet to any street line, travel lane or access road.

⁶ Off premise sign is contingent on permission from owner of property on which the sign is located. No such sign may be located within 30 feet of any other sign.

⁷ Such signs shall not flash and shall be "on" only during posted hours of business.

⁸ May include a neon sign subject to the size limits contained in this table under internally illuminated signs.

(b) Signs in Residential Zoning Districts.

| Table (b) Maximum Limits on Sign Dimensions for Lots in Residential Zoning Districts (R-1 and R-2) | | | | | | | | | |
|---|-------------------------|---------------------------|--|---|---------------------------|-------------------------|------------------------------|---------------------------|-------------------------|
| Sign Type | Residential Uses | | | Residential Projects¹ | | | Non-Residential Uses | | |
| | Number | Area (Sq. Ft.) | Height (Ft.) | Number | Area (Sq. Ft.) | Height (Ft.) | Number | Area (Sq. Ft.) | Height (Ft.) |
| Minor signs (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) | (see Sec. 58-15.4(b)) |
| Freestanding Signs | 1 per lot | 6 sq. ft. | Not more than 4 feet from existing grade | 1 per site entrance | 24 Sq. Ft. | 5 feet | 1 per separate road frontage | 24 Sq. Ft. | 5 feet |
| Wall Signs | 1 per lot | 6 sq. ft. | n/a | n/a | n/a | n/a | 1 per separate road frontage | 12 Sq. Ft. | 12 ft. |

¹Includes subdivisions and other types of residential projects built as a unified development.

Sec. 58-15.11 - Structural and maintenance requirements.

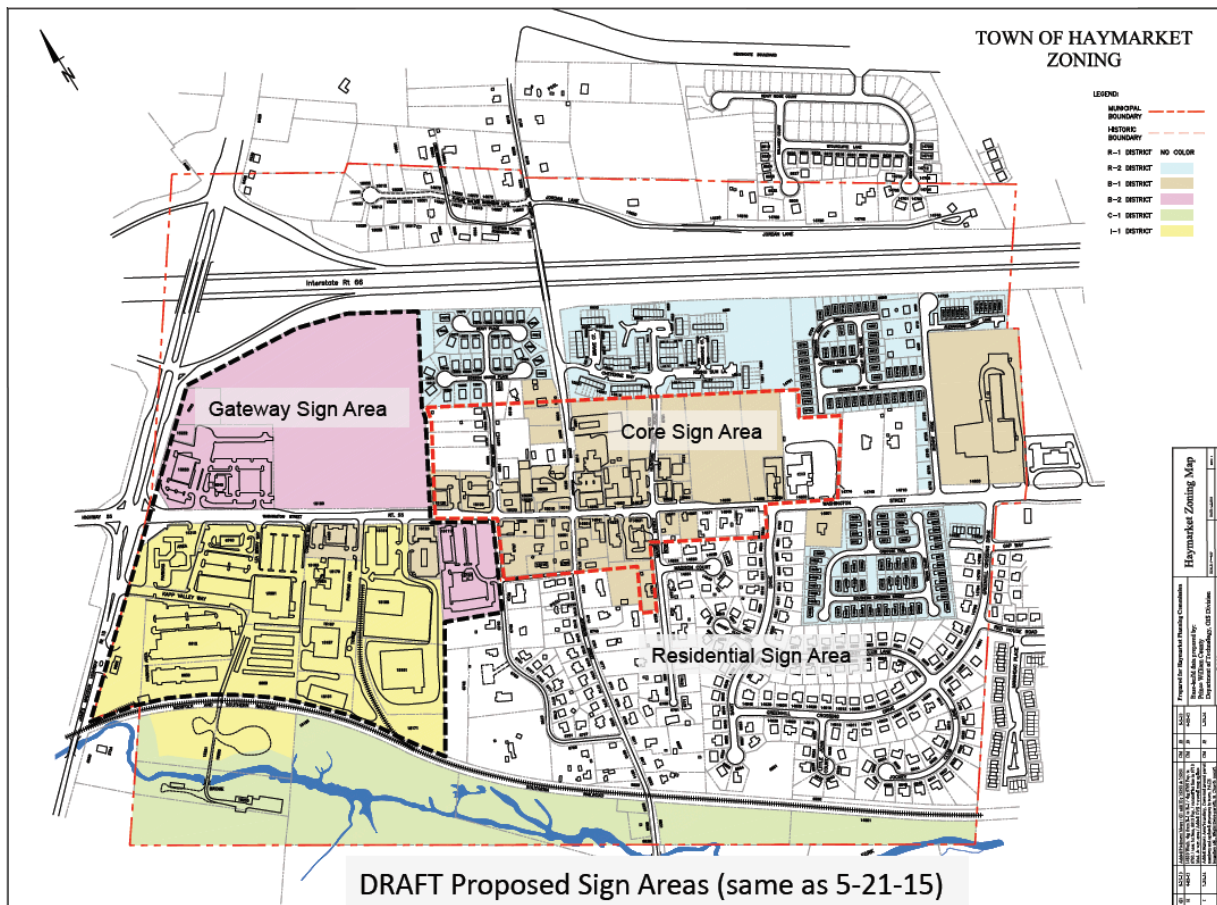
All signs shall be maintained in good condition and remain structurally safe. Any sign that has deteriorated to a state of peeling, cracking, splitting, fading or rusting, is in violation of this ordinance and subject to enforcement.

Sec. 58-15.12 - Nonconforming signs.

- (a) Any sign lawfully in existence on the date of enactment of this article may be maintained even though it does not conform with the provisions of this article.
- (b) No nonconforming sign may be enlarged or altered in such a manner as to expand the nonconformity, nor may illumination be added to any nonconforming sign, except as provided in Sec. 58-15.2 (h).
- (c) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.
- (d) A nonconforming sign destroyed by any cause may not be repaired, reconstructed or replaced except in conformity with this article. For the purposes of this section, a nonconforming sign is destroyed if

- damaged to an extent that the cost of repairing the sign to its former condition or replacing it with an equivalent sign equals or exceeds fifty (50) percent of the appraised value of the sign so damaged.
- (e) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities.
 - (f) A pre-existing sign must be removed if the structure, building or use to which it is accessory is destroyed, or demolished to an extent exceeding 50 percent of the appraised value of the principal structure, building or use.
 - (g) The sign copy of non-conforming signs may be changed to accommodate similar businesses occupying the same location. However, whenever the use changes to a conforming use, all nonconforming signs must be replaced or modified so that all signs on the location conform with the then-existing sign ordinance.
 - (h) Existing signs on an industrially zoned lot may be reconfigured so as to increase the number of signs, the mix of sign types, and the location of signs, as long as the total area of all signs on the lot is not increased, that existing maximum sign heights are maintained, and as long as all other requirements of this article are met.

Sec. 58-15.13 - Sign Area Map.



ARTICLE XVI. - NONCONFORMING USES⁸

State Law reference— Nonconforming uses, Code of Virginia, § 15.2-2307.

Sec. 58-16.1 - Continuation.

- (a) If on September 19, 1983, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter, such manner of use or purpose may be continued as provided in this article.
- (b) If any change in title of possession or renewal of any such lot or structure occurs, the use existing may be continued.
- (c) If any nonconforming use (structure or activity) is discontinued for a period exceeding two years after the enactment of this chapter or any amendments to this chapter it shall be deemed abandoned and any subsequent use shall conform to requirements of this chapter.
- (d) Temporary seasonal nonconforming uses that have been in continual operation for a period of two years or more prior to the effective date of this chapter are excluded.

Sec. 58-16.2 - Repairs; maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50 percent of the current replacement value of the structure, provided that the cubic content of the structure as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part of a structure declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 58-16.3 - Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article, pursuant to §15.2-2307, Code of Virginia.

Sec. 58-16.4 - Expansion; enlargement.

- (a) A nonconforming structure to be extended or enlarged shall conform with the provision of this article.
- (b) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity on September 19, 1983.

Sec. 58-16.5 - Nonconforming lots.

Any lot of record on September 19, 1983, which is less in area or width than the minimum required by this chapter may be used, provided a showing of unnecessary and undue hardship would result if a variance is not granted from the board of zoning appeals.

Sec. 58-16.6 - Restoration; replacement.

- (a) If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 50 percent of the cost of reconstructing

the entire activity or structure, it shall be restored only if it complies with the requirements of this chapter.

- (b) If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 75 percent of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this chapter.
- (c) Where a conforming structure devoted to a nonconforming activity is damaged less than 50 percent of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.
- (d) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.
- (e) Nonconforming mobile home activity is deemed to be prohibited if the home is moved.
- (f) The owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God may repair, rebuild, or replace such building in accordance with state code.

The Town, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. If, following such two-year period, the Town has made a reasonable attempt to notify the property owner, the Town through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused or failed to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the Town from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

ARTICLE XVII. – LANDSCAPING

Sec. 58-17.1 - Landscaping; purpose and intent.

The regulations included in this article are intended to promote the planting and preservation of landscape materials which:

- (1) Provide screening and buffering between incompatible land uses;
- (2) Provide shade and enhance the appearance of urban areas;
- (3) Prevent soil erosion from the activities of wind and water through the protection of the ground;
- (4) Provide parking lot landscaping to reduce the harmful effects of heat, noise and glare;
- (5) Provide the creation of safe and attractively landscaped areas in open spaces adjacent to public streets.

Sec. 58-17.2 - Applicability.

The provisions of this article shall apply to all preliminary and final site plan applications, including renovations and/or enlargement of existing structures, which alter the building footprint, and the enlargement of any parking lot but not to the resurfacing of any existing lot. Any improvements to existing single-family dwellings are exempt.

Sec. 58-17.3 - Landscape plan required.

A landscape plan meeting the requirement of this article is required for all preliminary and final site plan applications as described in article II of this chapter.

Sec. 58-17.4 - Contents of landscape plan.

All landscape plans shall be prepared by a landscape architect or contractor or individual proficient in landscape architecture. All landscape plans shall contain the following information:

- (1) Existing vegetation. Any and all existing mature landscape vegetation to be saved shall be identified by name, quantity and size; and methods of protection shall be shown on the plans.
- (2) Open space. All plans shall identify all open space and number of trees and plants required by this chapter that are to be provided in that open space. All plans shall include a table calculating the amount of that open space.
- (3) Schedule. All plans shall have a schedule of proposed plants, including the botanical and common name, the quantity, their size, their height and spread, and any other significant notes.
- (4) Plan content. All plans shall show, with sufficient detail, the location and description of all existing hardscape features such as driveways, parking areas, curbs, sidewalks, utility lines, structures and existing vegetation and also all proposed hardscape features, including all existing structures. All landscape areas shall be dimensioned, and all proposed plants shall be illustrated at maturity.
- (5) Scale. Plants shall be drawn at a scale not less than one inch equals 30 feet on sheets not to be larger than 24 inches by 36 inches.
- (6) North arrow. All plans are to have a north arrow.
- (7) Title block, signature of owner. There shall be a title block with a date and a scale, the preparer's name with current address and phone number and a description of the project. Plans shall also show the current owner and have his signature of approval.

Sec. 58-17.5 - Responsibility.

The maintenance and replacement of all landscaping in commercial, industrial and residential open space shall be the responsibility of the individual property owners. Planted material shall be maintained in a healthy state and replaced when diseased or dead. All landscaping structures shall also be kept in good condition.

Sec. 58-17.6 - Land use categories; applicability.

For purposes of this article, existing and proposed land uses are divided into three major land use categories: residential, commercial and industrial. Each category is subdivided based on the intensity of the proposed use.

(1) Residential.

- (a) R-1, single-family dwelling (SFD) (see section 58-7.2 for specific uses).
- (b) R-2, single-family attached (SFA) (see section 58-8.2 for specific uses).

(2) Commercial.

- (a) B-1, retail shopping (see section 58-10.2 for specific uses).
- (b) B-2, highway-oriented business (see section 58-11.2 for specific uses).
- (c) TC, transitional commercial (see section 58-9.2)

(3) Industrial.

- I-1, limited industrial (see section 58-12.2 for uses).

Sec. 58-17.7 Landscape features.

- (a) There shall be no planting, structure, fence, retaining wall, shrubbery or obstruction to vision in violation of AASHTO standards.
- (b) Trees, shrubs, flowers or plants shall not be permitted or maintained on any required front, side or rear yard if they interfere with the safe use of the public street or sidewalk. Such landscape features shall be permitted in any required front, side or rear yard, provided they do not interfere with public safety and do not produce a hedge effect contrary to subsection (a) of this section.
- (c) The setback and yard requirements of this chapter shall not be deemed to prohibit any otherwise lawful fence or wall which is not more than four feet high; however, a fence or wall along the rear lot line and along the side lot line to the rear of the required setback line may be erected to a height not exceeding six feet when erected between residential uses and to a height not exceeding seven feet when erected either between non-residential uses or between non-residential and residential uses. This provision shall not be deemed to allow any wall more than three feet high. This provision shall be interpreted to prohibit any open-mesh-type fence enclosing any school or playground.

Sec. 58-17.8 - Screening.

- (a) Definition. This article defines three screens as identified in the matrix in section 58-17.11. Four separate types of plants are required: large- or medium-scale canopy shade trees, evergreen trees, ornamental trees, evergreen and ornamental shrubs. All plant varieties and alternatives shall be approved by the Town as suitable screen plants.

- (b) Number of plants. Plant materials are shown as required per square foot of buffer area. For example, if the matrix in section 58-17.9 requires a 15-foot buffer along a 100-foot property boundary, a resulting 1,500 square feet of buffer space is required.
- (c) Alternative screens and modifications. Alternative planting programs achieving the objectives of the required screens shall be permitted to allow flexibility in landscape design. The Planning Commission and the Architectural Review Board may approve any of the alternative screens or a combination of the alternatives if the applicant proves that the objective of the screen or screenings has been met. The Planning Commission or Architectural Review Board may reduce or eliminate the requirements for a screen if a landscape plan proposes the use of hedges, shrubs, walls, berms or combination that achieve the same objective of the required screen.

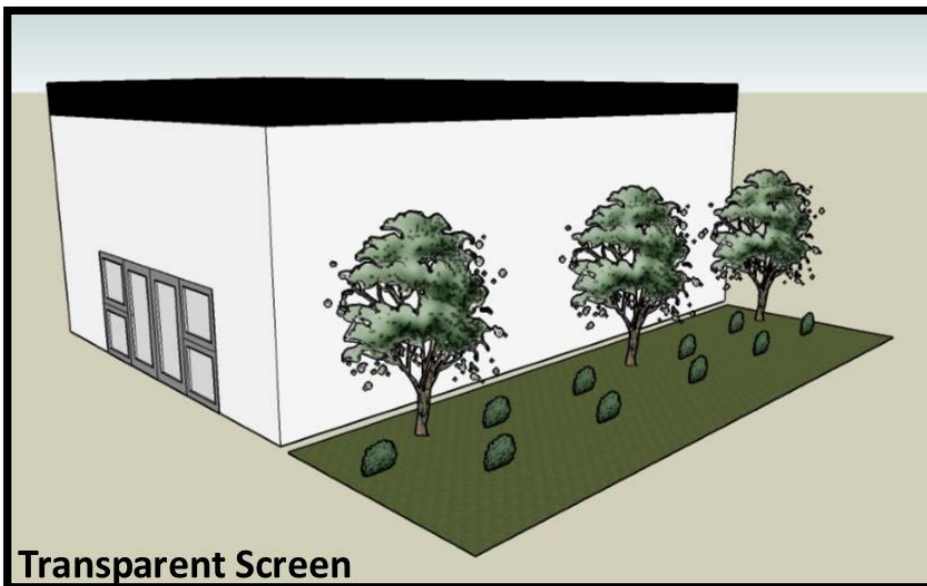
Sec. 58-17.9 - Screening requirements.

For all three types of screening requirements, there are three alternatives for plant requirements.

- (1) A transparent screen shall be an attractive transparent division between similar land uses.

TRANSPARENT SCREEN (TS)

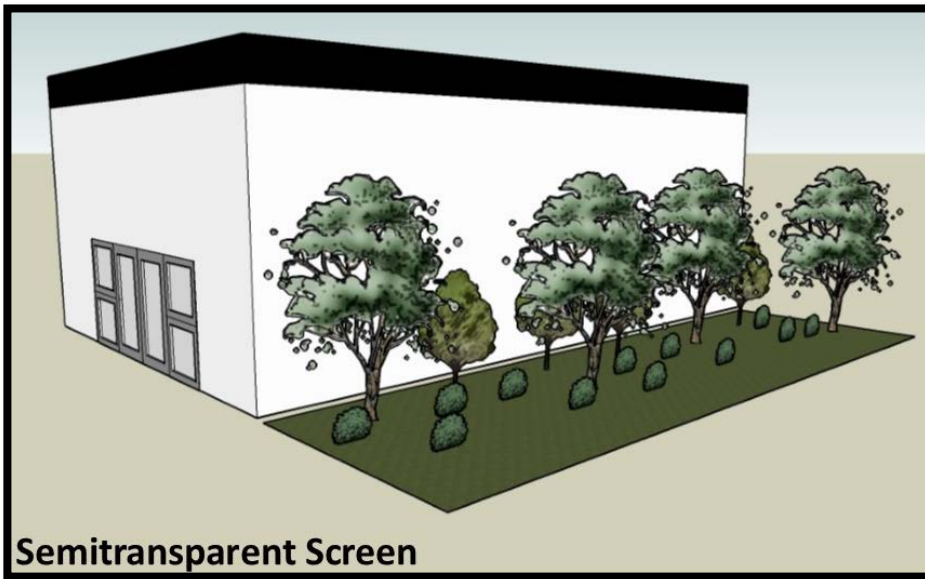
| Type of Plant | Alt 1 | Alt 2 | Alt 3 |
|------------------|-----------------|---------------|---------------|
| Canopy trees | 1/1,000 sq. ft. | 1/500 sq. ft. | 1/500 sq. ft. |
| Ornamental trees | 1/500 sq. ft. | 0 | 0 |
| Evergreen trees | 0 | 0 | 1/350 sq. ft. |
| Shrubs | 1/100 sq. ft. | 1/100 sq. ft. | 1/200 sq. ft. |



- (2) A semitransparent screen shall partially block views and noise from the adjoining land uses which are not different in nature.

SEMITRANSSPARENT SCREEN (SS)

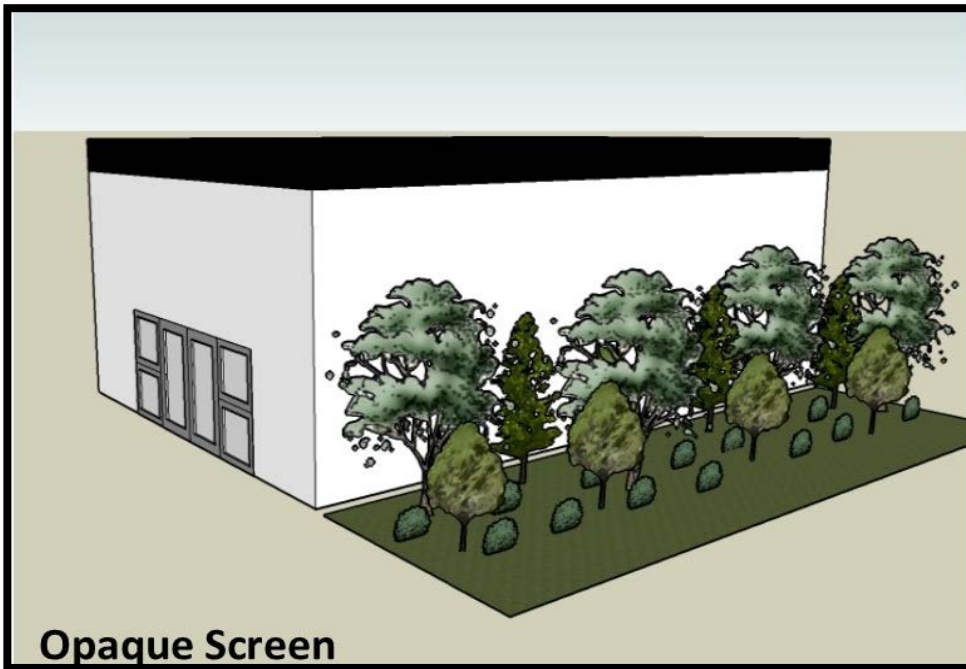
| Type of Plant | Alt 1 | Alt 2 | Alt 3 |
|------------------|-----------------|---------------|---------------|
| Canopy trees | 1/1,000 sq. ft. | 1/500 sq. ft. | 1/500 sq. ft. |
| Ornamental trees | 1/500 sq. ft. | 0 | 0 |
| Evergreen trees | 1/500 sq. ft. | 1/500 sq. ft. | 1/175 sq. ft. |
| Shrubs | 1/100 sq. ft. | 1/100 sq. ft. | 1/200 sq. ft. |



- (3) An opaque screen creates a definite separation to block views and noise from land uses which are totally incompatible.

OPAQUE SCREEN (OS)

| Type of Plant | Alt 1 | Alt 2 | Alt 3 |
|------------------|----------------|---------------|---------------|
| Canopy trees | 1/1000 sq. ft. | 1/500 sq. ft. | 1/500 sq. ft. |
| Ornamental trees | 1/250 sq. ft. | 1/500 sq. ft. | 1/500 sq. ft. |
| Evergreen trees | 1/500 sq. ft. | 1/500 sq. ft. | 1/175 sq. ft. |
| Shrubs | 1/100 sq. ft. | 1/100 sq. ft. | 1/200 sq. ft. |



Notes: Tables express number of plants required per required square foot of buffer yard.

Sec. 58-17.10 - Buffer yards.

- (a) Definition. Buffer yards are land areas providing visual relief to adjoining land uses and shall be used for the planting of landscape materials. Driveways and entrances connecting adjacent parking lots or development may interrupt the required buffer yard. Buffer yards may be provided in the setback areas required by the zoning district regulations; but buffer yards shall not be used for stormwater management, the storage of materials, vehicles, buildings, equipment and parking or loading areas.
- (b) Buffers in relation to setbacks and easements. Buffer yards in residential districts may be provided in any of the following ways:
 - (1) As common open space;
 - (2) In common use easements located outside the required lot area; or
 - (3) By additional space in addition to the required minimum yard required listed in the residential zoning district regulations.
- (c) Buffer credit. Existing buffer yards that are proposed on any subdivision or site plan applications which follow the buffer yard requirements shall be deemed to meet the buffer yard requirements.
- (d) Buffer yards adjacent to a vacant parcel. All subdivision and site plan applications that are adjacent to vacant parcels of property shall be required to fulfill the buffer yard requirements.
- (e) Screening of outdoor storage and loading areas. All outdoor storage and loading areas shall be screened from public view and any adjacent or residential properties. This screen shall be opaque in nature, at least eight feet in height, and be comprised of plants, trees, walls or other opaque materials. The screen must be presented to the Architectural Review Board for an aesthetic approval, which will then be forwarded to the Planning Commission for its recommendation and then forwarded to the Town Council for final approval.

- (f) Screening and buffer yard matrix. The matrix included in section 58-17.11 describes the screening and buffer yard requirements between adjoining land uses.

Sec. 58-17.11 - Screening and buffer yard matrix.

| Proposed Land Use | Adjacent District | | | | | |
|-------------------|-------------------|--------|--------|--------|--------|--------|
| | R-1 | R-2 | B-1 | B-2 | I-1 | C-1 |
| Industrial | 40' OS | 40' OS | 40' OS | 40' OS | 25' SS | 25' OS |
| Commercial | 30' SS | 25' SS | 10' OS | 10' OS | 30' OS | 15' SS |
| Residential | X | X | 25' TS | 20' TS | 40' OS | 30' TS |

Definitions. (refer to section 58-17.9)

- TC - Transparent Screen
- SS- Semitransparent Screen
- OS- Opaque Screen

Sec. 58-17.12 - Landscaping requirements.

Landscaping, screening and open space regulations are as follows:

REQUIRED PLANT MATERIAL LIST

Canopy Trees

| Common Name | Botanical Name | Function |
|------------------------|-------------------------------|-------------------------|
| Ginkgo (male) | Ginkgo biloba | Parking, street, buffer |
| Thornless Honey Locust | Gleditsia triacanthos inermis | Parking, street |
| Willow Oak | Quercus phellos | Parking, street, buffer |
| Littleleaf Linden | Tilia cordata | Parking, street, buffer |
| Silver Linden | Tilia tomentosa | Parking, street, buffer |
| Village Green | Zelkova serrata | Parking, street, buffer |
| Yellowwood | Cladrastis lutea | Parking, street, buffer |
| Purpleleaf Plum | Prunus cerasifera | Parking, street, buffer |
| Red Oak | Quercus rubra | Parking, street, buffer |
| Red Maple | Acer rubrum | Parking, street, buffer |
| Blackgum | Nyssa sylvatica | Parking, street, buffer |
| American Chestnut | Castanea dentata | Parking, street, buffer |
| American Sycamore | Platanus occidentalis | Parking, street, buffer |

Evergreen Trees

| Common Name | Botanical Name | Function |
|--------------------------|---------------------------------|-----------------|
| Eastern Red Cedar | <i>Juniperus virginiana</i> | Buffer |
| White Pine | <i>Pinus strobus</i> | Buffer |
| Austrian Pine | <i>Pinus nigra</i> | Buffer |
| Norway Spruce | <i>Picea abies</i> | Buffer |
| American Holly | <i>Ilex opaca</i> | Buffer |
| Dark American Arborvitae | <i>Thuja occidentalis nigra</i> | Buffer |
| Fosters Holly | <i>Ilex festerii</i> | Buffer |

Ornamental Trees

| Common Name | Botanical Name | Function |
|---------------------|---------------------------------|-----------------|
| Amur Maple | <i>Acer griseum</i> | Buffer |
| Flowering Dogwood | <i>Cornus florida</i> | Street, buffer |
| Washington Hawthorn | <i>Crataegus plaenopyrum</i> | Street, buffer |
| Flowering Crabapple | <i>Malus</i> (various species) | Street, buffer |
| Flowering Cherry | <i>Prunus</i> (various species) | Street, buffer |
| Downy Serviceberry | <i>Amelanchier arborea</i> | Buffer |
| Shadblow | <i>Amelanchier canadensis</i> | Buffer |
| Japanese Maple | <i>Acer palmatum</i> | Buffer |
| Redbud | <i>Cercis canadensis</i> | Buffer |
| Chaste Tree | <i>Vitex aqnus-castus</i> | Street, buffer |
| Fringetree | <i>Chionanthus virginicus</i> | Street, buffer |
| Sassafras | <i>Sassafras albidum</i> | Street, buffer |

Evergreen Shrubs

| Common Name | Botanical Name | Function |
|--------------------|------------------------|-----------------|
| English Yew | <i>Taxus baccata</i> | Buffer |
| Japanese Yew | <i>Taxus cuspidata</i> | Buffer |
| Azalea | (various species) | Buffer |
| Chinese Holly | <i>Ilex cornuta</i> | Buffer |
| Japanese Holly | <i>Ilex crenata</i> | Buffer |

| | | |
|---------------------|-------------------|--------|
| Rhododendron | (various species) | Buffer |
| Doublefile Viburnum | Viburnum plicatum | Buffer |

Deciduous and Flowering Shrubs

| Common Name | Botanical Name | Function |
|------------------|-------------------|----------|
| Azalea | (various species) | Buffer |
| Cotoneaster | (various species) | Buffer |
| Forsythia | (various species) | Buffer |
| Red Twig Dogwood | Cornus sericea | Buffer |
| Viburnum | (various species) | Buffer |
| Winterberry | Ilex verticillata | Buffer |
| Winged Euonymus | (various species) | Buffer |

Ground Cover

| Common Name | Botanical Name | Function |
|-------------------|------------------------|----------|
| Ajuga | Ajuga reptans | Buffer |
| Crimson Colver | Trifolium incarnatum | Buffer |
| Daffodils | (various species) | Buffer |
| Dwarf Cotoneaster | (various species) | Buffer |
| English Ivy | Hedera helix | Buffer |
| Ground Juniper | (various species) | Buffer |
| Native Grasses | Andropogon ternarius | Buffer |
| Red Poppies | (various species) | Buffer |
| Pachysandra | Pachysandra terminalis | Buffer |
| Periwinkle | Vinca minor | Buffer |

Sec. 58-17.13 - Parking lot landscaping.

- (a) Generally. All parking areas, parking lots and service stations must be landscaped as described in this section unless otherwise explicitly exempted.
- (b) Perimeter parking lot landscaping. All areas outside the perimeter of the paved area of the parking lot shall be landscaped if they are adjacent to a public or a private street. The requirements of this section shall apply to the enlargement or construction of any parking lot with ten or more parking spaces.
- (c) Parking lots adjacent to public streets.

- (1) Landscape area requirements. A continuous landscape strip ten feet in width not inclusive of the sidewalk shall be located between the property line and the parking lot. If road improvements are necessary across the front of the property, a continuous landscape strip with an average width of ten feet may be provided to meet the requirements of this section. If a parking lot is built adjacent to an existing parking lot which has a landscape strip narrower than ten feet in width, the width of the existing landscape area may be continued provided that it is a minimum five feet wide.
 - (2) Number of trees. There will be one tree for each 30 feet of frontage and shall be planted in the landscape strip.
 - (3) Screening adjacent to the public street. A screen through the use of the planting of shrubs, hedges or the creation of berms of a combination of such uses shall be used to screen the parking lots to any public street for the full length of the street frontage. No berm or plant material shall obstruct the sight distance of a motorist entering or leaving the site in accordance with 58-17.7(a).
 - (4) Species of vegetation. All trees and shrubs planted shall meet the requirements of sections 58-17.12.
- (d) Parking lots adjacent to other parking lots.
- (1) Landscape area requirements. A continuous landscape strip at least five feet in width shall be located between the property owner's parking lot and the property line.
 - (2) Number of trees and shrubs. There will be two trees and six shrubs for every 30 linear feet of landscape parking strip.
 - (3) Species of vegetation. All trees and shrubs planted to meet the requirements of this section shall be identified in sections 58-17.12.
- (e) Interior parking lot landscaping.
- (1) Application. Interior parking lot landscaping shall apply to the enlargement or construction of any parking area or lot with ten or more parking spaces. This will be in addition to the perimeter parking lot landscaping, street tree planting and screening.
 - (2) Landscape area requirements. The minimum landscape for the interior parking lot shall be five percent of the gross area, which shall include all paved areas within the lot, including ingress and egress. For paved storage areas, a subtraction from the figure for land use such as lumberyards and warehouses may be applied.
 - (3) Minimum landscape area. The total minimum landscape area for interior parking lots shall be 25 square feet. Each landscape area shall have at least one canopy tree.
 - (4) Number of trees. There will be one tree for every ten parking spaces.
 - (5) Number of shrubs. There will be three shrubs for every ten parking spaces.
 - (6) Species of vegetation. All trees and shrubs planted shall meet the requirements of canopy shade trees as identified in sections 58-17.12

Sec. 58-17.14 - Minimum specifications for plant materials.

- (a) Condition. All plants shall comply with the American Association of Nurserymen standards and shall be sound, healthy and vigorous, well formed, free from disease.
- (b) Size. All plant material to be installed meeting the requirements of this article shall comply with the following minimum size requirements:
 - (1) Street trees, a height of 12 to 15 feet and a caliper of three inches;
 - (2) Canopy trees, a height of ten to 12 feet, a caliper of 2.5 inches;

- (3) Evergreen trees, a height of six to eight feet with full branching;
 - (4) Ornamental trees, a height of five to six feet;
 - (5) Shrubs, height of one to two feet.
- (c) Planting procedures. All ground covers, shrubs and trees shall be planted following accepted American Association of Nurserymen standards and procedures. All trees that require staking shall be staked according to the American Association of Nurserymen standards, and all vegetation shall be watered at the time of installation according to their size. The contractor shall be responsible for the adequate watering and maintenance of the plants.
- (d) Plant list. The plant list is divided into the following six categories: large canopy trees, medium canopy trees, evergreen trees, ornamental trees, shrubs, and ground covers. The plant material may be used to satisfy the requirements of this article unless alternative varieties are approved by the Architectural Review Board, Planning Commission and the Town Council (see section 58-17.12).
- (e) Preservation of vegetation and tree cover. The existing vegetation and tree cover within any proposed subdivision or site plan shall be retained and preserved to the greatest extent possible with the design of the improvements and the grading of the property taken into full account. No tree which has a diameter at breast height of 20 inches or more shall be removed unless the subdivision or development of the subdivision requires the removal of the tree.

Sec. 58-17.15 - Credit for existing vegetation.

- (a) Trees. All existing trees on site may be used to satisfy the requirements for the landscaping of parking lots and streets required by this article. Any such trees shall be in healthy condition and protected during construction activity with proper constraints. Such tree protection areas shall be illustrated on the landscape plans.
- (b) Exceptional trees. Trees of exceptional size, age or historic value that are preserved may be credited by the Architectural Review Board for the street tree and parking lot landscaping requirements.

Sec. 58-17.16 - Monitoring and enforcement.

- (a) Enforcement responsibility. The enforcement of the provisions set forth in this article shall be the responsibility of the Administrator or its designee. Any violation of this article is a criminal misdemeanor as described in article I of this chapter.
- (b) Occupancy permits. Until all of the landscaping and other screening materials required by this article have been installed to the satisfaction of the Building Official, no occupancy permit shall be issued. If installation of the required plant material is prohibited due to inclement weather and delays the time of occupancy, the developer or his agent shall post a bond for the installation of the remaining required plant material. Along with the cash bond shall be a letter explaining the contractor's intentions to install the required plants and an estimate of that cost. If the maximum time allowed for the landscaping to be deferred from planting shall be six months and at such time the bond shall be forfeited to the Town for use in planting of the remaining required plant materials.
- (c) Condition. All landscape materials shall be kept free from all disease and infestation and in a healthy state or condition. All fences and screens shall be maintained in a safe and attractive condition and not allowed to deteriorate.
- (d) Repair and replacement. Upon written notice from the Administrator, the owner or agent shall repair or replace any fencing, screens or landscape materials that are not meeting the requirements of proper condition in subsection (d) of this section within 30 days.

Article XVIII- INFRASTRUCTURE

Sec. 58-18.1 - Open space.

All subdivision and site plan applicants that have open space shall be responsible for the maintenance of these common areas so as to provide adequate light, air and space to the residents or occupants of all developments. Sections 58-18.2 through 58-18.6 will address open space in residential and nonresidential developments.

Sec. 58-18.2 - Open space for residential properties.

The following requirements shall apply to all residential developments with land in common open space, whether these lands are proposed for public dedication or not, and all improvements provided for common use and benefit, whether or not required by this article:

- (1) General requirements. A legal entity shall be established as required under state law to provide for the ownership and maintenance of all open space areas and improvements.
- (2) Covenants. All such organizations described in subsection (1) shall be created by covenants and restrictions recorded among the land records of the Town or among the land records of the county. All such covenants shall include provisions for the maintenance of the common open space.

Sec. 58-18.3 - Open space for nonresidential properties.

Applicability. All open space areas in nonresidential zoning districts shall include buffer yards, parking lot landscaping and yard setbacks, and shall not include streets, service drives, parking and loading areas or other such areas with no aesthetic value as determined by the zoning administrator.

Sec. 58-18.4 - Maintenance requirements.

- (a) Responsibility. All responsibility for the maintenance of any open space shall be the responsibility of the property owner, the developer or HOA.
- (b) Condition. All open space areas in residential developments shall be kept open to the residents and appropriately landscaped, and maintained in a clean, attractive and safe condition.
- (c) Repair. Within 30 days upon receiving written notice from the Administrator, the owner/agent shall repair any defective condition of the open space areas that render these spaces unusable or unsafe. If the deficiencies are not rectified within the 30-day period (or any extension that may have been granted), the Administrator may repair the open space to a reasonable condition in accordance with the improved landscape plan to preserve property values in the area. The owner and/or his agent shall be responsible for reimbursing the Town for any costs associated with this repair.

Sec. 58-18.5 - Minimum open space required.

Open space shall be provided in the amount required by the appropriate zoning district regulation.

Sec. 58-18.6 - Streetscape requirements.

Streetscape requirements are categorized as follows:

- (1) Sidewalks.
 - a. Width, slope, thickness.

- b. Location and handicap access.
- c. Material, finish, colors.
- d. Maintenance agreements.

(2) Furnishings.

- a. Lights.
- b. Benches.
- c. Trash receptacles.
- d. Bike racks.
- e. Trees.

Sec. 58-18.7 - Applicability of streetscape requirements.

The standards established in sections 58-18.6 through 58-18.20 are applicable to streetscape furnishings in conjunction with preliminary plan and final site plan regulations as defined in article II of this chapter.

Sec. 58-18.8 - General requirements for streetscape furnishings.

The streetscape furnishings established in sections 58-18.6 through 58-18.20 shall be illustrated on the landscape plan as part of all preliminary and final site plan applications as described in article II of this chapter.

Sec. 58-18.9 - Sidewalks.

- (a) Sidewalks shall have a minimum unobstructed width of five feet or the standard width in accordance with the VDOT or the standard width recommended by the Americans with Disability Act, whichever is greater.
- (b) Maximum cross slope shall be two percent or one-fourth inch per foot.
- (c) Sidewalks along Washington Street shall be constructed of brick pavers with a minimum of three inches of compacted blue stone dust and with a minimum four-inch concrete base or equivalent.
- (d) Sidewalks shall follow the grade of the closest adjacent roadway curbline whenever possible.
- (e) Handicap ramps shall be provided in accordance with Virginia Department of Transportation (VDOT) standards or the most current American Disabilities Act standards, whichever is more restrictive, and located at all street intersections or street and driveway crossing areas.
- (f) Sidewalks located on Washington Street shall conform to Belden Brick paver color Regimental Red and have a chamfered edge, with or without lugs. Pavers shall be smooth, but not glazed, laid in a herringbone pattern with soldier course and subject to additional construction and design standards, as provided by the Town Engineer.

Sec. 58-18.10 - Lighting.

- (a) All lighting shall be the Washington Steel style (fluted) post with the Washington 118 globe (acorn style), approximately 14 feet in height, being Hanover Forest Green, or equivalent, in color, having 17-inch wide metal base and concrete footer.
- (b) Photometric Lighting Plans shall be included with the Final Site Plan and shall include a narrative outlining the specifications and responsible parties for the permit, operation and associated maintenance costs.

- (c) Fixtures are to be located so as not to interfere with other existing utilities and to minimize conflicts with existing buildings and pedestrian sight lines.

Sec. 58-18.11 - Lighting in residential subdivisions.

- (a) Street lighting for single-family detached, townhouse and multifamily subdivisions and site plans shall be provided along public and private streets, parking areas and accessways. Lighting shall be located to establish the mounting height, luminance and spacing to provide a minimum horizontal illumination of 0.4 footcandle.
- (b) Lighting shall be located at public and private intersections to establish the mounting height, luminance and spacing to provide a minimum horizontal illumination of 0.6 footcandle on the roadway.

Sec. 58-18.12 - Business and industrial lighting.

- (a) Site lighting shall be located at primary building entrances and parking areas of buildings which are occupied by businesses which provide customer service for the public after sunset or prior to sunrise, to establish the mounting height, luminance and spacing to provide a minimum average horizontal illumination of 0.6 footcandle.
- (b) Lighting shall be located at public and private intersections to establish the mounting height, luminance and spacing to provide a minimum horizontal illumination of 0.6 footcandle on the roadway.
- (c) Light fixtures shall be no higher than 16 feet.

Sec. 58-18.13 - Lighting installation, operation and maintenance costs.

- (a) Where the proposed designed lighting system is within or adjacent to dedicated public street right-of-way, the Virginia Department of Transportation (VDOT) shall require that installation, operation and maintenance be contracted by an approved public or private utility company, and shall follow the VDOT or county specifications for lighting installation, whichever is more restrictive.
- (b) The developer or responsible agent performing the installation shall sign an agreement with the Town or the public/private utility company which guarantees full payment to the Town or public utility. The developer or agent responsible shall also sign an agreement with the appropriate utility company which guarantees full payment for these associated charges, as well as any administrative costs incurred by the Town. This agreement shall be executed prior to performance bond release.

Sec. 58-18.14 - Benches.

- (a) Benches located in all public rights-of-way and private access easements shall be the Model C-10, Victor Stanley, Inc., "The Classic" model or equivalent. The metal frame shall be painted "Martin Senour-Market Square Dark Tavern Green," W85-0620, or equivalent, with gloss finish and the wood slats shall be stained a medium red oak transparent stain. Benches shall be fastened securely to the pavement.
- (b) All installation and maintenance of benches in the public right-of-way shall be the responsibility of the Town; and all installation of benches in private access easements shall be the responsibility of the developer, his agent or homeowners association.

Sec. 58-18.15 - Trash receptacles.

- (a) Trash receptacles located in all public rights-of-way and private access easements shall be the Model 3-42 (with the S-2 lid where applicable), Victor Stanley, Inc., or equivalent. The metal frame shall be

painted brown as approved by the Town Council, with enamel gloss paint. The brown shall be consistent throughout the Town.

- (b) All installation and maintenance of trash receptacles in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of trash receptacles in private access easements shall be the responsibility of the developer, his agent or homeowners association.

Sec. 58-18.16 - Trees.

- (a) Street trees species requirements are identified on the plant list in section 58-17.12. Substitutions of plants may be allowed with the approval by the Architectural Review Board and the Planning Commission. All street tree designs and installations must be reviewed by the Architectural Review Board, the Planning Commission, and the Town Council with the following considerations:

- (1) The theme or concept of the design shall be shown.
- (2) The existing inventory of street trees and vegetation shall be shown.
- (3) The street trees planted shall be medium or large canopy trees to provide visual relief and shade.
- (4) The street trees shall be shown on plans at their maturity in order to allow maintenance preventative measures to be considered.

- (b) One street tree for every 25 feet of street frontage and plantings shall be at even intervals wherever possible.
- (c) Street trees in residential zoning districts shall be located generally within 20 feet of the public right-of-way. Street trees in business and industrial districts shall be located within the landscape area adjacent to the street.
- (d) All installation and maintenance of street trees located in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of street trees located in private access easements shall be the responsibility of the developer, his agent or homeowners association.

Sec. 58-18.17 - Tree grates.

- (a) Tree grates located in all public rights-of-way and private access easements shall be the Neenah type cast iron R-8738-A1 180-degree square, primed and then painted with glossy enamel finish paint "Martin Senour-Market Square Dark Tavern Green," W85-0620 or equivalent.
- (b) All installation and maintenance of tree grates located in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of tree grates located in private access easements shall be the responsibility of the developer, his agent or homeowners association.

Sec. 58-18.18. - Bike racks.

- (a) Bike racks located in all public rights-of-way and private access easements shall be of the ground-secured type, constructed of precast concrete and painted brown (consistent with the trash receptacles).
- (b) All installation and maintenance of bike racks located in the public right-of-way shall be the responsibility of the Town; and all installation and maintenance of bike racks in private access easements shall be the responsibility of the developer, his agent or homeowners association.

Sec. 58-18.19 - Underground Utilities.

Except for transmission powerlines of 34,500 volts or greater, water towers, or other installations approved by the Town Council, all on-site utilities or utility facilities shall be installed underground, including electrical, water, sewer, power, gas, telephone and cable utilities.

ARTICLE XIX. – USE AND DESIGN STANDARDS

Sec. 58-19.1 – Civic Uses.

Cemeteries.

- (1) The approval of a cemetery shall include the following uses without further zoning approval being required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion and sediment control.
- (2) Mausoleums, columbaria, chapels, administrative offices, and maintenance storage areas that are shown in the applicant's plan of development shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original local legislative approval. This subsection shall not supersede any permission adopted pursuant to §15.2-2306.

Public maintenance and service facility.

- (1) The outside storage for supplies, materials, or heavy equipment must be located in the rear yard and screened from any non-industrial zoned parcels or rights-of-way.
- (2) Outside storage areas shall not exceed thirty-five (35) percent of the total area of the site.

Recreation Facility, Public.

- (1) General standards: Any outdoor activity area, swimming pool, ball field, or court which adjoins a residential use type shall be landscaped according to Article XVII of this chapter.
- (2) Where nighttime lighting is proposed it shall be fully shielded and large evergreen trees shall be required to appropriately screen adjoining residences. Any such night-time lighting shall also be constructed in accordance with standards for a residential district described in Sec. 58-18.11 of this chapter.

Sec. 58-19.2 – Commercial Uses.

Automobile repair service.

All automobile repair services shall meet the following minimum standards:

- (1) All vehicles stored on the premises in excess of seventy-two (72) hours shall be placed in a storage yard.
- (2) No exterior display or storage of new or used automobile parts is permitted.
- (3) There shall be no storage of motor vehicles in landscaped areas or within ten (10) feet of the public road right-of-way.
- (4) Parking shall be located to the rear of the principal building.

- (5) The use shall be designed to ensure proper functioning of the site in regards to vehicle stacking, circulation, and turning movements.

Business, short-term rental (STRB)

All STRBs shall comply with the following general standards:

- (1) Annual registration with the Town.
- (2) Annual inspections for compliance with the building code.
- (3) Proof of residence (absentee ownership is not permitted in Residential zoning districts)
- (4) Signage advertising the business is not permitted.
- (5) Permit shall be revoked if more than two substantial complaints are received within a one-year period. Revocation is for a minimum of one year but may be permanent at the discretion of the Town.
- (6) In Residential zoning districts, STRBs must be separated by at least 500 feet from property line to property line or no more than two (2) STRBs in one block (whichever standard is more stringent).
- (7) STRBs in violation of zoning regulations, including operation without a permit, are subject to all relevant penalties as set forth by the Town.

Car Wash.

All car washes shall comply with the following general standards:

- (1) Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
- (2) Car washes shall be constructed in a design similar to the building character of the surrounding area.
- (3) Parking shall be located behind the front line of the principal building.
- (4) Any use that has a car wash shall treat the car wash as a primary use
- (5) (No sales, repair, or outside storage of motor vehicles shall be conducted on the site.

Clubs.

All clubs shall comply with the following general standards:

- (1) Parking shall be located behind the front line of the principal building.

Additional standards in the R-2 district:

- (1) The building design shall be compatible with the surrounding neighborhood. The structure shall be street oriented with pedestrian entrances from the street.
- (2) Applicants must clearly demonstrate the use will be compatible with the neighborhood, including consideration of traffic circulation, parking, and appearance.
- (3) Exterior lighting shall comply with the standards outlined in Article XVIII of this chapter.

Commercial outdoor sports and recreation.

- (1) Commercial outdoor sports and recreation areas shall have the appropriate landscaping and screening in accordance with Article XVIII of this chapter.

- (2) Where nighttime lighting is proposed, it shall be fully shielded and large evergreen trees shall be required to appropriately screen adjoining residences.

Construction sales and service.

Construction sales and services shall be subject to the following general standards:

- (1) Outdoor storage and/or display of goods, supplies, materials, or heavy equipment shall be located to the rear of the principal building.
- (2) Outside storage areas shall not exceed twenty-five (25) percent of the total site area.

Day care center.

The following general standards shall be applicable to all day care centers.

- (1) All day care centers shall comply with any and all requirements of the Town and State Codes, including but not limited to, obtaining a zoning permit, maintenance of a Town Business License, and maintain a state license in accordance with the State Code, as applicable.
- (2) Minimum lot size: One (1) acre.
- (3) Parking. Designated arrival and departure zones shall be located adjacent to the day care center in such a manner that children do not have to cross vehicle traffic aisles to enter or exit the center. Arrival and departure area shall include at least one parking/stacking space per 10 children.
- (4) Outdoor recreation areas shall be safely separated from all parking, loading, and service areas.
- (5) Fencing. A fence a minimum of four (4) feet in height shall completely enclose the outdoor recreation area so that children are safely contained.

Additional standards for the B1 district:

- (1) Any new buildings shall be street-oriented with pedestrian entrances from the street, and compatible with the surrounding development.
- (2) Maximum lot coverage: Forty-five (40) percent including building and all paved areas.

Drive-thru facilities.

The following general standards shall apply to all drive-thru facilities:

- (1) All drive-thru entrances must be at least 50 feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.
- (2) Drive-thru facilities shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
- (3) Off-street stacking spaces shall be provided in accordance with the following requirements:
 - a. Stacking spaces shall not interfere with travelway traffic or designated parking spaces.
 - b. Stacking spaces shall be at a minimum of eighteen (18) feet in length.
 - c. Stacking spaces shall be located to the side or rear of the principle structure and shall not be adjacent to any street right-of-way.
 - d. Off-street stacking spaces shall be provided in accordance with the following table:

| Stacking Space Requirements | | |
|--|---|---------------------------------|
| TYPE OF ACTIVITY | REQUIRED NUMBER OF STACKING SPACES | START POINT FOR STACKING SPACES |
| Financial Institutions - automated teller machine | 3 | Teller machine |
| Financial Institutions - bank teller lane | 3 | Teller window/tube |
| Professional Personal Service - dry-cleaning/laundry | 3 | Cleaner/laundry window |
| Retail Sales - pharmacy | 3 | Pharmacy window |
| Restaurant | 6 | Order box/speaker |
| | 4* | Pick-up window |
| Other | To be determined by Town. Such determination shall consider any study prepared by an engineer or other qualified design professional. | |
| * These spaces are required in addition to the stacking spaces required to be located behind the order box/speaker and shall be located between the pickup window and the order box/speaker. | | |

Entertainment Establishment, adult (Sexually Oriented Business).

- (a) Purpose. It is a purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Town and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the Town. The requirements of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.
- (b) Findings and rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Town Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *Independence News, Inc. v. City of Charlotte*, 568 F.3d 148 (4th Cir. 2009); *McDoogal's East, Inc. v. County Comm'rs of Caroline County*, 341 F. App'x 918 (4th Cir. 2009); *Allno Enters., Inc. v. Baltimore County*, 10 F. App'x 197 (4th Cir. 2001); *Steakhouse, Inc. v. City of Raleigh*, 166 F.3d 634 (4th Cir. 1999); *D.G. Restaurant Corp. v. City of Myrtle Beach*, 953 F.2d 140 (4th Cir. 1991); *Wall Distributors, Inc. v. City of Newport News*, 782 F.2d 1165 (4th Cir. 1986); *Boyd v. County of Henrico*, 42 Va. App. 495, 592 S.E.2d 768 (2004) (en banc); and *Peek-a-Boo Lounge of Bradenton, Inc. v. Manatee County*, - F.3d - 2011 WL 182819 (11th Cir. Jan. 21, 2011); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby*

County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Williams v. Morgan, 478 F.3d 1316 (11th Cir. 2007); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Illinois One News, Inc. v. City of Marshall, 477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); For the People Theatres of N.Y., Inc. v. City of New York, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); Taylor v. State, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Social Change and Crime Rate Trends: A Routine Activity Approach," 44 American Sociological Review 588-608 (1979); Duncan Associates, Survey of Florida Appraisers (2007); Texas City Attorneys Association, Survey of Texas Appraisers and Crime-Related Secondary Effects (2008); "Background Analysis and Recommendations: Zoning Amendments Related to Sex Businesses," Manassas, Virginia - 2010; and "Everything You Always Wanted to Know About Regulating Sex Businesses," American Planning Association, 2000, the Town Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, declining property value, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses shall be separated from sensitive land uses, including schools, churches, parks, libraries, public recreation areas, and residential areas, to minimize the impact of their secondary effects upon such uses and shall be separated from other sexually oriented businesses to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm, which the Town has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the Town's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the Town's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the Town. The Town finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

The Town hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

The following general standards shall apply to all adult entertainment establishments:

- (1) Distances specified in this section shall be measured from the property line of one use to the property line of the other. The distance between an adult entertainment establishment 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 residential zoning district.
- (2) An adult entertainment establishment shall be located at least 350 feet from any religious assembly, education facility, public recreational facility, day care center, public assembly, cultural services, home for adults, life care facility, or residential zoning district in existence on the date on which the establishment obtains its zoning permit.
- (3) Any protected use listed in subsection (2) of this section may begin operation within 350 feet of a sexually oriented business only if the owner of the protected use, in addition to any other requirements of this Code, gives the Town a written statement that it acknowledges the presence of the sexually oriented business(es) and voluntarily waives the protection of subsection (c) of this section as to the sexually oriented business(es) for as long as the sexually oriented business(es) or any successor thereto remains. This written statement does not waive the protection of this section as to any sexually oriented business established or relocated after the written statement. If a sexually oriented business is discontinued for a period of two years or more, then it must comply with the setback requirements of this section regardless of any such written statements by protected uses.
- (4) No adult entertainment establishment shall be located within one thousand (1,000) feet of any adult store or other adult establishment.
- (5) No adult entertainment establishment shall display adult media, depictions of specified sexual activities or specified anatomical areas in its window, or in a manner visible from the street, highway, or public sidewalk, or the property of others. Window areas shall remain transparent.
- (6) Exterior lighting shall be installed in accordance with Sec. 58-18.15 of this chapter to illuminate the parking area, walkways, and all entrances to the establishment.
- (7) Hours of operation shall not extend after 1:00 am.

Financial Institutions.

Financial institutions shall comply with the following general standards:

- (1) Exterior lighting shall be compatible with the surrounding neighborhood.
- (2) Entrances to the site shall be minimized and located in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (3) Loading areas shall be located as to minimize the impact on the surrounding neighborhood.

Funeral home.

All funeral homes shall be subject to the following general standards:

- (1) The funeral home shall have a buffer between it and any residentially-zoned property abutting or directly across the street from the funeral home use as specified in Sec. 58-17.8 through 58-17.12 of this chapter.

Additional standards in the B-1 district:

- (1) Loading areas shall be sited in such a way so as to minimize the impact on any surrounding uses. Sufficient screening meeting the standards of Sec.58-17.8 through 58-17.12 of this chapter shall be provided.

Gasoline station.

Gasoline stations shall be subject to the following general standards:

- (1) Applicants shall demonstrate that the use will be compatible with the neighborhood with regards to traffic circulation, parking, and appearance and size of structures.
- (2) Entrances to the site shall be minimized and located in a manner promoting safe and efficient traffic circulating while minimizing the impact on the surrounding neighborhood.
- (3) Any canopy over the fuel pumps shall have the same roof shape and exterior materials as the primary structure.
- (4) Dumpsters shall be located so as to minimize view from off-site areas and shall be fully screened by a wall constructed of the same material and color as the principal structure.
- (5) The Zoning Administrator may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.

Home Occupations.

All home occupations shall be subject to the following general standards:

- (1) Signs shall not exceed one square foot and shall be limited to one.
- (2) No outside storage shall be permitted. Commercial deliveries and pick-ups of supplies associated with the use shall be limited to not more than two per day and shall be made only during business hours.
- (3) The area devoted to the home occupation shall not exceed 25 percent of the gross floor area of the dwelling unit.
- (4) Use shall be conducted as an accessory use entirely within a single-family detached dwelling unit and shall not change the character of the dwelling unit nor have any exterior evidence of its use.
- (5) Hours of operation, excluding tutoring, education or training, shall be limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, 9:00 a.m. to 7:00 p.m. Saturday and Sunday. Hours of operation for tutoring, education or training shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Friday, 9:00 a.m. to 9:00 p.m. Saturday and Sunday.
- (6) Customers shall be received by appointment only. No more than five customers per day and no more than one customer at a time shall be scheduled, however, this shall not apply to adult daycare and tutoring. A customer shall be deemed: an individual or a group of individuals that arrive as a single unit at a destination usually by means of a motor vehicle.
- (7) The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area as determined by the zoning administrator.
- (8) The property on which the home occupation is conducted shall not have any parking spaces added to it during the time the home occupation is being conducted.
- (9) The home occupation shall not increase the demand on water, sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses as established by the zoning administrator.

- (10) The operator of a home employment use shall secure a business license, an application for a home employment, and certificate of occupancy in advance of commencing the use.
- (11) An application for a home occupation use, in addition to other items that may be required for combined permits, shall include:
 - a. A filing fee;
 - b. A copy of the latest deed or lease agreement;
 - c. A copy of the plat or house location survey;
 - d. A drawing showing the floor area of the home and identifying the total area that will be subject to the proposed home employment use;
 - e. A statement identifying the proposed hours of operation, the estimated number of patrons, and any other information to help describe the proposed home employment use; and
 - f. Any further information or documentation required to demonstrate compliance with the provisions of this section.
- (12) Approval of a home occupation use shall be revocable at any time by the Town because of the failure of the owner or operator of the use covered by the approval to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions imposed in connection with the approval.
- (13) Approval of a home employment use shall stand revoked, without any action by the Town, if the use authorized has been intentionally abandoned, has ceased for a period of one year, or has not commenced within one year of approval.
- (14) There shall be provided either in a garage, driveway or designated lot, space for the parking of business and customer vehicles.
- (15) Retail sales are prohibited, and goods, stock in trade or other commodities shall not be displayed.

Hotel.

Additional standards in the B-1 district.

- (1) Parking shall be located behind the front line of the principal building.
- (2) The structure shall match the scale and mass of the surrounding structures as determined by the Zoning Administrator.

Additional standards in the B-2 district.

- (1) The primary structure shall have a maximum height of 60 feet on parcels adjacent to the interstate.
- (2) Development adjacent to residentially zoned property shall have increased screening and landscaping standards as determined by the Planning Commission during the site plan process.

Office, medical.

The following general standards shall apply to all medical offices.

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (2) Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood.

Additional standards in B-2 district.

- (1) The hours of operation may be restricted through the special use permit process.

Pawn Shop.

- (1) Parking shall be located behind the front line of the principal building.
- (2) Exterior lighting shall be installed in accordance with Sec. 58-18.13 of this chapter to illuminate the parking area, walkways, and all entrances to the establishment.

Restaurant, drive-in.

The following general standards shall apply to all drive-in restaurants:

- (1) Stacking spaces shall not interfere with the travelway traffic or designated parking spaces.
- (2) Stacking spaces shall be located to the side or rear of the principle structure and shall not be adjacent to any street right-of-way.
- (3) Six (6) stacking spaces shall be located behind the order speaker and four (4) stacking spaces shall be located between the order speaker and the pickup window.
- (4) Extended awnings, canopies, or umbrellas are permitted.

Restaurant, mobile.

The following general standards shall apply to all mobile restaurants:

- (1) Town business license is required.
- (2) Mobile restaurants may be located on either public property or private commercially zoned property with written permission from the owner.
- (3) Must be inspected and approved by the Town at least three business days prior to operation.
- (4) Must park in designated locations or areas that do not block pedestrian or vehicular traffic.
- (5) Signage is limited to the vehicle or a sandwich board type sign located within the immediate vicinity of the business.
- (6) May not be located within 100 feet of a business entrance that sells food for consumption.
- (7) Vehicles may be limited by the Town depending upon the location or event as enumerated in the permit application.
- (8) Trash receptacles and removal shall be required.
- (9) No audio amplification is permitted.

Retail.

The following general standards shall apply to all retail uses:

- (1) No outdoor display of goods shall be permitted.

Shooting range, indoor.

- (1) Parking shall be located behind the front line of the principal building.
- (2) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking and appearance. Drop-off areas may be located in the front yard, but shall maintain a residential character and appearance.
- (3) Exterior lighting shall be compatible with the surrounding neighborhood.

- (4) Entrances to the site shall be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (5) The scale, massing, and building design shall be compatible with the surrounding neighborhood.
- (6) The structure shall be street oriented with pedestrian entrances from the street.

Shopping center.

The following general standards shall apply to all shopping centers:

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (2) The scale, massing, and building design shall be compatible with surrounding developments. The structures shall be street oriented with pedestrian entrances from the street.
- (3) No outdoor display of goods shall be permitted.

Store, grocery.

All grocery stores shall be subject to the following general standards:

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, ensure efficient traffic circulation and minimize the impact upon the surrounding neighborhood.

Additional standards for the B-1 district:

- (1) Parking shall be located behind the front line of the principal building.
- (2) Any new buildings shall be street-oriented with pedestrian entrances from the street, and compatible with the surrounding development.
- (3) Lighting shall be consistent with the surrounding neighborhood.

Store, liquor.

The following general standards shall apply to all liquor stores:

- (1) A proposed liquor store shall not be located within 500 feet of an existing liquor store. This distance shall be measured from the property line of one business to the property line of the other.
- (2) Parking shall be located behind the front line of the principal building.
- (3) Exterior lighting shall be compatible with the surrounding neighborhood.
- (4) Entrances to the site shall be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (5) The scale, massing, and building design shall be compatible with the surrounding neighborhood.

Wholesale sales.

- (1) Loading areas shall be sited in such a way so as to minimize the impact on any surrounding neighborhood.
- (2) Parking shall be located behind the front line of the principal building.

Sec. 58-19.3 – Industrial Uses.

Industrial, light.

- (1) The use, storage, and disposal of hazardous materials shall meet all applicable federal, state, and local codes.
- (2) Accessory outdoor storage up to 10% of the building area may be permitted. Outdoor storage shall be located to the rear of the principal building.

Sec. 58-19.4 – Residential Uses.

Family Health Care Structures, temporary.

Temporary family health care structures shall be subject to the following standards:

- (1) Such structures 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.
- (2) Only one family health care structure shall be allowed on a lot or parcel of land.
- (3) The structure shall be no more than 300 gross square feet and shall comply with all applicable provisions of the Industrialized Building Safety Law (§36-70 et seq.) and the Uniform Statewide Building Code (§36-97 et seq.).
- (4) Prior to installing a temporary family health care structure, a permit must be obtained from Council and associated fees paid.
- (5) Any family health care structure shall comply with all applicable requirements of the Virginia Department of Health.
- (6) No signage advertising or promoting the existence of the structure shall be permitted on the exterior of the structure or anywhere on the property.
- (7) Any temporary family health care structure shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or assistance.
- (8) Council may revoke the permit granted in subsection (3) if the permit holder violates any provision of this section.
- (9) The structure shall appear similar to other accessory structures in the neighborhood.

Sec. 58-19.5 – Miscellaneous Uses.

Cemetery, private.

Private Cemeteries shall be subject to the following general standards:

- (1) Minimum lot requirement: Acres (5) acres.
- (2) Minimum frontage: One hundred (100) feet on an arterial street.
- (3) No graves shall be located within the buffer yards.
- (4) All driveway shoulders shall be constructed with a reinforced grass system approved by the Administrator

Parking Facility.

The following general standards shall apply to all parking facilities:

- (1) No motor vehicle work shall be permitted in association with a parking facility except under emergency service work.
- (2) Parking shall be the principal use of all parking facilities. Spaces may be rented for parking but no other business of any kind shall be conducted in the structure.

ARTICLE XX. – SUBDIVISIONS

Sec. 58-20.1 – Purpose.

The purpose of this article is to establish certain subdivision standards and procedures for the town as authorized by Code of Virginia, §§ 15.2-2240.

- (1) For plat details which shall meet the standard for plats as adopted under §42.1-82 of the Virginia Public Records Act (§42.1-76 et seq.).
- (2) For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades, and drainage.
- (3) For adequate provisions for drainage and flood control and other public purposes, and for light and air, and for identifying soil characteristics.
- (4) For the extent to which and the manner in which streets shall be graded, graveled, or otherwise improved, and water, storm, sanitary sewer, and other public utilities or other community facilities are to be installed.
- (5) For the acceptance of dedication for public use of any right-of-way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, drainage or sewage system, or other improvement, financed, or to be financed, in whole or in part by private funds in accordance with §15.2-2241(A)(5) of the Code of Virginia.
- (6) For conveyance of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision in accordance with §15.2-2241(A)(6) of the Code of Virginia.
- (7) For monuments of specific types to be installed establishing street and property lines.
- (8) That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official in accordance with §15.2-2241(A)(8) of the Code of Virginia.
- (9) For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated.
- (10) For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner in accordance with the provisions of §15.2-2244 of the Code of Virginia.
- (11) For the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the governing body under this section in accordance with the provisions of § 15.2-2245 of the Code of Virginia.
- (12) No locality shall require that any certified check, cash escrow, bond, letter of credit or other performance guarantee furnished pursuant to this chapter apply to, or include the cost of, any facility or improvement unless such facility or improvement is shown or described on the approved plat or plan of the project for which such guarantee is being furnished in accordance with §15.2-2241(B) of the Code of Virginia.

Sec. 58-20.2 - Land must be suitable.

The administrator shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that, in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed. The administrator may require the subdivider to furnish topographic maps, floodplain profile elevation information or other relevant information.

Sec. 58-20.3 – Flooding.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, or for such other uses in such a way as to endanger health, life, or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall neither be endangered by periodic or occasional inundation nor produce conditions contrary to the public welfare.

Sec. 58-20.4 – Improvements.

(a) Generally. All required improvements shall be installed by the subdivider at his cost. Specifications which have been established either by the Virginia Department of Transportation for streets, curbs, etc., or local regulations, ordinances and codes, shall be followed. The subdivider's bond shall not be released until construction has been completed and approved by the chief engineering officer or appropriate official. All improvements shall be in accordance with this section.

(b) Streets.

- (1) Design; construction. All streets, shall be designed and constructed in accordance with the standards set by the Virginia Department of Transportation for acceptance into the state secondary road system, and at no cost to the locality.
- (2) Alignment and layout. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas and proposed streets as shown in the adopted plan. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where in the opinion of the administrator it is desirable to provide for street access to adjoining property, proposed streets shall be extended to the boundary line of such property. Half streets along the boundary of land proposed for subdivision shall not be permitted. Wherever possible, streets shall intersect at right angles. In all areas where slope exceeds 15 percent, streets running with contours shall be required to meet intersecting streets at angles of not less than 60 degrees, unless approved by the administrator upon recommendation of the highway engineer.
- (3) Access to major streets. Where a subdivision borders on or contains an existing or proposed major street, the planning commission may permit the subdivider to provide that the access to such streets be limited by one or more of the following means:
 - a. The subdivision of lots so that they will back onto the major street and front onto a parallel minor street. No access shall be provided from the major street, and screen planting shall be provided in a strip of land along the rear property line of such lots.
 - b. The subdivision of lots along a series of culs-de-sac, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel minor street, with the rear lines of the terminal lots contiguous with the major street right-of-way.

- c. The subdivision of lots along a service street and physically separated from the major street by a planting or grass strip and having access thereto at approved points.
- (4) Approach angle. Major streets shall approach major or minor streets at an angle which is in accordance with specifications of the state department of transportation.
 - (5) Minimum widths. The minimum width of proposed streets, measured from lot line to lot line, shall be 50 feet, or as specified by the Virginia Department of Transportation for acceptance into the state secondary road system.
 - (6) Culs-de-sac. Generally, permanent culs-de-sac shall be no longer than 400 feet to the beginning of the turnaround. Each cul-de-sac must be terminated by a turnaround of not less than 100 feet in diameter.
 - (7) Alleys.
 - (8) Private streets and reservation strips.
 - a. No private street shall be permitted in a platted subdivision for detached single-family dwelling units. All other subdivided property except townhouses shall be served by a publicly dedicated street.
 - b. When a private access is platted or provided, the developer shall establish and record with the plat appropriate declarations and agreements, relieving the town from all current and future maintenance responsibility; and furthermore the developer shall establish a maintenance fund for future repairs and snow removal by the established homeowners' association.
 - (9) Names. Proposed streets which are obviously in alignment with other existing and named streets shall bear the names of the duplicate existing street names, irrespective of the use of the suffix "street," "avenue," "boulevard," "road," "driveway," "place," "lane," or "court." Street names shall be indicated on the preliminary and final plats and shall be approved by the administrator. Names of existing streets shall not be changed except by approval of the council.
 - (10) Identification signs. Street identification signs, readable from either side, of a design approved by the administrator shall be installed by the subdivider at all intersections.
- (c) Monuments.
- (1) Generally. As required by this chapter, all monuments must be installed by the subdivider and shall meet the minimum specifications described in this subsection. Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the administrator are clearly visible for inspection and use. Such monuments shall be inspected and approved by the administrator before any improvements are accepted by the council.
 - (2) Location—Concrete. Concrete monuments four inches in diameter or four inches square, three feet long, with a flat top, shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points, and points of curve in each street. The top of the monument shall have an appropriate mark to identify properly the location and shall be set six inches above the finished grade.
 - (3) Same—Iron pipe. All other lot corners shall be marked with iron pipe not less than three-fourths inch in diameter and 24 inches long, and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four inches deep in the rock, into which shall be

cemented a steel rod one-half inch in diameter, the top of which shall be flush with the finished grade line.

- (d) Water facilities. Public water service shall be extended by the subdivider to all lots within the subdivision in accordance with the approved design standards and Prince William County's DCSM specifications for water service construction, and improvements in the town. No subdivision or development shall be approved without an acceptable water supply plan, which provides water service to each lot.
- (e) Sewerage facilities. Where public sewerage facilities are available, the service shall be extended by the subdivider or developer to all lots, and individual septic tanks shall not be permitted. No subdivision or development shall be approved without an acceptable sewerage facilities plan, which provides sewerage service to each lot.
- (g) Storm drainage facilities. The subdivider shall provide all necessary information needed to determine what drainage improvements are necessary to develop properly such property. Such information shall include but may not be limited to contour data, drainage plans, and flood control devices. The subdivider shall also provide plans for all such improvements, together with a certified engineer's or surveyor's statement that such improvements, when properly installed, will be adequate for development. The highway engineer shall then approve or disapprove the plans. The subdivider shall also provide any other information required by the highway engineer. The subdivider shall install the approved storm drainage facilities.
- (h) Fire protection. Fire hydrants shall be required in a subdivision at locations approved by the administrator, provided adequate public water is available. The location and design of the fire hydrants shall meet the American Insurance Association specifications.
- (i) Utility service. All utility poles or underground conduits for electric power lines or telephone lines shall be placed in easements provided along the rear or side lot lines, whenever possible.
- (j) Easements. The administrator may require the subdivider to provide drainage easements through adjoining property. The width of easements provided for drainage, water, sewer, power lines and other utilities in the subdivision shall be determined by the administrator.
- (k) Plans and specifications. Six blue or black line prints of the plans and specifications, for all required physical improvements to be installed, shall be prepared by a licensed engineer or land surveyor and shall be submitted with the final plat to the administrator for approval or disapproval within 30 days. If approved, one copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval stated in writing.

Sec. 58-20.5 – Bonding.

- (a) The subdivider shall furnish a cash bond or equivalent, or a certified check payable to the town in an amount equal to the total cost of the improvements shown on the plat as determined by the administrator. Such bond or check shall guarantee that the improvements will be installed within a designated reasonable length of time in a manner acceptable to the Town. The bond or check shall accompany the final plat. When construction has been completed, approved and accepted on each section of the required improvements, the administrator may release the bond submitted for the amount for that completed section of the required improvements. The periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required herein shall be in compliance with Virginia Code § 15.2-2245.

- (b) The subdivider shall file a maintenance bond with the Town in an amount considered adequate and in a form satisfactory to the administrator, in order to assure the satisfactory condition of the required improvements, for a period of one year after the date of their acceptance by the Town.
- (c) In the case where development is projected over a period of years, the commission may authorize submission of final plats by sections or stages of development, subject to such requirements or guarantees for improvements in future sections or stages of development as it finds essential for the protection of any approved section of development.
- (d) In the absence of a performance bond or check, no final plat shall be approved or recorded until the required improvements have been installed and approved by the administrator.
- (e) Sidewalks shall be provided in accordance with the specifications of the state department of transportation.
- (f) Curbs and gutters shall be installed on both sides of streets shown on the subdivision plat and shall be in accordance with the design standards and specifications of the state department of transportation.

Sec. 58-20.6 – Lots.

- (a) Generally. Lots shall be arranged in order that the considerations in this section are satisfied.
- (b) Size. The minimum lot size in any subdivision shall be in accordance with zoning ordinances of the jurisdiction in which the lot is located.
- (c) Shape. The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, and conform to requirements of this chapter. Lots shall not contain peculiarly shaped extensions solely to provide necessary square footage of area which would be unusable for normal purposes.
- (d) Location. Each lot, except those occupied by attached single-family dwelling units, shall abut on an existing or proposed public street. If the existing streets are not 50 feet in width, the subdivider shall make provisions, in the deeds to the lots, that all buildings be constructed so as to permit the widening by dedication of such roads or streets to a width of 50 feet or more as shown on the comprehensive plan.
- (e) Corner lots. Corner lots shall have width sufficient for adequate sight distance on both streets as determined by the administrator.
- (f) Sidelines. Sidelines of lots shall be approximately at right angles or radial to the street line.
- (g) Remnants. All property of a subdivided tract must be included in lots, or otherwise disposed of, rather than allowed to remain as unusable parcels.
- (h) Separate ownership. Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Such deed is to be deposited with the clerk of the court and held with the final plat until the subdivider is ready to record same, and then both shall be recorded.

Sec. 58-20.7 – Blocks.

Where created by the subdivision of land, all new blocks shall be designed to comply with the following general requirements:

- (1) Generally, the maximum length of blocks shall be 1,200 feet, and the minimum length of blocks upon which lots have frontage shall be 500 feet.

- (2) Blocks shall be wide enough to allow two tiers of lots of minimum depth, unless prevented by topographical conditions or size of the property, in which case the administrator may approve a single tier of lots of minimum depth.
- (3) Where a proposed subdivision will adjoin a major road, the administrator may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

Sec. 58-20.8 – Land dedication.

- (a) The owner of property to be subdivided may offer to dedicate for public use any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the Town, the Commonwealth, or other public agency. No such dedication shall be effective until accepted by the Town, the Commonwealth, or other public agency by written instrument consistent with law.
- (b) The owner of property to be subdivided may convey common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision.
- (c) The owner of property to be subdivided may voluntarily fund reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development. Any such funding shall comply with Virginia Code § 15.2-2242 (4).
- (d) Where a lot being subdivided or developed fronts on an existing street, and adjacent property on either side has an existing sidewalk, the owner shall dedicate land for, and shall construct, a sidewalk on the property being subdivided or developed, to connect to the existing sidewalk.

Sec. 58-20.9 – Administrator.

The Town's Zoning Administrator, as the agent for Town Council as approved and designated by the adoption of this ordinance, shall be responsible for the administration and enforcement of subdivision regulations, and shall perform all duties regarding subdivisions and subdividing in accordance with this chapter and the Code of Virginia.

Sec. 58-20.10 – Consultation.

In the performance of his duties, the administrator shall call for opinions or decisions, either verbal or written, from highway engineers, health department, or the commission, and may consult with other county or town officials in considering details of any submitted plat.

Sec. 58-20.11 – Platting required.

Any owner or developer of any tract of land situated within the town who subdivides the tract shall prepare a plat of such subdivision, in accordance with the provisions of this chapter and shall record the plat in the Circuit Court Clerk's Office per State Code § 15.2-2252. No such subdivision plat shall be recorded unless it has been submitted, approved and certified by the administrator in accordance with the regulations set forth in this chapter.

Sec. 58-20.12 – Recordation required.

No lot shall be sold in any proposed subdivision, nor shall any building permit be granted, until a final plat for the subdivision has been approved and recorded.

Sec. 58-20.13 – Where recordation not required.

The recording of a subdivision plat under this article shall not be required in the following cases:

- (1) A partition of land by will or through actions of a court of competent jurisdiction unless or until development of the land is proposed.
- (2) When a property has been changed in size or shape by reason of the taking of a part of such property for public use by referring to a properly drawn and recorded plat, provided that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.
- (3) The sale or exchange of any parcels of land between owners of adjacent properties for the purpose of a small adjustment in boundaries, provided that additional lots are not created, and no lot is reduced below the minimum size required by this chapter.
- (4) A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as a part of a public utility right-of-way; provided, that if a parcel resulting from such subdivision is ever to be used as a building site for other than right-of-way purposes, then before a building permit may be issued for such other use, a plat must be filed and recorded which satisfies the requirements of this chapter .

Sec. 58-20.14 – Draw and certify.

Every subdivision plat intended for recording, or the deed of dedication to which the plat is attached, shall be prepared by a surveyor or engineer duly licensed by the commonwealth, who shall endorse upon each plat a certificate signed by him setting forth the source of the title of the owner of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plats, within an inset block, or by means of a dotted line upon the plat.

Sec. 58-20.15 – Statement of consent to subdivision; execution; acknowledgement and recordation; notice to commissioner of the revenue or board of real estate assessors.

Every subdivision plat, or deed of dedication to which the plat is attached, shall contain in addition to the professional engineer's or land surveyor's certificate a statement as follows: "The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any." The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgement of deeds. When thus executed and acknowledged, the plat, subject to the provisions of this chapter, shall be filed and recorded in the office of the clerk of court where deeds are admitted to record for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing such statement, and under the name of the subdivision. Owners shall notify the appropriate commissioner of the revenue of improvements to real property situated in platted subdivisions.

Sec. 58-20.16 – No one exempt.

No person shall subdivide any tract of land that is located within the town except in conformity with the provisions of this chapter.

Sec. 58-20.17 – Private contracts.

This chapter bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied to any public official. When this chapter calls for more restrictive standards than are required by private contracts, the provisions of this chapter shall control.

Sec. 58-20.18 – Changes.

No change, erasure or revision shall be made on any subdivision plat intended for recording, nor on accompanying data sheets after the approval of the administrator has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the administrator.

Sec. 58-20.19 – Fees.

There shall be a charge for the examination of every plat reviewed. At the time of filing the preliminary plat, the subdivider shall deposit with the town checks payable to the town in the amount specified by the schedule of fees as adopted by the town.

Sec. 58-20.20 – Transfer of areas for public use.

The recording of a plat shall operate to transfer, in fee simple, to the respective counties and municipalities in which the land lies, all portions of the area platted which are set apart for streets, alleys, easements or other public use and to create a public right-of-passage over the same. Nothing contained in this section, however, shall prevent the subdivider from constructing and maintaining improvements as required by this chapter.

Sec. 58-20.21 – Approval of Major Subdivisions.

Any subdivision which involves four (4) or more lots, or which involves the creation of any new public street, regardless of the number of lots involved, shall be considered a major subdivision. Subdivisions of less than fifty (50) lots may be submitted for preliminary subdivision approval at the option of the landowner.

- (1) The Planning Commission shall review and approve or deny a preliminary plat submission within 60 days, except as otherwise provided by state law, and it shall advise the subdivider in writing, by formal letter or by legible markings on the preliminary plat, of any additional data that may be required, the character and extent of public improvements that will have to be made, an estimate of the cost of construction or improvements and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat. In determining the cost of required improvements and the amount of the performance bond, the administrator may consult with a duly licensed engineer, who shall prepare these data for the administrator, or may require a bona fide estimate of the cost of improvements to be furnished by the subdivider. Approval of the preliminary plat does not guarantee approval of the final plat.
- (2) Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter

diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

- (3) The completed plat shall be submitted to the administrator for approval. Upon the approval by the administrator, the plat shall be signed by the administrator or his designated representative, marked approved, and returned to the subdivider, who will cause the plat to be recorded in the county clerk's office. If not approved, the administrator shall return the plat to the subdivider with corrections to be made by the subdivider indicated on the plat. The final plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for payment of construction costs of all public improvements or performance bond in accordance with state law, to cover such costs and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities. Approval of the final plat shall be written on the face of the plat by the administrator, and no plat shall be recorded until approval has been made.

Sec. 58-20.22 – Approval of Minor Subdivisions.

Any subdivision which involves three (3) or fewer lots shall be considered a minor subdivision.

- (1) Within 60 days of a subdivision plat submission, the administrator may approve the plat by marking it with his signature and returning the plat to the subdivider, who will cause the plat to be recorded in the county clerk's office. If not approved, the administrator shall return the plat to the subdivider with corrections to be made by the subdivider indicated on the plat. The final plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for payment of construction costs of all public improvements or a performance bond in accordance with state law, to cover such costs and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities. Approval of the final plat shall be written on the face of the plat by the administrator, and no plat shall be recorded until approval has been made.

Sec. 58-20.23 – Preliminary plat requirements.

The subdivider shall present to the administrator six prints of a preliminary layout at a scale of 100 feet to the inch as a preliminary plat. The preliminary plat shall include the following information:

- (1) Name of subdivision, owner, subdivider, person preparing drawing, date of drawing, number of sheets, north point, and scale. If true north is used, the method of determination must be shown.
- (2) Location of proposed subdivision by an inset map at a scale of not less than two inches equal one mile showing adjoining roads, their names and numbers, towns, subdivisions, other landmarks and, where appropriate, the existing zoning of the land and adjoining property.
- (3) The boundary survey or existing survey of record, provided such survey shows a closure with an accuracy of not less than 1:2,500, with reference to a known, permanent monument, total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, and the names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.

- (4) All existing, platted, and proposed streets, their names, numbers and widths; existing utility or other easements; public areas and parking spaces; culverts, drains and watercourses and their names; flood profile and other pertinent data.
- (5) The complete storm drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well-defined open stream which is considered natural drainage, or to another approved drainage control facility.
- (6) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply. The location, type, profile, percentage of slope, pipe size, and location of manholes for all sewers shall be shown. The distance between manholes shall not exceed 300 feet. The location, type and sizes of all waterlines shall be shown as well as the location of necessary control valves and fire hydrants.
- (7) A cross section showing the proposed street construction, depth and type of base, type of surface, etc.
- (8) A profile or contour map showing the proposed grades for the streets and drainage facilities, including the elevations of existing and proposed ground surface at all street intersections, and at points of major grade change along the center of streets, together with the proposed connecting grade lines.
- (9) A location map tying the subdivision into the present road system, by using either aerial photographs or topographic maps of the United States Geological Survey.
- (10) All parcels of land to be dedicated for public use and the condition of dedication.

Sec. 58-20.24 – Final plat requirements.

The subdivision plats submitted for final approval and subsequent recording shall be clearly and legibly drawn in ink upon stable and reproducible plastic or linen material at a scale not smaller than 100 feet to the inch on sheets having a size of not more than 24 inches by 36 inches. In addition to the requirements of the preliminary plat, the final plat shall include the following:

- (1) A blank space three inches by five inches, reserved for the use of the approving authority.
- (2) Certificates signed by a surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.
- (3) A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds.
- (4) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashes, and the identification of the respective tracts shall be placed on the plat.
- (5) The accurate location and dimensions by bearings and distances with all curve data on all lots and streets, boundaries of all proposed or existing easements; parks; school sites; all existing public and private streets, their names, numbers and widths; existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type; watercourses and their names; and names of owners and their property lines, both within the boundary of the subdivision and adjoining such boundaries.
- (6) Distances and bearings must balance and close with an accuracy of not less than 1:10,000.
- (7) The data of all curves along the street frontage shall be shown in detail at the curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.

Sec. 58-20.25 – Recording of plat.

Unless a plat is filed for recordation within six months after final approval or such longer period as may be approved by the council, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the council or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount required by § 58-20.21 (3) or § 58-20.22 (1), the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the council or its designated administrative agency, whichever is greater.

Sec. 58-20.26 – Exception.

Where the subdivider can show that a provision of this chapter would cause substantial injustice or hardship if strictly adhered to, because of topographical or other unusual situation peculiar to the site, and where, in the opinion of the administrator, a departure may be made without destroying the intent of such provisions, or endangering public health, safety or welfare, the administrator may authorize an exception. Any exception thus authorized shall be stated in writing by the administrator, with the reasoning set forth upon which the departure was justified. No such exception to this chapter may be granted if it is opposed in writing by an authorized state official.

Sec. 58-20.27. Family subdivisions.

Family subdivisions shall comply with this chapter and other laws and regulations of the town. In addition, all family subdivisions resulting in lots of less than five acres shall have reasonable right-of-way of not less than 10 feet or more than 20 feet width providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this section. For the purpose of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner.