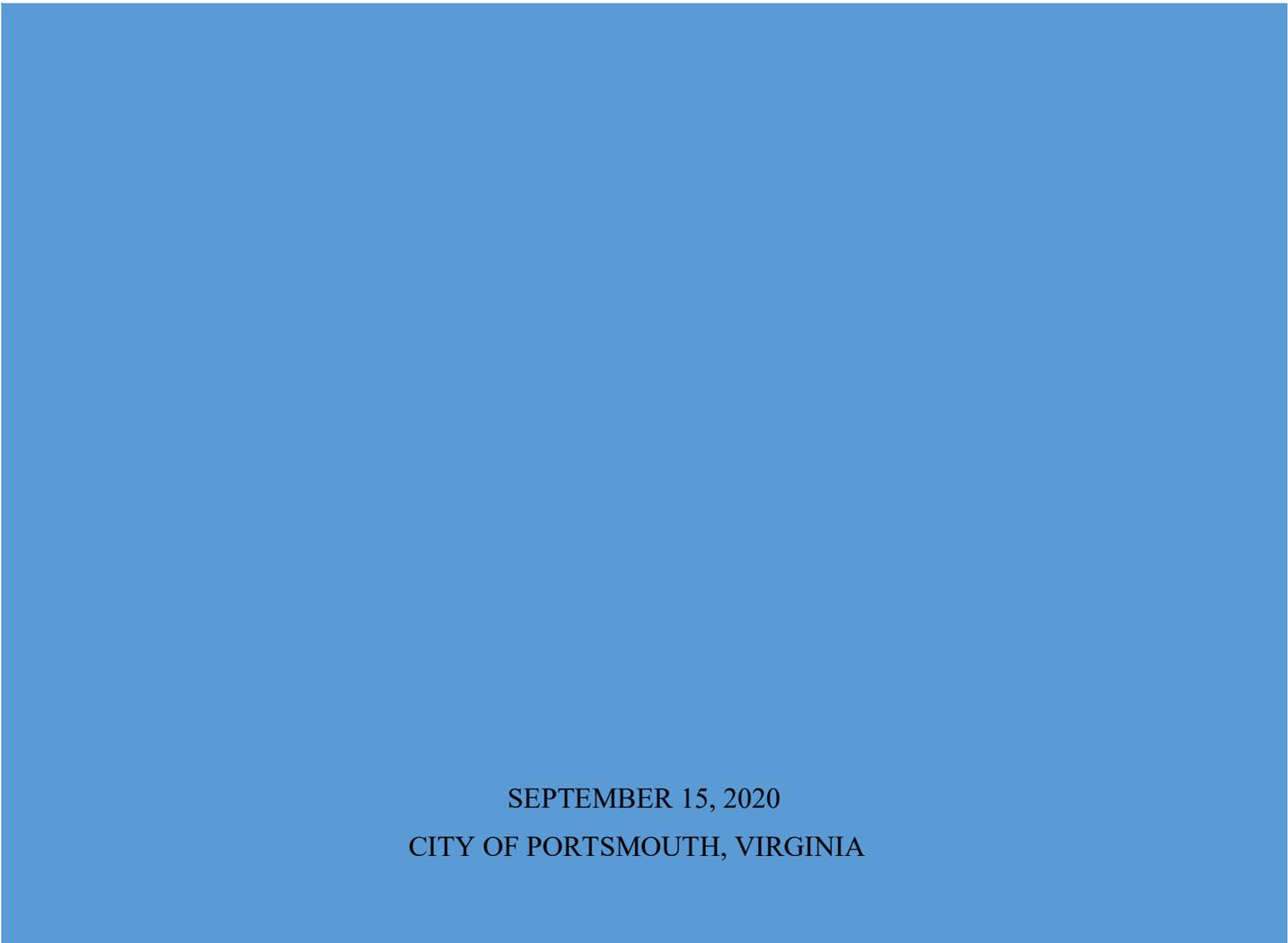




*ZONING ORDINANCE RE-WRITE*  
*PUBLIC COMMENT DRAFT*



SEPTEMBER 15, 2020  
CITY OF PORTSMOUTH, VIRGINIA

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## **Article I. – General Provisions**

### **Sec. 40.2-100 – Short Title**

This Ordinance, the full title of which is “Zoning Ordinance, City of Portsmouth, Virginia,” may, for convenience, be referred to as the “Portsmouth Zoning Ordinance,” and the accompanying map, titled “Zoning Map, City of Portsmouth, Virginia,” may be referred to as the “Portsmouth Zoning Map.”

### **Sec. 40.2-101 – Authority**

- (A) The City of Portsmouth’s Comprehensive Plan embodies the community’s vision and goals.
- (B) Two primary mechanisms for achieving the City’s land use goals are the zoning and subdivision ordinances.
- (C) The zoning ordinance sets forth the regulations that legally enforce land use policies and establishes the rules guiding the development of land within the city as enabled in Ch. 22 of the Code of Virginia.
- (D) Similarly, the subdivision ordinance establishes the rules by which land can be divided, often setting the stage for subsequent development under the zoning regulations.
- (E) These two land use tools work hand in hand to help achieve the City’s vision regarding land use and the overall well-being of the community.

### **Sec. 40.2-102 – Purpose and Intent**

This Ordinance and any amendments hereto, have been adopted for the general purpose of implementing the Comprehensive Plan of the City of Portsmouth, Virginia and for the purpose of promoting the health, safety, and general welfare of the public. To these ends, this Ordinance is designed to give reasonable consideration to each of the following purposes:

- (A) Provide for adequate light, air, convenience of access, and safety from fire, flood, crime, and other dangers;
- (B) Reduce or prevent congestion in the public streets;
- (C) Facilitate the creation of a convenient, attractive, and harmonious community;
- (D) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements;
- (E) Protect against the destruction of, or encroachment upon, historic areas and working waterfront development areas;
- (F) Protect against one or more of the following: overcrowding of land, undue density of population in relation to 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, impounding structure failure, panic, or other dangers;
- (G) Encourage economic development activities that provide desirable employment and enlarge the tax base;

- (H) Provide for the preservation and protection of the natural environment;
- (I) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the city as well as a reasonable proportion of the current and future needs of the planning district within which Portsmouth is situated;
- (J) Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- (K) Provide reasonable protection against encroachment upon military bases, military installations, and military airports and other adjacent safety areas, excluding armories operated by the Virginia National Guard; and
- (L) Protect surface and groundwater resources.

**Sec. 40.2-103 – Severability**

- (A) No land shall be developed without full compliance with the provisions of this Ordinance and approvals issued hereunder, and all applicable city, state, and federal regulations.
- (B) No application, permit or approval shall be considered on property where there is a known outstanding violation of this Ordinance, unless the application, permit, and/or approval would remedy the violation.
- (C) Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of this Ordinance as a whole, or any part hereof, other than the part so held to be unconstitutional or invalid.

**Sec. 40.2-104 – Zoning Map**

- (A) The locations and boundaries of districts established in Portsmouth shall be shown on a map titled “Zoning Map, City of Portsmouth, Virginia.”
- (B) The Zoning Map, as well as all notations, dimensions, designations, references and other data shown thereon, is made a part of this Ordinance to the same extent as if the information set forth on such map were fully described and incorporated herein.
- (C) A certified official copy of the Zoning Map, with all map amendments indicated thereon, shall be on digital file in the office of Portsmouth’s Zoning Administrator.

**Sec. 40.2-105 – Determination of Uncertain Boundaries.**

Where uncertainty exists as to the boundaries of the districts shown on the Zoning Map, the following standards shall apply:

- (A) In cases where a boundary line is located within a street, alley, or stream, it shall be deemed to be in the center of the street, alley, or stream.
- (B) In cases where a boundary line approximately follows a lot line or the City’s corporate line and is not more than 10 feet in distance therefrom, such lot line or City corporate line shall be the boundary.
- (C) In a case of un-subdivided property, or where a zoning line divides a lot, the location of any such line shall be controlled by the dimension stated on the Zoning Map.

- (D) In accordance with Code of Virginia § 15.2-2309, the Board of Zoning Appeals shall hear and decide applications for interpretation of the Zoning Map where there is any uncertainty as to the location of a district boundary.

**Sec. 40.2-106 – Zoning for Areas Previously Unzoned**

- (A) Any area incorporated into the City after the effective date of this Ordinance or in every case where property has not been specifically included within a zoning district, the land shall be automatically designated as Conservation (C) until such classification is changed by an amendment to this Ordinance in accordance with [Sec.40.2-532](#) Zoning Text and Map Amendments.
- (B) The Planning Commission shall prepare and present to City Council a zoning plan for the new area within six (6) months of the effective date of the incorporation of the area.

**Sec. 40.2-107 – Relationship with other Code Chapters**

- (A) Standards for compliance with Code of Virginia § 62.1-44.15:67-79., the Chesapeake Bay Preservation Act, are located in City Code Ch. 9.1 Chesapeake Bay Preservation Area Overlay District.
- (B) Standards for floodplain management and protection, in accordance with Code of Virginia § 10.1-600, et seq., are located in City Code Ch. 14.1 Flood Protection.
- (C) Whenever any provision of this Ordinance refers to or cites a section of the Code of Virginia (1950), as amended, and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

**Sec. 40.2-108 – Fees**

- (A) The Zoning Administrator is authorized to collect fees to cover the cost of processing applications, issuing permits, and other expenses associated with the administration of this Ordinance.
- (B) All fees under this Ordinance shall be collected in accordance with the most recent fee schedule adopted by City Council set forth in Appendix A of the City Code.

**Sec. 40.2-109 – Uses Generally**

**(A) Conformance with Ordinance**

No building or structure shall be erected, and no existing building shall be moved, altered, added to, or enlarged, nor shall any land, building, or structure be used, occupied, designed, or arranged to be used for any purpose or in any manner not in conformance with the regulations of this Ordinance.

**(B) Uses Not Specifically Listed**

For the purposes of this Ordinance, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this Ordinance, and subject to [Sec. 40.2-208\(B\)](#) Uses Not Specifically Listed are prohibited.

**(C) Lots**

- (1) Except as otherwise expressly permitted by this Ordinance, every building hereafter erected shall be located on a lot as defined in [Article VI](#) Definitions.
- (2) Except as provided herein, there shall be not more than one principal building on one lot.

## **Article II. – Zoning Districts**

### **Sec. 40.2-200 – General Provisions**

#### **(A) Applicability**

- (1) The provisions of this Ordinance shall apply to all property within the corporation limits of the City of Portsmouth, Virginia, under all circumstances, with the following exceptions:
  - (a) Development by the United States of America;
  - (b) Development by the Commonwealth of Virginia;
  - (c) Public right-of-way;
  - (d) Development by the City, its agencies, or departments during a declared local emergency. The City Council shall ratify such exemption after the fact at its next regularly scheduled meeting, and shall base its ratification on specified findings of fact related to the emergency involved;
  - (e) Where precluded by applicable law; and
  - (f) Development of a property by or at the direction of the City for a civic use to be operated by the City; provided that said development shall only occur in Zoning Districts where the specific civic use is authorized under Table 40.2-215 Use Table.
- (2) This Ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect any easements, covenants, or other agreements between parties, except that no such easement, covenant or other agreement shall abrogate, annul, or otherwise affect the parties' obligation to comply with the restrictions, requirements, and other terms of this Ordinance.

#### **(B) Types of Zoning Districts**

- (1) Land within the City is classified by this Ordinance to be within one of a number of base zoning districts.
- (2) Land within any zoning district may also be classified into one or more overlay zoning districts, in which case regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying zoning district, unless expressly stated otherwise.

#### **(C) Compliance with District Standards**

No land within the City shall be developed except in accordance with the zoning district regulations of this article and all other regulations of this Ordinance.

#### **(D) Conflicts**

If a provision of this Ordinance conflicts with a provision of federal, state or local law, then except where expressly stated to the contrary in this Ordinance, the more restrictive provision shall control.

**Sec. 40.2-201 – Zoning Districts Established**

[Table 40.2-201](#) Zoning Districts Established, sets out the zoning districts established by this Ordinance. Zoning districts are grouped into residential districts, commercial districts, industrial districts, special districts, historic sub-districts, and downtown sub-districts.

<b>Table 40.2-201: ZONING DISTRICTS ESTABLISHED</b>	
<b>DISTRICT ABBREVIATION</b>	<b>DISTRICT NAME</b>
<b>RESIDENTIAL DISTRICTS</b>	
NR	Neighborhood Residential
GR	General Residential
UR	Urban Residential
UR-M	Multi-Family Urban Residential
<b>COMMERCIAL DISTRICTS</b>	
NMU	Neighborhood Mixed-Use
GMU	General Mixed-Use
MU-H	High Intensity Mixed-Use
<b>INDUSTRIAL DISTRICTS</b>	
IL	Light Industrial
IN	Industrial
<b>SPECIAL DISTRICTS</b>	
WF	Waterfront
C	Conservation

<b>Table 40.2-201: ZONING DISTRICTS ESTABLISHED</b>	
<b>DISTRICT ABBREVIATION</b>	<b>DISTRICT NAME</b>
<b>HISTORIC SUB-DISTRICTS</b>	
HR	Historic Residential
HLO	Historic Limited Office
HLB	Historic Limited Business
<b>DOWNTOWN (D1) DISTRICT/SUB-DISTRICTS</b>	
D1 T3 Sub-District	Urban Residential
D1 T4 Sub-District	General Urban
D1 T5 Sub-District	Urban Center
D1 T6 Sub-District	Urban Core
D1 SD Sub-District	Special District

**Sec. 40.2-202 – Residential Districts**

**(A) General Purposes**

The residential zoning districts established in this Ordinance are intended to provide diverse housing options in a healthy and safe environment in which to live, recreate, and shop at a neighborhood level. More specifically, they are intended to:

- (1) Provide appropriately located lands for residential development that are consistent with the comprehensive plan;
- (2) Ensure adequate light, air, privacy, and recreational and open space areas for each dwelling, and protect residents from the negative effects of noise, excessive population density, traffic congestion, flooding, and other significant adverse environmental impacts;
- (3) Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;

- (4) Provide for a diverse range of residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units;
- (5) Provide for safe and efficient vehicular access and circulation and promote bicycle, pedestrian, and transit-friendly neighborhoods;
- (6) Provide for public services and facilities needed to serve residential areas and accommodate public and semi-public land uses that complement residential development or require a residential environment while protecting residential areas from incompatible nonresidential development; and
- (7) Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the city's goals and objectives.

**(B) Neighborhood Residential (NR) District**

The Neighborhood Residential (NR) district is established to accommodate single-family detached residential dwellings at low densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family detached dwellings or that is detrimental to the quiet residential nature of the district.

**(C) General Residential (GR) District**

The General Residential (GR) district is established to accommodate primarily single-family detached, attached residential, and two-to four-family dwellings, subject to design standards to ensure their compatibility with the single-family character of the district, at moderate densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family, two-family, or three-to-four family dwellings, or that is detrimental to the quiet residential nature of the district.

**(D) Urban Residential (UR) District**

The Urban Residential (UR) district is established to accommodate a range of residential development as a principal use, along with mixed-use, neighborhood-serving commercial development, and institutional uses to encourage diverse development. These districts are mid-density, traditional neighborhoods.

**(E) Multi-Family Urban Residential (UR-M) District**

The Multi-Family Urban Residential (UR-M) district is established to accommodate a diverse range of residential development as a principal use, along with mixed-use, neighborhood-serving commercial development, and institutional uses to encourage diverse development. These districts are high-density, urban core settings. This district was formerly entitled High Density Urban Residential (UR-H).

**Sec. 40.2-203 – Commercial Zoning Districts**

**(A) General Purposes**

The commercial zoning districts are established for the general purpose of ensuring there are lands in the City that provide a wide range of office, retail, service, mixed, and related uses to meet household and business needs, and more specifically to:

- (1) Provide appropriately located lands for the full range of commercial uses needed by the City's residents, businesses, and workers, consistent with the comprehensive plan;
- (2) Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city;
- (3) Create suitable environments for various types of commercial uses, and protect them from the adverse effects of incompatible uses;
- (4) Create suitable environments for various types of mixed use development, where business, office, retail, and residential uses are designed and integrated in compatible ways; and
- (5) Minimize the impact of commercial development on residential districts and uses.

**(B) Neighborhood Mixed-Use (NMU) District**

The Neighborhood Mixed Use (NMU) district is established to accommodate a mix of residential and small-scale, low-intensity, and "convenience" retail and service uses that provide goods and services serving the residents of the immediately surrounding neighborhood (e.g., personal service uses, restaurants, and limited retail). Development in the district should not include uses of a size that are out of scale with a residential neighborhood.

**(C) General Mixed-Use (GMU) District**

The General Mixed-Use (GMU) district is established to provide a wide variety of professional offices and institutions and a broad range of light and moderate intensity commercial uses proximate to residential and more intense business districts so as to satisfy the demand for services. The district regulations are designed to encourage the formation and continuance of a compatible mixed-use environment that includes residential, commercial, and institutional uses.

**(D) High Intensity Mixed-Use (MU-H) District**

The High-Intensity Mixed Use (MU-H) district is established to accommodate a mix of residential and a diverse range of medium to high intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the community at large. The district is typically located along major arterials or at the intersection of arterials.

**Sec. 40.2-204 – Industrial Districts**

**(A) General Purposes**

The industrial zoning districts are established for the general purpose of ensuring there are lands in the City that provide a wide range of industrial related uses to meet business needs, and more specifically to:

- (1) Provide appropriately located lands for the full range of industrial uses needed by the City's residents, businesses, and workers, consistent with the comprehensive plan;

- (2) Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city;
- (3) Create suitable environments for various types of industrial uses, and protect them from the adverse effects of incompatible uses;
- (4) Create suitable environments for various types of mixed use development, where business, office, and industrial uses are designed and integrated in compatible ways;
- (5) Minimize the impact of industrial development on residential districts and uses.

**(B) Light Industrial (IL) District**

The Light Industrial (IL) district is established and intended to accommodate light manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that are small-scale or otherwise have minimal exterior movement of vehicles, materials, and goods, and well as few or minimal adverse environmental and visual impacts.

**(C) Industrial (IN) District**

The Industrial (IN) district is established and intended to accommodate heavy manufacturing, fabrication, processing, distribution, storage, research and development, and other industrial uses that may be large-scale or otherwise have extensive exterior movement of vehicles, materials, and goods, and greater potential for adverse environmental and visual impacts.

**Sec. 40.2-205 – Special Zoning Districts**

**(A) General Purpose**

The special zoning districts established in this Ordinance are intended to address special areas of the City where special area plans and related regulations have been prepared to regulate development.

**(B) Waterfront (WF) District**

**(1) Purpose and Intent**

The purpose and intent of the Waterfront (WF) district is to:

- (a) Encourage development of high quality, mixed-use residential, retail, office, or hotel development that is enhanced by its close proximity to the Elizabeth River waterfront;
- (b) Facilitate economic development in the city through enhanced commercial and residential development and increased tourism generated by riverfront development;
- (c) Promote a concentration of uses that result in a high degree of pedestrian attraction and activity along the waterfront, while protecting the area at the shore of the river from building development;
- (d) Integrate commercial and residential uses horizontally at the street level and vertically within buildings, while preserving the views of the Elizabeth River;

- (e) Ensure new development complies with and promotes the city's vision and plans for intensive downtown waterfront development, encouraging pedestrian-oriented streetscapes, connectivity of existing street and pedestrian systems, multi-modal transportation access, high quality architectural design and building materials, and protection of existing views; and
- (f) Establish development requirements that are adaptable to changing market conditions, while encouraging creativity in the design of new mixed development centers.

## **(2) Applicability**

- (a) Development in the Waterfront (WF) district, as depicted on the Zoning Map, is subject to the standards of this section.
- (b) In addition to the land designated as WF on the Zoning Map, as of the date of initial adoption of this Ordinance, only lands located along the banks of Scotts Creek and Owens Creek north of the southern line of Spratley Street, and its westward prolongation may be designated WF district on the Zoning Map.

## **(3) Review Procedures**

### **(a) Modifications to the WF District Location**

Applications to amend the Zoning Map boundaries to a WF district consistent with the terms of this section shall be reviewed in accordance with the procedure and standards in [Sec. 40.2-532](#) Zoning Text and Zoning Map Amendments, the Comprehensive Plan, and [Sec. 40.2-205\(B\)\(3\)\(b\)](#) Application Requirements.

### **(b) Application Requirements**

All applications to establish or modify the WF district shall contain a master plan and a design standards statement, prepared in accordance with the following:

#### **(i) Master Plan**

The master plan shall illustrate the conceptual layout of proposed lots, new streets, buildings, uses, and other elements of the proposed development. At a minimum, the master plan shall include the following elements:

- a. Location and mix of proposed uses.
- b. Number (density and intensity), type, and mix of uses for the development as a whole as well as for each sub-area within the development.
- c. Block and lot standards, including: block length, lot size, lot width, and lot coverage.
- d. Building dimensional standards, including: building footprints, yard setbacks, proposed heights, and lot coverage.
- e. Pedestrian and vehicular circulation systems, both on-site and located on adjacent lands.

- f. Parking and loading locations and quantity.
- g. Location of public facilities.
- h. Location, type, amount, and ownership of open space, as defined below.
- i. A stormwater management plan.
- j. Views of the Elizabeth River and downtown areas of Norfolk and Portsmouth from the site of proposed development.
- k. Conceptual landscaping plans that include street trees, appropriate buffers and screens, signage and public art. Special attention shall be paid to providing space for outdoor dining and other outdoor spaces and the interface of the building exterior and these spaces.

**(ii) Design Standards Statement**

A design standards statement, in the form of graphics and explanatory text, illustrating how buildings, circulation systems, landscaping, and other elements of the master plan are proposed to be developed in accordance with the requirements of this Ordinance. The design standards statement shall address, at a minimum, the following:

- a. Architectural form, materials, and other guidelines for proposed buildings, especially the interface of the proposed building exterior facade and the proposed open spaces.
  - b. Parking design.
  - c. Fence and wall standards.
  - d. Exterior lighting standards.
  - e. Signage descriptions, sizes, and examples.
  - f. Street hierarchy (collector streets, local streets, alleys, etc.).
  - g. A traffic impact analysis prepared in accordance with [Sec. 40.2-545](#) Transportation Impact Analysis.
  - h. Development scheduling/phasing.
  - i. Assurance the property and building design will be properly managed (through provision of property owners' association documents that specify maintenance, membership, and member responsibilities of the association, if applicable).
- (c) The development of the buildings and sites contained in an approved master plan must conform to the requirements of the development plan process in [Sec. 40.2-208\(B\)](#).

- (d) As each portion of the development is implemented, the applicant shall submit, in phases, development plans that are consistent with the approved master plan and design standards statement.

#### **(4) Modification of an Approved Master Plan or Design Standards Statement**

Master plans or design standards statements approved as part of an amendment to the Zoning Map may only be modified in accordance with the following requirements.

##### **(a) Major Changes**

Any major changes to an approved master plan or design standards statement shall be processed only in the manner of the original approval. Major changes shall include but not be limited to the following:

- (i) Changes in uses.
- (ii) Decreases in open space set-asides.
- (iii) Substantial changes in the location of streets.
- (iv) Substantial changes to the design and/or materials of structures.
- (v) Change in the location of any non-utility public easement.
- (vi) Change in the proportion of housing types by more than ten percent.
- (vii) Changes in the phasing schedule.
- (viii) Violation of any condition of approval.
- (ix) Significant changes in the appearance of building(s).

##### **(b) Minor Deviations**

Minor deviations from an approved master plan or design standards statement are not major changes and may be approved by the Zoning Administrator. Minor deviations shall include, but not be limited to, the following:

- (i) Driveway relocations.
- (ii) Structure floor plan revisions.
- (iii) Minor alterations to the architecture of structures and similar replacement of building materials.
- (iv) Facility design modifications for amenities.
- (v) Modifications to any dimensional standard by ten (10) percent or less.
- (vi) Substitutions of landscaping materials within the same genus or minor modifications to landscape plans determined during the construction process to be necessary.

#### **(5) Development Standards**

Development in the WF district shall be subject to the development standards in [Article III](#) Community Design, and the following standards. In the event the standards in this section conflict with the standards in [Article III](#) Community Design, the standards in this section shall control.

**(a) Minimum Land Area**

The proposed district shall contain at least one contiguous acre (43,560 square feet), including roadways. Additional land may be designated as WF district in accordance with the procedure and standards in [Sec. 40.2-532](#) Zoning Text and Zoning Map Amendments, provided:

- (i) The land designated is contiguous to an existing WF district; and
- (ii) The land is adjacent to the southern branch of the Elizabeth River.

**(b) Building Orientation**

Buildings shall be sited close to streets with their front facades facing the street from which the building derives its street address.

**(c) Minimum Building Height**

All development shall have a minimum height of 50 feet, with a first-floor height of at least 14 feet.

**(d) Building Fenestration**

Building facades along street frontages (except alleys) shall be fenestrated in accordance with the following standards:

**(i) Street-level Floor**

**a. Nonresidential Uses**

- 1. At least 60 percent of nonresidential building facades between two (2) and eight (8) feet in height along the street frontage shall be comprised of glass windows or glass doors that allow views into the building.
- 2. Windows used to satisfy these requirements shall be at least four (4) feet in height.

**b. Residential and Mixed Uses**

- 1. Windows shall comprise a minimum of 30 percent of a residential or mixed-use building facade between two (2) and eight (8) feet in height along the street frontage.
- 2. Windows shall be double-hung, awning, or casement-style, and shall be configured so that at least one window within each single wall opening is operable.

**(ii) Upper Floors**

Windows shall comprise a minimum of 30 percent of each floor's facade between two (2) and eight (8) feet in height above the floor level.

**(e) Streetscapes**

- (i) Buildings along streets shall form a consistent line of building facades, relative to the street edge.
- (ii) Street trees, sidewalks and pedestrian-scaled lighting of no greater than 14 feet in height shall be included in streetscape areas to create a comfortable walking environment.
- (iii) Pedestrian amenities (such as benches) shall be consistent with city standards for outdoor furniture downtown and shall also be provided, as appropriate, throughout the development site.

**(f) Open Space Set-Asides**

- (i) Each development in the WF district shall provide at least 20 percent of the total lot area in open space set-aside in the form of roof gardens, landscaped grounds, or atriums.
- (ii) Each such open space set-aside shall contain landscaping, public art elements, or pedestrian elements, and shall be configured to blend with the architecture of the development.
- (iii) The City Council may accept developments with no more than 15 percent of the total land area in open space set-aside in cases where lots are small, or where existing open space resources are already provided in sufficient amounts by existing development.

**(g) Residential Density**

In no instance shall development exceed 100 units per acre.

**(h) Maximum Floor Area**

Except for high-rise multi-family development, office buildings, parking structures, hotels, convention centers, or retail development, no use shall exceed 30,000 square feet of floor area.

**(i) Prohibited Uses and Development Features**

Notwithstanding the standards in [Table 40.2-216](#), Use Table, the following uses or development features are prohibited within the WF district:

- (i) Check-cashing establishments;
- (ii) Pay day loan establishments;
- (iii) Nail salons;
- (iv) Tanning establishments; and
- (v) Drive-throughs.

**(C) Conservation (C) District**

**(1) Purpose and Intent**

- (a) The Conservation (C) district is established and intends to conserve and protect identifiable natural resources from urban encroachment. The purpose of the Conservation district is to:
  - (i) Conserve watercourses and protect them from erosion and sedimentation;
  - (ii) Retain open spaces and greenways and protect their environmentally-sensitive character;
  - (iii) Conserve wildlife and plant life habitats and protect them from the intrusions of urbanization;
  - (iv) Provide air and noise buffers to ameliorate the effects of development; and
  - (v) Preserve and maintain the aesthetic qualities and appearance of the community.
- (b) The district discourages development that creates risks for loss of life or property from normal natural processes and events in natural hazard areas (e.g., floodplains) for conservation:
  - (i) Conservation of city's critical and environmental areas;
  - (ii) Including parklands, open space, archeological sites, cemetery grounds, wetland ecology, and land for recreation use.
- (c) The Conservation district was formerly entitled Preservation/Government (PG).

**(2) Dimensional Standards**

Development within the C district shall comply with the standards in [Table 40.2-205](#). [Table 40.2-205](#) Area and Bulk Requirements, sets out the minimum lot requirements for the Conservation district established by this Ordinance.

<b>TABLE 40.2-205: AREA AND BULK REQUIREMENTS</b>	
<b>SPECIAL DISTRICT: CONSERVATION DISTRICT</b>	
<b>Minimum Lot Requirements</b>	<b>Conservation (C)</b>
<b>Lot Size (sq. ft.)</b>	43,560
<b>Lot Width (ft.)</b>	N/A

<b>TABLE 40.2-205: AREA AND BULK REQUIREMENTS</b>	
<b>SPECIAL DISTRICT: CONSERVATION DISTRICT</b>	
<b>Minimum Lot Requirements</b>	<b>Conservation (C)</b>
<b>Maximum Density (DU/AC)</b>	None
<b>Front Yard Setback (ft.)</b>	50
<b>Side Yard (ft.)</b>	50
<b>Corner Side Yard (ft.)</b>	50
<b>Rear Yard (ft.)</b>	50
<b>Maximum Building Coverage (%)</b>	5
<b>Maximum Height (ft.)</b>	36

**Sec. 40.2-206 – Historic Districts.**

**(A) Historic District Definitions**

**CONTRIBUTING PROPERTIES** - Those properties that due to form, materials, architectural details and relation to surrounding properties contribute favorably to the general character of the part of the historic district in which they are located.

**NONCONTRIBUTING PROPERTIES** - Properties so designated on the inventory map of historic districts and properties which is adopted as a part of this Ordinance, being generally those properties which by reason of age, condition, amount of alterations, form, materials, architectural details and relation to surrounding properties do not contribute favorably to the general character of the part of the historic district in which they are located.

**MATERIAL CHANGE IN APPEARANCE** - A change that will affect either the exterior architectural or environmental features of an historic structure or any contributing or noncontributing building, structure, site, object, or landscape feature within an historic district, such as:

- (1) Reconstruction or alteration of the size, shape, or facade of an historic building, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements.
- (2) Demolition or relocation of an historic structure.
- (3) Commencement of excavation for construction purposes.

- (4) Change in the location of advertising visible from the public right-of-way.
- (5) The erection, alteration, restoration or removal of any building or other structure within an historic property or district, including walls, fences, steps, and pavements, or other appurtenant features.
- (6) New construction within an historic district.

REHABILITATION - The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

STRUCTURE, HISTORIC - An historic landmark or a contributing structure in an historic district.

**(B) General Purposes**

The historic districts are created for the promotion and preservation of Portsmouth's educational, cultural, and economic interests through:

- (1) The preservation and protection of historic buildings, structures, places, and areas of historic interest;
- (2) The preservation, protection and maintenance of buildings, structures, places and areas that mark the history of the colony, the Commonwealth of Virginia, and the City of Portsmouth;
- (3) Appropriate redevelopment and maintenance of historic buildings, structures, places, and areas;
- (4) The regulation and control of new development to preserve and protect areas of historical interest and the historical context of the area; and
- (5) The promotion, development, and preservation of the economy, commerce and industry of the Commonwealth of Virginia and the City of Portsmouth, specifically with regard to property values and tourist trade, through the preservation and protection of historic buildings, structures, places and areas.

**(C) Historic Districts Established and Continued**

The following historic districts are established and continued as shown on the Zoning Map:

- (1) Truxtun Historic District;
- (2) Cradock Historic District;
- (3) Port Norfolk Historic District;
- (4) Olde Towne Historic District; and
- (5) Park View Historic District.

**(D) Certificate of Appropriateness (COA) Required**

New development, rehabilitation, or redevelopment within an historic district requires approval of a Certificate of Appropriateness (in addition to any other required permits) in accordance with the procedures and requirements in [Sec. 40.2-536](#) Certificates of Appropriateness (COA).

**(E) Dimensional Standards**

Uses within the historic districts shall comply with the following dimensional requirements:

- (1) [Table 40.2-206\(1\)](#) Dimensional Requirements within the Historic Districts, sets out the dimensional standards required for each of the five historic districts, except as modified by the following regulations:
  - (a) New construction, additions, or other improvements shall not create more than two (2) square feet of floor area per each square foot of lot size.
  - (b) Establishment of a new nonresidential building or conversion of a dwelling unit to an office shall require a minimum lot size of at least 4,500 square feet.
  - (c) In Port Norfolk, lots with a four-family dwelling, one additional unit is permitted for each additional 5,600 square feet of lot area over 11,200 and/or additional four-family dwellings may be permitted for each additional 11,200 square feet of lot area over 11,200.
  - (d) In Olde Towne and Park View, lots with a four-family dwelling, one additional unit may be permitted for each additional 3,045 square feet of lot area over 6,090.

<b>HISTORIC DISTRICT</b>	<b>USE TYPE</b>	<b>MINIMUM LOT SIZE (Square Feet)</b>	<b>MAXIMUM BUILDING COVERAGE (%)</b>	<b>MAXIMUM HEIGHT FOR NEW CONSTRUCTION (Feet)</b>
<b>Truxtun</b>	Single-family detached or two-family dwelling	2,500	70	20
	Three-family dwelling	2,500		
	Four-family dwelling	4,500		
	Nonresidential use	2,500		

**Table 40.2-206(1): DIMENSIONAL REQUIREMENTS WITHIN THE HISTORIC DISTRICTS**

<b>HISTORIC DISTRICT</b>	<b>USE TYPE</b>	<b>MINIMUM LOT SIZE (Square Feet)</b>	<b>MAXIMUM BUILDING COVERAGE (%)</b>	<b>MAXIMUM HEIGHT FOR NEW CONSTRUCTION (Feet)</b>
<b>Cradock</b>	Single-family detached or two-family dwelling	4,500	70	20
	Three-family dwelling	13,500	35	
	Four-family dwelling	16,500		
	Nonresidential use	2,500	70	
<b>Port Norfolk</b>	Single-family detached or two-family dwelling	5,600	70	30
	Three-family dwelling	8,400		
	Four-family dwelling	11,200		
	Nonresidential use	2,500		
<b>Olde Towne and Park View</b>	Single-family detached or two-family dwelling	3,045	70	30
	Three-family dwelling	4,570		
	Four-family dwelling	6,090		
	Nonresidential use	2,500		

**(2) Accessory Structures or Buildings**

(a) Accessory structures must observe a five (5) foot rear and side yard setback.

(b) Accessory structures shall not exceed 600 square feet in area.

(c) Accessory structures shall not be taller than the principal structure on the lot.

**(3) Front Yard Setbacks**

(a) Front yard setback shall be at least three (3) feet in depth.

(b) No new construction shall be located within a front yard setback, unless necessary to maintain consistency with established front yard context on adjacent lots.

**(4) Side Yard Setbacks**

(a) Lots less than 30 feet in width shall maintain side yard setback of at least three (3) feet.

(b) Lots 30 feet wide or wider shall maintain side yards setbacks of at least five (5) feet.

(c) No new construction shall be located within a required side yard setback.

**(5) Rear Yard Setbacks**

Rear yard setbacks shall be at least 20 feet deep.

**(6) Minimum Distance from Lot Lines**

No new construction shall be established within three (3) feet of any lot line.

**(7) Landscaped Area**

Each lot shall maintain a landscaped area with a minimum size corresponding to 20 percent of the lot size.

**(F) Permitted Uses**

**(1) General**

The range of permitted uses on a lot located within a particular historic district is subject to the lot's historic sub-district designation depicted on the Zoning Map and [Table 40.2-216](#) Use Table.

**(2) Historic Sub-Districts**

Each historic district is comprised of one or more sub-districts as depicted on the Zoning Map. The range of allowable uses on a lot within a historic district is controlled by its sub-district designation, [Table 40.2-216](#) Use Table, and the following standards:

**(a) Historic Residential (HR) Sub-district**

The HR sub-district is intended for residential uses, but also allows some public and institutional uses, all subject to the use-specific standards in [Sec. 40.2-217](#) Use-Specific Standards.

**(b) Historic Limited Office (HLO) Sub-district**

- (i) The HLO sub-district is intended for professional office uses as well as limited residential and institutional uses, subject to the use-specific standards in [Sec. 40.2-217](#) Use-Specific Standards, and the following:
- (ii) Residential and office uses may be mixed within a single structure provided the residential portion occupies less than 50 percent of the building's total floor area.

**(c) Historic Limited Business (HLB)**

The HLB sub-district is generally intended for commercial uses with, along with limited residential, and institutional uses. Residential and nonresidential uses may be combined within a building in this sub-district, provided:

- (i) Buildings with one (1) bedroom include at least 400 square feet of useable floor area solely for residential purposes;
- (ii) Buildings with two (2) bedrooms include at least 700 square feet of useable floor area solely for residential purposes; and
- (iii) Buildings with three (3) bedrooms include at least 800 square feet of useable floor area solely for residential purposes.

**(G) District-Specific Standards**

The following district-specific standards shall apply to new uses and redevelopment within the historic districts:

**(1) Off-Street Parking**

- (a) Off-street parking spaces shall be provided in accordance with [Table 40.2-301\(1\)](#), Minimum Off-Street Parking Standards.
- (b) Parking requirements for two (2) or more uses may be provided in a common parking area, provided that all uses being served by the common parking area are under the common ownership.
- (c) Parking lots of four (4) or more spaces shall be paved with cobblestone or other approved material which enhances the aesthetic quality of the historic area.

**(2) Exterior Lighting**

Lighting shall be provided in accordance with the standards in [Sec.40.2-306](#) Exterior Lighting, and no exterior lighting shall exceed a height of nine (9) feet from the adjacent grade.

**(3) Signage**

- (a) New signage and changes to existing signage require approval of a Certificate of Appropriateness (See [Sec. 40.2-536](#) Certificates of Appropriateness (COA)).
- (b) Any authorized changes shall be made within two (2) years of approval.

- (c) Signage that fails to comply with the applicable standards in this Ordinance shall be removed, at the owner's expense, within six (6) months of notice provided by the City.

**(4) Required Landscaping**

All private areas not covered with building or surface treatment shall be landscaped with plantings, grass, pedestrian walks or similar features, in accordance with [Sec. 40.2-304](#) Landscaping and Screening and shall be maintained in good condition.

**(5) Historic Markers**

- (a) Historic markers shall be made available to the owner of any building designated as a historic landmark.
- (b) The markers shall show the date of construction and the historic significance of the structure and shall be placed on the structure or adjacent to it.
- (c) It shall be unlawful for anyone to display an unauthorized marker or to remove an authorized marker without the prior consent of the structure owner and the City.

**(6) Conversion of Single-Family Detached Dwellings**

The conversion of existing single-family detached dwellings into two-family, three-to-four-family dwellings or multi-family dwellings is permitted within the Olde Towne, Port Norfolk, and Park View Historic Districts subject to a Use Permit (See [Sec. 40.2-533](#) Use Permits), and compliance with the following standards:

**(a) Construction Date**

Existing single-family detached dwellings may be converted in accordance with this section provided the original building existed prior to:

- (i) October 24, 1967 in the Olde Towne Historic District;
- (ii) April 26, 1983 in the Port Norfolk Historic District; and
- (iii) April 1, 1984 in the Park View Historic District.

**(b) Exterior Alterations Prohibited**

Conversions completed in accordance with these provisions shall not result in any exterior additions to the structure. Any new building entrances shall be to the rear or side of the structure.

**(c) Minimum Floor Area**

After conversion, the floor area of each dwelling unit shall include a minimum of 600 square feet.

**(d) Maximum Number of Units**

The number of dwelling units permitted within a single structure shall be in accordance with [Table 40.2-206\(2\)](#) Maximum Number of Dwelling Units.

- (i) In the Olde Towne Historic District, any building larger than 5,000 square feet may be converted into additional dwelling units, provided each dwelling unit contains at least 2,500 square feet.

<b>TABLE 40.2-206(2): MAXIMUM NUMBER OF DWELLING UNITS</b>	
<b>MINIMUM LOT SIZE (SQUARE FEET)</b>	<b>MAXIMUM DWELLING UNITS, INCLUDING ALL EXISTING UNITS (#)</b>
<b>TRUXTUN</b>	
2,500	2
2,500	3
4,500	4
<b>CRADOCK</b>	
4,500	2
13,500	3
16,500	4
<b>PORT NORFOLK</b>	
5,600	2
8,400	3
11,200	4
<b>OLDE TOWNE and PARK VIEW</b>	
3,045	2
4,570	3

<b>TABLE 40.2-206(2): MAXIMUM NUMBER OF DWELLING UNITS</b>	
<b>MINIMUM LOT SIZE (SQUARE FEET)</b>	<b>MAXIMUM DWELLING UNITS, INCLUDING ALL EXISTING UNITS (#)</b>
6,090	4

**(e) Off-Street Parking Standards**

**(i) Amount**

Converted residential buildings shall provide at least one (1) off-street parking space per dwelling unit, but no more than two (2) spaces per dwelling unit may be provided.

**(ii) Location**

Off-street parking spaces shall be located to the rear or side of a structure, and accessed by an alley, if one exists.

**Sec. 40.2-207 – Downtown D1 District and Sub-Districts**

**(A) General Purposes**

The Downtown district and sub-districts are created for the purposes set forth herein and without limitation, for the promotion and preservation of the City's educational, cultural and economic interests, opportunities and advantages. The district includes and bounds the [Downtown Design Overlay District](#) and significant tourist routes providing access to historic structures, buildings and locations in downtown Portsmouth. The Downtown (D1) district fulfills this purpose through:

- (1) The preservation and protection of buildings, structures, places and areas of educational, cultural, economic and civic interest in the area designated by City Council as the Downtown D1 district.
- (2) The development and maintenance of appropriate settings and environment for such buildings, structures, places and areas;
- (3) The protection and enhancement of the tourist corridors leading to the designated historic districts, governmental facilities and historic waterfront;
- (4) The regulation and control of construction of new buildings and structures in accordance with the City's comprehensive plan, adopted by the City Council.

**(B) Downtown D1 Sub-Districts**

**(1) Permitted Uses**

Uses permitted in the Downtown Districts shall be governed according to sub-districts, as shown on the Zoning Map. [Table 40.2-216](#) Use Table of [Sec. 40.2-216](#) lists the uses

allowed in the various sub-districts. The designations and general purposes of the sub-districts are as follows:

**(a) T3 Sub-District (Urban Residential)**

The T3 sub-district contains a mix of residential uses, but maintains a residential urban fabric. These areas, furthest from the Olde Towne Historic District, represent the least intense development downtown. This sub-district contains flexible dimensional requirements and densities to allow development consistent with the design of existing downtown neighborhoods.

**(b) T4 Sub-District (General Urban)**

The T4 sub-district contains a mix of uses, but maintains a predominantly residential urban fabric. These areas, nearest to the Olde Towne Historic District, represent moderately intense urbanism in the downtown. This sub-district contains flexible dimensional requirements and densities to allow development complimentary to and building upon the design of existing downtown neighborhoods.

**(c) T5 Sub-District (Urban Center)**

The T5 sub-district contains a higher density mix of uses with primarily retail space permitted on the ground floor.

**(d) T6 Sub-District (Urban Core)**

The T6 sub-district is designed for high-density and waterfront mixed uses. This sub-district is the most intense land use Downtown.

**(e) SD Sub-District (Special District)**

The SD sub-district is a low-intensity, limited industrial mixed-use district. This sub-district is intended to provide employment with mixed-uses, including manufacturing, distribution and warehousing, as well as civic uses and retail uses.

**(C) Downtown Sub-Districts Dimensional Standards**

Table 40.2-207, Downtown Sub-Districts Dimensional Standards, sets out the minimum requirements for the Downtown D1 sub-district established by this Ordinance.

<b>TABLE 40.2-207: DOWNTOWN SUB-DISTRICTS DIMENSIONAL STANDARDS</b>					
	<b>ZONING DISTRICT</b>				
	<b>T3 Sub-District (Urban Residential)</b>	<b>T4 Sub-District (General Urban)</b>	<b>T5 Sub-District (Urban Center)</b>	<b>T6 Sub-District (Urban Core)</b>	<b>SD Sub-District (Special District)</b>
<b>Minimum Lot Width (ft.)</b>	16				
<b>Residential Density (DU/AC)</b>	Maximum 20	24 to 32	36 to 55	58 to 100	N/A
<b>Front Setback (ft.)</b>	Maximum 15, or the average of the existing buildings along the same block face	Maximum 15, or the average of the existing buildings along the same block face	Minimum zero (0) Maximum 15, or the average of the existing buildings along the same block face (not to exceed 15)	Minimum zero (0) Maximum 15, or the average of the existing buildings along the same block face (not to exceed 15)	Minimum 25
<b>Minimum Interior Side Setback (ft.)</b>	3, zero (0) if attached	3, zero (0) if attached	Zero (0)	Zero (0)	25
<b>Minimum Rear and/or Alley Setback (ft.)</b>	5, zero (0) if attached	5, zero (0) if attached	Zero (0)	Zero (0)	10

<b>TABLE 40.2-207: DOWNTOWN SUB-DISTRICTS DIMENSIONAL STANDARDS</b>					
	<b>ZONING DISTRICT</b>				
	<b>T3 Sub-District (Urban Residential)</b>	<b>T4 Sub-District (General Urban)</b>	<b>T5 Sub-District (Urban Center)</b>	<b>T6 Sub-District (Urban Core)</b>	<b>SD Sub-District (Special District)</b>
<b>Street Side Setback (ft.)</b>	Minimum 7 Maximum 12 or the average of the existing buildings along the same block face	Minimum 7 Maximum 12 or the average of the existing buildings along the same block face	Minimum 7 Maximum 12 or the average of the existing buildings along the same block face	Minimum 7 Maximum 12 or the average of the existing buildings along the same block face	Minimum 20
<b>Building Height (ft.)</b>	Minimum 20 Maximum 50	Minimum 20 Maximum 50	Minimum 20 Maximum 100	Minimum 40 No building height maximum	Minimum 20 Maximum 75
<b>Open Space Set-Aside</b>	At least 20% of the total lot area	At least 20% of the total lot area	At least 15% of the total lot area	At least 10% of the total lot area	N/A

**(D) Fenestration Standards**

**(1) Street-level**

**(a) Nondwelling Uses**

For nondwelling uses, a minimum of 50 percent of the building façade between two (2) and eight (8) feet in height along the street frontage shall be comprised of windows and/or doors.

**(b) Dwelling Uses**

For dwelling uses, windows shall comprise a minimum of 30 percent of the building façade between two (2) and eight (8) feet in height along the street frontage, relative to the finished floor elevation.

**(E) Site Access and Screening**

- (1) Curb cuts or driveways shall be located at least 75 feet away from any block corner or another garage entry on the same block face unless modified by the City Engineer.
- (2) Ground-level mechanical and electrical equipment including, but not limited to, air compressors, hoods, mechanical pumps, exterior water heaters, water softeners, utility and telephone transformers, meters or boxes, garbage cans, storage tanks and similar elements may not be stored or located within any right-of-way and shall be screened from all offsite views, including the Seawall.
- (3) Roof mounted equipment shall be screened from all offsite views from the public right-of-way, including the Seawall.

**(F) Signs**

See [Sec. 40.2-307](#) Signage for sign restrictions in the D1 district.

**(G) Exterior Lighting**

See [Sec. 40.2-306](#) Exterior Lighting for lighting restrictions in the D1 district.

**Sec. 40.2-208 – Overlay Zoning Districts**

**(A) General**

**(1) Purpose**

Overlay zoning districts are superimposed over portions of one or more underlying zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address special area-specific conditions, features, or plans while maintaining the character and purposes of the underlying zoning district.

**(2) Establishment of Overlay Zoning Districts**

[Table 40.2-208](#), Overlay Zoning Districts Established, sets out the overlay zoning districts established by this Ordinance. Except where specifically provided, Variances from the overlay zoning district standards shall not be granted.

<b>TABLE 40.2-208: OVERLAY ZONING DISTRICTS ESTABLISHED</b>	
<b>DISTRICT ABBREVIATION</b>	<b>DISTRICT NAME</b>
MP	Master-Planned Overlay
DD	Downtown Design Overlay
D2I	D2 Innovation Overlay

E	Entertainment Overlay
CBPA	Chesapeake Bay Preservation Area Overlay
FP	Floodplain Overlay

**(3) Classification of Overlay Zoning Districts**

Land shall be classified or reclassified into an overlay district only in accordance with the procedures and requirements set forth in [Sec. 40.2-532](#) Zoning Text and Zoning Map Amendments.

**(4) Relationship to Other Zoning Districts**

- (a) Regulations governing development in an overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise in these regulations.
- (b) If the standards governing an overlay district expressly conflict with those governing a base zoning district, the standards governing the overlay district shall control, unless expressly stated otherwise in the overlay district regulations.
- (c) Where land is classified into multiple overlay districts and the standards governing one overlay district expressly conflict with those governing another overlay district, the more restrictive standard shall apply.

**(B) Master-Planned (MP) Overlay District**

**(1) Purpose**

- (a) The Master-Planned (MP) Overlay district is intended to provide an opportunity for the establishment of new development that departs from the range of dimensional and development standards typically applied to development in the city, subject to an approved master plan.
- (b) The minimum quality of development in the MP overlay district is anticipated to exceed the level that would otherwise result from the strict application of the typical range of dimensional and development standards.

**(2) Applicability**

The MP overlay district is available for application to lands of two (2) acres in size or greater.

**(3) Procedure**

The MP overlay district is established in accordance with the procedure and requirements for an amendment to the Zoning Map in accordance with [Sec. 40.2-532](#) Zoning Text and Zoning Map Amendments, and the standards in this section.

#### **(4) Standards**

Before approving a MP overlay zoning district classification, the City Council shall find that the application for the MP overlay zoning district classification, as well as the master plan and the terms and conditions included as part of the application, comply with the following standards:

##### **(a) MP Master Plan**

The MP Overlay Master Plan shall:

- (i)** Include a statement of planning objectives for the district;
- (ii)** Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;
- (iii)** Identify for the entire MP overlay district and each development area the acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity;
- (iv)** Identify the general location, amount, and type (whether designated for active or passive recreation) of open space set-asides;
- (v)** Identify the location of environmentally sensitive lands, wildlife habitat, and stream corridors;
- (vi)** Identify the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit corridors, and pedestrian and bicycle pathways, and how they will connect with existing and planned city systems;
- (vii)** Identify the general location of on-site potable water and wastewater facilities, and how they will connect to city systems;
- (viii)** Identify the general location of on-site stormwater management facilities, and how they will connect to city systems; and
- (ix)** Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, and facilities for fire protection, police protection, EMS, stormwater management, and solid waste management.

##### **(b) Terms and Conditions Statement**

The terms and conditions statement shall incorporate by reference or include, but not be limited to:

- (i) Conditions related to approval of the application for the MP overlay zoning district classification;
- (ii) The MP overlay master plan, including any density/intensity standards, dimensional standards, and development standards established in the MP overlay master plan;
- (iii) Conditions related to the approval of the MP overlay master plan, including any conditions related to the form and design of development shown in the MP overlay master plan;
- (iv) Provisions addressing how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;
- (v) Provisions related to environmental protection and monitoring; and
- (vi) Any other provisions the City Council determines are relevant and necessary to the development of the MP overlay in accordance with applicable standards and regulations.

**(c) Consistency with City Plans**

The MP overlay zoning district designation, the MP overlay master plan, and the terms and conditions statement shall be consistent with the comprehensive plan and any applicable small area plans adopted by the city.

**(d) Development Phasing Plan**

If development in the MP overlay district is proposed to be phased, the MP overlay master plan shall include a development phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private) and open space set-asides will be provided and timed, and how development will be coordinated with the city's capital improvements program.

**(e) Conversion Schedule**

- (i) The MP overlay master plan may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use and one type of nonresidential use may be converted to another type of nonresidential use (i.e., residential to residential, or nonresidential to nonresidential).
- (ii) These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with the conversion schedule.

**(f) On-Site Public Facilities**

- (i) **Design and Construction**

The MP overlay master plan shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable city, state, and federal regulations.

**(ii) Dedication**

The MP overlay master plan shall establish the responsibility of the developer/landowner to dedicate to the public the rights-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable city, state, and federal regulations.

**(iii) Modifications to Street Standards**

In approving a MP overlay master plan, the City Council may approve modifications or reductions of city street design standards—including those for right-of-way widths, pavement widths, required materials, and turning radii—on finding that:

- a. The MP overlay master plan provides for separation of vehicular, pedestrian, and bicycle traffic;
- b. Access for emergency service vehicles is not substantially impaired;
- c. Adequate off-street parking is provided for the uses proposed; and
- d. Adequate space for public utilities is provided within the street right-of-way.

**(g) Allowable Uses**

- (i) The range of allowable uses within a MP overlay district shall be the same range of uses allowed within the underlying base district as identified in [Table 40.2-216](#) Use Table.
- (ii) All applicable use-specific standards shall continue to apply within the MP overlay district.

**(h) Densities/Intensities**

The densities for residential development and the intensities for nonresidential development applicable in each development area of a MP overlay district shall be as established in the MP overlay master plan, and shall be consistent with city plans.

**(i) Dimensional Standards**

The dimensional standards applicable in each development area of a MP overlay district shall be as established in the MP overlay master plan. The MP overlay Master Plan shall include at least the following types of dimensional standards:

- (i) Minimum lot area;
- (ii) Minimum lot width;

- (iii) Minimum and maximum setbacks;
- (iv) Maximum lot coverage;
- (v) Maximum building height;
- (vi) Maximum individual building size;
- (vii) Floor area ratio; and
- (viii) Minimum setbacks from adjoining residential development or residential zoning districts.

**(j) Development Standards**

All development in a MP overlay district shall comply with the development standards of in [Article III Community Design](#), or any modifications of those standards shall be established in the MP overlay master plan, and shall be consistent with the comprehensive plan and the intent of MP overlay district.

**(k) Amendments to an Approved MP Overlay Master Plan**

**(i) General**

If an applicant determines it is necessary to alter the concept or intent of the master plan or terms and conditions, the master plan or terms and conditions shall be amended, extended, or modified only in accordance with the procedures and standards for its original approval.

**(ii) Amendments Defined**

The following items are considered an alteration of the concept or intent of the master plan and are treated as an amendment:

- a. Changes in use designations;
- b. Density/intensity increases;
- c. Decreases in open space set-asides;
- d. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
- e. Change in the location of any non-utility public easement;
- f. Change in the proportion of housing types by more than 10 percent;
- g. Substantial changes to the design or materials of structures; or
- h. Violation of any specific condition of the master plan or terms and conditions.

**(l) Minor Deviations**

**(i) General**

- a. Subsequent plans and permits for development within an approved MP overlay district may include minor deviations from the master plan or terms and conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved district or any of its requirements.
- b. Changes that materially affect the basic concept of the master plan or basic parameters set by the terms and conditions are not considered minor deviations, and shall only be changed as amendments to the MP overlay district.

**(ii) Minor Deviations Defined**

The following shall constitute minor deviations:

- a. Driveway locations;
- b. Structure floor plan revisions;
- c. Minor shifts in building size or location; and
- d. Facility design modifications for amenities and the like.

**(C) Downtown Design (DD) Overlay District**

**(1) Purpose**

- (a) The purpose of the Downtown Design Overlay District is to support and enhance the downtown character for the designated area as identified on the Zoning Map.
- (b) District standards, in addition to those of the base sub-districts, support pedestrian oriented land uses as well as auto dependent land uses in designated locations.

**(2) Applicability**

- (a) The standards and requirements included in this overlay district apply to all development in the DD Overlay District as identified.
- (b) Street corridor specific standards shall apply to those street corridors as specifically identified.

**(3) Standards**

- (a) The standards outlined in the Downtown Design Manual apply in the DD Overlay District.
- (b) New development, rehabilitation, or redevelopment within the DD Overlay District requires approval of a Certificate of Appropriateness (in addition to any other required permits) from the Downtown Design Committee (DDC) in accordance with the procedures and requirements in [Sec. 40.2-536](#) Certificates of Appropriateness (COA).

## **(D) D2 Innovation (D2I) Overlay District**

### **(1) Purpose**

- (a)** The purpose of the D2 Innovation Overlay District is to support activity that stimulates innovation while offering value to entities that drive the economy and enhances the existing mixed-use character of the designated area as identified on the Zoning Map.
- (b)** District standards, in addition to those of the base districts, support knowledge exchange, inclusive technology-driven services, and creative incubators with pedestrian oriented land uses as well as auto dependent land uses in designated locations.

### **(2) Applicability**

- (a)** The standards and requirements included in this overlay district apply to all development in the D2I Overlay District as identified.
- (b)** Street corridor specific standards shall apply to those street corridors as specifically identified.

### **(3) Sub-Districts Established**

The D2 Innovation Overlay District shall be comprised of a series of sub-districts, each with unique development and design standards.

- (a)** London Boulevard Corridor
- (b)** High Street Corridor
- (c)** County Street Corridor

### **(4) Procedure**

New development or redevelopment, signs, façade changes, and lighting visible from a public right-of-way within the D2I district shall be reviewed in accordance with the applicable development review procedure.

### **(5) General Standards**

The following standards apply in the D2I:

- (a)** A building on a lot abutting London Boulevard, High Street or County Street shall have the principal entrance to the building facing these streets unless the lot is a corner lot with a previously established frontage on a different public street.
- (b)** On London Boulevard, building or buildings may be perpendicular to London Boulevard with principal façades and entrances facing the parking lot with parking located in the front of the building.
- (c)** As an alternative to the standards in [Sec. 40.2-218](#), the building setback along London Boulevard may be the average of other buildings along the same block.

- (d) Buildings on High Street may reduce the front setback to zero (0) if abutting a sidewalk of at least eight (8) feet in width. As an alternative, the building front setback along High Street may be the average of other building setbacks along the same block.
- (e) Buildings on County Street may reduce the front setback to 10 feet. As an alternative, the building setback along County Street may be the average of other building setbacks along the same block.
- (f) Buildings on Effingham Street may reduce the front setback to five (5) feet.
- (g) Developments in the D2I Overlay District may apply for a Special Exception in accordance with [Sec. 40.2-535](#) if complying with the parking requirements in [Sec. 40.2-301](#) is not feasible.

#### **(6) Prohibited Uses**

The following uses are prohibited with the exception of developments facing London Boulevard or Effingham Street:

- (a) Development with drive-through facilities;
- (b) Convenience stores with gasoline pumps; and
- (c) Gasoline sales.

#### **(7) Residential Densities**

- (a) Residential densities for residential development other than single-family detached shall be allowed up to 24 units per acre in the NMU district.
- (b) Residential densities for residential development other than single-family detached shall be allowed up to 36 units per acre in the GMU district.

### **(E) Entertainment (E) Overlay District**

#### **(1) Definitions**

For the purposes of this section, the following words and terms shall have the following respective meanings, except where the context clearly indicates a different meaning:

- (a) **"Board"** means the Virginia Lottery Board established by Ch. 41 of the Code of Virginia.
- (b) **"Casino gaming"** or **"game"** means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Ch. 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino gaming.
- (c) **"Casino gaming establishment"** has the meaning set forth in [Sec. 40.2-213](#).
- (d) **"Casino gaming operator"** means any person issued a license by the Board to operate a casino gaming establishment.

- (e) "**Department**" means the independent agency responsible for the administration of the Virginia Lottery created in Ch. 41 of the Code of Virginia.
- (f) "**Director**" means the Director of the Virginia Lottery.
- (g) "**Gaming operation**" means the conduct of authorized casino gaming within a casino gaming establishment.
- (h) "**On-premises mobile casino gaming**" means casino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment, as authorized by regulations promulgated by the Board.
- (i) "**Lottery**" or "state lottery" means the lottery or lotteries established and operated pursuant to Ch. 41 of the Code of Virginia.
- (j) "**Sports betting**" means placing wagers on sporting events as such activity is regulated by the Board. "Sports betting" includes placing bets in-person and online sports betting on events as authorized by the Board.
- (k) "**Supplier**" means any person that sells or leases, or contracts to sell or lease, any casino gaming equipment, devices, or supplies, or provides any management services, to a licensee.
- (l) "**Ticket courier service**" means a service operated for the purpose of purchasing Lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit delivery service.
- (m) "**Voluntary exclusion program**" means a program established by the Board that allows individuals to voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the Board by placing their name on a voluntary exclusion list and following the procedures set forth by the Board.

## (2) Purpose

- (a) An entertainment overlay district is intended to establish standards and conditions for the development and operation of an entertainment establishment and/or casino gaming establishment including accessory uses while protecting the public health, safety, and general welfare by insuring they are compatible with existing and anticipated land uses (Code of Virginia § 58.1-4101).
- (b) Because of the special characteristics of an entertainment overlay district, in particular casino gaming establishments, development in this district will require flexibility to accommodate their unique needs, especially in terms of signage and exterior lighting that would not typically be permitted in other areas of the City.

## (3) Applicability

- (a) An entertainment overlay district is an overlay district that is superimposed over the High Intensity Mixed-Use (MU-H) zoning district with the intent of supplementing generally applicable development regulations with additional development regulations that address special area- and use-specific conditions, features, or plans while maintaining the character and purposes of the underlying base MU-H zoning district.
- (b) The standards and requirements included in this overlay district apply to all development in an entertainment overlay district as identified.

**(4) Procedure**

- (a) An entertainment overlay district is established in accordance with the procedures and requirements for an amendment to the Zoning Map in accordance with Sec. 40.2-532 Zoning Map Amendment (Rezoning) or Text Amendment, and the standards in this section.
- (b) The following are requirements for an application to establish an entertainment overlay district.

**(i) Overlay District Conceptual Master Plan**

Development within an entertainment overlay district shall conform to the requirements of the City Council approved master plan. An entertainment overlay district master plan shall include:

- a. Statement of planning objectives for the district;
- b. District boundaries;
- c. Location and square footage of individual development areas, identified by land use(s) and/or development density or intensity;
- d. Conceptual architectural elevations of proposed entertainment establishment and/or casino gaming establishment footprints, setbacks, proposed heights, and lot coverage;
- e. Architectural form, materials, and other guidelines for proposed buildings;
- f. Parking and loading locations and quantity;
- g. Pedestrian and vehicular circulation systems;
- h. General location of all other on-site public facilities serving the development;
- i. Location, amount, and type of open space set-asides;
- j. Conceptual landscaping plan, including landscaping, street trees, appropriate buffers, and screening;

- k. Conceptual signage plan including signage descriptions, sizes, locations, and examples;
- l. Conceptual exterior lighting plan;
- m. Traffic impact analysis (TIA) prepared in accordance with [Sec. 40.1-5.122-545](#) Traffic Impact Analysis and with Code of Virginia § 15.2-2222, if required;
- n. Development phasing plan in accordance with Sec. [40.2-208\(E\)\(5\)](#);
- o. Comprehensive list and justification of any proposed modifications to the applicable development and dimensional standards of the Zoning Ordinance.

#### **(5) Development Phasing Plan**

If development in an entertainment overlay district is proposed to be phased, the entertainment overlay master plan shall include a development phasing plan with specified anticipated uses and timeframes that identifies the general sequence or phases in which the district is proposed to be developed, including:

- (a) Timing, process, and procedure of casino gaming establishment, hotel, convention center, entertainment venues, parking, parking structure, residential, and other nonresidential development; and
- (b) Timing, process, and procedure of development of infrastructure (public and private) and open space.

#### **(6) General Standards for all Entertainment Overlay Districts**

##### **(a) Zoning District**

- (i) An entertainment overlay district may only be approved with a base High Intensity Mixed-Use (MU-H) zoning district.
- (ii) Any casino gaming use must be within an entertainment overlay district.

##### **(b) Minimum District Size**

- (i) An entertainment overlay district shall be at least 25 acres in size.
- (ii) After an entertainment overlay district has been established, any additional land added to the district shall be:
  - a. Contiguous, which is defined as adjacent to or directly across any public street from the existing entertainment overlay district. For the purposes of this section, public street shall not include an interstate or similar street-type.
  - b. There is no minimum acreage or size requirement for area added to an existing entertainment overlay district.

- c. Expansion of an existing entertainment overlay district shall follow the same process by which the entertainment overlay district was established.
- d. Any area incorporated into an existing entertainment overlay district shall require an amendment to the adopted master plan.

**(c) Density**

- (i) The maximum density for residential development for the entertainment overlay district shall be 60 units per acre.
- (ii) As part of a Use Permit application outlined in [Sec. 40.2-533](#), the applicant may request a higher maximum density for City Council approval.

**(d) Dimensional Standards**

- (i) The dimensional standards applicable in each development area of the entertainment overlay district shall be as required by the dimensional standards of [Sec. 40.2-203\(D\)](#) Commercial Zoning Districts – High Intensity Mixed-Use (MU-H) District of the Zoning Ordinance, unless specified herein.
- (ii) The maximum building height in an entertainment overlay district shall be 200 feet.
- (iii) As part of a Use Permit application outlined in [Sec. 40.2-533](#), the applicant may request an increase in the maximum building height for City Council approval.
- (iv) As part of a Use Permit application outlined in [Sec. 40.2-533](#), the applicant may request a reduction in building setbacks within the overlay district for City Council approval, except no reduction in setbacks is permitted along the perimeter of the entertainment overlay district.

**(e) Uses**

- (i) Uses within an entertainment overlay district shall be the same as the uses within the MU-H zoning district as identified in [Table 40.2- 216](#), Use Table with the exception of the following prohibited uses:
  - a. Manufactured home
  - b. Rooming or boarding house
  - c. Shelter
  - d. Group home
  - e. Halfway house
  - f. Correctional facility
  - g. Cemetery, columbarium, mausoleum



- iii. Other uses within an entertainment district overlay shall meet the parking requirements in accordance with [Sec. 40.2-301](#) unless modifications are approved pursuant to subsection 40.2-208(E)(6)(f)(iii)(b) below.

**b. Modifications to parking standards are permitted through:**

**i. Alternative Parking Plan**

1. In cases where development conditions require a deviation from the parking standards in [Sec. 40.2-301](#) and/or Sec. 40.2-208(E)(6)(f)(iii), a request for an Alternative Parking Plan in accordance with [Sec. 40.2-301\(F\)](#) and [Sec. 40.2-301\(E\)\(8\)](#) shall be required:
  - a) As part of the entertainment overlay district master plan;
  - b) As part of any development application;
  - c) As part of a Use Permit process outlined in [Sec. 40.2-533](#) with a parking demand study; or
  - d) As a Special Exception from the Board of Zoning Appeals in accordance with [Sec. 40.2-535](#).
2. As part of an Alternative Parking Plan, requests for off-site parking to meet the minimum off-street parking requirement is permitted in accordance with [Sec. 40.2-301\(F\)\(3\)](#), except as provided herein.
3. Requests for off-site parking to meet the minimum off-street parking requirements shall be located no more than 800 feet from the property line of the parcel of which the parking is required.

**(iv) Exterior Lighting**

- a. Development in an entertainment overlay district, in particular casino gaming establishments, will have unique needs for exterior lighting that require flexibility and would not typically be permitted in other areas of the City.
- b. Exterior lighting shall comply with local, state, and federal regulations and shall not interfere with any public roadways including the interstate.
- c. Exterior lighting shall comply with Code of Virginia Ch. 12, Title 33.2.

- d.** All development in an entertainment overlay district shall comply with [Sec. 40.2-306](#) Exterior Lighting, unless modified in accordance with section **e.** below, with the following exceptions:
  - i.** Maximum illumination levels shall be measured at the exterior boundaries of the district and not at any property boundaries within the district.
  - ii.** Upwardly directed lighting may be used to illuminate structures and landscaping in the district.
  - iii.** Awnings or canopies used for building accents over doors, windows, etc., may be internally illuminated (i.e. from underneath or behind the awning).
- e. Modifications to exterior lighting standards are permitted through:**
  - i. Alternative Exterior Lighting Plan**
    - 1.** In cases where development conditions require a deviation from the lighting standards in [Sec. 40.2-306](#), a request for an Alternative Exterior Lighting Plan shall be required:
      - a)** As part of the entertainment overlay district master plan;
      - b)** As part of a Use Permit; or
      - c)** For uses within an entertainment overlay district that do not require a Use Permit, a Use Permit may be applied for to request an Alternative Exterior Lighting Plan.
    - 2.** An application for an alternative exterior lighting plan shall not be requested to increase the maximum illumination levels at the exterior district boundaries.
    - 3.** An application for an Alternative Exterior Lighting Plan shall indicate how compliance with the standards in this Ordinance is impossible or impractical, and shall illustrate how compliance can be achieved to the maximum extent practicable. Alternative plans, materials, or methods may be justified due to:
      - a)** Lot size or configuration;
      - b)** The presence of utility or other easements;
      - c)** The nature of the use or improvement as long as the request(s) does not impact adjacent residential

development outside the district or create a safety hazard;

- d) The potential for interference with public safety; and
- e) Other situations where strict adherence to the lighting standards in this Ordinance are determined to be impractical by the Zoning Administrator.

**(v) Signage**

- a. An entertainment overlay district, in particular casino gaming establishments, will have unique needs for signage, such as pylon signs or roof-mounted signs, that require flexibility and would not typically be permitted in other areas of the City.
- b. All signage shall comply with local, state, and federal regulations and shall not interfere with any public roadways including the interstate.
- c. The signs prohibited in Code of Virginia Sec. 33.2-1216 are prohibited in this overlay.
- d. All development in an entertainment overlay district shall comply with [Sec. 40.2-307](#) Signage, unless modified in accordance with subsection 40.2-208(E)(6)(f)(v)(e). below, with the following exception:
  - (i) Off-premises signs are permitted in the entertainment overlay district.
- e. **Modifications to signage standards are permitted through:**
  - (i) **Alternative Signage Plan**

As part of the entertainment overlay district master plan, an applicant may submit an alternative signage plan to request modification(s) to [Sec. 40.2-307](#).
  - (ii) **Use Permit**
    - 1. As part of a Use Permit process outlined in [Sec. 40.2-533](#), an applicant may request modifications to sign standards and/or to request signs that are prohibited in [Sec. 40.2-307](#).
    - 2. For uses within an entertainment overlay district that do not require a Use Permit, a Use Permit may be applied for to request modifications to sign standards and/or to request signs that are prohibited in [Sec. 40.2-307](#).

**(iii) Special Exception**

As a Special Exception from the Board of Zoning Appeals in accordance with [Sec. 40.2-307\(M\)](#), an applicant may submit an alternative signage plan to request modification(s) to sign standards and/or request signs that are prohibited in [Sec. 40.2-307](#).

**(iv) Alternative Sign Overlay District**

As a Use Permit or as a Special Exception, an application for the establishment of an Alternative Sign Overlay District shall be submitted, reviewed, and decided upon in accordance with [Sec. 40.2-307\(N\)](#).

**(7) Amendments to an Adopted Overlay Master Plan**

**(a) General**

- (i)** If an applicant determines it is necessary to alter the concept or intent of the adopted master plan, the master plan shall be amended, extended, or modified only by approval of City Council following the same procedure with which the overlay was established.
- (ii)** In addition to the processes listed within this section and Ordinance, modification to the density maximum, building height maximum, use-specific standards in [Sec. 40.2-217](#), and the development standards in [Sec. 40.2-301](#) Off-Street Parking, [Sec. 40.2-306](#) Exterior Lighting, and [Sec. 40.2-307](#) Signage are also permitted via amendment to the adopted master plan as provided herein and shall be consistent with the intent of the entertainment overlay district.
- (iii)** Modifications that are approved and referenced in subsection 40.2-208(E)(7)(a)(ii)above will be considered adopted amendments to the adopted entertainment overlay district master plan without requiring a separate amendment.
- (iv)** Amendments approved as described in subsection 40.2-208(E)(7)(a)(ii)above shall only apply to the specific property for which the approval was granted and not for the entire entertainment overlay district.

**(b) Amendments Defined**

The following items are considered an alteration of the concept or intent of the adopted master plan and are treated as an amendment:

- (i)** Any modification to the Development Phasing Plan;
- (ii)** Changes in use designations;

- (iii) Decreases in open space set-asides shown on the adopted master plan greater than 20 percent. This does not include open space set-asides specifically required by individual uses in other sections of the Zoning Ordinance;
- (iv) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
- (v) Change in the proportion of housing types by more than 10 percent;
- (vi) Substantial changes to the design or materials of structures; or
- (vii) Major alteration or modification of any specific condition of the master plan.

**(8) Minor Deviations**

- (a) Subsequent plans and permits for development within an approved entertainment overlay district may include minor deviations from the master plan, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved entertainment overlay district or any of its requirements. The following shall constitute minor deviations:
  - (i) Minor shifts in building size or location;
  - (ii) Modifications of open space set-asides less than 20 percent; and
  - (iii) Facility design modifications for amenities and the like.
- (b) Minor deviations can be approved through an administrative review process by the Zoning Administrator.

**(F) Chesapeake Bay Preservation Area (CBPA) Overlay District**

- (1) The CBPA Overlay District is superimposed over portions of one or more underlying zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address the special-area specific conditions of land in a Chesapeake Bay Preservation Area.
- (2) The provisions establishing and governing the Chesapeake Bay Preservation Area Overlay District are set forth in Ch. 9.1 of the City Code.
- (3) The requirements set forth in Ch. 9.1 of the City Code shall control over any conflicting requirements in this ordinance.

**(G) Floodplain (FP) Overlay District**

- (1) The FP Overlay District is superimposed over portions of one or more underlying zoning districts with the intent of supplementing generally applicable development regulations

with additional development regulations that address the special area-specific conditions of land in the floodplain.

- (2) The provisions establishing and governing the Floodplain Overlay District are set forth in Ch. 14.1 of the City Code.
- (3) The requirements set forth in Ch. 14.1 of the City Code shall control over any conflicting requirements in this ordinance.
- (4) The various special flood hazard districts shall include the special flood hazard areas (SFHAs).
- (5) The boundaries of the SFHA districts are established as shown on the Flood Insurance Rate Map (FIRM), which is declared to be a part of this Ordinance.
- (6) The basis for the delineation of these districts shall be the flood insurance study (FIS), and flood insurance rate map (FIRM) prepared for the City of Portsmouth by the Federal Emergency Management Agency, Federal Insurance Administration, dated August 3, 2015, and any subsequent revisions or amendments thereto.

#### **(H) Reserved for Future Use**

### **Sec. 40.2-209 – Uses**

#### **(A) Use Table Structure**

- (1) [Table 40.2-216](#), Use Table, lists land uses and indicates whether they are:
  - (a) Permitted by right within a given district (designated by a “P” for permitted).
  - (b) Require a Use Permit within a given district (designated by a “U” for Use Permit).
  - (c) Require a Special Exception within a given district (designated by an “S” for Special Exception).
  - (d) Prohibited in a given zoning district (designated by a blank).
  - (e) The use table also includes references to additional requirements or regulations applicable to the specific use.
  - (f) The use table organizes uses under the following categories:
    - (i) Residential
    - (ii) Public and Institutional
    - (iii) Commercial
    - (iv) Industrial
  - (g) These categories are further broken down into subcategories based on similar types of uses.

#### **(A) Interpretation of Unlisted Uses**

The Zoning Administrator shall interpret an unlisted land use as permitted in a particular zoning district only after determining that the nature, function, and duration of the use and the impact of allowing it in the zoning district are so similar to those of a use allowable in the zoning district that the unlisted land use should be deemed allowable in the same manner as the similar use.

**Sec. 40.2-210 – Rules for Definitions of Uses**

- (A) A more descriptive or specific definition of a use shall apply over a more general definition.
- (B) Examples of typical uses, when included in use definitions, are intended to be illustrative, as opposed to exclusive lists.
- (C) The Zoning Administrator has the authority to determine the applicable use definition under this ordinance for any existing or proposed use or activity.

**Sec. 40.2-211 – Residential Uses**

**Household Living**

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 is not attached to any other dwelling by any means.

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 or side-by-side. The exterior appearance of the whole resembles a single structure.

DWELLING, THREE-TO-FOUR FAMILY

A building containing three or four individual dwelling units located on one lot.

DWELLING, TOWNHOUSE

A building in which two or more dwelling units are each located on individual lots, but attached by one or more common party walls which are shared by one or more units and arranged side by side.

DWELLING, MULTI-FAMILY

A dwelling or group of dwellings on one lot containing five or more individual dwelling units. Included in the use type are garden apartments, low and high-rise apartments, apartments for elderly housing and condominiums.

DWELLING, UPPER FLOOR

Dwelling units located on the second floor or higher of a building with nonresidential uses located on the ground or street level.

#### DWELLING, GROUND FLOOR

Dwelling units located on the ground floor of a building with nonresidential uses located on the upper floor(s).

#### MANUFACTURED HOME

A structure that complies with Code of Virginia § 8.9A-102(53).

#### BOARDING HOUSE

Any dwelling or portion thereof for providing lodging, either with meals (boarding house) or without meals (rooming house), to not more than two (2) guests, where rent is paid to the owner or proprietor.

#### **Group Living**

#### EMERGENCY SHELTER

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

#### FAMILY CARE HOME

A dwelling, for which the Virginia Department of Social Services, Division of Licensing Programs is the licensing authority, in which no more than eight aged, infirm, or disabled persons reside, with support and supervisory personnel that provides room and board, personal care, and habilitation services. Family Care Homes shall be considered as residential occupancy of a single family (Code of Virginia § 15.2-2291). Facilities with more than eight (8) residents shall constitute an [assisted living facility](#).

#### GROUP HOME

A dwelling, for which the Department of Behavioral Health and Developmental Services is the licensing authority, in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons that provides room and board, personal care, and habilitation services. For purposes of this definition, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia § 54.1-3401. Group Homes shall be considered as residential occupancy of a single family (Code of Virginia § 15.2-2291). Facilities with more than eight (8) residents shall constitute an [assisted living facility](#).

#### HALFWAY HOUSE

A dwelling providing accommodations, supervision, rehabilitation, counseling, and other guidance services to adult persons re-entering society after being released from a correctional facility or other institution, or to persons directed to such living arrangement by the criminal justice system.

#### HOMELESS SHELTER

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

**SINGLE ROOM OCCUPANCY**

A housing type consisting of one room, often with cooking facilities and with private or shared bathroom facilities.

**Sec. 40.2-212 – Public and Institutional Uses**

**Community Services**

**COMMUNITY CENTER**

A publicly or privately owned structure to be used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages nor meals are normally dispensed or consumed.

**SENIOR CENTER**

A facility that provides entertainment, recreation, crafts, tutorials, and/or other quality of life enhancements for seniors.

**YOUTH CLUB FACILITY**

A boys' club, a girls' club, or any other non-profit facility that is not a school but which provides entertainment, recreation, crafts, tutorials, and/or other quality of life enhancements for minors.

**Conference and Training**

**AUDITORIUM**

A building or structure designed or intended for use for the gathering of people as an audience to hear music, lectures, plays, and other presentations.

**CONVENTION CENTER**

A facility designed to accommodate 501 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.

**Day Care**

**ADULT DAY CARE CENTER**

Any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two of (2) or more places, establishments or institutions owned, operated or controlled by a single entity and

providing such supplementary care and protection to a combined total of four (4) or more aged, infirm or disabled adults. (Code of Virginia § 63.2-100)

#### CHILD DAY CENTER

Any facility operated for the purpose of providing care, protection and guidance to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children or adults at any location. This term includes nursery schools, preschools, day care centers, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour period. Also excluded are child or adult day care offered as an accessory use to a retail or institutional use for patrons on a short-term basis (a few hours) (Code of Virginia § 63.2-100).

#### FAMILY DAY HOME

A licensed child day program offered in the residence of the provider or the home of any of the children in care for five through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. However, no family day home shall care for more than four (4) children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered or all the children in care are related to the provider by blood or marriage. The care of four (4) or fewer individuals in the caregiver's residence for portions of a day shall be considered Child Sitting and treated as a Home Occupation. No restrictions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on a Family Day Home (Code of Virginia § 22.1-289.02, 15.2-2292).

#### **Educational Facilities**

##### BUSINESS OR TRADE SCHOOL

A public or private school providing education or training in business, commerce, language, vocational or trade instruction or other similar activity or occupational pursuit. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, and other facilities that further the educational mission of the institution.

##### 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. Trade or vocational schools are a different use type.

##### 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 schools of the Commonwealth of Virginia.

**Government Facilities**

**CULTURAL FACILITY**

An establishment for the preservation of art, scientific, cultural, or historic materials, music, or live theatrical or musical productions such as a libraries, museums, zoological garden, conservatory, planetarium, or other similar use of an historic, educational, or cultural interest, which is not operated for profit.

**GOVERNMENT FACILITY**

A facility of any governmental agency, that provides services to the public.

**Health Care Facilities**

**ASSISTED LIVING FACILITY**

A facility in which more than eight frail or elderly persons, or persons requiring regular medical attention or persons with mental illness or intellectual or developmental disabilities, reside that provides 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. The term assisted living facility does not include a facility providing surgical or emergency medical services or a facility providing care for alcoholism or drug addiction. A facility in which fewer than eight (8) persons as described above reside shall be considered a family care home or group home defined above as a Group Living use.

**DRUG AND ALCOHOL TREATMENT FACILITY**

An inpatient facility which provides care for persons with drug and/or alcohol dependency problems, and which may include outpatient follow-up care for the facility's patients.

**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.

**HOSPITAL**

An institution where sick or injured persons are given medical care and, in the course of same, are housed overnight, fed, and provided nursing and related services. This use shall including ancillary facilities for outpatient and emergency treatment diagnostic services, training, research, administration, and services to patients, employees, or visitors. Specifically excluded from this use shall be drug rehabilitation facilities, halfway houses, convalescent or nursing homes, institutions for mentally ill individuals, or other similar facilities.

**MEDICAL OR DENTAL CLINIC/OFFICE**

An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one or more persons practicing any form of the healing arts, whether such persons be medical doctors, dentists, chiropractors, osteopaths, chiropractists, naturopaths, optometrists, or any such profession, the practice of which is regulated by the state. The term “clinic” includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

#### MEDICAL TREATMENT FACILITY

Any other medical facility not otherwise included as a Hospital or Medical or Dental Clinic/Office as defined by this Ordinance, which 1) contains office space for diagnostic or outpatient care along with associated medical facilities such as pharmacy, laboratory, physical therapy facility, or other similar facility, but does not provide inpatient hospitalization, 2) holds a Certificate of Public Need authorization from the Virginia Department of Health, 3) is licensed by or registered with the Virginia Department of Health, 4) is operated for the performance of surgical or other procedures where the patient is not capable of self-preservation during the procedure or recovery, or 5) is held out to the public as providing a level of service beyond that of a physician’s or dentist’s office. For the purposes of this Ordinance, this use shall include blood and tissue collection facilities.

#### PSYCHIATRIC TREATMENT FACILITY

An inpatient facility which provides care for persons with psychiatric problems and which may include outpatient follow-up care to the facility's patients.

#### **Institutions**

##### CIVIC, SOCIAL, OR FRATERNAL CLUBS OR LODGES

A structure and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.

##### CORRECTIONAL FACILITY

Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. Such uses may include cafeterias, housing for facility staff, outdoor storage and maintenance areas, recreational areas, agricultural facilities, and facilities for the production of goods or materials produced for sale.

##### RELIGIOUS INSTITUTION

A structure or place in which worship, ceremonies, rituals, and education are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Religious institutions include churches, mosques, synagogues, and temples. Accessory uses may include school facilities, parking, caretaker's housing, pastor's housing, and group living facilities such as convents.

### **Parks and Open Space**

#### CEMETERY, COLUMBARIUM, MAUSOLEUM

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. This use shall include Mausoleums, columbaria, chapels, administrative offices, maintenance and storage areas, and other improvements customary and incidental to the use. The sprinkling of ashes or their burial in a biodegradable container on the grounds of a religious institution or their placement in a columbarium on religious institution property shall not constitute the creation of a cemetery.

#### COMMUNITY GARDEN (PRINCIPAL USE)

The use of a private or public property for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person.

#### PARK, PUBLIC AND PRIVATE

Land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty.

### **Transportation**

#### HELICOPTER LANDING FACILITY

An area, either on ground level or elevated on a structure, licensed or approved for the repetitive landing and takeoff of helicopters and which may include auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

#### PASSENGER TERMINAL, SURFACE TRANSPORTATION

A facility that receives and discharges passengers and at which facilities and equipment required for their operation are provided. Examples include terminals for bus, ferry, trolley, taxi, railroad, shuttle van, or other similar vehicular services.

#### TAXICAB SERVICE

A business offering transportation in passenger vehicles and vans for compensation in compliance with Title 46.2 Ch. 20 of the Code of Virginia.

### **Utilities**

#### BROADCASTING OR COMMUNICATION TOWER

Any facility for the transmission and/or reception of radio, television, radar, 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 antennae. Excluded are amateur radio/television towers, which are described separately. Also excluded are wireless communication antennae or other facilities that fit the definition of Utility services, minor.

#### TELECOMMUNICATIONS TOWER, FREESTANDING

A structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. City-owned towers and towers used for emergency purposes are exempt from this ordinance.

#### UTILITY, MAJOR

Utility services of a regional nature that normally entail the construction of new buildings or structures such as generating plants and sources, electrical switching facilities, and stations or substations, community waste water treatment plants, and similar facilities not otherwise identified separately. Included in this definition are also electric, gas, and other utility transmission lines of a regional nature that are not otherwise reviewed and approved by the state.

#### UTILITY, MINOR

Services that are necessary to support development within the immediate vicinity and that 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 are wireless communication antennas (including 5G) attached to an existing building or structure, including but not limited to utility poles, signs, broadcasting or communication facilities, and water towers, and that do not increase the height of such building or structure by more than 10 feet.

### **Sec. 40.2-213 – Commercial Uses**

#### **Adult Uses**

##### ADULT ENTERTAINMENT ESTABLISHMENT

Any adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomy, but not including those uses or activities which are illegal or the regulation of which is preempted by state law.

##### ADULT RETAIL STORE

An establishment in which 25 percent or more of the gross public floor area is devoted to, or 25 percent or more of the stock-in-trade consists of, the following: books, magazines and other periodicals, movies, videotapes, compact discs, DVDs, novelty items, games, greeting cards, and/or other similar materials which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to sexual activities or sexual anatomy.

#### **Animal Care**

##### ANIMAL GROOMING

A facility maintained for the grooming of animals that does not board animals on site.

##### ANIMAL SHELTER

A facility that is owned, operated, or maintained by a public body, an established humane society, or other similar private organization that is used to house and care for stray, homeless, abandoned, or neglected animals.

#### DOMESTIC ANIMAL BREEDING

Any kennel lawfully located on a premises where no more than 10 dogs over the age of six months registered with a nationally recognized registration organization are owned, kept, or harbored for the purpose of breeding purebred, or pedigreed dogs. This definition does not apply to zoos or to veterinary clinics operated by veterinarians duly licensed under the law.

#### KENNEL, INDOOR

Any facility where more than five pet animals over the age of six months and owned by individuals not involved in the operation of the facility are temporarily boarded entirely indoors for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to a veterinary clinic operated by veterinarians duly licensed under the law.

#### KENNEL, OUTDOOR

A facility where more than five pet animals over the age of six months and owned by individuals not involved in the operation of the facility are temporarily boarded indoors and outdoors for pay, trade, barter, commission, or remuneration of any sort.

#### VETERINARY CLINIC

A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities shall be entirely indoors unless also authorized and approved as an outdoor kennel.

### **Eating & Drinking Establishments**

#### BREWERY/DISTILLERY

The use of land, licensed by the Commonwealth of Virginia, where beer or spirits are manufactured for sale. Breweries have a capacity less than 15,000 barrels a year and distilleries have a capacity less than 36,000 gallons a year. Permitted accessory uses include retail sales, tasting rooms for beverages produced on-site, restaurants, reception halls, and live entertainment (Code of Virginia § 15.2-2288.3:1, 3:2).

#### MICRO-BREWERY/DISTILLERY

An establishment primarily engaged in brewing ale, beer, wine, cider, malt liquors, and nonalcoholic beer, with a capacity of not more than 1,000 barrels per year OR distilling and blending potable liquors, including mixing them with other ingredients, with a capacity of not more than 5,000 gallons of finished product per year. A micro-brewery/distillery may include a restaurant or public tasting room as an accessory use (Code of Virginia § 15.2-2288.3:1, 3:2).

#### RESTAURANT

An establishment in which food or beverages are dispensed for compensation, including, among other establishments, cafeterias, cafes, tearooms, confectionery shops, refreshment stands, hookah and cigar bars, drive-through facilities, and drive-ins. Solo/duo live entertainment and outdoor dining are permitted by right.

#### CATERING SERVICE

This use shall include catering where food and/or beverages are prepared on the premises and delivered to another location for consumption. Catering service uses may include a commissary for a food truck.

#### WINERY/CIDERY

A facility licensed in accordance with Code of Virginia § 4.1-207 and regulations of the Board of Alcoholic Beverage Control to manufacture wine or cider and to sell, and deliver or ship, such wine or cider in closed containers for the purpose of resale outside the state or by persons licensed by the state to sell the wine or cider at wholesale. The use may include the licensed operation of distilling equipment on the premises to manufacture spirits from fruit or fruit juices only, where used solely to fortify wine or cider produced by the winery/cidery.

### **Offices**

#### OFFICE, GENERAL

A room, or group of rooms used for conducting the affairs of a general business establishment, financial services, banks and other financial services, sales, data centers, call centers, or similar services. Examples of business services office uses including offices for retail and wholesale establishments where most of the merchandise is transferred to the customer off-site.

#### OFFICE, PROFESSIONAL SERVICES

A room or group of rooms used for conducting the affairs of a business, profession, or service industry. Examples of professional services offices include offices for lawyers, accountants, engineers, architects, doctors, dentists, real estate brokers and agents, and similar professions.

### **Parking**

#### PARK AND RIDE FACILITY

A short-term parking facility.

#### PARKING FACILITY

A site for surface parking or a parking structure that provides parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features. This use type shall not include parking facilities accessory to permitted principal uses. The term parking facility does not include City-owned parking lots and garages, which are considered government facilities under this Ordinance.

### **Recreation/Entertainment, Indoor**

#### CASINO GAMING ESTABLISHMENT

The premises upon which lawful casino gaming is authorized and licensed as provided in Ch. 41 of the Code of Virginia (§ 58.1-4100 et seq.). Casino gaming establishment does not include a riverboat or similar vessel.

#### COMMERCIAL INDOOR AMUSEMENT

An establishment that provides 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 SPORTS, RECREATION, AND ENTERTAINMENT

An establishment with participant or spectator entertainment uses conducted within an enclosed building. Typical uses include motion picture theatres, bowling alleys, ice and roller-skating rinks, indoor racquetball, swimming, and/or tennis facilities.

#### ENTERTAINMENT ESTABLISHMENT

Uses that offer some form of entertainment such as dancing, comedy performances, or presenting music that involves human interaction (to include music presented by a disc jockey, karaoke, and live music) for patrons and which possess or apply for an ABC license to serve alcohol. This use excludes adult entertainment establishments. Also excluded are locations with single event ABC licenses. Entertainment establishments can be indoor or outdoor.

#### SHOOTING RANGE, INDOOR

The use of a building for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

#### RECREATION FACILITY, PRIVATE

A 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/Entertainment, Outdoor**

#### COMMERCIAL OUTDOOR SPORTS, RECREATION, AND ENTERTAINMENT

An establishment with participant or spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, sports arenas, outdoor amusement parks, motor vehicle and animal racing facilities, driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, paintball facilities, and motorized model-airplane flying facilities.

#### GOLF COURSE

A tract of land for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.

#### SWIMMING POOL

A man-made structure, whether above or below grade level, designed or used to hold water more than two (2) feet deep to be used for recreational purposes.

### **Retail Sales and Services**

#### BUSINESS SUPPORT SERVICE

An establishment or place of business primarily 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.

#### CONSTRUCTION MATERIALS SALES

An establishment or place of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding vehicle or equipment supplies otherwise classified herein. Typical uses include building material stores, lumberyards, and home supply establishments.

#### CONSUMER REPAIR SERVICE

An establishment or place of business primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding vehicle and equipment repair use types otherwise classified herein. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

#### CONVENIENCE STORE WITH GASOLINE SALES

A retail establishment that offers for sale a limited variety of groceries, household goods, and personal care items, and may offer for sale a limited variety of prepared “fast food”, and that has fuel pumps and underground storage tanks and provides fuels and oil for motor vehicles.

#### CREMATORY

A facility containing furnaces for the reduction of dead bodies to ashes by fire.

#### 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/or the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

#### FLEA MARKET

A market held in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. A farmer's market, where food items predominate, is different than a flea market. This also differs from a garage sale or yard sale that is conducted on a residentially developed lot by members of a household, or civic groups selling primarily donated items

#### FUNERAL HOME

An establishment engaged in undertaking services such as preparing the dead for burial, arranging and managing funerals, and cremation services. Typical uses include funeral homes or mortuaries.

#### GARDEN CENTER

An establishment or place 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 SALES

Any place of business with fuel pumps and underground storage tanks that provides fuels and oil for motor vehicles. A small store associated with vehicle fuel sales where the sale of goods in the store is clearly subordinate to the sale of fuel shall be considered a gasoline station.

#### GREENHOUSE (PRINCIPAL USE)

A structure with transparent walls and roof; for the cultivation and exhibition of plants under controlled conditions.

#### LABORATORY

A facility for scientific laboratory analysis of natural resources, medical resources, and manufactured materials. The scientific analysis is generally performed for an outside customer, to support the work of that customer. This category includes environmental laboratories for the analysis of air, water, and soil; medical or veterinary laboratories for the analysis of blood, tissue, or other human medical or animal products. Forensic laboratories for analysis of evidence in support of law enforcement agencies would also be included in this category.

#### LAUNDRY, SELF-SERVICE

A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

#### MARINA, COMMERCIAL

A facility for the docking, mooring, berthing, or storage of watercraft. Such uses may include accessory uses such as boat sales, boat fuel sales, sales of boating supplies and

equipment, boating-related services, laundries, boat repair and rental, and dry storage of boats.

#### MARINA, PRIVATE

A facility for the docking, mooring, berthing, or storage of watercraft, which does not include services such as boat sales, boat fuel sales, sales of boating supplies and equipment, boating-related services, laundries, boat repair and rental, and dry storage of boats.

#### 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; tailors; shoe repairs; tattoo parlors; body piercing establishments; massage therapy; and florists.

#### 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, dance studios, handicraft, and hobby instruction.

#### RETAIL SALES

The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license. Typical uses include department stores, convenience stores without gasoline sales, grocery stores, hardware store, parcel service facilities, thrift and discount stores, drug stores, pharmacies, and similar establishments.

#### RETAIL SALES, LARGE

A single business establishment engaged in retail sales and located in a stand-alone single tenant building of 60,000 square feet in size or larger.

#### 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 that does not include commercial movie theaters.

#### VENDING USES

A building, structure or machine that is typically under 1,000 square feet that is located in a parking lot that provides a product or service to the public and is not accessory to any other business on the property. Such uses would include, but are not limited to, freestanding Automatic Teller Machines (ATM's), Ice Dispensers, coffee kiosks, and similar uses. Specifically excluded are drink and snack vending machines located outside a business, newspaper boxes, and collection boxes for recycling or surplus sales establishments.

#### **Vehicle Sales and Service, Light**

#### VEHICLE SALES

Premises on which new or used passenger vehicles, trailers, or light trucks in operating condition are displayed for sale, lease, or rental.

#### CAR WASH OR AUTO DETAILING

A use that involves the washing and cleaning of vehicles. Typical uses include automatic conveyor machines, self-service car washes, and hand washing of vehicles.

#### VEHICLE PARTS/SUPPLY, RETAIL

Retail sales of vehicle parts and accessories. Typical uses include vehicle parts and supply stores that offer new and factory rebuilt parts and accessories, and establishments that offer minor vehicle repair services as an accessory use.

#### VEHICLE REPAIR AND SERVICING, MINOR

Repair of vehicles, 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. Minor vehicle repair and servicing does not include painting or bodywork. Painting and bodywork are classified as major vehicle repair and servicing.

#### VEHICLE REPAIR AND SERVICING, MAJOR

Major repair of vehicles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats. Typical uses include engine and transmission repairs, body shops, vehicle-painting shops, and similar repair and service activities.

#### VEHICLE WRECKER SERVICE

An establishment operated for the purpose of temporary storage on-site of no more than nine wrecked or inoperable vehicles for a period no longer than 90 days. If an establishment has 10 or more inoperable vehicles located on-site, stores inoperable vehicles for more than 90 days, stacks vehicles, or portions of the vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard. This does not include City impounds.

#### **Vehicle Sales and Service, Heavy**

#### BOAT AND MARINE RENTAL AND SALES

Premises on which new or used boats and other marine vessels are displayed for sale, lease, servicing or rental.

#### RECREATIONAL VEHICLE SALES AND SERVICE

Premises on which new or used recreational vehicles in operating condition are displayed for sale, lease, servicing, or rental.

#### HEAVY EQUIPMENT SALES AND SERVICE

An establishment engaged in the display, sale, lease, servicing, or rental of heavy equipment of 12,000 or more pounds gross vehicular weight (GVW).

**Visitor Accommodations**

**BED AND BREAKFAST INN**

A private single-family dwelling, engaged in renting one or more bedrooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to guests only.

**HOTEL OR MOTEL**

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 may provide additional services such as daily room service, and recreation facilities.

**HOTEL OR MOTEL, FULL SERVICE**

A hotel or motel that includes four (4) or more of the following: room service, complimentary breakfast, pool(s), fitness room(s) with multiple machines for cardio and strength training, eating establishment(s), meeting or banquet room(s), and/or personal services including but not limited to barber/beauty shops, shoe shine, dry cleaning pick-up and delivery, and concierge services.

**HOTEL OR MOTEL, EXTENDED STAY**

A hotel containing six (6) or more guest rooms intended and designed primarily for guest stays a week or longer.

**Sec. 40.2-214 – Industrial Uses**

**Industrial Services**

**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, including building, heating, plumbing or electrical contractors.

**EXTRACTIVE INDUSTRY, ALL USES**

A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision.

**GENERAL INDUSTRIAL SERVICE**

An establishment engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products. Accessory activities may include retail sales, offices, parking, and storage.

**LAUNDRY, DRY CLEANING, AND CARPET CLEANING FACILITY**

A facility used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in water or volatile solvents.

#### SELF-SERVICE STORAGE FACILITY

A building or group of buildings within a controlled access or fenced environment divided into separate compartments used to meet the temporary storage needs of small businesses, apartment dwellers, and other residential uses. Also referred to as "mini-warehouse" or "mini-storage."

#### OUTDOOR STORAGE (PRINCIPAL USE)

The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours. This shall not include the display of vehicles for sale in a new or used car sales lot. Such activities may be the principal use of the land where located or as an accessory use to another principal use.

#### BULK FUEL/FUEL OIL STORAGE AND SALES

A facility used for bulk storage and retail of gasoline, fuel oil, diesel fuel, and similar liquid.

#### RADIO AND TELEVISION BROADCASTING STUDIO

A facility for the staging and recording of audio or television productions.

#### RESEARCH AND DEVELOPMENT

An establishment that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

#### TRUCK STOP

A facility providing services to the trucking industry, including but not limited to the dispensing of fuel, repair shops, automated washes, restaurants, restrooms, scales, and overnight parking facilities.

### **Manufacturing and Production**

#### MANUFACTURING, LIGHT

An establishment that assembles, processes, improves, treats, compounds, or packages goods or materials intended for use or consumption by the general public conducted wholly within an enclosed building and does not create a noticeable amount of noise, dust, odor, smoke, glare or vibration outside of the building in which the activity takes place. Finished or semi-finished products may be temporarily stored outdoors in an enclosed storage yard pending shipment. Examples of uses include a cabinet and woodworking shop; assembly of pre-fabricated parts, food, or beverages; manufacture and assembly of medical equipment; metalworking shop; sculptor studios; and similar uses in accordance with the standards in [Sec. 40.2-217\(H\)](#).

#### MANUFACTURING, HEAVY

An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line. This term includes but is not limited to: (a) processing and packaging of food or beverages; (b) chemical, agricultural, and pharmaceutical manufacturing and processing; (c) stonework or concrete product manufacturing; (d) fabrication of metal products; (e) manufacturing of agricultural, construction, or mining machinery; (f) motor vehicle manufacturing; (g) lumber milling; (h) ship or ship component repair and construction; (i) permanent concrete/batch plant; and (j) energy generation equipment.

#### INDUSTRIAL, HAZARDOUS

An establishment whose principal activity is the manufacture, use, storage, shipping, or disposal of chemicals or substances that are physical or health hazards. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers, and other health hazards. Each category is defined separately in the Code of Federal Regulations Title 29 (OSHA) and other nationally recognized standards.

#### URBAN AGRICULTURE

The process of cultivating, processing, production (beyond that which is strictly for home consumption or educational purposes), distribution, and marketing of food and other products. This use shall not include livestock or other animals with the exception of backyard chickens and bees. Examples include urban market gardens, innovative food-production methods that maximize production in a small area, community supported agriculture based in urban areas, and family farms located in metropolitan greenbelts.

#### **Warehouse and Freight Movement**

##### PORT FACILITY

Any wharf, dock, pier, or facility consisting of activities required for, supportive of, or commonly associated with the construction, repair, operation, storage, loading, and unloading of ships, the primary purpose of which is to receive, store, forward or otherwise dispose of cargo, and to facilitate maritime trade. This definition does not apply to property owned by the Virginia Port Authority.

##### WAREHOUSE

A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are hazardous materials (see hazardous industrial).

##### SHIPPING CONTAINER/CHASSIS STORAGE YARD

An operation for storage of freight shipping containers and/or chassis conducted as the principal use of the property.

**Waste and Energy Services**

**CONSTRUCTION/DEMOLITION/DEBRIS (CDD) LANDFILL**

A land burial facility engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, yard waste, split tires, and white goods or combinations of the above solid wastes. Construction waste means solid waste that is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes.

**ENERGY RECOVERY PLANT**

Any public or private recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

**WASTE COMPOSTING**

Uses where solid wastes are composted using composting technology. Accessory uses may include offices and repackaging and transshipment of by-products.

**INCINERATOR**

A facility that burns refuse at high temperatures to reduce the volume of waste.

**RECYCLING CENTER**

A small collection facility where recyclable materials are purchased or accepted from the public. Typical uses include neighborhood recycling stations.

**SALVAGE CENTER**

A facility engaged solely in the storage, processing, resale, or reuse of salvageable and recovered materials.

**JUNKYARD**

An establishment where junk, waste, discarded, salvaged, or similar materials are brought, sold, or otherwise handled. This definition shall not include vehicle wrecker services and establishments for the sale, purchase, or storage of second-hand items.

**SOLAR ENERGY SYSTEM**

A system of components that produces heat or electricity, or both, from sunlight (Code of Virginia § 56-576). For purposes of [Sec. 40.2-216](#) Allowable Uses Per Zoning District Tables, this definition encompasses a large-scale system, not smaller solar energy projects or rooftop solar installations that are accessory to other principal uses on a property.

#### TRANSFER STATION

Any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration, or resource recovery.

#### WIND ENERGY SYSTEM

A system of components that produces heat or electricity, or both, from wind. For purposes of [Sec. 40.2-216](#) Allowable Uses Per Zoning District Table, this definition encompasses a large-scale system and does not include smaller micro wind turbines that are accessory to other principal uses on a property.

### **Sec. 40.2-215 – Accessory Uses**

#### ACCESSORY BUILDING OR STRUCTURE

A structure that is detached from, and subordinate to, the principal structure in use and square footage and located on the same lot such as a shed, garage, carport, etc. No such accessory structure or building shall be used as a dwelling unit unless expressly permitted.

#### ACCESSORY DWELLING UNIT (ADU)

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

#### AMATEUR RADIO TOWER

A 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.

#### APICULTURE (BEEKEEPING)

A practice of managing honey producing bee colonies

#### CANOPY

A permanent structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity, or decoration. A canopy is permitted to be structurally independent or supported by attachment to a building on one or more sides.

#### CANOPY, GASOLINE SALES

A roofed structure that is not enclosed by walls but is attached to and supported by columns extending from the ground or by a combination of a building and columns extending from the ground.

#### CHICKENS, BACKYARD

A practice of rearing chickens in small numbers in the rear of a single-family lot.

#### CHILD SITTING (BABY SITTING)

A service in which no more than four children under the age of thirteen (13), are received in a home 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 four (4) or fewer individuals for portions of a day shall be considered as a Home Occupation (see Home Occupation).

#### COMMUNITY GARDEN (ACCESSORY USE)

The accessory use of a private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person.

#### DRIVE-THROUGH

The use of a facility designed to enable a person to acquire products or services while remaining in a motor vehicle.

#### 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.). Placing the temporary family health care structure on a permanent foundation is not permitted.

#### GARAGE SALES/RESIDENTIAL SALES

The term garage sale means the sale of personal property in, at or upon any residentially zoned property. The term garage sale shall include any sale which is commonly known as a garage, yard, attic, basement, porch, patio or room sale, or any other type of general sale involving the offering for sale of multiple items of personal property conducted on any premises located in a zoning district which does not permit retail or commercial sales, where goods or articles of any type are held out for sale to the public. The term garage sale does not encompass the mere incidental sale of one or two items of personal property when such sale is not a part of a general sale of a number of items of personal property.

#### GREENHOUSE (ACCESSORY USE)

An accessory use with transparent walls and roof for the cultivation and exhibition of plants under controlled conditions.

#### HOME OCCUPATION

A business, profession, occupation, or trade which is conducted within a dwelling unit for the economic gain or support of a resident of the dwelling unit, and is incidental and secondary to the residential use of the lot and which does not adversely and/or perceptively

affect the character of the lot or surrounding area. Such occupations may permit the use in accessory structures. Home occupation includes but is not limited to: offices; electronic and offsite retail; personal services such as physical therapy by licensed individuals, beauty parlors, pet grooming, art studios, and the like. Home occupation does not include such businesses as: vehicle repair and the like; dentists or physicians' offices and the like; any licensed or unlicensed practitioner who performs invasive procedures (acupuncture, tattooing, body piercing, and the like); restaurants, bars, social clubs and the like; animal kennels or hospitals and the like; or any other business which is inappropriate or out of character for a residential area such that its location constitutes an adverse impact on neighboring residential properties.

#### LIMITED FUEL/OIL/BOTTLED GAS DISTRIBUTER

An accessory use that distributes fuel oil or bottled gases such as propane or liquid petroleum for compensation.

#### MARINA, PRIVATE (ACCESSORY USE)

An accessory use facility for the docking, mooring, berthing, or storage of watercraft, which does not include services such as boat sales, boat fuel sales, sales of boating supplies and equipment, boating-related services, laundries, boat repair and rental, and dry storage of boats.

#### OUTDOOR DISPLAY AND SALES

The placement of products or materials for sale outside the structure of a retail or wholesale sales establishment.

#### OUTDOOR STORAGE (ACCESSORY USE)

The keeping, in an unroofed area, of any goods, material, merchandise, gasoline, fuel, oil, or vehicles in the same place for more than 24 hours as an accessory use.

#### PET CREMATORY

An accessory use facility that contains furnaces for the reduction of pets to ashes by fire.

#### PRODUCE STAND

An accessory structure for the seasonal sale of agricultural products grown on the premises.

#### RECYCLING DROP-OFF STATION OR CENTER

An accessory structure for the drop-off and temporary holding of recyclable materials.

#### SOLAR ENERGY PROJECT

An accessory device or combination of devices, structure, or part of a device or structure and associated mechanical equipment that transforms direct solar energy into thermal, chemical, or electrical energy.

#### STORAGE OR PARKING OF HEAVY TRUCKS, CONSTRUCTION EQUIPMENT, MAJOR RECREATIONAL EQUIPMENT OR MOBILE HOME

The storage or parking of trucks, construction equipment, travel trailer, pickup campers or coaches, motorized dwellings, tent trailers, boat and boat trailers, and similar major recreational equipment.

#### WIND TURBINE, MICRO

A single wind turbine designed to supplement other electricity sources as an accessory use to existing building(s) or facilities, wherein the electric power generated is used primarily for on-site consumption. A micro wind turbine consists of a single turbine and associated control and/or conversion electronics, and may be building-mounted (such as on a rooftop) or mounted on a tower.

#### SWIMMING POOL

An accessory structure, whether above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes.

#### URBAN AGRICULTURE

The process of cultivating, processing, production (beyond that which is strictly for home consumption or educational purposes), distribution, and marketing of food and other products as an accessory use. This use shall not include livestock or other animals with the exception of backyard chickens and bees.

**Sec. 40.2-216 – Allowable Uses Per Zoning District Tables**

[Table 40.2-216](#) Use Table, sets out the allowable uses per zoning district established by this Ordinance.

<b>Table 40.2-216: USE TABLE</b>																				
LIST OF USES	ZONING DISTRICT																			Additional Requirements
	RD	GR	UR	UR-M	NMU	GMU	MU-H	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF	
<b>RESIDENTIAL</b>																				
<b>Household Living</b>																				
Dwelling, Single-Family, Detached	P	P	P	P	P					P	P				P	P	P			<a href="#">Sec.40.2-217(D)(1)(a)</a>
Dwelling, Two-Family		U	U	P	P	U	U			P	P				U	U	P			
Dwelling, Three-To-Four Family		U	U	P	P	P	U			P	P				U	U	P			<a href="#">Sec.40.2-217(D)(1)(b)</a>
Dwelling, Townhouse			U	U	U	U	U			U	P				U	U	P			<a href="#">Sec.40.2-217(D)(1)(c)</a>
Dwelling, Multi-Family			U	U	U	U	U			U	P	P	P		U	U	U		U	<a href="#">Sec.40.2-217(D)(1)(d)</a>
Dwelling, Upper Floor			P	P	P	P	P				P	P	P			P	P		P	
Dwelling, Ground Floor	P	P	P	P	P	P	P			P	P	P	P		P	P	P		P	
Manufactured Home	See <a href="#">Sec. 40.2-406</a>																			
Boarding House		P	P	P	P	U	U										P			<a href="#">Sec.40.2-217(D)(1)(e)</a>
<b>Group Living</b>																				

<b>Table 40.2-216: USE TABLE</b>																				
LIST OF USES	ZONING DISTRICT																			Additional Requirements
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF	
Emergency Shelter			U	P	P	U											U			
Family Care Home	P	P	P	P	P					P	P				P	P	P			
Group Home	P	P	P	P	P					P	P				P	P	P			
Halfway House			U	U	U	U														<a href="#">Sec.40.2-217(D)(2)(a)</a>
Homeless Shelter					U	U					U	U					U			
Single Room Occupancy		U		U	U	U														<a href="#">Sec.40.2-217(D)(2)(b)</a>
<b>PUBLIC AND INSTITUTIONAL</b>																				
<b>Community Services</b>																				
Community Center		P	P	P	P	P	P			P	P					P	P		P	
Senior Center			U	P	P	P	P			P	U						U		U	
Youth Club Facility			U	P	P	P	P			P	U						U		U	
<b>Conference and Training</b>																				
Auditorium					U	P	P					U	U	U						U
Convention Center					U	P	P				P	P	P	P						U
<b>Day Care</b>																				

**Table 40.2-216: USE TABLE**

LIST OF USES	ZONING DISTRICT																			Additional Requirements	
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF		
Adult Day Care		U	P	P	P	P	P	P	U		U	U			U	U	P				
Child Day Center		U	P	P	P	P	P	P	U		U	U	U	U			U				<a href="#">Sec.40.2-217(E)(1)(a)</a>
Family Day Homes	P	P	P	P	P					P	P	P			P	P	P				<a href="#">Sec.40.2-217(E)(1)(b)</a>
<b>Educational Facilities</b>																					
Business Or Trade School					P	P	P	P			U	P	P	P							
Educational Facility, College/ University			U	U	P	P	P				P	P	P	P				U	U		
Educational Facility, Primary/ Secondary	P	P	P	P	P	P	P			P	P				P			U	U		
<b>Government Facilities</b>																					
Cultural Facility				P	P	P	P				P	P	P	P			P				
Government Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Health Care Facilities</b>																					
Assisted Living Facility		U	U	U	U	P	U				U	U	U				U				
Drug and Alcohol Treatment Facility			U	U	U	U	U	U	U		U	U	U				U				

**Table 40.2-216: USE TABLE**

LIST OF USES	ZONING DISTRICT																			Additional Requirements
	ND	GR	UR	UR-M	NMU	GMU	MU-H	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF	
Guidance Services			U	P	P	P	P				P	P	P				P			
Hospital			U	U	S	P	P													
Medical or Dental Clinic/Office			U	P	P	P	P	P	P		P	P	P				P			
Medical Treatment Facility			U	P	P	P	P				P	P	P							
Psychiatric Treatment Facility			U	P	P	P	U	U	U		U	P	P	U						
<b>Institutions</b>																				
Civic, Social, Or Fraternal Clubs Or Lodges		U	U	U	P	P	P	P	P		U	P					P		U	
Correctional Facility								U	U											
Religious Institution	U	P	P	P	P		P			P	P	P					P			
<b>Parks and Open Space</b>																				
Cemetery, Columbarium, Mausoleum			P	P	P							P						P		<a href="#">Sec.40.2-217(E)(2)(a)</a>
Community Garden (Principal Use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">Sec.40.2-217(E)(2)(b)</a>

<b>Table 40.2-216: USE TABLE</b>																				
<b>LIST OF USES</b>	<b>ZONING DISTRICT</b>																			<b>Additional Requirements</b>
	<b>ND</b>	<b>GR</b>	<b>UR</b>	<b>UR-M</b>	<b>NMU</b>	<b>GMU</b>	<b>MULH</b>	<b>IL</b>	<b>IN</b>	<b>D1-T3</b>	<b>D1-T4</b>	<b>D1-T5</b>	<b>D1-T6</b>	<b>D1-SD</b>	<b>HR</b>	<b>HLO</b>	<b>HLB</b>	<b>C</b>	<b>WF</b>	
Park, Public and Private	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
<b>Transportation</b>																				
Helicopter Landing Facility				S	S	S	P	P	P			S	S					P	S	
Passenger Terminal, Surface Transportation					P	P	P					P	P				P		P	
Taxicab Service						P	P	P	P											
<b>Utilities</b>																				
Broadcasting or Communication Tower					U	U	U	U						U					U	<a href="#">Sec.40.2-217(E)(3)(b)</a>
Tele-communication Tower, Freestanding		U	U	U	U	U	U	U	P		U	U		U					U	<a href="#">Sec.40.2-217(E)(3)(c)</a>
Utility, Major		U	U	U	U	U	U	P	P					U						
Utility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">Sec.40.2-217(E)(3)(d)</a>
<b>COMMERCIAL</b>																				
<b>Adult Uses</b>																				

<b>Table 40.2-216: USE TABLE</b>																				
LIST OF USES	ZONING DISTRICT																		Additional Requirements	
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C		WF
Adult Entertainment Establishment						U		U	U											<a href="#">Sec.40.2-217(G)(1)</a>
Adult Retail Store						P	U	P	P											<a href="#">Sec.40.2-217(G)(1)</a>
<b>Animal Care</b>																				
Animal Grooming				P	P	P	P	P	P		P	P					P			<a href="#">Sec.40.2-217(G)(2)</a>
Animal Shelter					U	U	P	P	P											<a href="#">Sec.40.2-217(G)(2)</a>
Domestic Animal Breeding				U	U	P	U	P	P											<a href="#">Sec.40.2-217(G)(2)</a>
Kennel, Indoor			U	U	P	P	P	P	P											<a href="#">Sec.40.2-217(G)(2)</a>
Kennel, Outdoor					U	U	U	P	P											<a href="#">Sec.40.2-217(G)(2)</a>
Veterinary Clinic			U	U	P	P	P	P	P		P	P								<a href="#">Sec.40.2-217(G)(2)</a>
<b>Eating (Beverage) Establishments</b>																				
Brewery/Distillery							P	P	P					P						
Micro-Brewery/Distillery					P	P	P	P	P			P	P				P		U	
Restaurant			U	P	P	P	P	P	P		P	P	P	P			P		U	

<b>Table 40.2-216: USE TABLE</b>																				
LIST OF USES	ZONING DISTRICT														Additional Requirements					
	ND	GR	UR	UR-M	NMU	GMU	MU-H	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD		HR	HLO	HLB	C	WF
Catering Service				P	P	P	P	P			P	P	P	P			P		U	
Winery/Cidery					P	P	P	P	P			P	P	P						
<b>Offices</b>																				
Offices, General				P	P	P	P	P	P		P	P	P	P		P	P		P	
Offices, Professional Services			U	P	P	P	P	P	P		P	P	P	P		P	P		P	
<b>Parking</b>																				
Park and Ride Facility				U	P	P	P	P			P	P								<a href="#">Sec.40.2-217(G)(3)(a)</a>
Parking Facility				P	P	P	P	U	U		P	P	P	U			P		P	<a href="#">Sec.40.2-217(G)(3)(b)</a>
<b>Recreation/Entertainment, Indoor</b>																				
Casino Gaming Establishment							U*													*Must be within Entertainment Overlay District and authorized by local referendum as required by state law. <a href="#">40.2-208(E)</a>
Commercial Indoor Amusement				P	P	P	P	P	P		P	P		P			P		P	<a href="#">Sec.40.2-217(G)(4)(a)</a>

<b>Table 40.2-216: USE TABLE</b>																				
LIST OF USES	ZONING DISTRICT																			Additional Requirements
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF	
Commercial Indoor Sports, Recreation, and Entertainment						P	P	P	P		P	P		P						<a href="#">Sec.40.2-217(G)(4)(b)</a>
Entertainment Establishment					U	U	U				U	U	U				U		U	<a href="#">Sec.40.2-217(G)(4)(b)</a>
Shooting Range, Indoor						P	U	P												
Recreation Facility, Private	P	P	P	P	P	P	P			P	P	P				U	U			
<b>Recreation/Entertainment, Outdoor</b>																				
Commercial Outdoor Sports, Recreation, and Entertainment				U	P	P	U	U			U	U	U				P		P	<a href="#">Sec.40.2-217(G)(5)(a)</a>
Golf Course		P	P	P			P											U		
Swimming Pool				P	P	P	P				P	P		P			U			<a href="#">Sec.40.2-217(G)(5)(a)(i)</a>
<b>Retail Sales and Services</b>																				
Business Support Service					P	P	P	P	P		P	P		P			P			
Construction Materials Sales					U	P	U	P	P											<a href="#">Sec.40.2-217(G)(6)(a)</a>

**Table 40.2-216: USE TABLE**

LIST OF USES	ZONING DISTRICT																Additional Requirements				
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO		HLB	C	WF	
Consumer Repair Service			U	P	P	P	P	P			P	P					P				
Convenience Store w/ Gasoline Sales			U	U	U	P	P	P	P								U				<a href="#">Sec.40.2-217(G)(6)(b)</a>
Crematory							U	P	P												
Equipment Sales And Rental						S	S	P													
Flea Market					U	U	U	P	P												
Funeral Home			U	P	P	P	U				P						P				
Garden Center					U	P	P	P													
Gasoline Sales					U	P	P	P	P		U			P			U				<a href="#">Sec.40.2-217(G)(6)(a)</a>
Greenhouse (Principal Use)						P	P	P	P					P							
Laboratory					U	P	U	P	P					P							
Laundry, Self-service			U	P	P	P	P	P	P								P			P	
Marina, Commercial (Principal Use)							P	U	U				U	U						U	<a href="#">Sec.40.2-217(G)(6)(b)</a>
Marina, Private (Principal Use)			P	P	P	U	P						U	U	U						<a href="#">Sec.40.2-217(G)(6)(c)</a>
Personal Services			P	P	P	P	P	P	P		P	P	P				P			P	

<b>Table 40.2-216: USE TABLE</b>																				
LIST OF USES	ZONING DISTRICT															Additional Requirements				
	ND	GR	UR	UR-M	NMU	GMU	MU-H	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR		HLO	HLB	C	WF
Personal Improvement Services			P	P	P	P	P	P	P		P	P		P			P			
Retail Sales			U	P	P	P	P	P			P	P	P				P		P	
Retail Sales, Large						U	U							U						Sec.40.2-217(F)(2)(l)
Studio, Fine Arts			U	U	P	P	P	P			P	P	P							
Vending Uses					P	P	P													<a href="#">Sec.40.2-217(G)(6)(d)</a>
<b>Vehicle Sales and Service, Light</b>																				
Vehicle Sales					U	P	P	P	P								P			<a href="#">Sec.40.2-217(G)(7)(a)</a>
Car Wash or Auto Detailing					U	P		P	P								U			<a href="#">Sec.40.2-217(G)(7)(b)</a>
Vehicle Parts/Supply, Retail					P	P	P	P	P											<a href="#">Sec.40.2-217(G)(7)(c)</a>
Vehicle Repair Servicing, Minor				U	U	P		P	P											<a href="#">Sec.40.2-217(G)(7)(d)</a>
Vehicle Repair Servicing, Major						U		P	P											<a href="#">Sec.40.2-217(G)(7)(e)</a>
Vehicle Wrecker Service								P	P											<a href="#">Sec.40.2-217(G)(7)(f)</a>
<b>Vehicle Sales and Service, Heavy</b>																				

<b>Table 40.2-216: USE TABLE</b>																				
LIST OF USES	ZONING DISTRICT																		Additional Requirements	
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C		WF
Boat and Marine Rental and Sales					P	P	P	P	P					P	P			P		
Recreational Vehicle Sales and Service					U	P	U	P	P											
Heavy Equipment Sales and Service					U	P	U	P	P									P		
<b>Visitor Accommodations</b>																				
Bed and Breakfast Inn											P				P	P	P			
Hotel or Motel					U	P	P	P	P											
Hotel or Motel, Full Service				P	P	P	U	P	P		U	P	P	U					U	
Hotel or Motel, Extended Stay						U	U	U	U			U	U							
<b>INDUSTRIAL USES</b>																				
<b>Industrial Services</b>																				
Construction Yard								U	P											
Extractive Industry, All Uses									P											
General Industrial Service								P	P					P						

**Table 40.2-216: USE TABLE**

LIST OF USES	ZONING DISTRICT																			Additional Requirements	
	ND	GR	UR	UR-M	NMU	GMU	MU-H	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF		
Laundry, Dry Cleaning, and Carpet Cleaning Facility								U	P												<a href="#">Sec.40.2-217(H)(1)(a)</a>
Self-Service Storage Facility						U	U	P	P					U							<a href="#">Sec.40.2-217(H)(1)(b)</a>
Outdoor Storage (Principal Use)						U	U	U	P												<a href="#">Sec.40.2-217(H)(1)(c)</a>
Bulk Fuel/Fuel Oil Storage and Sales						U		P	P												<a href="#">Sec.40.2-217(H)(1)(d)</a>
Radio and Television Broadcasting Studio						P	U							P						U	
Research and Development						P		P	P				P	P							
Truck Stop								P	P												
<b>Manufacturing and Production</b>																					
Manufacturing, Light						U	U	P	P					P							<a href="#">Sec.40.2-217(H)(2)(a)</a>
Manufacturing, Heavy									P					U							<a href="#">Sec.40.2-217(H)(2)(a)</a>
Industrial, Hazardous									U												<a href="#">Sec.40.2-217(H)(2)(b)</a>
Urban Agriculture					U	P		P	P			U		U							

<b>Table 40.2-216: USE TABLE</b>																					
LIST OF USES	ZONING DISTRICT																			Additional Requirements	
	ND	GR	UR	UR-M	NMU	GMU	MU-H	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF		
<b>Warehouse and Freight Movement</b>																					
Port Facility								P	P											U	<a href="#">Sec.40.2-217(H)(3)(a)</a>
Warehouse						U		P	P		U	U	U	P							<a href="#">Sec.40.2-217(H)(3)(a)</a>
Shipping Container/Chassis Storage Yard								U	U												<a href="#">Sec.40.2-217(H)(3)(b)</a>
<b>Waste and Energy Services</b>																					
Construction/ Demolition/Debris (CDD) Landfill									U												<a href="#">Sec.40.2-217(H)(4)(a)</a>
Energy Recovery Plant								U	U												<a href="#">Sec.40.2-217(H)(4)(b)</a>
Waste Composting								U	U												<a href="#">Sec.40.2-217(H)(4)(b)</a>
Incinerator									U												<a href="#">Sec.40.2-217(H)(4)(b)</a>
Recycling Center				U	P	P	P	P	P									P			<a href="#">Sec.40.2-217(H)(4)(c)</a>
Salvage Center								U	P												<a href="#">Sec.40.2-217(H)(4)(d)</a>
Junkyard									U												<a href="#">Sec.40.2-217(H)(4)(e)</a>

<b>Table 40.2-216: USE TABLE</b>																					
LIST OF USES	ZONING DISTRICT																			Additional Requirements	
	ND	GR	UR	UR-M	NMU	GMU	MU-H	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF		
Solar Energy System								P	P												<a href="#">Sec.40.2-217(H)(4)(f)</a>
Transfer Station								U	U												<a href="#">Sec.40.2-217(H)(4)(g)</a>
Wind Energy System								U	U												<a href="#">Sec.40.2-217(H)(4)(h)</a>
<b>ACCESSORY USES</b>																					
Accessory Building or Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">Sec.40.2-217(I)(3)(a)</a>
Accessory Dwelling Unit	P	P	P	P	P						P				P	P	P				<a href="#">Sec.40.2-217(I)(3)(b)</a>
Amateur Radio Tower	P	P	P	P	P	P	P			P	P	P	P	P	P						<a href="#">Sec.40.2-217(I)(3)(c)</a>
Apiculture (Beekeeping)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Canopy	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Canopy, Gasoline					P	P	P	P			P	P	P	P		U	U				<a href="#">Sec.40.2-217(I)(3)(d)</a>
Chickens, Backyard	P	P	P	P	P										P	P	P				<a href="#">Sec.40.2-217(I)(3)(e)</a>
Child Sitting (Baby Sitting)	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P				

**Table 40.2-216: USE TABLE**

LIST OF USES	ZONING DISTRICT																			Additional Requirements
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF	
Community Garden (Accessory Use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">Sec.40.2-217(I)(3)(f)</a>
Drive-through				U	U	P	P	P	P		U	U	U	P			P			Sec. 40.2-302
Family Health Care Structure, Temporary	P	P	P	P	P					P	P									
Garage Sales/Residential Sales	P	P	P	P	P					P	P	P	P		P	P	P			
Greenhouse (Accessory Use)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	
Home Occupation	P	P	P	P	P	P	P			P	P	P	P		P	P	P		P	<a href="#">Sec.40.2-217(I)(3)(g)</a>
Limited Fuel/Oil/Bottled Gas Distributer					P	P	P	P	P		U	U					U			<a href="#">Sec.40.2-217(I)(3)(h)</a>
Marina, Private (Accessory Use)	P	P	P	P	P	P				P	P				P					Sec.40.2-217(I)(3)(i)
Outdoor Display and Sales				P	P	P	P	P	P			P	P							Sec.40.2-217(I)(3)(j)
Outdoor Storage (Accessory Use)					S	P	P	P	P				U	S			P			Sec.40.2-217(I)(3)(k)
Pet Crematory					U	P	U													

Purpose and Intent

Table 40.2-216: USE TABLE																				
LIST OF USES	ZONING DISTRICT																			Additional Requirements
	ND	GR	UR	UR-M	NMU	GMU	MULH	IL	IN	D1-T3	D1-T4	D1-T5	D1-T6	D1-SD	HR	HLO	HLB	C	WF	
Produce Stand	P	P	P	P	P	P	P													Sec.40.2-217(I)(3)(l)
Recycling Drop-Off Station	P	P	P	P	P	P	P			P	P	P	P		P	P	P			
Solar Energy Project	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sec.40.2-217(I)(3)(m)
Storage or Parking of Trucks, Major Recreational Equipment, Mobile Home	P	P	P	P				P	P					P	P	P	P		P	Sec.40.2-217(I)(3)(n)
Wind Turbine, Micro	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Sec.40.2-217(I)(3)(o)
Swimming Pool	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P		P	
Urban Agriculture					P	P	P	P	P		P			P				P		

**Sec. 40.2-217 – Use-Specific Standards**

**(A) Purpose and Intent**

- (1) Use-specific standards are the requirements applied to individual use categories, types, or uses regardless of the zoning district in which they are located or the review procedure by which they are approved.
- (2) This section is intended to identify the use-specific standards for all principal uses identified in [Table 40.2-216](#), Use Table, as subject to “Additional Requirements.”
- (3) These standards may be modified by other applicable requirements in this Ordinance.
- (4) Uses shall also comply with the applicable use definition in [Sec. 40.2-209](#).

**(B) Review for Compliance**

Review for compliance with the standards of this section of this section shall occur during review of a Site Plan ([Sec. 40.2-540](#)), Preliminary Subdivision Plat (Ch. 33.1 of the City Code), or Zoning Permit ([Sec. 40.2-530](#)), as appropriate.

**(C) Plan for Development Required**

Development subject to the standards of this section shall provide a site plan, master plan, or other plan for development illustrating how the proposed development complies with these standards.

**(D) Residential Uses**

**(1) Household Living**

**(a) Dwelling, Single-Family Detached**

In addition to general requirements, single-family detached dwellings shall comply with the following standards:

- (i)** Only one (1) single-family detached dwelling shall be permitted on a single zone lot.
- (ii)** The principal entrance shall face the street from which the dwelling derives its street address.
- (iii)** Except for circular driveways, no single-family detached dwelling lot shall be served by more than one driveway on the same block face.

**(b) Dwelling, Three-to-Four-Family**

In addition to general requirements, three-to-four-family dwellings shall comply with the following standards:

- (i)** The principal entrance(s) shall face the street from which the building derives its street address.
- (ii)** Except for circular driveways, no three-to-four-family dwelling lot shall be served by more than one driveway on the same block face.
- (iii)** Ground based, roof-based, and wall-mounted electrical equipment, HVAC equipment and other utility connection devices shall be ganged and shall be screened or located outside the view from any adjacent public street.
- (iv)** Three-to-four-family dwellings shall comply with [Sec. 40.2-217\(D\)\(1\)\(d\)](#) Dwellings, Multi-Family.

**(c) Dwelling, Townhouse**

In addition to general requirements, townhouse dwellings shall comply with the following standards:

- (i)** Except for circular driveways, no townhouse dwelling shall be served by more than one driveway on the same block face.

(ii) Ground-based, roof-based, and wall-mounted electrical equipment, HVAC equipment, and other utility connection devices shall be ganged and shall be screened or located outside the view from any adjacent public street.

(iii) Townhouse dwellings shall comply with [Sec. 40.2-217\(D\)\(1\)\(d\)](#) Dwellings, Multi-Family.

**(d) Dwelling, Multi-Family**

In addition to general requirements, multi-family dwellings shall comply with the following standards:

**(i) Applicability**

- a. New multi-family, three-to-four-family, and townhouse developments shall comply with the standards in this section.
- b. Redevelopment of an existing multi-family, three-to-four family, and townhouse development that exceeds 33 percent of the building's reproducible value (exclusive of foundations) shall require the newly redeveloped portions to comply with the standards of this section.

**(ii) Access and Circulation**

**a. Pedestrian Circulation**

1. The owner or owners association shall maintain pedestrian walkways outside of public right-of-way.
2. Pedestrian walkways shall be connected within parks, open spaces, or common areas internal or external to the site.
3. Both vehicular and pedestrian access must be visible from the street or alley serving the development.
4. Pedestrian entrances to the site shall be accentuated through the use of landscaping, special paving, gateways, or smaller features.

**b. Parking Area Design and Location**

1. Vehicular access to the development shall be provided from a secondary street or an alley, when present.
2. Site design, including entrances and parking lots, shall be coordinated with the location of existing and planned transit facilities.
3. Street-facing garages on interior lots shall be located at least two feet behind the front façade plane of the structure served.

**(iii) Service Area Placement and Screening**

- a. Outdoor storage and trash collection areas shall be integrated with overall design of the building, and be screened and located in accordance with the standards in [Sec. 40.2-304](#) Landscaping and Screening.

- b. Trash receptacles shall be located in an enclosed area.
- c. The location and configuration of screening of large waste receptacles and refuse collection areas shall be depicted on development plans.
- d. Large waste receptacles and refuse collection areas and the fences or walls screening them shall maintain setbacks applicable for accessory buildings in the district where located.
- e. Large waste receptacles and refuse collection areas shall not be located within front or corner side yards.
- f. Areas intended for large waste receptacles and refuse collection shall be surfaced with concrete or comparable material that meets or exceeds minimum City standards.

**(iv) Building Design**

- a. All buildings with shared building entrances shall be oriented so that principal entrance(s) faces the street. In the case of corner lots, the principal entrance(s) shall face the street from which the building derives its street address.
- b. Buildings that do not have a direct and visible pedestrian entrance from a public street shall at a minimum have windows or patios facing the street.
- c. Common open spaces and children's play areas shall be clearly visible from the dwelling units on the site.
- d. The maximum length of any townhouse, three-to-four family, or multi-family structure shall be 200 linear feet, regardless of number of units. In no instance shall provision of a firewall between differing building sections constitute two separate structures.
- e. Developments abutting public street corners shall provide one or more of the following elements:
  - 1. Plaza;
  - 2. Placement of principal pedestrian entry;
  - 3. Distinctive roof form; or
  - 4. Other architectural features (e.g. porches, canopies).
- f. Building details, including roof forms, siding materials, windows, doors, and trim shall reflect a similar level of quality and architectural detailing on all sides facing:
  - 1. A street;
  - 2. Abutting existing single-family development; and
  - 3. Vacant land designated as a single-family district on the Zoning Map.
- g. **Facade Articulation**

1. Street-facing building facades shall be articulated with wall offsets at least two (2) feet deep for every 30 feet of facade frontage.
2. In addition to wall offsets, front facades facing streets shall provide a minimum of three (3) of the following articulation elements:
  - i. A covered porch;
  - ii. One or more dormer windows or cupolas;
  - iii. Pillars, posts or pilasters;
  - iv. One or more bay windows with a minimum twelve-inch projection from the façade plane;
  - v. Multiple windows with a minimum of four (4) -inch-wide trim;
  - vi. Raised corniced parapets over the door;
  - vii. Eaves with a minimum of four (4)-inch-wide trim; or
  - viii. Integral planters that incorporate landscaped areas and/or places for sitting.
3. Side facades shall maintain at least ten (10) percent of the facade area as windows.

**(ii) Accessory Structures for Multi-family Dwellings**

1. Access to accessory structures (such as garages, carports, storages, mailboxes, trash receptacles) shall be provided from alleys or secondary streets to the maximum extent practicable.
2. Accessory buildings shall be designed to be consistent with the principal structure through the use of materials, massing and color.
3. Accessory structures shall not physically obstruct pedestrian entrances.
4. Fencing of multi-family development recreational amenities such as tennis courts, swimming pool must provide visibility and safety.

**(e) Boarding House**

In addition to general requirements, a boarding house shall comply with the following standards:

- (i) No more than two (2) rooms shall be rented at any one time;
- (ii) No more than two (2) boarders at any one time;
- (iii) The owner shall maintain the house as a principal residence;
- (iv) Sleeping rooms in a boarding house shall:
  - a. Not include individual kitchen facilities; and

- b. Be accessed by a common room or hallway, and shall not have individual access to the outside (except for emergency exits).

**(2) Group Living**

**(a) Halfway House**

- (i) In addition to general requirements, halfway houses shall comply with the standards set forth by the Director of the Department of Corrections and the State Board of Corrections.

**(b) Single Room Occupancy (SRO) Facility**

- (i) Applications for a Use Permit for a new SRO or modifications to an existing SRO shall include a description of the proposed operating procedures and services to be provided by the SRO.
- (ii) In addition to general requirements, single room occupancy facilities shall comply with the following standards:
  - a. Include at least 6,000 square feet of lot area for the first unit and 1,400 square feet of lot area for each additional unit;
  - b. Front a public street of at least 50 feet in width;

**(E) Public and Institutional Uses**

**(1) Day Care**

**(a) Child Day Center**

In addition to general requirements, child day centers, including pre-schools, shall be licensed as a child care center by the state and comply with the following standards:

- (i) Child day centers shall comply with all state regulations;
- (ii) If not located in a stand-alone building, a day care center shall be located on the first floor of a principal structure, and be segregated (including the restrooms) from the remaining portion of the building in which it is located.
- (iii) Outdoor play areas shall be provided, and shall:
  - a. Be completely enclosed by a fence that is at least three-and-one-half feet in height;
  - b. Be safely segregated from parking, loading, or service areas; and
  - c. Not be operated for outdoor play activities after 6:00 PM.
- (iv) The parking areas and vehicular circulation for the day care center shall be designed to:
  - a. Provide a designated pickup and delivery area that includes at least one parking/stacking space per 10 children configured so that children do not have to cross vehicular travel ways to enter or exit the center.

- (v) If allowed as an accessory use to a Retail Sales and Service or Office use, the gross floor area of a child day center shall not exceed 20 percent of the gross floor area of the principal use.

**(b) Family Day Homes and Home Child Day Care**

In addition to general requirements, family day homes and home child day care shall comply with the following requirements:

- (i) Family day homes and home child day care shall be licensed and comply with all state regulations for family day homes and home child day care.
- (ii) The Zoning Administrator shall notify the adjoining property owners of the site by registered or certified letter sent to their last known address of a request for a family day home and home child day care in accordance with Code of Virginia § 15.2-2292.

**(2) Parks and Open Space**

**(a) Cemetery, Columbarium, and Mausoleum**

In addition to general requirements, cemetery, columbarium, and mausoleum uses shall comply with the following requirement:

- (i) Cemeteries, columbaria, and mausoleums shall be in compliance with Code of Virginia § 15.2-2288.5.

**(b) Community Garden**

In addition to general requirements, a community garden shall be permitted as a principal use provided that the following standards are met:

- (i) Community gardens may be developed without complying with the minimum lot size standard of the zoning district.
- (ii) Signage is limited to a single, non-illuminated, flat sign of nine (9) square feet.
- (iii) Retail sales shall not be permitted, except as an approved temporary use, as specified in [Sec. 40.2-217\(J\)](#) Temporary Use Standards.
- (iv) Plantings in community gardens shall not obstruct roadway visibility or impede the flow of traffic.
- (v) Perimeter fencing, including trellises, are allowed in community gardens and are subject to the standards governing fence location, maintenance, and height and design within each respective zoning district.

**(3) Utilities**

- (a) **Telecommunication antennas and co-locations of telecommunications equipment** shall be considered a minor utility and comply with [Sec. 40.2-217\(E\)\(3\)\(e\)](#), in addition to general requirements.

**(b) Co-location of Small Cell Facilities**

- (i) Notwithstanding any other provision hereof, applications for the co-location of small cell facilities on existing structures located on private property, as said terms are defined in Code of Virginia §15.2-2316.4, shall be governed by all requirements set forth in Division 2 of Article XI of Ch. 32 of the City Code other than § 32-317.
- (ii) Small cell facilities located on private property shall be dismantled and removed within six (6) months of abandonment.

**(c) Broadcasting or Communication Tower**

In addition to general requirements, all new and replacement towers shall comply with the following standards:

- (i) No zoning permit for any radio, television, or microwave towers shall be issued until the applicant provides evidence that the Federal Aviation Administration (FAA) has granted a permit for said tower or that no permit is required.

**(d) Telecommunication Tower, Freestanding**

In addition to general requirements, all new and replacement towers shall comply with the following standards:

- (i) No zoning permit for any radio, television, or microwave towers shall be issued until the applicant provides evidence that the Federal Aviation Administration (FAA) has granted a permit for said tower or that no permit is required.
- (ii) The applicant shall provide a copy of the Federal Aviation Administration (FAA) report and documentation that the application presents no hazard to any airport, or documentation that FAA review is not required.
- (iii) Space shall be provided for at least three (3) cellular or similar providers, unless expressly approved for less as a condition of the Use Permit.
- (iv) The applicant shall provide a listing of all structures within one-half a mile that are of a similar elevation along with an explanation of why a colocation on another tower is not possible, to the extent permitted by law.

**(e) Utility, Minor**

In addition to general requirements, a **telecommunications antenna** that is co-located on an existing tower or placed on an existing building shall comply with the following standards:

- (i) Telecommunication antennas shall comply with the regulations within the Code of Virginia § 15.2-2316.4:1.
- (ii) Antennas and any accessory equipment shall be painted or colored to blend in with the structure or surrounding environment.
- (iii) Antennas, supports and utility cabinets shall be mounted or placed in a manner, which blends with the surrounding environment.

(iv) The permit application shall include a statement and supporting documentation that the telecommunications antenna will not materially interfere with other pre-existing communications facilities.

(v) Reasonable screening is required where deemed appropriate by the Zoning Administrator considering the size and design of the telecommunications antenna and the historic, residential, or commercial character of the surrounding area.

## **(F) Commercial Uses**

### **(1) Applicability**

(a) These commercial development standards apply to all uses in the Commercial Use Classification in [Table 40.2-216](#), Use Table.

(b) The standards in this section are applied only to the redeveloped portions of buildings.

(c) When a building contains more than one use (principal or accessory), each use is subject to all applicable use standards and regulations.

### **(2) General Standards**

Except otherwise noted, in addition to general requirements these general commercial standards are intended to apply for all commercial development in the City.

#### **(a) Street Access**

(i) Except as permitted in Sec. 33.1 of the City Code, no building or other permit shall be issued for a proposed commercial use unless such use is located on a lot that abuts a fully improved street.

(ii) For the purposes of this section, "fully improved" shall mean a street that abuts the lot and complies with all standards for streets in Sec. 33.1 of the City Code.

#### **(b) Street Network**

(i) The internal network of streets shall connect to adjacent existing streets to better integrate the development with its context.

(ii) Vehicular ingress and egress shall align with access points located across the street, whenever possible.

(iii) Driveways shall be consolidated in order to reduce curb cuts, where possible.

#### **(c) Building Orientation**

(i) The building façade containing the principal entrance shall be considered as the principal façade.

(ii) The principal facades shall face a public street serving the development to the greatest extent possible.

#### **(d) Multi-Building Development**

Development composed of multiple buildings shall be configured in accordance with the following:

- (i) Outbuildings shall frame the corner of an adjacent street intersection or entry point to the development;
- (ii) Outbuildings within the same development shall include a consistent level of facade articulation on facades facing public streets, a gathering space, or parking lots.

**(e) Service and Loading Area Placement and Screening**

- (i) Outdoor storage, trash collection, and loading areas shall be integrated with the overall design of the building, or be screened in accordance with the standards in Sec 40.2-304 Landscaping and Screening.
- (ii) The location and configuration of screening of large waste receptacles and refuse collection areas shall be depicted on development plans.
- (iii) Large waste receptacles and refuse collection areas and the fences or walls screening them shall maintain setbacks applicable for accessory buildings in the district where located.
- (iv) Large waste receptacles and refuse collection areas shall not be located within front or corner side yards.
- (v) Areas intended for large waste receptacles and refuse collection shall be surfaced with concrete that meets or exceeds minimum city standards.
- (vi) Exterior shopping cart storage areas shall be secured to the ground.

**(f) Roof-Mounted Equipment**

- (i) All rooftop equipment shall be screened from all off-street views.
- (ii) When flat roofs are used, parapet walls with three dimensional cornice treatments shall be used to conceal roof-mounted equipment.

**(g) Glazing**

- (i) Except for development subject to the standards for large commercial developments, the front facade of buildings shall provide glazing for at least 40 percent of the ground floor facade area between two (2) feet above grade to eight (8) feet above grade towards the street that the front facade faces.
- (ii) On corner lots, other building facades that face a public street shall be designed with one or more of the following:
  - a. Glazing for at least 40 percent of the ground floor facade area between two (2) feet above grade to eight (8) feet above grade;
  - b. Recessed wall elements equal in area and location to the glazing requirement in (a) above and compatible with the overall architectural design and details of the building;

- c. A mural or other artistic design of a non-commercial nature and of durable materials as determined by the Zoning Administrator comparable in size to the glazing requirement in (a) above; or,
- d. An alternative wall design specifically submitted and approved by Zoning Administrator or as part of a Use Permit application that meets the design intent of this section.

(iii) Where there are more than two (2) public street frontages only the two (2) more significant frontages in terms of traffic and exposure shall be required to meet the requirements for glazing or the above alternatives.

**(h) On-Site Circulation**

**Pedestrian walkways** shall:

- (i) Connect all buildings within a multi-building development with the public sidewalk.
- (ii) Have a minimum width of five (5) feet and comply with the Americans with Disabilities Act (ADA).
- (iii) Be provided along the full length of building facades with an entryway or facing off-street parking areas.
- (iv) Site design, including entrances and parking lots, shall be coordinated with the location of existing and planned transit facilities.

**(i) Drive-Throughs**

Commercial uses that include a drive-through shall comply with the standards in [Sec. 40.2-302](#) Vehicular Stacking, Circulation, and Loading.

**(j) Curbside Pickup**

Commercial uses that include curbside pickup shall comply with the standards in [Sec. 40.2-301\(E\)\(7\)](#) Parking Requirements for Curbside Pickup Areas.

**(k) Valet Parking**

Commercial uses that include valet parking shall comply with the standards in [Sec. 40.2-301\(F\)\(4\)](#) Valet Parking.

**(l) Standards for Large Commercial Development**

In addition to the general commercial standards, all new buildings of 60,000 gross square feet in area or more with shall comply with the following standards.

**(i) Building Entrances**

Large commercial buildings shall have clearly defined, highly visible customer entrances featuring no less than three of the following:

- a. Canopies or porticos;

- b. Overhangs;
- c. Recesses/projections;
- d. Arcades;
- e. Raised corniced parapets over the door;
- f. Peaked roof forms;
- g. Arches;
- h. Outdoor patios;
- i. Display windows;
- j. Architectural detail such as tile work and moldings integrated into the building structure and design; or
- k. Integral planters that incorporate landscaped areas and places for sitting.

**(ii) Building Massing**

Front facades of large commercial buildings shall be articulated to reduce their mass, scale, and uniform appearance. Large commercial buildings shall incorporate two (2) or more of the following design elements on each facade visible from a street:

- a. Changes in wall plane, such as projections or recesses, having a wall offset of at least one (1) foot depth, and located a minimum of every 40 feet. Each required offset shall have a minimum width of ten (10) feet;
- b. Distinct changes in texture and color of wall surfaces;
- c. Variations in roof form and parapet heights;
- d. Glazing of 40 percent of at least two (2) elevations;
- e. Vertical accents or focal points; and/or
- f. Side walls exceeding 30 feet in length shall have facade articulating elements such as columns and/or changes in plane, texture, or masonry pattern.

**(G) Use Standards for Specific Commercial Uses**

**(1) Adult Uses**

**(a) Purpose**

- (i) **Adult uses**, including **Adult Entertainment Establishments** and **Adult Retail Stores**, which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or located in direct proximity to residential neighborhoods, thereby having a deleterious effect upon the adjacent areas.

- (ii) Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods.
- (iii) The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse effects.

**(b) Standards**

In addition to general requirements, no signage that displays Specified Anatomical Areas or Specified Sexual Activities shall be displayed on the exterior of the building nor shall such materials be visible through any windows into the facility.

**(2) Animal Care Uses**

In addition to general requirements, **animal grooming, animal shelters, domestic animal breeding, kennels (indoor and outdoor), and veterinary clinics** shall comply with the following standards:

- (a) Animal care uses shall be sufficiently insulated so no unreasonable odor or noise can be detected off the premises.
- (b) Animal care uses located within 200 feet of residentially zoned property shall be within a completely enclosed and adequately ventilated building.
- (c) Non-porous surfaces shall be used in all outside animal areas.
- (d) Any outdoor runs or pens used to house animals shall comply with the following standards:
  - (i) Be located at least 50 feet from any lot line;
  - (ii) Be secured with adequate fencing or walls to ensure containment of the animals; and
  - (iii) Animals shall be confined to an enclosed building from 9:00 PM to 7:00 AM.

**(3) Parking, Commercial**

**(a) Park and Ride Facility**

In addition to general requirements, a park and ride facility shall comply with the following standards:

- (i) Parking shall be one of the principal uses of the park and ride facility and may include other multi-modal uses.
- (ii) Parking spaces may be rented for parking.

**(b) Parking Facility**

In addition to general requirements, a commercial parking facility shall comply with the following standards:

- (i) Parking shall be the principal use of a parking structure.
- (ii) Retail sales and office establishments may be located on the ground floor of multi-level parking structure.

**(4) Recreation/Entertainment, Indoor**

**(a) Commercial Indoor Amusement**

In addition to general requirements, no commercial indoor amusement use shall include activities that are illegal under or not operated in compliance with Article I of Ch. 8 of Title 18.2 of the Virginia Code.

**(b) Entertainment Establishment (Indoor or Outdoor)**

In addition to general requirements, entertainment establishments shall comply with the following standards:

- (i) Entertainment establishments shall not create unreasonable environmental aspects such as noise, odor, smoke, vibration, heat, or glare.
- (ii) Noise from the establishment shall comply with City Code Sec. 24-255 Unlawful Excessive Sound.
- (iii) Any building housing live entertainment shall include soundproof entryway and exit doors.

**(5) Recreation/Entertainment, Outdoor**

**(a) Commercial Outdoor Sports, Recreation, and Entertainment**

**(i) Swimming Pools**

In addition to general requirements, a swimming pool that is a principal use shall comply with the following standards:

- a. The area containing the pool shall be completely enclosed by a fence in accordance with [Sec. 40.2-305](#) Fences and Walls.
- b. The fence around the pool must have a gate that can be securely fastened.
- c. Any pump and filtering equipment and any appurtenant structures shall be located at least 10 feet from any lot line.
- d. There shall be no commercial sales that are not an integral part of the pool use nor shall any commercial displays be visible from the street or other property.

**(6) Retail Sales and Services**

**(a) Convenience Stores with Gasoline Sales and Gasoline Sales**

In addition to general requirements, gasoline sales uses, including convenience stores with gasoline sales that include the retail sales of gasoline and other vehicle fuels, shall comply with the following standards:

- (i) If the gasoline sales use is located on a corner lot, the lot shall have a lot area of at least 30,000 square feet and a lot width of at least 125 feet on each street side. In all other cases, the lot shall have a lot area of at least 15,000 square feet and a lot width of at least 150 feet.
- (ii) The gasoline sales use shall have no more than two (2) vehicular access points, OR one for each street frontage, whichever is greater.
- (iii) Access points shall be located at least 75 feet from each other, at least 50 feet from any intersecting street right-of-ways, and at least 15 feet from any other lot line unless modified by the City Engineer.
- (iv) Gasoline sale uses with a canopy shall comply with the accessory use-specific standards in [Sec. 40.2-217\(I\)\(3\)\(d\)](#).

**(b) Construction Material Sales**

In addition to general requirements, a construction material sales use shall comply with the following standards:

- (i) If outdoor storage is included with the use, the use must comply with the accessory use-specific standards in Sec. 40.2-217 (J)(3)(j) Outdoor Storage (Accessory Use).

**(c) Marina, Commercial (Principal Use)**

In addition to general requirements, a commercial marina shall comply with the following standards:

- (i) Commercial marinas and boating facilities shall be designed in accordance with the “Criteria for the Siting of Marinas or Community Facilities for Boat Mooring” as prepared by the Virginia Marine Resources Commission, VR 450-01-0047.
- (ii) All federal, state, and local requirements, including CBPA and Floodplain Overlay requirements, for marina facilities shall be met and the necessary permits obtained prior to issuance of Zoning Permit.
- (iii) Dry stacking of boats outside enclosed structures shall be prohibited.
- (iv) Exterior lighting shall comply with the standards in [Sec. 40.2-306](#) Exterior Lighting.

**(d) Marina, Private (Principal Use)**

In addition to general requirements, a private marina shall comply with the following standards:

- (i) Use of private marinas, docks, or boating facilities shall be limited to a specific membership and shall not be intended for the general public or commercial purposes.

- (ii) Private marinas and boating facilities shall be designed in accordance with the “Criteria for the Siting of Marinas or Community Facilities for Boat Mooring” as prepared by the Virginia Marine Resources Commission, VR 450-01-0047.
- (iii) All federal, state, and local requirements, including CBPA and Floodplain Overlay requirements, for marina facilities shall be met and the necessary permits obtained prior to issuance of Zoning Permit.
- (iv) Dry stacking of boats outside enclosed structures shall be prohibited.
- (v) Exterior lighting shall comply with the standards in [Sec. 40.2-306](#) Exterior Lighting.

**(e) Vending Uses**

In addition to general requirements, vending uses shall comply with the following standards:

- (i) Vending uses shall require site plan approval in accordance with [Sec. 40.2-540](#) Site Plans.
- (ii) No vending use shall be placed within any easement without expressed written permission from the easement holder.
- (iii) No vending use shall encroach into any minimum required setback of the principal structure.
- (iv) Vending uses shall comply with all Uniform Statewide Building Code requirements.
- (v) Vending uses shall be immediately adjacent to a minimum of two (2) parking spaces.
- (vi) Vending uses shall comply with [Sec. 40.2-304](#) Landscaping and Screening.
- (vii) Vending uses shall be installed on an impervious surface and shall not be installed on any green area or area reserved for open space set-asides.
- (viii) Roof-mounted or other equipment shall be screened in accordance with [Sec. 40.2-304](#) Landscaping and Screening.
- (ix) Within thirty (30) calendar days of the ceasing of operation of any vending use, all of the vending equipment and incidentals shall be removed from the premises.

**(7) Vehicle Sales and Services, Light**

**(a) Vehicle Sales**

In addition to general requirements, vehicle sales shall comply with the following standard:

- (i) All newly established new and used vehicle sales uses shall be prohibited from parking or displaying vehicles in the required buffer between the front property line and any vehicle use area.

**(b) Car Wash or Auto Detailing**

In addition to general requirements, car wash (automatic and self-service) or auto detailing uses shall comply with the following standards:

- (i) A car wash shall utilize a low-volume water recycling system, which provides for an average of at least 80 percent recycled water per wash.
- (ii) No water produced by activities at the facility shall be permitted to fall upon or drain across public streets, sidewalks, or adjacent properties.
- (iii) Vehicle stacking spaces shall comply with the standards in [Sec. 40.2-302\(A\)](#).
- (iv) A car wash and all associated uses must comply City Code Sec. 24-255 Unlawful Excessive Sound.
- (v) If a car wash or auto detailing use abuts a residentially zoned property, all associated buildings must be set back a minimum of 25 feet from the abutting residential lot line.
- (vi) All car wash and auto detailing uses shall comply with the city and state's stormwater regulations.

**(c) Vehicle Parts/Supply, Retail**

In addition to general requirements, vehicle parts/supply, retail shall comply with the following standards:

- (i) Minor repair and storage of all vehicles shall occur within an enclosed building.
- (ii) Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is:
  - a. No larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a fence or wall in accordance with [Sec.40.2-305](#) Fences and Walls.
- (iii) Vehicles shall not be parked or stored as a source of parts or for the purpose of sale or lease/rent.

**(d) Vehicle Repair and Servicing, Minor**

In addition to general requirements, minor vehicle repair and service uses shall comply with the following standards:

- (i) Repair of all vehicles and associated work shall occur within an enclosed bay or building.
- (ii) If gasoline is sold on-site, the use shall also comply with the standards for a gasoline sales use in [Sec. 40.2-217\(G\)\(6\)\(c\)](#) Gasoline Sales.

- (iii) Opaque fencing and/or landscaping at least six (6) feet and no greater than eight (8) feet in height shall be installed along the entire length of properties abutting any residential zoning districts.
- (iv) Used or damaged equipment removed from vehicles shall be stored indoors or shall be deposited in an approved covered outdoor collection receptacle for appropriate off-site disposal and/or screened from all off-site views visible from a public right-of-way.
- (v) Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened in accordance with [Sec. 40.2-304\(F\)](#) Screening.
- (vi) The use shall not include outdoor storage lots or impound yards for towed vehicles.
- (vii) The storage of tires in any amount outside or inside a trailer, vehicle, or building is prohibited unless stored in accordance with the following standards:
  - a. Sufficient drainage shall be maintained such that water does not collect in the area where tires are stored.
  - b. Tire storage piles shall be separated from possible ignition sources including but not limited to open flame, welding equipment, cutting equipment, and heating devices.
- (viii) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than thirty (30) consecutive days.
- (ix) In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the thirty (30) day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

**(e) Vehicle Repair and Servicing, Major**

In addition to general requirements, major vehicle repair and servicing uses shall comply with the following standards:

- (i) Repair and storage of vehicles, and all associated work shall occur within an enclosed bay or building.
- (ii) Opaque fencing and/or landscaping at least six (6) feet and no greater than eight (8) feet in height shall be installed along the entire length of properties abutting any residential zoning districts.
- (iii) Used or damaged equipment removed from vehicles shall be stored indoors or shall be deposited in an approved covered outdoor collection receptacle for

appropriate off-site disposal and/or screened from all off-site views visible from a public right-of-way.

- (iv) Vehicles shall not be parked or stored as a source of parts.
- (v) Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened in accordance with [Sec. 40.2-304](#) Landscaping and Screening.
- (vi) The storage of tires outside or inside a trailer, vehicle, or building is prohibited unless stored in accordance with the following standards:
  - a. Sufficient drainage shall be maintained such that water does not collect in the area where tires are stored.
  - b. Tire storage piles shall be separated from possible ignition sources including but not limited to open flame, welding equipment, cutting equipment, and heating devices.
- (vii) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than thirty (30) consecutive days.
- (viii) In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the thirty (30) day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

**(f) Vehicle Wrecker Service**

In addition to general requirements, vehicle wrecker service uses shall comply with the following standards:

- (i) Vehicles shall not be stored for more than ninety (90) days without authorization by the City.
- (ii) Vehicles shall be stored to the rear of the principal structure, screened in accordance with [Sec 40.2-304](#), Landscaping and Screening.

**(8) Vehicle Sales and Service, Heavy**

**(a) Recreational Vehicle Sales and Service**

In addition to general requirements, uses primarily involving the sales or rental of vehicles, trucks, travel trailers, or recreational vehicles shall comply with the following standards:

- (i) No vehicle or equipment displays shall be located within a required setback or landscape buffer.
- (ii) No vehicles or other similar items shall be displayed on the top of a building.

**(b) Heavy Equipment Sales and Service**

In addition to general requirements, uses primarily involving the sales, rental, or storage of heavy equipment shall comply with the following standards:

- (i) No heavy equipment shall be located within a required setback or landscape buffer.

**(9) Visitor Accommodations**

**(a) Bed and Breakfast Inns**

In addition to general requirements, bed and breakfast inns shall be:

- (i) Operated in a principal residential structure and not in any accessory structure.
- (ii) The structure to be used shall be fifty (50) years or more of age or be of historic significance. If the structure does not meet the age requirement, it shall be the applicant's responsibility to establish with convincing proof that the residential structure is of historic significance.
- (iii) Two (2) off-street parking spaces for the owner/manager and one (1) off-street space per guest room shall be required. In the Port Norfolk Historic District, the City Council may reduce or eliminate the requirement for the two owner/manager spaces; provided, however, that no fewer than two (2) off street parking spaces are provided for the inn.
- (iv) A maximum of ten (10) guest rooms shall be allowed in the Olde Towne Historic District. In the Port Norfolk Historic District, a maximum of five (5) guest rooms shall be allowed.
- (v) No exterior additions or alterations shall be made for the express purpose of creating or maintaining a bed and breakfast inn other than those required for health, safety or sanitation requirements. Minimal decorative alterations may be made to the structure if such changes are deemed to be compatible with the nature of the neighborhood. Such alterations and additions that are necessary or desired must meet all zoning, building, environmental and fire code regulations and must be approved by the Historic Preservation Commission.
- (vi) The facility shall be occupied and managed by an individual having at least 51 percent ownership interest in the improved real estate upon which the inn is situated.
- (vii) The maximum length of stay for a transient paying guest is limited to 14 consecutive days in any thirty (30)-day period of time. The proprietor shall keep a current guest register including names, addresses and dates of occupancy of all guests, which register shall be available for city inspection at any time.
- (viii) For identification of the bed and breakfast inn, one wall sign of four (4) square feet is permitted. Such sign shall not be directly illuminated, nor shall it contain the words "hotel" or "motel." Such sign shall meet all zoning requirements including approval from the HPC.

- (ix) Receptions and other such functions, for compensation, shall not be permitted.
- (x) If approved as a condition of a Use Permit, meals may be served to transient overnight guests and to the public, between 7:00 AM and 2:00 PM. In the Port Norfolk Historic District, only one meal may be served between 7:00 AM and 11:00 AM. Seating capacity in the dining room shall be limited to no more than four (4) seats per bed and breakfast guest room.
- (xi) A minimum of one (1) full bathroom, to include a water closet, lavatory and bathtub or shower, shall be provided on each floor of the structure to be occupied by guests. However, additional bathrooms may be required as a condition of a Use Permit.

**(b) Hotel or Motel**

In addition to general requirements, hotel and motel uses shall comply with the following standards:

- (i) A hotel or motel shall have its principal frontage, access, and orientation directly on an arterial street or collector street unless it is served by an interior private access road.
- (ii) Vehicular access from an interior residential street is prohibited.
- (iii) In addition to the accessory uses allowed in [Sec. 40.2-215](#) Accessory Uses, up to an additional 20 percent of the gross floor area of a hotel or motel may be devoted to eating establishments as an accessory use. The eating establishments(s) may have an entrance from outside the principal building.
- (iv) No individual stay shall extend for a period greater than thirty (30) days in a sixty (60) day period.
- (v) Notwithstanding subsection (iv), a stay in excess of thirty (30) days in a sixty (60) day period may occur in a hotel or motel use in the following situations:
  - a. Where there is a written contract or document between a hotel or motel and a business, corporation, firm, individual or governmental agency to house employees or individuals on valid work orders;
  - b. Where there is a written contract between the hotel or motel and a governmental, charitable or insurance agency to house families in crisis who are receiving temporary housing assistance from said governmental, charitable or insurance agency; or
  - c. Where the Zoning Administrator authorizes in writing, after consultation with the Social Services director, a stay for an additional period of up to ninety (90) days to prevent residents from becoming homeless. In the event that the Department of Social Services is unable to identify appropriate alternative housing within ninety (90) days, this ninety-day period may be extended in writing by the Zoning Administrator.

- d. The written contract, document, and authorization noted above shall be kept on file and must be available for inspection.

**(c) Hotel or Motel, Extended Stay**

In addition to general requirements, extended stay hotel and motel uses shall comply with the following standards:

- (i) A hotel or motel shall have its principal frontage, access, and orientation directly on an arterial street or collector street unless it is served by an interior private access road.
- (ii) Vehicular access from an interior residential street is prohibited.
- (iii) In addition to the accessory uses allowed in [Sec. 40.2-215](#) Accessory Use, up to an additional 20 percent of the gross floor area of a hotel or motel, extended stay may be devoted to eating establishments as an accessory use. The eating establishments(s) may have an entrance from outside the principal building.
- (iv) No individual stay shall extend for a period greater than thirty (30) days in a sixty (60) day period.
- (v) Notwithstanding subsection (iv), a stay in excess of thirty (30) days in a sixty (60) day period may occur in a hotel or motel, extended stay use in the following situations:
  - a. Where there is a written contract or document between a hotel or motel and a business, corporation, firm, individual or governmental agency to house employees or individuals on valid work orders;
  - b. Where there is a written contract between the hotel or motel and a governmental, charitable or insurance agency to house families in crisis who are receiving temporary housing assistance from said governmental, charitable or insurance agency; or
  - c. Where the Zoning Administrator authorizes in writing, after consultation with the Social Services director, a stay for an additional period of up to ninety (90) days to prevent residents from becoming homeless. In the event that the Department of Social Services is unable to identify appropriate alternative housing within ninety (90) days, this ninety-day period may be extended in writing by the Zoning Administrator.
  - d. The written contract, document, and authorization noted above shall be kept on file and must be available for inspection.

**(d) Hotel or Motel, Full Service**

In addition to general requirements, full service hotels and motels shall comply with the following standards:

- (i) A full service hotel or motel is one that includes four (4) or more of the following:
  - a. Room service;

- b.** Complimentary breakfast;
  - c.** Pool;
  - d.** Athletic/fitness room with at least multiple machines for cardio and strength training;
  - e.** Eating establishments as an accessory use;
  - f.** Lounge with live entertainment;
  - g.** Meeting or banquet rooms; or
  - h.** Personal services, including but not limited to barber/beauty shops, shoeshine, dry cleaning pick-up and delivery, concierge services.
- (ii)** Entertainment establishments located in full-service hotels shall not be required to obtain Use Permits.
- (iii)** Full service hotels and motels in the WF district shall provide meeting rooms and room service.
- (iv)** A hotel or motel, full service shall have its principal frontage, access, and orientation directly on an arterial street or collector street unless it is served by an interior private access road.
- (v)** Vehicular access from an interior residential street is prohibited.
- (vi)** Up to 15 percent of the gross floor area of a hotel or motel may be in nonliving-quarter incidental uses (accessory uses), including management/employee offices, meeting rooms, banquet halls, retail services (such as newsstands and gift shops), and similar uses, provided any incidental business is conducted primarily to service guests, and there is no entrance to such places of business except from the inside of the building.
- (vii)** In addition to the accessory uses allowed in [Sec. 40.2-217\(I\)](#) Accessory Use Standards, up to an additional 20 percent of the gross floor area of a hotel or motel, full service may be devoted to eating establishments as an accessory use. The eating establishments(s) may have an entrance from outside the principal building.
- (viii)** No individual stay shall extend for a period greater than thirty (30) days in a sixty (60) day period.
- (ix)** Notwithstanding subsection **(viii)**, a stay in excess of thirty (30) days in a sixty (60) day period may occur in a hotel or motel, full service in the following situations:
  - a.** Where there is a written contract or document between a hotel or motel and a business, corporation, firm, individual or governmental agency to house employees or individuals on valid work orders;

- b. Where there is a written contract between the hotel or motel and a governmental, charitable or insurance agency to house families in crisis who are receiving temporary housing assistance from said governmental, charitable or insurance agency; or
- c. Where the Zoning Administrator authorizes in writing, after consultation with the Social Services director, a stay for an additional period of up to ninety (90) days to prevent residents from becoming homeless. In the event that the Department of Social Services is unable to identify appropriate alternative housing within ninety (90) days, this ninety-day period may be extended in writing by the Zoning Administrator.
- d. The written contract, document, and authorization noted above shall be kept on file and must be available for inspection.

## **(H) Industrial Uses**

### **(1) Industrial Services**

#### **(a) Laundry, Dry Cleaning, and Carpet Cleaning Facility**

In addition to general requirements, laundry, dry cleaning, and carpet cleaning facilities shall comply with the following standards:

- (i) Be within an enclosed building.
- (ii) Use nonflammable liquids in the cleaning processes that emit no odor, fumes, or steam detectable to normal senses from off the premises.

#### **(b) Self-Service Storage Facility**

In addition to general requirements, self-service storage facilities shall comply with the following standards:

- (i) Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.
- (ii) The owner/operator shall be allowed to sell moving and packaging materials and related items and to hold auctions on site for the disposal of goods stored on the premises.
- (iii) No more than one security or caretaker quarters may be developed on the site, and any such quarters shall be integrated into the building's design.
- (iv) Except as otherwise authorized in this subsection, all personal property shall be stored within enclosed buildings.
- (v) All access ways shall be paved with asphalt, concrete, or comparable paving materials.

- (vi) Garage doors or roll-up doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.
- (vii) The maximum height of a self-service storage facility shall be in accordance with the applicable district standards contained in [Article II](#). Zoning Districts.
- (viii) The exterior facades of all structures facing a public street shall be masonry (brick or split-faced CMU) or a combination of said masonry and other building products that have the appearance of a textured finish.
- (ix) Open storage of recreational vehicles, travel trailers, and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:
  - a. No outdoor storage shall be visible from off-site at street level from a public right-of-way;
  - b. The storage shall occur only within a designated area, which shall be clearly delineated;
  - c. The size of the storage area shall not exceed 25 percent of the buildable area of the site;
  - d. Outdoor storage areas shall be located to the rear of the principal structure and be screened according to the applicable Screening requirements in [Sec. 40.2-304](#) Landscaping and Screening;
  - e. Storage shall not occur within the areas set-aside for minimum building setbacks;
  - f. No dry stacking of boats shall be permitted on-site; and
  - g. Portable storage containers and freight shipping containers are prohibited.
- (x) Where an existing building is being converted to a self-storage use, the use specific standards may be varied through an approved Use Permit.
- (xi) **Additional Standards for Self-Storage Single-level Facility**
  - a. The minimum lot area shall be at least two (2) acres.
  - b. In a single-story self-service storage facility, interior parking shall be provided in the form of aisle ways adjacent to the storage bays. These aisle ways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisle ways shall be 21 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted.
  - c. All areas adjacent to a street frontage not occupied by a building shall include fencing designed in accordance with the following standards;
    - i. Fences shall be no shorter than six (6) feet or taller than eight (8) feet.

- ii. Fencing shall be masonry, wrought iron, steel, or aluminum and shall be painted or vinyl coated with colors that complement the buildings.
- iii. Chain link fencing is prohibited.
- iv. Metal fences shall include brick pilasters or supports located with consistent on-center spacing.
- v. Wooden or chain link entry gates into the use are prohibited.
- vi. Gates installed shall open horizontally, not vertically to ensure unencumbered access for emergency equipment.

**(xii) Additional Standards for Self-Storage Multi-level Facilities**

- a. All multi-level facilities shall have interior elevators.
- b. No less than 20 percent of the front facade facing the principal street shall consist of a non-reflective glazing material.
- c. Where interior ramps are proposed for use by motor vehicles the interior aisle ways shall meet or exceed the requirements of [Sec. 40.2-301](#).
- d. If approved by a Use Permit, other uses may be permitted on the first floor of the multi-level facility.
- e. A loading dock or loading area shall be provided.
- f. Individual storage units shall not be directly accessible from the exterior of the multi-level facility.

**(c) Outdoor Storage (Principal Use)**

In addition to general requirements, lots used for outdoor storage shall comply with the following standards:

- (i) Be fully enclosed in accordance with [Sec.40.2-305](#) Fences and Walls.
- (ii) Be screened in accordance with [Sec. 40.2-304](#) Landscaping and Screening.
- (iii) The height of materials and equipment stored shall not exceed the height of the screening.
- (iv) Customers and vehicles shall be allowed to circulate through the area used for outdoor storage.
- (v) Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

**(d) Bulk Fuel/Fuel Oil Storage and Sales**

In addition to general requirements, uses primarily involving bulk fuel/fuel oil storage and sales shall comply with the following standards:

- (i) Fuel, fuel oil, and gas storage shall be within incombustible exterior walled structures.

- (ii) Underground and aboveground fuel storage tanks shall meet and comply with all local, state, and federal requirements.
- (iii) Containers used for fuel oil storage shall not exceed an individual capacity of 275 gallons.
- (iv) Oil storage exceeding ten thousand (10,000) gallons above the ground is prohibited within fifty (50) feet of any property line.
- (v) Bulk storage containers (aboveground storage tanks) with oil storage capacity greater than 1,320 gallons, shall comply with Spill Prevention, Control, and Counter Measures (SPCC) under the Federal Clean Water Act regulations and Virginia regulation 9VAC25-91.

## **(2) Manufacturing and Production**

### **(a) Manufacturing, Heavy and Light**

In addition to general requirements, heavy and light manufacturing uses shall comply with the following standards:

- (i) Repair of all machines shall occur within an enclosed building.
- (ii) Temporary outdoor storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened in accordance with [Sec.40.2-305](#) Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.
- (iii) The use shall locate outdoor storage areas to the rear of the principal structure and be screened in accordance with [Sec. 40.2-304\(F\)](#) Screening.
- (iv) The height of materials and equipment stored shall not exceed the height of the screening.

### **(b) Industrial, Hazardous**

In addition to general requirements, hazardous industrial uses shall comply with the following standards:

- (i) Storage of gaseous materials shall be limited to quantities not exceeding 500,000 cubic feet and not located within 100 feet from any property line.
- (ii) If the pressure is greater than 100 pounds per square inch, gas storage with quantities less than 200 cubic feet shall not be located within 50 feet of any lot line.

## **(3) Warehouse and Freight Movement**

### **(a) Port Facilities, Truck or Freight Terminals, Wholesale Facilities, and Warehouses**

In addition to general requirements, port facilities, truck or freight terminals, wholesale facilities, and warehouses (distribution or storage) shall comply with the following standards:

- (i) Drive aisles at least 50 feet wide shall be provided between rows of shipping containers to provide sufficient space for forklifts and safe maneuvering unless a modification is approved by the City Engineer.
- (ii) Any facility that includes shipping containers or chassis shall also comply with [Sec.40.2-217\(H\)\(1\)\(b\)](#).

**(b) Shipping Container/Chassis Storage Yard**

In addition to general requirements, shipping container/chassis storage yards shall comply with the following standards:

- (i) Drive aisles at least 50 feet wide shall be provided between rows of containers to provide sufficient space for forklifts and safe maneuvering unless a modification is approved by the City Engineer.
- (ii) Containers shall not be stored in groups that occupy an area measuring greater than 200 feet by 80 feet.
- (iii) Containers shall be placed on a level, well-compacted surface of crushed stone or similar material.
- (iv) All entrance drives and off street parking areas shall be paved with asphalt or concrete.
- (v) The container storage area, as well as the entrance drives and off-street parking areas, shall be maintained free of potholes.
- (vi) Shipping containers shall be stacked no higher than four (4) containers high.
- (vii) Only shipping containers being used in the active transport of goods, wares, or merchandise shall be placed or stored in a shipping container storage yard.
- (viii) All shipping containers shall be placed or stored in a shipping container storage yard in an empty and ready to ship state.
- (ix) On-site repairs of shipping containers shall be limited to minor repairs needed to ensure that they remain in a condition ready to ship—including cleaning, repairing, servicing, painting, or fumigation.
- (x) All shipping containers shall be kept within a fenced area.
- (xi) The owner/operator shall maintain a log showing the dates each container was brought on the site and removed.
- (xii) No shipping container shall be stored on the site longer than 12 months.
- (xiii) No signage shall be placed on the shipping container units.

- (xiv) Any graffiti on shipping containers that are visible from adjacent properties or public right-of-ways shall be removed immediately.
- (xv) All truck chassis shall remain in an operable condition, be roadworthy, and display all valid vehicle license and current tags, as required.

#### **(4) Waste and Energy Services**

##### **(a) Construction/Demolition/Debris (CDD) Landfill**

In addition to general requirements and the standards contained in [Sec. 40.2-533](#) Use Permits, any Use Permit requested shall be approved only if the applicant has demonstrated that all of the following additional requirements are met, unless they are specifically waived or modified through the Use Permit process approved by City Council:

##### **(i) Location and Siting Requirements**

- a. CDD Landfills shall be located so that truck traffic arriving at or departing from the landfill can access an arterial street without need for travel upon a public street within or adjacent to:
  - i. Any public park; or
  - ii. Public recreational area; or
  - iii. Recreational facility.
- b. CDD Landfills and expansions of such facilities shall not be located within or encroach into any 100-year floodplain.
- c. The minimum area of a parcel proposed for development as a CDD Landfill must be 20 acres.
- d. No disposal unit (disposal cell) or leachate storage unit shall be located within:
  - i. 50 feet of the lot line on which the landfill is located; or
  - ii. 200 feet of a lot line of any educational facility, health care facility or religious institution.
- e. All CDD Landfills shall comply with the requirements of the Virginia Department of Environmental Quality (DEQ) and all required permits shall be maintained throughout all phases of operation and closure of the facility.

##### **(ii) Design Requirements**

- a. All facilities shall have an adequately lighted and heated shelter where operating personnel can exercise site control and have access to essential sanitation facilities.
- b. Lighting, heat, and sanitation facilities may be provided by portable equipment as necessary.

- c. The facility shall be designed with sufficient off-street parking and stacking areas to accommodate all employees, visitors, and trucks.
- d. Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.
- e. The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility operations by trucks and the use of emergency access ways and fire lanes.
- f. The off-site road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.
- g. On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.
- h. The on-site road system shall be designed to avoid the need for the backing of truck traffic.
- i. Sufficient internal storage areas shall be provided for incoming solid waste.
- j. A CDD Landfill shall include an eight (8)-foot perimeter fence interrupted only by necessary access and maintenance gates, or otherwise secured as determined by the Zoning Administrator in order to control vehicular and public access and prevent illegal disposal.
- k. All access will be limited by gates, and such gates shall be securable and equipped with locks.
- l. Fencing shall be constructed in accordance with [Sec. 40.2-305](#) Fences and Walls, and may include chain link, wood, vinyl or other materials of similar aesthetic characteristics and quality.
- m. The use of barbed wire or electric fencing shall be prohibited.
- n. The facility shall be screened from off-site views in accordance with [Sec. 40.2-304\(F\)](#) Screening.
- o. The Zoning Administrator shall be authorized to modify or waive the landscaping requirements where the facility is not visible from a public right-of-way or from privately owned property.

**(iii) Operational Requirements**

- a. Only construction waste, demolition waste, debris waste, yard waste, split tires, and white goods shall be accepted at any CDD Landfill. No other wastes shall be accepted unless specifically identified in an approved Use Permit and permitted by the Virginia Department of Environmental Quality.
- b. Operating hours shall be limited to 7:00 AM to 8:00 PM Monday through Saturday.

- c. Trucks or vehicles shall not be parked or stored overnight at the landfill unless screened in a manner that will substantially prevent view of stored vehicles from public rights-of-way.
- d. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash delivery.
- e. Junked or inoperable vehicles shall not be stored at the landfill.
- f. Emergency access ways and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.
- g. The operation of the CDD Landfill shall be undertaken so as to prevent the attraction, harborage or breeding of wildlife or insects, rodents, and other vectors (e.g., flies, maggots, roaches, rats, mice, and similar vermin) and to eliminate conditions which cause or may potentially cause harm to the public health and the environment, congregation of birds, safety hazards to individuals and surrounding property, and excessive odor problems, unsightliness, and other nuisances.
- h. CDD Landfills shall be maintained in a neat and orderly appearance at all times through the control of uncontained waste, trash, and litter. Operators shall cause periodic off-site policing and clean-up of trash and litter along all public rights-of-way described in the Truck Routing Plan within 1,760 feet (1/3 of a mile) of the landfill not less than once per week (or more often if needed) to ensure a neat and orderly appearance of the public rights-of-way.
- i. Scavenging is prohibited at any CDD Landfill.
- j. In addition to all other materials required by other provisions of this Ordinance or the City Code, the following materials must be submitted by the applicant as part of the Use Permit application process for a CDD Landfill:
  - i. A conceptual plan of the design and layout of the site demonstrating compliance with the design standards above.
  - ii. Conceptual elevations of any proposed building demonstrating compliance with the requirements above.
  - iii. A Traffic Impact Analysis in accordance with [Sec. 40.2.545](#) of this Ordinance, and including a Truck Routing Plan.
  - iv. An analysis of the structural capacity of the road network serving the landfill, identifying any deficiencies and improvements necessary to accommodate the facility. This analysis shall be of sufficient scope and detail as determined by the City Engineer.
  - v. A detailed assessment of the proposed design capacity of the landfill in relationship to the overall solid waste system in the region, including, but not limited to the anticipated volumes of solid waste (including average

daily volume and maximum daily volume), anticipated sources of waste (i.e. municipal, commercial, industrial, etc.), and the relationship to other facilities in the vicinity and region.

- vi. An Operation Plan demonstrating compliance with the operational requirements listed above.
- vii. Other information as required by the City of Portsmouth that is appropriate to the evaluation of the proposed landfill.

**(iv) Emergency Provisions**

Deviations from the requirements above and any conditions attached to the approval of the Use Permit may be necessary during times of emergencies, as determined by the City Manager, provided they do not jeopardize public health and safety and all requirements are met upon return to normal operations. Any deviation of the standards or requirements shall be established for a specific period of time (which may be extended by the City Manager) and shall be subject to any conditions established by the City Manager.

**(b) Energy Recovery Plant; Waste Composting Energy Recovery Plants, Hazardous Waste Collection Sites, Incinerators, and Waste Composting**

In addition to general requirements, energy recovery plants, waste composting energy recovery plants, hazardous waste collection sites, incinerators, and waste composting uses shall comply with the following standards:

- (i) The use shall be screened with a solid fence that is at least eight feet high in accordance with [Sec. 40.2-304\(F\)](#) Screening.
- (ii) The fence shall be set back at least 100 feet from any public right-of-way.
- (iii) The fence shall be set back at least 50 feet from any adjacent property.

**(c) Recycling Center**

In addition to general requirements, a recycling center shall comply with the following standards:

- (i) The center shall be on a parcel with an area of at least five (5) acres.
- (ii) The center shall be located at least 250 feet from any residential district, school, or day care.
- (iii) Except for a freestanding office, no part of the center shall be located within 50 feet of any lot line.
- (iv) All recycling activities and storage areas shall be effectively screened from view in accordance with [Sec. 40.2-304\(F\)](#) Screening.
- (v) In no case shall the height of recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed 20 feet or the height of the principal building on the lot, whichever is greater.

- (vi) Recyclable materials shall be contained within a leak-proof bin or trailer, and not stored on the ground.
- (vii) There shall be no collection or storage of hazardous or biodegradable wastes on the site.
- (viii) Space shall be provided to park each commercial vehicle operated by the center.
- (ix) The site shall be maintained free of fluids, odors, litter, rubbish, and any other nonrecyclable materials.
- (x) The site shall be cleaned of debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.
- (xi) Access to the center shall be from a collector or arterial street unless waived by City Council as part of the Use Permit approval.
- (xii) No dust, fumes, smoke, vibration or odor above ambient level shall be detectable on abutting properties.

**(d) Salvage Center**

In addition to general requirements, a salvage center shall comply with the following standards:

- (i) The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five (5) percent of the total on-site parking spaces. The mobility of the collection bin shall be retained.
- (ii) The bin and adjacent area shall be maintained in good appearance and free from trash.
- (iii) Containers shall be equipped with a lid to prevent access to stored material by animals or vermin and to preclude stored paper from being scattered by the wind.
- (iv) There shall be no collection or storage of hazardous or biodegradable wastes on the site.
- (v) All collection areas shall be provided instructional signage indicating how materials are to be separated and stating any limitations on the types of materials accepted for recycling.
- (vi) The signage shall note the name and telephone number of the operator of the facility and the hours of operation.
- (vii) Access to the site shall be from a collector or arterial street.
- (viii) Four (4) off-street parking spaces shall be provided adjacent to the collection area.
- (ix) The site shall be kept clean and free from litter and debris; weeds and rodents and other pests shall be controlled.
- (x) No burning, melting, or other reclamation shall be permitted.

(xi) No materials shall be stored or deposited on the premises in such form or manner that they may be transferred off the premises by natural causes or forces.

(xii) No storage of materials shall be allowed outside of the collection receptacles.

**(e) Junkyard Facility**

In addition to general requirements, a junkyard facility shall comply with the following standards:

(i) The facility shall be located on a parcel with an area of at least three (3) acres.

(ii) The facility shall be not located within 50 feet of any property line (except for a freestanding office).

(iii) The facility shall be screened no less than eight (8) feet in height in accordance with [Sec. 40.2-304\(F\)](#) Screening.

(iv) The height of materials and equipment stored shall not exceed the height of the required screening.

**(f) Solar Energy System**

**(i) Purpose**

The purpose of this subsection is to provide for the siting, development, and decommissioning of larger scale solar energy projects in Portsmouth, subject to reasonable conditions that promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources in accordance with the Code of Virginia § 67-103.

**(ii) Standards**

In addition to meeting general requirements, a solar energy system may be permitted as a principal use provided that the following standards are met:

a. Solar energy systems shall minimize impacts on the visual character of the adjacent areas.

b. All onsite transmission or power lines shall be placed underground.

c. Warning and educational signage shall be placed on solar equipment to the extent appropriate.

d. Solar energy systems should be set back in compliance with the setback requirements of the zoning district.

e. In order to permit equipment to be installed adjacent to existing nonconforming electric meters, solar energy equipment (excluding solar panels or collectors) may project into side and rear setbacks no closer than two feet from any property line.

f. Solar energy systems shall comply with the City Code Sec. 24-255 Unlawful Excessive Sound.

- g.** All ground level equipment shall be screened from all off site views in accordance with [Sec. 40.2-304](#) Landscaping and Screening.
- h.** The design and installation of solar energy systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Virginia Statewide Uniform Building Code and with all other applicable fire and life safety requirements.

**(iii)Decommissioning**

- a.** Any solar energy system found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state, and local safety standards or removed within six months.
- b.** Any solar energy system that is not operated for a continuous period of 24 months shall be considered abandoned, and the system shall be removed within ninety (90) days of receipt of notice from the locality instructing removal.
- c.** Prior to installation of a solar energy system:
  - i.** The applicant and property owner (if different from the applicant) must enter into an agreement with the City regarding decommissioning that complies with the requirements of Virginia Code §15.2-2241.2(B); and
  - ii.** The applicant must provide financial assurance to the City in an amount not less than the cost of decommissioning, as estimated in accordance with Virginia Code §15.2-2241.2(B).

**(g) Transfer Station**

In addition to general requirements and the standards contained in [Sec.40.2-533](#) Use Permits, any Use Permit requested shall be approved only if the applicant has demonstrated that all of the following additional requirements are met, unless they are specifically waived or modified through the Use Permit process approved by City Council:

**(i) Location and Siting Requirements**

- a.** Transfer stations shall be located so that truck traffic arriving at or departing from the station can access an arterial street without need for travel upon a public street within or adjacent to:
  - i.** Any public park;
  - ii.** Public recreational area;
  - iii.** Recreational facility; or

- iv. Any residentially zoned area as identified in [Table 40.2 -201](#) Zoning Districts Established.
- b. Transfer stations and expansions of such stations shall not be located within or encroach into any 100-year floodplain.
- c. The minimum area of a parcel proposed for development as a transfer station is four acres.
- d. No building or area in which the unloading, storage, processing, or transfer of waste or recyclable materials takes place shall be located within:
  - i. 50 feet of the lot line on which the waste transfer station is located; or
  - ii. 200 feet of a lot line of residentially zoned property as identified in [Table 40.2 -201](#), Zoning Districts Established; or
  - iii. 200 feet of a lot line of any Educational facility, Health Care facility or religious institution.
- e. All transfer stations shall comply with the requirements of the Virginia Department of Environmental Quality (DEQ) and maintain valid permits throughout all phases of operation and closure of the facility.

**(ii) Design Requirements**

- a. All activities associated with waste transfer, including tipping, sorting, storage, compaction, transfer, reloading, and related activities shall be conducted in a fully enclosed building.
- b. No outdoor storage of materials or equipment shall be permitted.
- c. Appropriate enclosed office and plumbed employee restroom facilities shall be provided on-site.
- d. The facility shall be designed with sufficient off-street parking and stacking areas to accommodate all employees, visitors, and trucks.
- e. Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.
- f. The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility operations by trucks and passenger vehicles (e.g., for household waste), and the use of emergency access ways and fire lanes.
- g. The off-site road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.
- h. On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.
- i. The on-site road system shall be designed to eliminate the need for the backing of truck traffic.

- j.** The unloading area shall be adequate in size and design to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles.
- k.** The unloading and loading pavement areas shall be constructed of concrete or asphalt paving material and a collection and disposal system shall be maintained that will prevent liquids contained in waste materials and generated by normal operations such as washout and cleaning of equipment, trucks, and floors ("waste liquids"), from contaminating the soil, surface water, or ground water.
- l.** Drains shall be connected to either the sanitary sewer system, if permitted by the service provider, or a corrosion-resistant holding tank.
- m.** Alternate designs may be used with prior written approval of the City if the applicant can show that the alternate design will prevent waste liquids from contaminating the soil, surface water, and ground water.
- n.** Provisions shall be made for weighing or measuring all solid waste transferred to the facility.
- o.** Sufficient internal storage areas shall be provided for incoming solid waste.
- p.** The transfer station design shall include screening in accordance [with Sec. 40.2-304\(F\)](#), Screening including an eight foot perimeter fence interrupted only by necessary access and maintenance gates.
- q.** Fencing shall be constructed of brick, block, stone, wood, vinyl or other materials of similar aesthetic characteristics and quality. Use of split-face style cinder block shall be permitted if of a neutral earth-tone color (no untextured, common gray cinder block will be permitted).
- r.** Gates shall be designed in a manner to balance the aesthetic compatibility of the station fencing materials with station security.
- s.** Colored metal or wrought iron gates designed to substantially reduce public views into the station are encouraged.
- t.** Use of chain link materials for gates is prohibited.
- u.** Facility layout, building materials, and building design shall, to the greatest extent possible, be planned to present an aesthetically attractive appearance from off-site locations when viewed through gated openings that will remain open during daylight or business hours.
- v.** The use of chain link fencing within the station shall be limited to areas not visible from any public right-of-way.
- w.** The use of barbed wire or electric fencing shall be prohibited.

- x. The facility shall be surrounded by a buffer yard that includes an eight (8) foot perimeter fence and is composed of not less than Type C plant units as identified in [Sec. 40.2-304](#) Landscaping and Screening.
- y. The Zoning Administrator shall be authorized to modify or waive the landscaping requirements where the facility is not visible from a public right-of-way or from privately owned property.

**(iii)Operational Requirements**

- a. Only household waste, commercial, and industrial waste and recyclable materials shall be accepted at any transfer station.
- b. No wastes classified as hazardous in accordance with United States Public Law 96-510, as amended, shall be knowingly accepted.
- c. The operator shall employ a plan for proper identification, control, and disposal of hazardous wastes received by the waste transfer station.
- d. No asbestos waste shall be knowingly accepted at a transfer station facility.
- e. The operator shall employ a plan for proper identification, control, and disposal of hazardous and asbestos wastes.
- f. All activities associated with processing, such as tipping, sorting, storage, compaction, transfer, reloading, and related activities shall be conducted in a fully enclosed building.
- g. Operating hours shall be limited to 7:00 AM to 8:00 PM Monday through Saturday.
- h. Adequate storage space for all waste shall be available at the transfer station in a fully enclosed building.
- i. No external storage of wastes shall be permitted.
- j. Solid wastes shall not remain at the transfer station for more than 72 hours.
- k. Any solid waste that is to be kept overnight at the station shall be stored in an impervious enclosed structure.
- l. Trucks or vehicles shall not be parked or stored overnight at the transfer station unless screened in a manner that will substantially prevent view of stored vehicles from public rights-of-way.
- m. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash delivery and transfer at the waste transfer station.
- n. Junked or inoperable vehicles shall not be stored at the waste transfer station.
- o. Emergency access ways and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.

- p. The operation of the transfer station and the storage and handling of all solid waste shall be undertaken so as to prevent the attraction, harborage or breeding of wildlife or insects, rodents, and other vectors (e.g., flies, maggots, roaches, rats, mice, and similar vermin) and to eliminate conditions which cause or may potentially cause harm to the public health and the environment, congregation of birds, safety hazards to individuals and surrounding property; and excessive odor problems, unsightliness, and other nuisances.
- q. Transfer stations shall be maintained in a neat and orderly appearance at all times through the control of uncontained waste, trash, and litter.
- r. Operators shall cause periodic policing not less than once every day (or more often as needed) of the entire waste transfer station.
- s. Operators shall also cause periodic off-site policing and clean-up of waste, trash, and litter along all public rights-of-way described in the Truck Routing Plan within 1,760 feet (1/3 of a mile) of the station not less than three times per week (or more often if needed) to ensure a neat and orderly appearance of the public rights-of-way.
- t. Sanitary conditions shall be maintained through the periodic wash-down or other appropriate cleaning method of the transfer station and transfer vehicles.
- u. Frequency of cleaning shall be sufficient to prevent odors and other nuisance conditions from developing.
- v. All residuals shall be properly disposed of following cleaning operations,
- w. No liquids, other than those used to disinfect, to suppress dust, or to absorb or cover odors from the solid waste, shall be added to the solid waste.
- x. Open burning is prohibited on any transfer station site.
- y. Scavenging is prohibited at any transfer station.

**(iv) Permit Application**

In addition to all other materials required by other provisions of this Ordinance or the City Code, the following materials must be submitted by the applicant as part of the Use Permit application process for a Transfer Station:

- a. A conceptual plan of the design and layout of the site demonstrating compliance with the design standards above.
- b. Conceptual elevations of the proposed building demonstrating compliance with the requirements above.
- c. A Traffic Impact Analysis (TIA) in accordance with [Sec. 40.2.545](#) of this Ordinance, and including a Truck Routing Plan.
- d. An analysis of the structural capacity of the road network serving the transfer station, identifying any deficiencies and improvements necessary to

accommodate the transfer station. This analysis shall be of sufficient scope and detail as determined by the City Engineer.

- e. A detailed assessment of the proposed design capacity of the transfer station in relationship to the overall solid waste system in the region, including, but not limited to the anticipated volumes of solid waste (including average daily volume and maximum daily volume), anticipated sources of waste (i.e. municipal, commercial, industrial, etc.), and the relationship to other transfer stations in the vicinity and region.
- f. An Operation Plan demonstrating compliance with the operational requirements listed above.
- g. Other information as required by the City of Portsmouth that is appropriate to the evaluation of the proposed transfer station.

**(v) Emergency Provisions**

Deviations from the requirements above and any conditions attached to the approval of the Use Permit may be necessary during times of emergencies, as determined by the City Manager, provided they do not jeopardize public health and safety and all requirements are met upon return to normal operations. Any deviation of the standards or requirements shall be established for a specific period of time (which may be extended by the City Manager) and shall be subject to any conditions established by the City Manager.

**(vi) Violation Abatement Fund**

- a. As a condition of commencing operation of a transfer station to be operated by any entity other than the City of Portsmouth, the operator shall maintain at all times a cash deposit with the City of Portsmouth in an amount determined at the time of application according to a then-current resolution of the City Council establishing the minimum deposit. In the absence of such a resolution, the minimum amount shall be \$2,000.00. This fund shall be known as the "Abatement Fund."
- b. The Abatement Fund shall assure the prompt and complete performance of the operator with requirements imposed by this Ordinance and any additional conditions of the Use Permit, and, in particular, the requirement to maintain the use and the truck routes described in any required Truck Routing Plan within 1,760 feet of the use in a neat and orderly appearance.
- c. The City of Portsmouth shall be authorized at its discretion to draw upon and use all or any portion of the Abatement Fund in order to remedy a violation, pursuant to the following procedures:
  - i. The City shall first issue a written notice of violation to the operator or supervisor of the use. Such notice shall provide the specific conditions existing that are deemed in violation of the requirements of this Ordinance or the conditions of approval of the use.

- ii.** Except in cases where the City Manager or the City Manager's designee determines that the violation presents an imminent threat to public health or safety, the City shall provide twenty-four (24) hours from the delivery of notice (or such longer period as may be determined appropriate by the City Manager or the City Manager's designee) to remedy the cited violation.
- iii.** If the cited violation is not remedied within the time specified by the notice, or if the City Manager or the City Manager's designee determines that the violation presents an imminent threat to public health or safety, the City may (but is not obligated to) take action to remedy the violation, and the City shall be authorized to apply all or any part of the Abatement Fund to the cost of same.
- iv.** If the cost to the City of remedying the violation exceeds the then-current balance of the Abatement Fund, then in addition to replenishing the Abatement Fund as provided in (e) below, the operator shall reimburse the City its costs (to the extent not reimbursed from the Abatement Fund) within fourteen (14) days after the City provides notice and documentation. Failure to maintain the required minimum balance shall constitute cause for City Council to revoke the Use Permit.
- d.** The Abatement Fund shall be maintained in an account determined by the City. Interest, if any, earned on such Abatement Fund deposit shall accrue to such account or fund for use in the same manner and purpose as the Abatement Fund.
- e.** At all times the operator shall maintain a balance in the Abatement Fund of not less than the greater of \$2,000.00 or the minimum amount established by City Council from time to time in accordance with subsection **a** hereof. In the event the City draws Abatement Funds in accordance with subsection **c**, then within fourteen (14) days after the operator receives notice of the City's draw the operator shall replenish the Abatement Fund as necessary to achieve the minimum balance. Failure to maintain the required minimum balance shall constitute cause for City Council to revoke the Use Permit.
- f.** At such time as an operator ceases or abandons the transfer station use, the operator may request release of the Abatement Fund. Provided that the Abatement Fund shall only be released upon demonstration to the City's satisfaction that the transfer station use has ceased and that there is no outstanding violation that would entitle the City to draw Abatement Funds, and provided further that the transfer station use shall not be re-commenced under the existing use permit unless and until the operator has replenished the Abatement Fund.

- g.** Nothing in this section shall prevent or preclude the City from pursuing any other remedy or right to enforcement or abatement of violations or nuisances resulting from the operation of a transfer station.

**(h) Wind Energy Systems**

**(i) Purpose**

The purpose of this subsection is to provide for the siting, development, and decommissioning of larger wind energy systems in Portsmouth, subject to reasonable conditions that promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources in accordance with the Code of Virginia §67-103.

**(ii) Standards**

In addition to meeting general requirements, a wind energy system be permitted as a principal use provided that the following standards are met:

- a.** Wind energy systems shall minimize impacts on the visual character of the adjacent areas.
- b.** Wind turbines shall be illuminated in accordance with the requirements of the Federal Aviation Administration (FAA) and shall have no additional lighting.
- c.** Wind turbines shall comply with City Code Sec. 24-255 Unlawful Excessive Sound.
- d.** Freestanding wind turbines shall be set back from all property lines a distance equal to the height of the turbine plus three (3) feet.
- e.** The micro wind turbine height is the distance measured from grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.
- f.** The setback shall be measured from the edge of the wind turbine tower base to the property line.
- g.** All other components of the wind energy systems shall be set back in compliance with the setback requirements of the zoning district.
- h.** The design and installation of wind energy systems shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Virginia Statewide Uniform Building Code, the FAA, and with all other applicable fire and life safety requirements. The manufacturer specifications shall be submitted as part of the application.

**(iii)Decommissioning**

- a. Any wind energy system found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state, and local safety standards or removed within six (6) months.
- b. Any wind energy system that is not operated for a continuous period of 24 months shall be considered abandoned, and the system shall be removed the wind energy project within ninety (90) days of receipt of notice from the locality instructing removal.

## **(I) Accessory Uses**

### **(1) Purpose**

This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth in this section.

### **(2) General Standards and Limitations**

- (a) All accessory uses and accessory structures shall conform to the applicable requirements of this Ordinance, including the district standards in [Article II](#) Zoning Districts, and the accessory use-specific standards in [Sec. 40.2-217](#) Use-Specific Standards, and the development standards in [Article III](#) Community Design.
- (b) The provisions of this section establish additional standards and restrictions for particular accessory uses and structures.
- (c) Unless otherwise specified in this section or in [Sec. 40.2-216](#) Use Table, any accessory use or accessory structure shall be treated as a permitted use in the zoning district in which it is located.
- (d) An accessory use or structure may be approved in conjunction with approval of the principal use or structure or may be approved separately through issuance of a Zoning Permit.
- (e) “Little libraries” or “little food pantries” on private property outside of the sight triangle shall not be subject to zoning permit approval. “Little libraries” or “little food pantries” in the right-of-way shall receive approval from the City Engineer.
- (f) All accessory uses and accessory structures shall meet the following standards:
  - (i) Directly serve the principal use or structure;
  - (ii) Be customarily accessory and clearly incidental and subordinate to the principal use and structure;
  - (iii) Be subordinate in area, extent, and purpose to the principal use or structure;
  - (iv) Be owned or operated by the same person as the principal use or structure;
  - (v) Be located on the same lot as the principal use or structure;

(vi) Together with the principal use or structure, not violate any standards of this Ordinance;

(vii) Not be constructed or established prior to the principal use.

**(g) Location**

(i) With the exception of those listed in [Sec. 40.2-218\(A\)\(5\)](#) Allowable Yard Encroachments, all accessory structures shall comply with the minimum setback and spacing standards applicable to accessory structures in the zoning district where the structure is located. (See [Sec. 40.2-218\(G\)](#)).

(ii) No accessory structure shall be located within any platted or recorded easement or over any known utility without written permission from the easement holder.

**(h) Maximum Height**

Unless otherwise specified in this Ordinance, all accessory structures shall comply with the maximum height standards applicable to accessory structures in the zoning district where the structure is located ([Sec. 40.2-218\(G\)](#)) and as modified by the following:

(i) Accessory structures 20 feet or more in height shall meet the minimum yard requirements for principal uses.

(ii) An accessory structure shall not exceed the height of the existing principal structure(s) unless expressly permitted by this Ordinance

**(i) Lot Coverage**

The total area occupied by all accessory structures shall not exceed the maximum lot coverage standard applicable to accessory structures in the zoning district where the structure is located. ([Sec. 40.2-218\(G\)](#))

**(3) Specific Standards for Certain Accessory Uses**

**(a) Accessory Building or Structure**

**(i) Garages/Carports**

In addition to general requirements, detached garages and/or detached carports shall be permitted as an accessory to a principal use provided that the following standards are met:

a. The height of a detached garage or carport shall not exceed the height of the principal structure on the same lot.

**(b) Accessory Dwelling Units**

In addition to general requirements, accessory dwelling units shall be permitted as an accessory use to a principal use provided that the following standards are met:

(i) Accessory dwelling units are only permitted on lots with single-family detached dwellings.

- (ii) Accessory dwelling units are not permitted on lots with multi-family, townhouses, two-family, or three-to-four family dwellings.
- (iii) Not more than one (1) accessory dwelling unit per lot is permitted.
- (iv) Accessory dwelling units shall be:
  - a. Located within the principal structure (e.g., a downstairs apartment);
  - b. Be attached; or
  - c. Be detached (behind the principal structure as a freestanding building or above a detached outbuilding).
- (v) If attached:
  - a. The accessory dwelling unit must be attached to the principal structure and have an operative interconnecting door with the principal structure.
- (vi) If detached:
  - a. The accessory dwelling unit shall be separated from the principal structure as required by the Building Code and determined by the Building Official.
  - b. The accessory dwelling unit must be located in the same zoning district as the principal structure.
- (vii) The use of manufactured homes, travel trailers, campers, tractor trailers, or similar vehicles as an accessory dwelling unit shall be prohibited unless permitted by Code of Virginia §15.2-2290.
- (viii) An accessory dwelling unit shall have a gross floor area of at least 300 square feet and shall not exceed 25 percent of the floor area of the principal structure, subject to the standards in [Article II](#), Zoning Districts.
- (ix) At least one (1), but no more than two (2), off-street parking spaces shall be provided for an accessory dwelling unit (in addition to the required off-street parking serving the principal use).
- (x) Accessory dwelling units shall not be sold apart from the principal structure.

**(c) Amateur Radio Tower**

In addition to general requirements, amateur radio towers shall be permitted as an accessory use to a principal use provided that the following standards are met:

- (i) Towers associated with a ham radio operator or private television antenna shall not exceed 75 feet above grade in accordance with Code of Virginia § 15.2-2293.1.
- (ii) Towers or antennas attached to a principal structure shall be located on a side or rear elevation.
- (iii) Freestanding towers or antennas shall be located behind the principal structure.

**(d) Canopy, Gasoline**

In addition to general requirements, gasoline canopies shall be permitted as an accessory use to a principal use provided that the following standards are met:

- (i) A gasoline canopy may be attached to a principal structure or freestanding.
- (ii) A gasoline canopy may not be attached to an accessory structure.
- (iii) A gasoline canopy shall meet the minimum setbacks for the principal structure.
- (iv) A canopy shall have a maximum height of 15 feet measured from the finished grade to the underside of the canopy.
- (v) The design of the canopy, including any columns, shall match the design and exterior building materials of the principal building.
- (vi) A canopy covering fuel pumps may include logos or trademarks, but shall not include any other signage or advertising.
- (vii) In addition to meeting the standards in this section, a canopy shall not be internally illuminated, and any exterior lighting associated with a canopy shall be shielded so that the source of illumination is not visible from off-site areas.

**(e) Chickens, Backyard**

In addition to general requirements, backyard chickens shall be permitted as an accessory use to a principal use provided that the following standards are met:

- (i) The raising of a limited number of chickens is allowed as an accessory use to detached single-family residential properties provided that the use meets certain minimum standards and does not pose a health hazard or become a nuisance to adjoining property owners.
- (ii) The keeping of backyard chickens is allowed in accordance with the following standards:
  - a. The use is an accessory use to a detached single-family residence.
  - b. The minimum lot size shall be 5,000 square feet.
  - c. No more than one chicken for every 2,000 square feet of lot area is permitted.
  - d. No more than six (6) chickens are permitted on any lot or zone lot.
  - e. All housing and fencing of chickens shall be located solely in the rear yard.
  - f. Housing and fencing of chickens must be located at least 15 feet from any side or rear property line.
  - g. Chickens may not roam in other areas of the property or off the property.
  - h. No roosters are allowed.
  - i. Feed shall be stored and maintained in a secure container.

- j. Manure and other waste products shall be properly handled and disposed of in accordance with best management practices so as to not create an odor, attract vermin, or create a nuisance for surrounding property owners. Evidence of vermin may be cause for revoking a Zoning Permit.
- k. The sale of eggs shall be prohibited.

**(iii) Process for Approval**

- a. A request for a Zoning Permit shall be submitted and reviewed by the Zoning Administrator.
- b. The Zoning Administrator shall notify the adjoining property owners, including all owners across any public right-of-way that a Zoning Permit will be issued for the keeping of chickens.
- c. This notice must include a copy of the requirements for the keeping of chickens and information regarding the reporting of any code violations.

**(f) Community Garden (Accessory Use)**

In addition to general requirements, a community garden shall be permitted as an accessory to a principal use provided that the following standards are met:

- (i) Signage is limited to a single, non-illuminated, flat sign of nine (9) square feet.
- (ii) Retail sales shall not be permitted, except as an approved temporary use, as specified in [Sec. 40.2-217\(J\)](#) Temporary Use Standards.
- (iii) Plantings in community gardens shall not obstruct roadway visibility or impede the flow of traffic.
- (iv) Perimeter fencing, including trellises, are allowed in community gardens and are subject to the standards governing fence location, maintenance, height, and design within each respective zoning district (see [Sec. 40.2-305](#)).

**(g) Home Occupation**

In addition to general requirements, a home occupation shall be permitted as accessory to a principal dwelling unit, provided that:

- (i) The use shall be conducted within the principal dwelling or accessory structure(s).
- (ii) A maximum of two (2) home occupations are permitted for a residence.
- (iii) The business or service does not exceed 25 percent of the gross floor area of the principal structure or must be fully contained within the accessory structure where the use takes place.
- (iv) The principal person or persons providing the business or service resides in the dwelling on the premises.
- (v) The use shall be conducted entirely by the occupants thereof and no person who is not a resident of the principal dwelling shall be employed in connection with

the home occupation. This provision shall not preclude additional employees from working from other remote locations.

- (vi) The home occupation causes no change in the external appearance of the existing dwelling and structures on the property.
- (vii) All vehicles used in connection with the home occupation are of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood and there are no more than two (2) vehicles per home occupation.
- (viii) Signs are only permitted in accordance with [Sec. 40.2-307](#) Signage.
- (ix) The property contains no outdoor display or storage of goods, equipment, or services that are associated with the home occupation.
- (x) Any wholesale or retail sales of goods shall be either electronic or offsite. No wholesale or retail sales of goods shall occur on the premises.
- (xi) Personal services provided as home occupations are subject to the following requirements:
  - a. That no more than one (1) customer may be provided service at the same time, and
  - b. That the operator obtain and maintain in effect all required permits and licenses.
- (xii) The following home occupations are prohibited:
  - a. Vehicle repair and the like;
  - b. Dentists or physician's offices and the like;
  - c. Any licensed or unlicensed practitioner who performs invasive procedures (acupuncture, tattooing, body piercing, and the like);
  - d. Restaurants, bars, social clubs and the like;
  - e. Animal kennels or hospitals and the like;
  - f. The sale of firearms; or
  - g. Any other business that is clearly inappropriate or out of character for a residential area such that its location constitutes an adverse impact on neighboring residential properties.

**(h) Limited Fuel/Oil/Bottled Gas Distributor**

Limited fuel/oil/bottled gas distribution may only be an accessory use to the following principal uses:

- (i) Convenience stores with gasoline sales;
- (ii) Retail sales, large; and

**(iii)** Other retail sales establishments.

**(i) Marina, Private (Accessory Use)**

In addition to general requirements, a private marina as an accessory use shall comply with the following standards:

- (i)** Use of private marinas, docks, or boating facilities shall be limited to a specific membership and shall not be intended for the general public or commercial purposes.
- (ii)** Private marinas and boating facilities shall be designed in accordance with the “Criteria for the Siting of Marinas or Community Facilities for Boat Mooring” as prepared by the Virginia Marine Resources Commission, VR 450-01-0047.
- (iii)** All federal, state, and local requirements, including CBPA and Floodplain Overlay requirements, for marina facilities shall be met and the necessary permits obtained prior to issuance of Zoning Permit.
- (iv)** Dry stacking of boats outside enclosed structures shall be prohibited.
- (v)** Exterior lighting shall comply with the standards in [Sec. 40.2-306](#) Exterior Lighting.

**(i) Outdoor Display and Sales**

In addition to general requirements, outdoor display or sales may be allowed as an accessory use for all retail sales and service uses. The outdoor display/sales of goods shall comply with the following standards:

- (i)** All outdoor display of goods shall be located immediately adjacent to the storefront, or building sides, and not in drive aisles, loading zones, fire lanes, or parking lots.
- (ii)** In the case of a shopping center, the “storefront” shall include the entire frontage of the shopping center facade, meaning that the total amount of display for all the in-line tenants combined shall not exceed 50 percent of the aggregate storefront of the total shopping center.
- (iii)** The area of outdoor display or sales shall not encompass the width of the entrance doors to the establishment as projected straight out from the facility (For example, if the width of the entrance doors is 10 feet, there shall be at least a 10-foot clearance from the doors as projected straight out and away from the facility.).
- (iv)** The height of the outdoor display shall not exceed eight (8) feet.
- (v)** The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.
  - a.** At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap

movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

- (vi) Outdoor sales shall not include hazardous and flammable materials, such as gasoline, oil, antifreeze, kerosene, poisons, pesticides and similar items.

**(j) Outdoor Storage (Accessory Use)**

In addition to general requirements, outdoor storage may be allowed as an accessory use in accordance with the following standards:

- (i) Each outdoor storage area shall be incorporated into the overall design of the principal structure on the site and shall be located to the side or rear of the principal structure.
- (ii) Goods stored in an outdoor storage area intended for sale or resale shall be limited to those sold on the premises as part of an associated, additional principal use.
- (iii) Each outdoor storage area shall be screened in accordance with [Sec. 40.2-304\(F\)](#) Landscaping and Screening.
- (iv) Each outdoor storage area shall be fully enclosed in accordance with [Sec.40.2-305](#) Fences and Walls.
- (v) The height of materials and equipment stored shall not exceed the height of the screening.
- (vi) Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

**(k) Produce Stands**

In addition to general requirements, produce stands may be permitted as an accessory to a principal use provided that the following standards are met:

- (i) Be limited to the retail sale of agriculture and horticulture products; and
- (ii) Not remain in the same location for more than six (6) months.

**(l) Solar Energy Project**

**(i) Purpose**

It is the intent of this subsection to provide for the siting, development and decommissioning of smaller-scale solar energy projects, subject to reasonable conditions that promote and protect the public health, safety, and welfare of the community while encouraging development of renewable energy resources in Portsmouth in accordance with the Code of Virginia §67-103.

**(ii) Standards**

Solar energy projects, subject to a design review where applicable, may be permitted as an accessory to a principal use provided that the following standards are met:

- a. Roof-mounted solar energy projects, including roof tiles, on a principal or accessory building shall not extend more than five (5) feet above the maximum principal building height specified for the zoning district.
- b. Ground-mounted solar energy projects shall not exceed twenty (20) feet in height.
- c. In order to permit equipment to be installed adjacent to existing nonconforming electric meters, solar energy equipment (excluding solar panels or collectors) may project into side and rear setbacks no closer than two (2) feet from any property line.
- d. Solar energy projects shall comply with City Code Sec. 24-255 –Unlawful Excessive Sound.
- e. The design and installation of solar energy projects shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Uniform Statewide Building Code and with all other applicable fire and life safety requirements.

**(iii) Decommissioning**

- a. Any solar energy project found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state, and local safety standards or removed within six (6) months.
- b. Any solar energy project that is not operated for a continuous period of 24 months shall be considered abandoned, and the system shall be removed within ninety (90) days of receipt of notice from the locality instructing removal.
- c. Prior to installation of a solar energy project:
  - i. The applicant and property owner (if different from the applicant) must enter into an agreement with the City regarding decommissioning that complies with the requirements of Virginia Code §15.2-2241.2(B); and
  - ii. The applicant must provide financial assurance to the City in an amount not less than the cost of decommissioning, as estimated in accordance with Virginia Code §15.2-2241.2(B).

**(m) Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Homes**

**(i) Purpose**

- a. It is the intent of this subsection to prohibit the customary or continual parking of certain vehicles and equipment on streets and within yards adjacent to

streets in residential neighborhoods since the presence of such vehicles runs contrary to the intended residential character of such neighborhoods.

- b. It is not the intent of these standards to prevent the occasional or temporary parking of such vehicles or equipment as necessary for the purposes of loading, unloading, or cleaning; however, the continual or customary overnight parking of such vehicles or equipment for a portion of the day followed by removal the following day is prohibited.

**(ii) Applicability**

The standards in this subsection apply to:

- a. Heavy trucks with more than two (2) axles and a gross weight of more than 20,000 pounds; or,
- b. Major Recreational Vehicles
- c. Trailers with more than one (1) axle

**(iii) Exemption**

These standards shall not apply to school buses used for transport of children to or from school.

**(iv) Standards**

- a. No heavy truck, trailer, other major recreational equipment shall be parked or stored for longer than four (4) days over any calendar year in any front yard or side yard immediately adjacent to a street, unless the width of the side yard is less than 11 feet.
- b. Boats, campers, and recreational vehicles shall be parked or stored only to the side or rear of the dwelling they are associated with unless the width of the side yard is less than 11 feet.
- c. It shall be unlawful for any person to park a camper-type trailer to be used for human habitation in any location in the city for a period longer than 12 hours.
- d. Only one (1) such vehicle described by this section shall be parked on a lot in the NR, GR, UR, UR-M, HR, HLO, or HLB zoning districts at any one time.

**(n) Micro Wind Turbine**

**(i) Purpose**

It is the intent of this subsection to provide for the construction, operation, and decommissioning of micro wind turbines as an accessory use subject to reasonable conditions that will promote and protect the public health, safety, and welfare, while encouraging renewable energy development within Portsmouth in accordance with Code of Virginia §67-103.

**(ii) Standards**

A micro wind turbine, subject to a design review where applicable, may be permitted as an accessory to a principal use provided that the following standards are met:

- a. Micro wind turbines shall maintain galvanized steel finish or painted a non-obtrusive color.
- b. Micro wind turbines shall be illuminated in accordance with the requirements of the Federal Aviation Administration (FAA) and shall have no additional lighting.
- c. Micro wind turbines shall comply with City Code Sec. 24-255 Unlawful Excessive Sound.
- d. Freestanding micro wind turbines shall be set back from all property lines a distance equal to the height of the turbine plus three (3) feet.
- e. The micro wind turbine height is the distance measured from grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.
- f. The setback shall be measured from the edge of the micro wind turbine tower base to the property line.
- g. All other components of the micro wind turbine system shall be set back in compliance with the setback requirements of the zoning district.
- h. A roof-mounted micro wind turbine shall project no more than 15 feet above the highest point on the structure.
- i. The maximum height of a freestanding micro wind turbine is 80 feet.
- j. The design and installation of micro wind turbines shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or other similar certifying organizations, and shall comply with the Uniform Statewide Building Code and with all other applicable fire and life safety requirements.

**(iii) Decommissioning**

- a. Any micro wind turbine found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state, and local safety standards or removed within six (6) months.
- b. Any micro wind turbine that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned, and the system shall be removed within ninety (90) days of receipt of notice from the locality instructing removal.

**(J) Temporary Use Standards**

**(1) Purpose**

- (a) This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent land, and provided that such uses or events are discontinued upon the expiration of a set time period.
- (b) Temporary uses shall not involve the construction or alteration of any permanent building or structure.

**(2) Table of Permitted Temporary Uses and Structures**

- (a) [Table 40.2-217](#), Permitted Temporary Uses and Structures, summarizes the temporary uses and structures that are allowed within the City and any general or specific standards that apply.
- (b) Temporary uses or structures not listed in [Table 40.2-217](#), Permitted Temporary Uses and Structures, are not allowed by this Ordinance.

<b>Table 40.2-217: PERMITTED TEMPORARY USES AND STRUCTURES</b>		
<b>TEMPORARY USE OR STRUCTURE</b>	<b>ALLOWABLE TIME FRAME</b>	<b>SPECIFIC REGULATIONS</b>
Expansion/Replacement of Existing Facilities and Temporary Offices	In place less than 1-4 years	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(a)</a>
City/School Uses and Facilities	Unlimited	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a>
Temporary Residence	24 months	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(a)</a>
Real Estate Sales Office/Model Sales Home	In place less than 1-4 years	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(b)</a>

<b>Table 40.2-217: PERMITTED TEMPORARY USES AND STRUCTURES</b>		
<b>TEMPORARY USE OR STRUCTURE</b>	<b>ALLOWABLE TIME FRAME</b>	<b>SPECIFIC REGULATIONS</b>
Construction-Related Activities for New Construction	In place less than 1-4 years	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(c)</a>
Temporary Storage in an On-Demand Portable Storage Container	In place less than 30 days per calendar year, and less than 3 occurrences per parcel, per year	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(d)</a>
Temporary Family Health Care Structure	Unlimited as long as requirements of 40.2-217(6)(d) are met	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(e)</a>
Outdoor Seasonal Sales	In place less than 30 days per calendar year, and less than 3 occurrences per parcel, per year	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(f)</a>
Farmer’s Market	Operate on continuous basis up to 5 months per year per site	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(g)</a>
Food Trucks on Private Property	Food Truck Permit subject to Food Truck Policies and Procedures Manual	Food Truck Permit Required; See City Code Ch. 32, Article X and <a href="#">Sec.40.2-217(J)(6)(h)</a>
Carnival and Circus	Operation not to exceed 30 days per year	Temporary Use Permit Required; See <a href="#">Sec. 40.2-531</a> and <a href="#">Sec.40.2-217(J)(6)(i)</a>

**(3) Prohibited Temporary Uses**

Without limiting the standards of this Ordinance, the following activities are prohibited in all districts:

- (a) Retail sales or display of goods, products, or services within the public right-of-way except as part of an authorized not-for-profit, special, or city-recognized event or within the Downtown D1 district.

- (b) Except as part of a permitted seasonal sale or a Food Truck permitted by the City, retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container.

**(4) Temporary Use Zoning Permits**

- (a) All temporary uses and structures, except temporary construction office trailers, in [Table 40.2-217](#) Permitted Temporary Uses and Structures shall obtain a Temporary Use Zoning Permit in accordance with [Sec. 40.2-531](#) Temporary Use Permits.
- (b) A Temporary Use Permit shall be reviewed, approved, or denied only in accordance with the standards of this section.

**(5) General Standards for Temporary Uses and Structures**

In addition to general requirements, all temporary uses, structures, or special events shall comply with the following general standards, unless otherwise specified in this Ordinance:

- (a) Obtain the appropriate permit from the city (if required);
- (b) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- (c) Be compatible with the principal uses taking place on the site;
- (d) Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;
- (e) Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this Ordinance.
- (f) Comply with the maximum signage size for temporary signs in [Sec. 40.2-307](#) Signage;
- (g) Not violate the applicable conditions of approval that apply to a site or use on the site;
- (h) Not interfere with the normal operations of any permanent use located on the property; and
- (i) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

**(6) Specific Regulations for Certain Temporary Uses and Structures**

**(a) Expansion or Replacement of Existing Facilities**

**(i) Purpose and Scope**

Factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy (except for minor unpacking and connection to utilities), and designed for relocation to other sites, may be placed on land to serve as the following:

- a. Temporary expansion space for existing uses.
- b. Temporary classroom space to augment an existing public educational facility.
- c. Temporary offices for construction and security personnel during the construction of a development for which the city has issued a building permit.
- d. One temporary office per site to include but not be limited to, the following uses: hiring, membership solicitation, multifamily development office/leasing, and other general office uses. The number of temporary structures housing such uses shall be limited to one, in addition to those already allowed by this section. Such temporary structures shall not be placed on the property prior to the issuance of required permits.
- e. A temporary residence used for housing occupants of an on-site existing principal dwelling unit subject to casualty damage or major natural disaster.

**(ii) Standards**

In addition to meeting the general standards of this section, all temporary structures approved in accordance with this section shall meet the following standards:

- a. The structure may be located anywhere on the site except within the following areas:
  - i. Existing required landscaping or landscape buffer areas;
  - ii. Areas designated for ingress/egress.
- b. In addition to any other off-street parking required on the site in accordance with [Sec. 40.2-301](#), Off-Street Parking, Loading and Circulation, adequate off-street parking shall be provided for the temporary use;

**(iii) Duration**

- a. Temporary structures under this subsection may remain on the site for no more than 12 months, unless otherwise indicated.
- b. This period may be renewed as indicated in [Table 40.2-217](#), for good cause shown, upon approval of a written request for such extension, submitted to the Zoning Administrator, thirty (30) days prior to the expiration of the temporary Use Permit.

**(b) Real Estate Sales Office and Model Sales Home**

**(i) General Standards**

One temporary real estate sales office or model sales home may be allowed as incidental to a new residential or nonresidential development, provided that:

- a. The use is located on a lot approved by the city as part of the development.

- b. Signage complies with the standards of [Sec. 40.2-307](#) Signage.
- c. The temporary use complies with the minimum setback standards of the zoning district in which it is located.
- d. Off-street parking provided for the temporary use complies with the standards of [Sec. 40.2-301](#), Off-Street Parking, Loading and Circulation.
- e. Upon termination of the temporary real estate sales office or model sales home, the structure shall be converted into, or removed and replaced with, a permanent use.
- f. In approving or renewing approval of a real estate sales office, the Zoning Administrator may impose other conditions as is deemed necessary to avoid adverse impacts that the use as a sales office may have on adjacent properties or the community as a whole.
- g. All temporary structures shall be removed from the site prior to the issuance of the last Certificate of Occupancy for the subdivision or development site.

**(ii) Duration**

- a. Temporary real estate sales offices may be approved for a period of up to one (1) year. This period may be renewed as indicated in [Table 40.2-217](#) upon approval of a written request for such an extension, submitted to the Zoning Administrator, prior to the expiration of the permit. In no event shall the extension allow the temporary structure to remain on the site for more than four (4) years.
- b. Model sales homes may be approved for a period of up to four (4) years. This period may be renewed for additional six (6)-month periods, upon approval of a written request for such an extension submitted to the Zoning Administrator, prior to the expiration of the permit. There is no time limit on the use of model sales units.

**(c) Constructed Related Activities for New Construction**

**(i) General**

Temporary construction-related activities for new construction, including construction offices, storage buildings, outdoor storage, and employee parking areas, may occur on the same site as the construction activity without obtaining a temporary Use Permit. Such uses shall be removed within thirty (30) days after issuance of a Certificate of Occupancy.

**(ii) Adjacent Site**

Because of site constraints, construction-related activities may need to occur on a site that is adjacent to or nearby the construction site. In such cases, a temporary Use Permit is required. Such uses shall be removed within thirty (30) days after

issuance of a Certificate of Occupancy, and the site is restored to its previous condition.

**(d) Temporary Storage in an On-Demand Portable Storage Container**

Temporary storage in an on-demand portable storage container shall be permitted to serve an existing residential use, subject to the following standards:

- a. Containers shall not exceed 20 feet in length;
- b. Containers shall not be located within five (5) feet of any lot line;
- c. Containers shall not encroach into public right-of-way or adjacent properties; and
- d. Containers shall not be located on an individual parcel or site for more than 14 consecutive days per site per calendar year.

**(e) Temporary Family Health Care Structure**

A temporary family health care structure shall be allowed as an accessory use in any residential zoning district on lots zoned for and occupied by a single-family detached dwelling provided they comply with the standards of this section.

**(i) Standards**

- a. The structure shall be used solely for and occupied by a mentally or physically impaired person as defined in § 63.2-2200 of the Code of Virginia, and as certified in writing provided by a physician licensed by the Commonwealth.
- b. The structure must be located on property owned or occupied by the caregiver as his residence. The caregiver shall be either related by blood, marriage, or adoption to, or be the legally appointed guardian, of the mentally or physically impaired person for whom they are caring.
- c. Such structures shall comply with all setback requirements that apply to the principal structure and with any maximum floor area ratio limitations that may apply to the principal structure.
- d. Only one (1) family health care structure shall be allowed on a lot or parcel of land.
- e. The structure shall be a transportable residential structure primarily assembled at a location other than its site of installation that complies with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code containing no more than 300 gross square feet. Placing the temporary family health care structure on a permanent foundation shall be prohibited.
- f. The structure shall be connected to any water, sewer, and electric utilities that are serving the principal residence on the property and shall comply with all applicable requirements of the City.

**(ii) Duration**

- a. The applicant shall provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property.
- b. Any temporary family health care structure installed pursuant to this section shall be removed within thirty (30) days after the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.
- c. The City may inspect the temporary family health care structure at reasonable times convenient to the caregiver to ensure compliance with the standards and intent of this section.

**(f) Outdoor Seasonal Sales**

**(i) Applicability**

Merchants may display and/or sell goods in the City on a temporary basis without establishing a permanent place of business, subject to the standards of this section.

**(ii) Location**

- a. The outdoor display and/or sale of goods consistent with the provisions of [Sec. 40.2-215](#) Outdoor Display and Sales, is considered an accessory use and does not require a Temporary Use Permit.
- b. All other sales/displays of goods (other than agricultural products) require a Temporary Use Permit in accordance with [Sec. 40.2-217\(J\)\(4\)](#) Temporary Use Permit, and this subsection.

**(iii) Standards**

A temporary use for the temporary display and/or sale of products shall comply with the following standards:

- a. The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.
- b. The display or sale of products, goods and/or services shall be limited in scope to similar or complementary products, goods, and/or services to those offered by the existing principal use located on the same site.
- c. The temporary sale of non-agricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.
- d. Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.

- e. Tents and other temporary structures shall be located on an improved surface such as asphalt, gravel, or other improved surface.
- f. Off-street parking shall be adequate to accommodate the proposed sale of products.
- g. The temporary display or sale of products shall not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.
- h. The hours of operation of the temporary sale of products shall be from no earlier than 7:00 AM to no later than 10:00 PM, or the same as the hours of operation of the principal use.

**(iv) Duration**

- a. The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than thirty (30) total days per calendar year.
- b. The number of temporary sales of products per site per calendar year shall not exceed three (3).

**(g) Farmer's Market**

Farmer's markets shall:

- (i) Renew all applicable Temporary Use Permits as required;
- (ii) Be limited to the retail sale of agriculture and horticulture products, handcrafted food, drinks, and other products;
- (iii) Be permitted only within business zoning districts as established in [Sec. 40.2-201](#).
- (iv) Provide adequate ingress, egress, and off-street parking areas;
- (v) Be subject to the sign standards in [Sec. 40.2-307](#), Signage; and
- (vi) Operate on continuous basis up to five (5) months per year per site.

**(h) Food Trucks on Private Property**

**(i) Location**

Food trucks that have been permitted by the City may operate on private property in all zoning districts, subject to compliance with subsection [40.2-217\(J\)\(6\)\(h\)\(ii\)](#) below.

**(ii) Standards**

- a. All food trucks must have a valid City of Portsmouth food truck permit.
- b. All food trucks must possess a valid and unrescinded signed letter from the owner of the property stating that the owner has given permission for the food

truck to operate in a specific location during a specific time period not to be earlier than 7:00 AM or later than 10:00 PM or if the food truck is vending in conjunction with a specific business or event, at the declared or posted time of closing for that business or event.

- c. Food trucks shall not vend on vacant or unimproved properties, unless the property is owned or leased by the City and permission has been granted by the City.
- d. Food trucks shall operate in accordance with the requirements of Article X of Ch. 32 of the City Code, as the same may be amended, moved or superseded, and with all regulations and guidelines adopted by the City Manager pursuant thereto.
- e. Food trucks operating in all business districts or special districts (as categorized in [Table 40.2-201](#)) shall meet the following standards:
  - i. Food trucks must park only in a designated parking area.
  - ii. Food trucks shall not park in or in any way block or infringe on drive aisles, sidewalks, other access to loading/service areas, or emergency access and fire lanes.
  - iii. The regulations above shall not apply to food trucks operating in conjunction with a microbrewery or microdistillery.
- f. Food trucks operating in residential districts (as categorized in [Table 40.2-201](#)) shall meet the following standards:
  - i. Food trucks may operate on residential property only for the purpose of catering private events.
  - ii. In such cases, food trucks may only sell food and beverages to people attending the private event and who are entirely on the property owned by the person (s) holding the event.
  - iii. Food trucks shall not operate on the same parcel more than three (3) times in the same calendar month.
  - iv. The property owner must inform the Planning Department prior to allowing a food truck to operate on residential property.
  - v. Food trucks shall not be allowed to operate in the section of the Olde Towne Historic District zoned Historic Residential (HR).
  - vi. Food trucks shall be located on an improved surface such as asphalt, gravel, or other improved surface.
  - vii. No portion of the food truck shall extend onto an adjacent property or into any right-of-way.
  - viii. The owner and employees of a food truck may not use the food truck for catering or any other such uses on their own property.

- g.** Notwithstanding subsection (f) hereinabove, food trucks operating with City permission on City-owned or leased property in any zoning district shall be subject to the regulations governing food trucks operating in business districts or special districts set forth in subsection (e) hereinabove.
- h.** Food trucks operating in conjunction with and at the request of a microbrewery or microdistillery shall be subject to the same regulations as food trucks operating in non-residential districts as described above, with the exception that they shall not be subject to the buffer separating food trucks and restaurants.
- i.** Food trucks operating in conjunction with a microbrewery or microdistillery shall be allowed to operate in the Downtown area.

**(i) Carnival and Circus**

A transitory commercial entertainment, amusement, or exhibition which provides amusement rides, concessions, games of skill or chance, and other similar forms of amusement shall be considered a carnival and/or circus and comply with the following regulations.

- (i)** Operation of such temporary uses shall be limited to a total of not to exceed thirty (30) days per year.
- (ii)** An application for a Temporary Use Permit for a carnival or circus shall be submitted at least 45 days prior to the commencement of the temporary use.
- (iii)** Such temporary uses are not permitted in the residential district classification as identified in Sec. 40.2-201 Zoning Districts Established.
- (iv)** Such temporary uses need not comply with the yard setback requirements of this Ordinance except that associated structures and/or equipment must comply with the sight triangle and corner visibility standards in Sec. 40.2-218.
- (v)** Such temporary uses need not comply with the maximum height requirements of this Ordinance.
- (vi)** Such temporary uses shall comply with City Code Sec. 24-255 Unlawful Excessive Sound.
- (vii)** All requirements of the city and state building regulations shall be met.
- (viii)** All requirements of the City Engineer shall be met.

**Sec. 40.2-218 – Area, Bulk, Density, Building, and Setback Standards**

This section provides explanations of how to make determinations and measurements for standards within this Ordinance and provides dimensional standards for development in each zoning district.

**(A) Area**

**(1) Lot Size/Lot Area**

- (a) The lot size or lot area is the amount of land area, measured horizontally, included within the property lines of a lot.
- (b) Lands located within any private easement shall be included within the lot size.
- (c) Public rights-of-ways, areas below the mean high-water mark, marshlands, wetlands, or drainage areas located below the normal water level are not to be included in calculating lot size, except where specifically allowed by this Ordinance.
- (d) Townhouse dwellings may be developed without complying with the minimum lot size standard, provided the development does not exceed eight (8) units an acre and it complies with all other dimensional standards.
- (e) Minimum lot size is applied to the entire development for two-family, three-to-four-family, and multi-family dwellings.
- (f) Community gardens may be developed without complying with the minimum lot size standard of the zoning district.

**(2) Lot Width**

- (a) If the side lot lines are parallel, the lot width is the distance between these side lines, measured perpendicularly at the minimum required front yard setback for the district in which the lot is located.
- (b) If the side lot lines are not parallel, the lot width shall be the length of a line measured at right angles to the axis of the lot at a point which is equal to the required minimum front yard setback for the district in which located. The axis of a lot shall be a line joining the midpoints of the front and rear lot lines
- (c) Minimum lot width is applied to the entire development for multi-family, two-family, and three-to-four-family dwellings.

**(d) Average Lot Width**

The mean lot width for three (3) or more lots located along the same block face.

**(e) Lot Widths in GR, UR, & UR-M**

For lots created in the GR, UR, and UR-M districts after June 12, 2018, the minimum lot width may be reduced to no less than the average lot width within the same entire block on the same side of the street.

**(3) Setback Averaging**

In cases of conflict with the dimensional standards of the zoning district in [Sec.40.2-218\(A\)\(1\)](#), setbacks for single-family detached dwellings in all zoning districts, excluding accessory structures, may be averaged in accordance with this section.

**(a) Front Yard Setbacks**

- (i) For interior lots in a block, the average of the residences on both sides may be used as the minimum front yard setback.
- (ii) For corner lots, the adjacent and the corner lot in the adjacent block on the same side of the street may be averaged to determine the minimum front yard setback.

**(b) Side Yard Setbacks**

- (i) For interior lots in a block, the average side yard setback of residence on both sides may be used as the minimum side setback to determine the side yard setback, provided that the side yard is no less than five (5) feet.
- (ii) For corner lots, the interior side yard may equal the side yard setback on the adjoining lot, provided that the side yard is no less than five (5) feet, while the required street side setback shall not be modified under these averaging provisions.

**(c) Rear Yard Setbacks**

The required rear yard setbacks shall not be modified through these averaging provisions.

**(4) Zero Side Lot Line Development**

For townhouse dwellings, one side yard otherwise required hereunder shall be reduced to zero, provided that:

- (a) The width of the remaining side yard setback is equal to or exceeds the sum of both required side yard setbacks;
- (b) At least ten (10) feet of the remaining side yard setback is open for access to the homeowner and city services;
- (c) The zero side lot line development is suitable, uniform, and compatible with the surrounding neighborhood.

**(5) Allowable Yard Encroachments**

The following features may encroach into required setbacks but are subject to corner visibility requirements in Sec. [40.2-218\(A\)\(2\)](#):

- (a) Driveways, walkways, patios, stairs, paved areas, and other accessory structures less than 36 inches above grade;
- (b) Stairs, chimneys, fire escapes, fireplaces, windows, cornices, eaves, gutters, pilasters, balconies, uncovered decks, uncovered porches, air condensers, mechanical equipment, signs, and other accessory structures with a height exceeding three (3) feet above grade may encroach into a required yard by up to three (3) feet;
- (c) All landscape plantings;

- (d) Fences and walls intended for privacy or demarcation of lot lines that meet the standards in [Sec. 40.2-305](#);
- (e) Front porches may encroach into the front setback of the principal structure up to six (6) feet; and
- (f) Detached and attached carports may extend into the front setback of the principal structure up to 18 feet.

**(6) Sight Triangle and Corner Visibility**

- (a) Corner lots shall preserve areas necessary for corner visibility by limiting fence or wall height to a maximum of three (3) feet above grade, and all other obstructions between three (3) and ten (10) feet of the established grade in the following areas:
  - (i) For lots with an interior corner lot angle of 90 degrees or more at the street corner, the corner area is the area within the triangle created by the two (2) corner lot lines and drawing an imaginary line between the corner lot lines at 30 feet from the corner on each property lot line.
  - (ii) For lots with an interior angle of less than 90 degrees at the street corner, the corner area is the area within the triangle created by the two (2) corner lot lines and drawing an imaginary line between the corner lot lines 30 feet from the corner on each property lot line plus one (1) foot for every ten (10) degrees or major fraction less than 90 degrees.
- (b) These standards do not apply to United States mailboxes, police and fire alarm boxes, fire hydrants, public utility poles, street name markers, and official traffic signs and control devices.
- (c) Lots in a historic or downtown zoning district may waive these standards following approval by the City Engineer, to fulfill the purposes and objectives declared in [Sec. 40.2-206](#) Historic Districts.

**(B) Bulk**

**(1) Building Coverage**

- (a) Building coverage is a measure of intensity of a use of land that represents the portion of a site that is covered by building footprint, as well as attached porches, accessory structure, decks, and balconies.
- (b) Building coverage does not include driveways, streets, sidewalks, areas of outdoor storage, and any other areas covered by an impervious surface material.

**(2) Building Size**

Building size is the total floor area located inside exterior walls and covered by a roof.

**(3) Density, Gross Residential**

- (a) The number of residential dwelling units permitted per gross acre of land that is determined by dividing the number of units by the total area of land within the

boundaries of a parcel of land including existing streets, dedicated rights-of-way, tree protection zones, and open space set-asides, except as otherwise provided for in this Ordinance.

- (b) In the determination of the number of residential units to be permitted on a specific parcel of land, a fractional unit equal to or greater than 0.6 of a unit shall be rounded up to equal a full unit.
- (c) A fractional unit less than 0.6 of a unit shall be rounded down, and not counted as a unit.

**(4) Density, Net Residential**

- (a) The total number of dwellings existing or proposed on a zone lot, group of zone lots or other parcel, divided by the total land area in the zone lot or parcel, expressed in acres.
- (b) If the parcel is undeveloped, required street rights-of-way and other lands required to be dedicated for public use are not included in the land area.

**(5) District Size**

The minimum size, in acres, of a base or overlay zoning district, including streets, rights-of-way, and open space areas, but excluding unbuildable lands.

**(6) Floor Area**

The sum of the gross horizontal areas of the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings, and excluding the following:

- (a) Attic areas with a headroom of less than seven feet;
- (b) Unenclosed stairs or fire escapes;
- (c) Elevator structures;
- (d) Cooling towers;
- (e) Areas devoted to air conditioning, ventilating or heating or other building machinery and equipment;
- (f) Parking structures; and
- (g) Basement space where the ceiling is not more than 48 inches above the general finished and graded level of the adjacent part of the lot.

**(7) Floor Area Ratio**

The total floor area of all buildings or structures on a lot divided by the lot size.

**(C) Height**

**(1) Building Height**

The height of any building shall be measured as the vertical distance from the established grade at the corner of a front of a building to the highest point of the roof surface of a flat

roof, to the deck line of a mansard or Bermuda roof, or to the mean height between eaves and ridge of a gable, hip, cone, gambrel, shed or other roof shape.

**(2) Established Grade**

Established grade is the finished grade following grading, excavation, or other land-disturbing activity.

**(3) Grade**

Grade means the level of the finished ground surface immediately adjacent to the exterior walls of a building.

**(4) Flood Zone Allowance**

If a structure is required by any federal, state, or local flood protection regulation or ordinance to be elevated, the maximum allowed height of the structure shall be increased by the amount required to comply with the flood regulations.

**(5) Parking Structure Allowance**

If a building is built on top of a parking structure, the height of the parking structure shall not count toward the maximum allowed height of the building.

**(6) Non-Building Structure Height**

The height of any tower or other non-building structure shall be measured as the vertical distance from the average grade adjacent to the tower or structure to the highest point of the tower or structure, even if the highest point is an antenna.

**(7) Exceptions to Building Height Maximums**

Height limits shall not apply to chimneys, church spires, belfries, cupolas, domes, flagpoles, monuments, water towers, rooftop dish and TV antennas, amateur ham radio antennas, skylights, fire escapes or roof access stairways, mechanical equipment required to operate and maintain the building, or similar appurtenances, provided:

- (a) The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;
- (b) The appurtenance does not extend more than 25 feet above the maximum permitted building height, except as allowed herein;
- (c) The appurtenance does not exceed a maximum height of 200 feet above grade;
- (d) The appurtenance is not constructed for the purpose of providing additional floor area in the building; and
- (e) The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in this Ordinance.

**(D) Lot, Front of**

See [Article VI](#) Definitions.

**(E) Flag Lots**

- (1) Flag lots may be permitted if the proposed flag lot makes it possible to better utilize an irregularly shaped property or if the flag lot is used to eliminate direct access to a collector or an arterial street. In all cases, the following requirements must be met:
  - (a) The flag lot shall not access an arterial street.
  - (b) No part of the flag lot's access to the street (the "flagpole" or "panhandle") shall be less than 16 feet in width for residentially zoned lots and 50 feet for width for non-residentially zoned lots.
  - (c) The front property line of a flag lot shall not abut the side yard of an adjacent lot.
  - (d) The strip of land used for access to the main portion of the flag lot (the "flagpole" or "panhandle") shall not be included in calculating the area of the lot for the purpose of determining compliance with the dimensional requirements of the Zoning Ordinance, nor shall any part of the "flagpole" or "panhandle" be considered to be the front yard.
- (2) All setbacks of a flag lot shall meet the minimum dimensional requirements for a front setback in the district where the flag lot is located.
- (3) The “pole” or “pan handle” portion of a flag lot shall not be counted towards the lot size.

**(F) Sources of Data Lot**

The following sources of data shall be used to determine dimensional standards. The sources of data are listed in order of priority.

- (1) Recent Survey of Property & Buildings
- (2) Old Survey with Permits of Improvements
- (3) City Assessor’s Records & Maps

**(G) Area and Bulk Requirement Tables**

[Table 40.2-218\(1\)](#) Area and Bulk Requirements, sets out the area and bulk requirements for Residential Districts NR, GR, UR and UR-M as established by this Ordinance.

<b>TABLE 40.2-218(1): AREA AND BULK REQUIREMENTS</b>									
<b>“sf.” = Square Feet; “ft.” = Feet; “DU” = Dwelling Unit; “AC” = Acre; “N/A” = Not Applicable</b>									
<b>RESIDENTIAL DISTRICTS (NR, GR, UR, &amp; UR-M)</b>									
<b>Minimum Lot Requirements</b>	<b>NR</b>	<b>GR</b>		<b>UR</b>			<b>UR-M</b>		
	<b>All Uses</b>	<b>Detached Single-Family</b>	<b>All Other Uses</b>	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>
<b>Lot Size (sf.)</b>	30,000	12,500		7,500	N/A	7,500	6,000	N/A	7,500
<b>Lot Width (ft.)</b>	150	75		60	20	60	50	16	50
<b>Corner/End Unit Lot Width (ft.)</b>	N/A	N/A		N/A	35	N/A	N/A	26	N/A
<b>Maximum Density (DU/AC)</b>	N/A	N/A	8	N/A	N/A	12	N/A	N/A	25
<b>Front Yard Setback (ft.)</b>	40	30		25			10		
<b>Side Yard Setback (ft.)</b>	10	10		7	0	10	7	0	10
<b>Corner/End Side Yard Setback (ft.)</b>	15	15		10			10		
<b>Rear Yard Setback (ft.)</b>	40	30		25			25	20	25

<b>TABLE 40.2-218(1): AREA AND BULK REQUIREMENTS</b>									
<b>“sf.” = Square Feet; “ft.” = Feet; “DU” = Dwelling Unit; “AC” = Acre; “N/A” = Not Applicable</b>									
<b>RESIDENTIAL DISTRICTS (NR, GR, UR, &amp; UR-M)</b>									
<b>Minimum Lot Requirements</b>	<b>NR</b>	<b>GR</b>		<b>UR</b>			<b>UR-M</b>		
	<b>All Uses</b>	<b>Detached Single-Family</b>	<b>All Other Uses</b>	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>
<b>Maximum Building Coverage (%)</b>	45	45		55			65		
<b>Maximum Height (ft.)</b>	36	36		36			36	45	
<b>Garage Setback (Attached/Detached)</b>	Even with or behind front façade for all residential dwellings								
<b>Accessory Buildings &amp; Structures</b>									
<b>Front/Corner Side Yard Setback</b>	Behind the front façade of the principal building								
<b>Side/Rear Yard Setbacks (ft.)</b>	10	7		5			5		
<b>Corner Side Yard Setback (ft.)</b>	10	10		7	5	10	7	3	10

<b>TABLE 40.2-218(1): AREA AND BULK REQUIREMENTS</b>									
<b>“sf.” = Square Feet; “ft.” = Feet; “DU” = Dwelling Unit; “AC” = Acre; “N/A” = Not Applicable</b>									
<b>RESIDENTIAL DISTRICTS (NR, GR, UR, &amp; UR-M)</b>									
<b>Minimum Lot Requirements</b>	<b>NR</b>	<b>GR</b>		<b>UR</b>			<b>UR-M</b>		
	<b>All Uses</b>	<b>Detached Single-Family</b>	<b>All Other Uses</b>	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>
<b>Maximum Size (sf.)</b>	5% of lot area	10% of lot area		800, or 7.5% of the lot size, whichever is greater	7.5% of the lot size	800, or 7.5% of the lot size, whichever is greater	800, or 7.5% of the lot size, whichever is greater	7.5% of the lot size	800, or 7.5% of the lot size, whichever is greater

[Table 40.2-218\(2\)](#) Area and Bulk Requirements, sets out the area and bulk requirements for Commercial and Industrial Districts NMU, GMU, MU-H, IL and IN as established by this Ordinance.

<b>TABLE 40.2-218(2): AREA AND BULK REQUIREMENTS</b>									
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>									
<b>COMMERCIAL &amp; INDUSTRIAL DISTRICTS (NMU, GMU, MU-H, IL, &amp; IN)</b>									
<b>Minimum Lot Requirements</b>	<b>NMU</b>			<b>GMU</b>		<b>MU-H</b>		<b>IL</b>	<b>IN</b>
	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>All Uses</b>	<b>All Uses</b>
<b>Lot Size (sf.)</b>	7,500	N/A	5,000	N/A	10,000	N/A	10,000	5,000	5,000
<b>Lot Width (ft.)</b>	50	20	50	16	100	16	100	50	50
<b>Corner/End Unit Lot Width (ft.)</b>	N/A	35	N/A	25	N/A	25	N/A	N/A	N/A
<b>Maximum Density (DU/AC)</b>	N/A	N/A	12	N/A	16	N/A	30	N/A	N/A
<b>Front Yard Setback (ft.)</b>	20	10	25	10	20	10	20	25	25
<b>Side Yard Setback (ft.)</b>	20	0	10	0	20	0	20, 10 if parcel is less than 100 in width	20, 10 if parcel is less than 100 in width	20, 10 if parcel is less than 100 in width

<b>TABLE 40.2-218(2): AREA AND BULK REQUIREMENTS</b>									
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>									
<b>COMMERCIAL &amp; INDUSTRIAL DISTRICTS (NMU, GMU, MU-H, IL, &amp; IN)</b>									
<b>Minimum Lot Requirements</b>	<b>NMU</b>			<b>GMU</b>		<b>MU-H</b>		<b>IL</b>	<b>IN</b>
	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>All Uses</b>	<b>All Uses</b>
<b>Corner/End Side Yard Setback (ft.)</b>	20	10	10	10	20	10	15	20	20
<b>Rear Yard Setback (ft.)</b>	15	15	25	15	20	15	15	15	15
<b>Maximum Building Coverage (%)</b>	60	70		70		70		None	None
<b>Maximum Height (ft.)</b>	45			45	60	45	75	None	None
<b>Accessory Buildings &amp; Structures</b>									
<b>Front Yard/ Corner Side Yard Setback</b>	Behind the front façade of the principal building								

<b>TABLE 40.2-218(2): AREA AND BULK REQUIREMENTS</b>									
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>									
<b>COMMERCIAL &amp; INDUSTRIAL DISTRICTS (NMU, GMU, MU-H, IL, &amp; IN)</b>									
<b>Minimum Lot Requirements</b>	<b>NMU</b>			<b>GMU</b>		<b>MU-H</b>		<b>IL</b>	<b>IN</b>
	<b>Detached Single-Family</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>Townhouse</b>	<b>All Other Uses</b>	<b>All Uses</b>	<b>All Uses</b>
<b>Side/Rear Yard Setbacks (ft.)</b>	5			3	10 if less than or equal to 800 sf., otherwise same as principal use	3	10 if less than or equal to 800 sf., otherwise same as principal use	5	5
<b>Corner Side Yard Setback (ft.)</b>	5 if less than or equal to 800 sf., otherwise same as principal use			10 if less than or equal to 800 sf., otherwise same as principal use		10 if less than or equal to 800 sf., otherwise same as principal use		20, 10 if parcel is less than 100 in width	20, 10 if parcel is less than 100 in width
<b>Maximum Size (sf.)</b>	800, or 7.5% of lot area, whichever is greater	7.5% of lot area	See Maximum Building Coverage above	7.5% of lot area	See Maximum Building Coverage above	7.5% of lot area	See Maximum Building Coverage above	N/A	N/A

## **Article III. – Community Design**

### **Sec. 40.2-300 – General Provisions**

#### **(A) General Provision**

- (1) The provisions of Article III Community Design specify the nature, components, and use of development regulations and establish general requirements regarding the physical character and intensity of development.
- (2) All uses developed in any zoning district shall be designed as to be consistent with the standards set forth within this article.

#### **(B) Review for Compliance**

Review of proposed development to ensure compliance with the standards of this article shall occur at time of submission for review of Site Plan ([Sec. 40.2-540](#)), Subdivision Plat (Ch. 33.1 of the City Code), or Zoning Permit ([Sec. 40.2-530](#)), whichever occurs first.

#### **(C) Plan for Development Required**

Development subject to the standards of this article shall provide a site plan, master plan, or other plan for development illustrating how the proposed development complies with these standards.

### **Sec. 40.2-301 – Off-Street Parking, Loading, Circulation**

#### **(A) Purpose and Intent**

- (1) The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance.
- (2) The standards in this section are intended to provide for adequate off-street parking while allowing the flexibility needed to accommodate alternative solutions.
- (3) The standards are also intended to achieve City policies of supporting development and redevelopment of commercial corridors and downtown areas.
- (4) The standards are proposed to accommodate appropriate infill development and encourage pedestrian-oriented development, while avoiding excessive paved surface areas, promoting low impact development, and safeguarding historic resources.

#### **(B) Applicability**

- (1) Except where exempted by [Sec.40.2-301\(B\)\(4\)](#) and [Sec. 40.2-301\(E\)\(3\)](#), the off-street parking, loading, and circulation standards of this section shall apply to all new development in the city.
- (2) All vehicular parking areas, stacking areas, methods of vehicular ingress and egress, internal aisles, and loading spaces required by this section may be referred to as “vehicular use areas” as well as off-street parking areas.

(3) This section does not apply to bicycle parking spaces except as specified in [Table 40.2-301\(1\)](#).

**(4) Exceptions in the Downtown (D1) District:**

(a) No off-street parking or loading facility shall be required for those properties zoned D1 T4, D1 T5 or D1 T6 and which are located downtown, north of Interstate 264.

(b) Where parking or loading is provided, parking shall be designed in accordance with the requirements of this section of the Ordinance, with the exception of [Sec. 40.2-301\(D\)](#) and [Sec. 40.2-301\(E\)](#).

(c) Parking in the D1 T3, D1 T5, D1 SD, and D1 T4 district south of Interstate 264 district shall be in accordance with the number of spaces required in [Table 40.2-301\(1\)](#).

**(C) General Standards**

**(1) Non-Residential Districts**

In non-residential districts, a vehicular use area or off-street parking area shall be used solely for the parking of licensed motorized vehicles in operating condition. Required spaces may not be used for the display of goods for sale or lease or storage of vehicles, boats, motor homes, campers, mobile homes, or building materials.

**(2) Residential Districts**

In residential districts, in addition to the standard driveway parking spaces provided in conjunction with any single-family dwelling, up to one additional off-street parking space may be provided for a commercial vehicle on a single-family lot in accordance with [Sec. 40.2-217\(I\)\(3\)\(m\)](#) Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Homes. Except where expressly authorized in this Ordinance, parking on unimproved surfaces in residential districts is prohibited.

**(3) Off-Street Parking**

(a) Off-street parking areas of four (4) or more spaces and off-street loading areas shall include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading areas and distinguishing such spaces from aisles and other circulation features.

(b) Off-street parking is prohibited on grass and other unimproved surfaces.

**(4) Surfacing**

(a) All off-street parking and loading areas shall be surfaced with asphalt, concrete, brick, stone pavers, aligned concrete strips, or an equivalent material.

(b) Industrial development in the Industrial (IN) zoning district is not required to submit an Alternative Parking Plan for use of crushed stone or a comparable surfacing material.

(c) In cases where alternative surfacing materials are allowed, the surfaces shall be maintained in a smooth, well-graded, and dust-free condition.

**(5) Arrangement**

- (a) Off-street parking and loading areas shall be arranged for convenient access and safety of pedestrians and vehicles.
- (b) Off-street parking areas with four (4) or more spaces shall be arranged so no parking or maneuvering incidental to parking shall occur on a public street or sidewalk, and a vehicle may be parked or un-parked without moving another vehicle (except as provided in Sec. 40.2-301(M)(6) Tandem Parking).
- (c) Except for parking areas serving single-family detached, townhouse, and two-family dwellings, all off-street parking and loading areas shall be arranged so that no vehicle is required to back from such areas directly onto a street.

**(6) Exterior Lighting**

When lighted, off-street parking and loading areas shall be lighted so as to prevent glare or illumination exceeding maximum allowable levels on adjacent land (See [Table 40.2-306](#) Maximum Illumination Levels), and unless exempted, shall comply with the standards of [Sec.40.2-306](#) Exterior Lighting.

**(7) Landscaping**

Except for off-street parking areas serving single-family detached and two-family dwellings, off-street parking and loading areas shall comply with the standards of [Sec. 40.2-304\(D\)](#) Vehicular Use Area Landscaping.

**(8) Maintained in Good Repair**

- (a) All off-street parking, loading, and circulation areas shall be maintained in a safe condition and good repair at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land.
- (b) All off-street parking, loading, and circulation areas shall be periodically painted or otherwise restored to maintain a clear identification of separate parking stalls or loading areas.

**(9) Markings**

- (a) Each required off-street parking space and off-street parking facility must be identified by surface markings and must be maintained in a manner so as to be readily visible and accessible at all times.
- (b) Such markings must be arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles.
- (c) Markings required to be maintained in a highly visible condition include striping, directional arrows, and lettering on signs and in handicapped-designated areas.
- (d) One-way accesses into required parking facilities must be identified by directional arrows.

- (e) Any two-way access located at any angle other than 90 degrees to a street must be marked with a traffic separation stripe the length of the access. This requirement does not apply to aisles.

**(10) Placement**

The location or placement of off-street parking areas on a development site shall be limited in accordance with the standards of this section, [Sec. 40.2-217\(D\)\(1\)\(d\)](#), Multi-Family Use Standards and [Sec. 40.2-217\(F\)](#) Commercial Use Standards, as appropriate.

**(11) Minimum Separation**

- (a) All off-street parking areas shall be separated at least seven (7) feet from buildings in order to allow room for sidewalks, landscaping, and other plantings between the building and the parking area.
- (b) In the event foundation plantings are required in accordance with Sec. 40.2-304(H), Site Landscaping, additional minimum separation may be needed to maintain a minimum five (5)-foot-wide pedestrian clear zone along with the minimum area needed for landscaping.
- (c) This separation may be eliminated to the rear of buildings in areas designed for unloading and loading of materials.

**(12) Completion**

All off-street parking, loading, and circulation areas shall be completed prior to the issuance of a Certificate of Occupancy for the development they serve. In the case of phased development, off-street parking, loading, and circulation areas should only be provided for portions of the development with development plan or subdivision approval.

**(D) Calculation of Required Off-Street Parking Spaces**

**(1) Fractions**

When computation of the number of required parking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.

**(2) Multiple Uses or Mixed Use Development**

Unless otherwise approved, development containing more than one use must provide off-street parking in an amount equal to the total requirements of all individual uses. This does not apply to multi-tenant retail centers.

**(3) Seat-Based Standards**

Except as otherwise provided in this section, where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the design capacity of the areas used for seating.

**(4) Floor-Area Based Standards**

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on gross floor area.

**(5) Occupancy- or Capacity-Based Standards**

Except as otherwise provided in this section, where the minimum number of off-street parking spaces required is based on the number of employees, students, or residents, all computations shall be based on the largest number of persons working on any single shift (for employees), maximum enrollment (for students), or the maximum fire-rated capacity (for residents), whichever is applicable.

**(6) On-Street Parking**

When available, on-street parking on public or private streets, driveways, or drives may be used to satisfy the off-street parking standards of this section.

**(7) Driveways Used to Satisfy Requirements**

For single-family detached, townhouse, and two-family dwellings driveways may be used to satisfy minimum off-street parking standards, provided sufficient space is available to satisfy the standards of this section and this Ordinance. Driveway space in the right-of-way cannot be used to satisfy this requirement.

**(E) Off-Street Parking**

**(1) Parking Plan Required**

- (a) Uses with four (4) or more parking spaces or equivalent area shall submit a parking plan as appropriate.
- (b) The parking plan shall be drawn to scale, and accurately designate the required parking spaces, access aisles, and driveways, and the relation of the off-street parking facilities to the development of the facilities they are designed to serve.
- (c) Off-street parking areas of four (4) or more spaces and off-street loading areas shall include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading areas and distinguishing such spaces from aisles and other circulation features.

**(2) Minimum Number of Off-Street Parking Spaces Required**

Unless otherwise expressly stated in this section, the minimum number of off-street parking spaces shall be provided in accordance with [Table 40.2-301\(1\)](#) Minimum Off-Street Parking Standards.

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
<b>RESIDENTIAL</b>		
<b>Household Living</b>		

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Dwelling, Single-Family Detached	1.5 per DU	None
Dwelling, Two-Family	2 per DU	None
Dwelling, Three-to-Four-Family	2 per DU	None
Dwelling, Townhouse	2 per DU	1 per 4 DU
Dwelling, Multi-Family	2 per DU	Long Term:
		1 per 4 DU PLUS
		Short Term: 10%
Dwelling, Upper Story	1 per DU	1 per 4 DU
Manufactured Home	None	None
Boarding House	1 per guest room	None
<b>Group Living</b>		
Emergency Shelter	None	None
Family Care Home	3 per home	None
Group Home	1 per employee plus 1 per every 3 adults	None
Halfway House	1 per employee plus 1 per every 3 adults	None
Homeless Shelter	1 per employee plus 1 per every 3 adults	None
Single Room Occupancy (SRO) Facility	0.75 per guest room	1 per 4 beds
<b>PUBLIC AND INSTITUTIONAL</b>		

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
<b>Community Services</b>		
Community Center	1 per 500 sf.	10% of vehicle parking provided
Senior Center		
Youth Club Facility		
<b>Conferences and Training</b>		
Auditorium	1 per 5 persons of design capacity	5% of vehicle parking provided
Convention Center		
<b>Day Care</b>		
Child Day Care Center	1 per employee on the largest shift plus 1 per 1 per every 5 children/adults	None
Adult Day Care Center		
Family Home Day Care	2 plus minimum residential parking requirement	None
<b>Educational Facilities</b>		
Business or trade school	1 per 500 sf.	5% of vehicle parking provided
Educational Facility, College/University	1 per 500 sf.	5% of vehicle parking provided
Educational Facility, Primary/Secondary	1 per classroom	3 per classroom
<b>Government Facilities</b>		
Cultural Facility	1 per 1,000 sf.	None

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Government Facility	1 per 500 sf.	5% of vehicle parking provided
<b>Health Care Facilities</b>		
Assisted Living Facility	1 per 2 beds	None
Drug And Alcohol Treatment Facility	1 per 500 sf.	None
Guidance Services	1 per 500 sf.	None
Hospital	1 per 300 sf.	5% of vehicle parking provided
Medical or Dental Clinic/Office	1 per 500 sf.	5% of vehicle parking provided
Medical Treatment Facility	1 per 2 beds	None
Psychiatric Treatment Facility	1 per 2 beds	None
<b>Institutions</b>		
Civic, Social, or Fraternal Clubs or Lodges	1 per 500 sf.	5% of vehicle parking provided
Correctional Facility	1 per 500 sf.	5% of vehicle parking provided
Religious Institution	1 per every 6 seats in worship area	1 per 1,500 sf. of assembly area
<b>Parks and Open Space</b>		
Cemetery, Columbaria, Mausoleum	None	None
Community Garden	None	None

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Park, Public and Private	None for less than 1 acre; 1 acre or more, see <a href="#">Table 40.2-301(2)</a>	Greater of 10 or 5% of vehicle parking provided
<b>Transportation</b>		
Helicopter Landing Facility	None	1 per 2,000 sf.
Passenger Terminal, Surface Transportation	1 per 500 sf. of office space, plus 1 per 5 seats	
Taxicab Service	1 per 500 sf.	
<b>Utilities</b>		
Broadcasting or Communication Tower	1	None
Telecommunications Tower, Freestanding	1	
Data Center	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	
Utility, Major	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Utility, Minor	None	None
<b>COMMERCIAL</b>		
<b>Adult Uses</b>		
Adult Entertainment Establishment	1 per 500 sf.	10% of vehicle parking provided

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Adult Retail Store	1 per 500 sf.	10% of vehicle parking provided
<b>Animal Care</b>		
Animal Grooming	1 per 500 sf.	1 per 2,500 sf.
Animal Shelter		
Domestic Animal Breeding		
Kennel, Indoor		
Kennel, Outdoor		
Veterinary Clinic		
<b>Eating (Beverage) Establishments</b>		
Brewery/Distillery	1 per 1,000 sf. plus 1 per 250 sf. of areas of accessory use for patrons	None
Micro-Brewery/Distillery	1 per 1,000 sf. plus 1 per 250 sf. of areas of accessory use for patrons	1 per 2,500 sf.
Restaurant	1 per 200 sf. plus 1 per 5 seats for any outdoor seating areas	10% of vehicle parking provided
Catering Service	1 per 500 sf.	None
Winery/Cidery	1 per 1,000 sf. plus 1 per 250 sf. of areas of accessory use for patrons	None
<b>Offices</b>		

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Offices, General	1 per 500 sf.	10% of vehicle parking provided
Offices, Professional Services		
<b>Parking</b>		
Park and Ride Facility	None	10% of vehicle parking provided
Parking Facility	None	None
<b>Recreational/Entertainment, Indoor</b>		
Casino Gaming Establishment	See <a href="#">Sec. 40.2-208(E)</a>	1 per 2,500 sf.
Commercial Indoor Amusement	See <a href="#">Sec. 40.2-301(E)(8)</a>	1 per 2,500 sf.
Commercial Indoor Sports, Recreation, & Entertainment	See <a href="#">Sec. 40.2-301(E)(8)</a>	1 per 2,500 sf.
Entertainment Establishment	1 per 250 sf.	1 per 2,500 sf.
Shooting Range, Indoor	See <a href="#">Sec. 40.2-301(E)(8)</a>	1 per 2,500 sf.
Recreational Facility, Private	1 per 250 sf.	
<b>Recreational/Entertainment, Outdoor</b>		
Commercial Outdoor Sports, Recreation, & Entertainment	See <a href="#">Sec. 40.2-301(E)(8)</a>	1 per 2,500 sf.
Golf Course	200 sf. of clubhouse, restaurant and event facilities	1 per 2,500 sf.
<b>Retail Sales and Service</b>		
Business Support Service	1 per 500 sf.	1 per 2,500 sf.

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Construction Materials Sales	1 per 500 sf.	1 per 2,500 sf.
Consumer Repair Service	1 per 500 sf.	1 per 2,500 sf.
Convenience Store, with Gasoline Sales	1 per 500 sf.	1 per 2,500 sf.
Crematory	1 per 2 employees	None
Equipment Sales and Rental	1 per 500 sf.	1 per 2,500 sf.
Flea Market	1 per 500 sf.	None
Funeral Home	1 per 5 seats in viewing area	None
Garden Center	1 per 500 sf.	None
Gasoline Sales	2	None
Greenhouse	None	None
Laboratory	1 per 500 sf.	None
Laundry, Self-Service	1 per 500 sf.	None
Marina, Commercial	1 per every 2 slips + 1 per every 4 dry storage spaces	1 per 2,500 sf.
Marina, Private		
Personal Services	1 per 500 sf.	1 per 2,500 sf.
Personal Improvement Services	1 per 500 sf.	1 per 2,500 sf.
Retail Sales	1 per 500 sf.	1 per 2,500 sf.
Commercial Sales, Large	1 per 500 sf.	1 per 2,500 sf.
Studio, Fine Arts	1 per 1,000 sf.	1 per 2,500 sf.

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Vending Uses	2 per use	None
<b>Vehicle Sales and Service, Light</b>		
Vehicle Sales	1 per 500 sf.	None
Car Wash or Auto Detailing	1 per 2 employees	
Vehicle Parts/Supply, Retail	1 per 500 sf.	
Vehicle Repair and Servicing, Minor	1 per 500 sf.	
Vehicle Repair and Servicing, Major	1 per 500 sf.	
Vehicle Wrecker Service	1 per 500 sf.	
<b>Vehicle Sales and Service, Heavy</b>		
Boat and Marine Rental and Sales	1 per 500 sf.	None
Recreational Vehicle Sales and Service	1 per 500 sf.	
Heavy Equipment Sales and Services	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	
<b>Visitor Accommodations</b>		
Bed and Breakfast Inn	1 per guest bedroom	None
Hotel or Motel	1 per every 2 guest rooms plus 25% of spaces required for on-site accessory uses	1 per 20 guest rooms
Hotel or Motel, Full Service		
Hotel or Motel, Extended Stay		
<b>INDUSTRIAL USES</b>		

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
<b>Industrial Services</b>		
Construction Yard	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Extractive Industry, All Uses		
General Industrial Service		
Laundry, Dry Cleaning, and Carpet Cleaning Facility		
Outdoor Storage (as Principal Use)		
Fuel Oil Storage	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Bulk Fuel Storage and Sales	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Radio and Television Broadcasting Studio	1 per 500 sf.	10% of vehicle parking provided
Research and Development	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Self-service Single-level Storage Facility	5 spaces adjacent to the office/entry	None
Self-service Multi-level Storage Facility	5 spaces adjacent to the office/entry plus 1 space per 50 units	
Truck Stop	1 per 500 sf.	None
<b>Manufacturing and Production</b>		

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Manufacturing, Light	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Manufacturing, Heavy		
Industrial, Hazardous		
Urban Agriculture		
<b>Warehouse and Freight Movement</b>		
Port Facility	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Warehouse		
Shipping Container/Chassis Storage Yard		
<b>Waste and Energy Services</b>		
Construction/Demolition/Debris (CDD) Landfill	Lesser of 1 per 500 sf. or 1 per 2 employees on largest shift	None
Energy Recovery Plant		
Incinerator		
Recycling Center		
Recycling and Salvage Center		
Salvage and Junkyard		
Shipping Container Storage Yard		
Solar Energy System		
Transfer Station		
Waste Composting		

<b>TABLE 40.2-301(1): MINIMUM OFF-STREET PARKING STANDARDS</b>		
<b>“sf.” = square feet; “ft.” = feet; “DU” = dwelling unit; “AC” = acre</b>		
<b>USE TYPE</b>	<b>AUTO SPACES</b>	<b>BICYCLE SPACES</b>
Wind Energy System		

[Table 40.2-301\(2\)](#) Minimum Parking Requirements for Public and Private Park Activities, sets out the space requirements for public and private park activities as established by this Ordinance.

<b>TABLE 40.2-301(2): MINIMUM PARKING REQUIREMENTS FOR PUBLIC AND PRIVATE PARK ACTIVITIES</b>	
<b>USE CATEGORY</b>	<b>AUTO SPACES</b>
Sports fields	20 per field
Tennis and other courts for fewer than 8 players	2 per court
Basketball and other courts for 8 or more players	4 per court
Swimming facilities	25 per pool or sprayground
Golf facilities	2 per tee plus 1 per 200 sf. of clubhouse, restaurant and event facilities
Group picnic shelter	25 per shelter
Individual picnic table	1 per table

**(3) Exclusions to Parking Requirements**

The following areas shall be excluded from the calculation of parking requirements established in [Table 40.2-301\(1\)](#) Minimum Off-Street Parking Standards.

- (a) Indoor areas used for vehicle storage or display.
- (b) Outdoor storage, display, or sales areas, unless otherwise specified.
- (c) Service bays for vehicles, including repair, painting, fueling, washing, and detailing.
- (d) Animal kennel cage space, indoor and outdoor.

#### **(4) Exceptions to Parking Requirements**

##### **(a) Existing Development**

###### **(i) Change in Use**

Where there is any change of use of an existing development, on-site surface parking shall comply with [Sec. 40.2-301\(E\)](#) Off-Street Parking, except as follows:

- a.** No additional vehicle or bicycle parking spaces are required if the change in use would result in an increase of spaces of less than 25 percent. The percent increase is calculated by dividing the number of additional spaces required by the number of spaces required before the increase.
- b.** When two (2) or fewer additional vehicle or bicycle parking spaces are required under this subsection as a result of a change in use, such additional parking is not required to be installed.

##### **(b) Expansion and Enlargement**

Unless otherwise modified by [Article V](#), the off-street parking, loading, landscaping and circulation standards of this section apply when an existing structure or use is expanded or enlarged, except as follows:

- (i)** No additional vehicle or bicycle parking spaces are required if the expansion or enlargement would result in an increase of spaces of less than 25%. The percent increase is calculated by dividing the number of additional spaces required by the number of spaces required before the increase.
- (ii)** When two (2) or fewer additional vehicle or bicycle parking spaces are required under this subsection as a result of an expansion or enlargement, such additional parking is not required to be installed.
- (iii)** When an existing structure or use is expanded or enlarged by 25% or more of GFA, on-site surface parking must comply with [Sec. 40.2-301\(L\)](#) Dimensional Standards for Vehicle Parking Spaces and Aisles.

##### **(c) Reduction in Required Off-Street Parking**

- (i)** The number of required off-street parking spaces may be reduced to preserve existing trees in accordance with [Sec. 40.2-304\(B\)](#) Landscaping and Screening.
- (ii)** The number of required off-street parking spaces may be reduced as detailed in [Sec. 40.2-310\(A\)\(1\)\(a\)\(iv\)](#) Resilient Site and Building Bonuses.

#### **(5) Nonconforming Parking or Loading Facilities**

Expansion or enlargement of an existing development on a site that does not comply with the standards of this section shall require a [Special Exception](#) approval by the Board of Zoning Appeals.

**(6) Multi-Tenant Retail Center Parking Requirements**

- (a) Parking requirements for multi-tenant retail centers are calculated based on the gross floor area total for all uses, rather than by individual uses.
- (b) The minimum required vehicle parking is one (1) space per 500 square feet. The minimum required bicycle parking is one (1) per 2,500 square feet. Loading requirements are per [Sec. 40.2-302\(D\)\(1\)](#), Number of Required Off-street Loading Berths.
- (c) Where a retail center also includes residential space, the residential parking requirements shall be additional, per [Table 40.2-301\(1\)](#).

**(7) Parking Requirements for Certain Elderly Housing**

Multi-family that is designated as "housing for older persons" by the US Department of Housing and Urban Development under the Fair Housing Act is allowed a 20 percent reduction of the required parking in [Table 40.2-301\(1\)](#), Minimum Off-Street Parking Standards.

**(8) Uses with Variable Parking Demand Characteristics**

- (a) Uses that reference this subsection in [Table 40.2-301\(1\)](#), Minimum Off-Street Parking Standards, have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading standard. Upon receiving a development application for a use subject to this subsection, the Zoning Administrator shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking standards on the basis of a parking and loading demand study prepared by the applicant.
- (b) Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Zoning Administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

**(9) Unlisted Uses**

- (a) Upon receiving a development application for a use not expressly listed in this section, the Zoning Administrator is authorized to apply the off-street parking standard in the listed use that is deemed most similar to the use, or establish the off-street parking requirements by reference to standard parking resources published by the Institute of Traffic Engineers (ITE).
- (b) Alternatively, the Zoning Administrator may require the applicant to submit a parking demand study that justifies estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), and includes relevant data collected from

uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

#### **(F) Off-Street Parking Alternatives**

The Zoning Administrator shall be authorized to approve, approve with conditions, or deny an Alternative Parking Plan that proposes alternatives to providing the number of required off-street parking spaces required by [Table 40.2-301\(1\)](#) Minimum Off-Street Parking Standards in accordance with the standards listed below. The Alternative Parking Plan shall be submitted as appropriate. Nothing in this subsection shall limit the utilization of one or more of the following off-street parking alternatives by a single use.

##### **(1) Parking Demand Study**

In cases where development conditions require a deviation from the parking standards in [Table 40.2-301\(1\)](#), an applicant may submit an Alternative Parking Plan that includes a parking demand study for review and approval, approval with conditions, or denial by the Zoning Administrator. The Alternative Parking Plan shall:

- (a)** Justify estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Zoning Administrator;
- (b)** Include relevant and reliable data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location; and
- (c)** Document the source of data used to develop the recommendations.

##### **(2) Shared Parking**

Shared parking is feasible when the same parking spaces can be used to serve two (2) or more individual lands uses without conflict or encroachment.

###### **(a) Shared Parking Standards**

Requests for shared parking shall comply with all of the following standards:

- (i)** Shared parking spaces shall be located within 800 linear feet of the building served.
- (ii)** Shared parking spaces shall not be separated from the use they serve by an arterial or collector road unless the shared parking area or parking structure is served by an improved pedestrian crossing.
- (iii)** Adequate and safe pedestrian access must be provided from and to the shared parking areas.
- (iv)** The maximum reduction in the total number of parking spaces required for the uses sharing the parking area shall be 50 percent of the total required parking for each individual use.
- (v)** Directional signage that complies with the standards of this Ordinance shall be provided to direct the public to the shared parking spaces. It is preferable for the employees of an establishment to utilize these spaces.

**(b) Shared Parking Plan**

- (i) Those requesting to use shared parking as a means of satisfying the off-street parking standards must submit a shared parking plan as part of an Alternative Parking Plan that justifies the feasibility of shared parking.
- (ii) The shared parking plan shall include information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.
- (iii) A written agreement is required among all owners of record who are party to the shared parking.
- (iv) The shared parking plan portion of an Alternative Parking Plan shall be enforced through the written agreement among all owners of record.
- (v) A shared parking agreement may be revoked only if all required off-street parking spaces are provided in accordance with the requirements of [Table 40.2-301\(1\)](#), Minimum Off-Street Parking Standards.

**(3) Off-Site Parking**

Requests to locate required off-street parking spaces on a separate lot from the lot on which principal uses are located, shall comply with all of the following standards.

**(a) Off-Site Parking Standards**

- (i) The off-site parking shall not be used to satisfy the off-street parking standards for residential uses (except for guest parking), convenience stores, or other convenience-oriented uses.
- (ii) Required parking spaces reserved for persons with disabilities may not be located off-site.
- (iii) No off-site parking space shall be located more than 800 feet from the principal entrance of the use served (measured along the shortest legal pedestrian route) unless a remote parking shuttle bus service is provided.
- (iv) Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway is provided or other traffic control or a remote parking shuttle bus service is provided.
- (v) The zoning district classification of the off-site parking area is the same or a more intensive zoning classification than that required for the use served.

**(b) Off-Site Parking Plan**

- (i) Those requesting to use off-site parking as a means of satisfying the off-street parking standards must submit an off-site parking plan as part of an Alternative Parking Plan that justifies the feasibility of off-site parking.

(ii) In the event that an off-site parking area is not under the same ownership as the principal use served, the off-site parking arrangement shall be established in a written agreement between the record owners.

(iii) An off-site parking plan portion of an alternative parking plan shall be enforced through written agreement among all owners of record.

#### **(4) On-Street Parking**

As approved by the City Engineer, the use of on-street parking to meet up to 50 percent of the minimum off-street parking requirements shall comply with the following standards.

##### **(a) On-Street Parking Standards**

- (i) Adequate on-street parking exists within 800 linear feet from the principal entrance of the proposed development;
- (ii) The developer plans on utilizing on-street parking; and
- (iii) There is no negative impact to existing or planned traffic circulation patterns or on-street parking demand.

##### **(b) On-Street Parking Plan**

Those requesting to use on-street parking as a means of satisfying the off-street parking standards must submit an on-street parking plan as part of an Alternative Parking Plan that justifies the feasibility on-street parking.

#### **(5) Valet Parking**

Valet parking may be submitted to the Zoning Administrative to meet a portion of the minimum number of parking spaces required for a development. Valet parking, if provided, shall comply with the following standards.

##### **(a) Valet Parking Standards**

- (i) Except for restaurants and hotels, no more than 35 percent of the total number of required parking spaces shall be designated for valet parking;
- (ii) For restaurants and hotels, no more than 50 percent of total number of required parking spaces shall be designated for valet parking.
- (iii) The development shall provide a designated drop-off and pick-up area that is:
  - a. Not to be located in a fire lane or where its use would impede vehicular and/or pedestrian circulation;
  - b. Not to be located in an area that would result in queuing in a public street or an internal drive aisle serving the development.

##### **(b) Valet Parking Plan**

- (i) Those requesting to use valet parking as a means of satisfying the off-street parking standards must submit a valet parking plan as part of an Alternative Parking Plan that justifies the feasibility of valet parking.

- (ii) Justification shall include information on where the valeted vehicles will be parked, pickup and drop-off location, and number of required parking spaces that will be met with valet parking.

#### **(H) Special Exception Parking Modification**

The BZA may grant an Special Exception for a modification to the number, form, or nature of the parking requirements contained in [Sec. 40.2-301](#) (Off-Street Parking, Loading, and Circulation) of this Ordinance, provided:

- (a) The applicant shall demonstrate that safe and convenient pedestrian access is provided from the designated use to an off-site parking facility or that transportation is available from an off-site parking facility to the premises;
- (b) The applicant shall demonstrate that off-site parking spaces to either supplement the on-site parking or meet the minimum parking requirement, or a combination of both, are available on a long-term basis of not less than twenty (20) years;
- (c) A parking modification which was granted based on an off-site parking plan shall be void in the event that said off-site parking plan is terminated in whole or in part;
- (d) The applicant shall provide an adequate amount of parking to accommodate the anticipated demand for parking generated by the specified use;
- (e) The authorization of parking modifications shall be limited to the specified use or uses for which the Special Exception is requested. Any enlargement of a building or change in use or uses shall be subject to the parking requirement as specified in this Ordinance or as otherwise approved for increase or reduction as provided in this Ordinance; and
- (f) The applicant has demonstrated to the satisfaction of the City Engineer that any off-site or on-street parking requested would not have a negative impact on the surrounding neighborhood or to any existing or proposed parking program or parking district impacted by the request.

#### **(G) Off-Street Parking within Residential Districts**

##### **(1) Parking in Vehicular Use Area Required**

- (a) Commercial vehicles, whether parked or stored, shall be located in a vehicular use area.
- (b) For the purposes of this subsection, "vehicles" shall include but not be limited to, passenger vehicles, all trucks under 20,000 pounds of gross vehicle weight (GVW), vans, golf carts, or other similar vehicles, whether operable or otherwise. Vehicles exceeding 20,000 pounds GVW are subject to the standards in [Sec. 40.2-217\(I\)\(3\)\(m\)](#) Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Home.

##### **(2) Maximum Area Available for Vehicular Use**

- (a) Vehicular use areas located within the front or corner side yard (as measured from the edge of the lot line to the closest portion of the building) shall be limited to the lesser of 33 percent of the entire front and/or corner side yard area, or 880 square feet.

- (b) For parcels with lot widths less than 50 feet, the vehicular use area shall be limited to the lesser of 50 percent of the entire front/or corner side area yard area (as measured from the edge of the lot line to the closest portion of the building), or 500 square feet.
- (c) Nothing in this subsection shall be construed to limit the size of the vehicular use area located beyond the setback line of a front or corner side yard area, nor does it apply to indoor parking.
- (d) This is not applicable to historic districts or any other "district" that has specific or special parking provisions.

### **(3) Residential Historic Districts**

Off-street parking in the front yards is prohibited except as normally exists in driveways.

### **(H) Parking Requirements for Curbside Pickup Areas**

- (1) Curbside pickup refers to the pickup of goods from retail establishments and restaurants by customers and third parties.
- (2) Curbside pickup areas, if provided, shall comply with the following standards:
  - (a) All curbside pickup spaces shall be delineated by appropriate signage as well as striping and labeling of the pavement.
  - (b) Emergency access ways and fire lanes shall be maintained in an unobstructed and fully accessible condition at all times.
  - (c) Fire lanes shall not be used for curbside pickup.
  - (d) Curbside pickup areas shall not take priority over handicap accessible parking spaces and shall not be located closer to the accessible entrance of the building or buildings containing the use than the handicap accessible spaces.
  - (e) Curbside pickup shall take place on improved, paved areas.
  - (f) Curbside pickup areas shall be designed so that vehicles using or waiting to use the curbside pickup areas do not obstruct pedestrian and handicap movement within the parking areas, access aisles, and drive aisles.
  - (g) Each curbside pickup space shall have adequate, unobstructed means for the ingress and egress of vehicles.
  - (h) Curbside pickup spaces shall be configured to avoid the need for vehicles to back up within the street right-of-way.

### **(I) Motorcycle Parking**

- (1) Parking for motorcycles, mopeds and motor-driven cycles may substitute for up to two (2) spaces, or 5 percent of required vehicle parking, whichever is greater.
- (2) Motorcycle parking spaces shall be a minimum of four (4) feet wide and eight (8) feet deep, accessible by an aisle at least five (5) feet wide.

**(J) Low-Emission Vehicles**

Spaces within parking lots and structures may include designated parking spaces for battery-electric vehicles, hybrid vehicles, and fuel cell vehicles. Spaces reserved for low-emission vehicles count towards minimum parking space requirements.

**(K) Provision of Electric Vehicle Changing Stations**

Spaces within parking lots and structures may include designated parking spaces for electric vehicle charging. Spaces reserved for electric vehicle charging count towards minimum parking space requirements.

**(1) Spaces Available for Public Use**

- (a) Where electric vehicle charging stations are available for public use, spaces reserved for electric vehicle charging count towards minimum parking space requirements at the rate of two per each space reserved for electric vehicle charging.
- (b) To be considered "available for public use", spaces reserved for electric vehicle charging shall be available and accessible to the public during all hours that the parking facility is open.

**(L) Accessible Parking Spaces for Physically Disabled Persons**

Development required to provide off-street parking spaces shall ensure that a portion of the total number of required off-street parking spaces shall be specifically dimensioned, designated, located, and reserved for use by persons with physical disabilities, in accordance with the standards in the federal Americans with Disabilities Act (ADA).

**(M) Dimensional Standards for Vehicle Parking Spaces and Aisles**

**(1) Minimum Dimensional Standards**

Car parking spaces and parking lot aisles shall comply with the minimum dimensional standards established in [Table 40.2-301\(3\)](#) Dimensional Standards for Vehicle Parking Spaces and Aisles. The following dimensional standards apply to vehicle parking spaces other than those provided per [Sec. 40.2-301\(K\)](#):

<b>Table 40.2-301(3): DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES</b>					
<b>PARKING ANGLE (A)</b>	<b>STALL WIDTH (B)</b>	<b>CURB WIDTH (C)</b>	<b>AISLE WIDTH FOR ONE-WAY TRAFFIC (D)</b>	<b>AISLE WIDTH FOR TWO-WAY TRAFFIC (E)</b>	<b>STALL DEPTH PERPENDICULAR TO AISLE (F)</b>
<b>STANDARD SPACES</b>					

Parallel (ft.)	8	22	12	24	8
45 degrees (ft.)	9	12.7	16	n/a	19
60 degrees (ft.)	9	10.4	18	24	20
90 degrees (ft.)	9	9	N/A	24	18
<b>COMPACT SPACES</b>					
Parallel (ft.)	8	20	12	24	8
45 degrees (ft.)	8	11.3	16	24	18
60 degrees (ft.)	8	9.3	18	24	19
90 degrees (ft.)	8	8	N/A	24	17

**(2) Compact Spaces**

Up to 25% of all spaces may be reduced to compact spaces. All compact spaces must be clearly marked for "Compact Cars Only".

**(3) Vehicle Clearance**

All off-street parking spaces must have a minimum overhead clearance of seven (7) feet.

**(4) Vehicle Overhang**

When a parking space abuts a public right-of-way, sidewalk, walkway, landscape area, or adjacent property, off-street parking and loading areas shall provide curbs, motor vehicle stops, or similar devices at a minimum distance of two (2) feet as to prevent vehicles from overhanging.

**(5) Spaces Near Obstructions**

(a) When the side of a parking space abuts a wall, column, or other structure that is taller than six (6) inches, the width of the parking spaces shall be increased by two (2) feet on the obstructed side. This does not apply to columns in a parking garage.

- (b) Columns, poles, bollards or similar, positioned at the front of a parking space, may protrude up to six (6) inches into the required parking stall dimensions.
- (c) Columns, poles, bollards or similar, positioned at the front corner of a parking space, may protrude up to 12 inches along the front or side of the required parking stall dimensions.

**(6) Tandem Parking**

Tandem parking is allowed for residential projects, including the residential component of mixed-use projects, when both tandem spaces are assigned to the same dwelling unit. Up to 75 percent of the total off-street parking spaces provided for residential projects may incorporate tandem parking.

**Sec. 40.2-302 – Vehicular Stacking, Circulation, and Loading**

**(A) Vehicular Circulation**

**(1) Stacking Spaces for Drive-Through and Related Uses**

- (a) In addition to meeting the off-street parking standards in [Table 40.2-301\(1\)](#), Minimum Off-Street Parking Standards, uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service facility shall provide the minimum number of stacking/standing spaces established in [Table 40.2-302\(1\)](#), Required Stacking/Standing Spaces.
- (b) The entrance to any building with a bay (i.e. car wash, auto shop, etc.) shall be located to allow the required stacking/standing distance without encroaching on public right-of-way.
- (c) Stacking spaces shall be provided between the drive-through window and the menu board. Additional spaces shall be provided past the menu board to allow for stacking. If two (2) or more drive-through lanes are provided, then stacking/standing spaces required beyond the menu board may be divided by the number of available stacking lanes.

**(2) Design and Layout**

Required stacking/standing spaces are subject to the following design and layout standards and the standards within [Table 40.2-302\(1\)](#) Required Stacking/Standing Spaces.

**(a) Size**

- (i) Stacking spaces shall be a minimum of eight (8) feet by 20 feet in size.
- (ii) When more than one window is present, distance is measured from window where products are delivered

**(b) Location**

Stacking spaces shall not impede onsite or offsite traffic movements or movements into or out of off-street parking spaces.

<b>TABLE 40.2-302(1): REQUIRED STACKING/STANDING SPACES</b>		
<b>USE OR ACTIVITY</b>	<b>MINIMUM NUMBER OF STACKING/STANDING SPACES</b>	<b>MEASURED FROM</b>
Automated teller machine	3	Teller machine
Vehicle repair and service (all types)	2 per bay	Bay entrance
Bank Teller	3	Teller window
Car wash, automatic	2	Bay entrance
Car wash, self-service	1 per bay	Bay entrance
Drug store or pharmacy, with drive-through service	4 per lane	Agent window
Dry cleaner, with drive-through service	4 per lane	Window
Assisted living facility	3	Main building entrance
Personal services with drive-through (e.g., laundry/dry-cleaning establishment)	4 per lane	Agent window
Restaurant, with drive-through service	4	Pick-up window
	Plus 3	Menu board
Other	Uses not specifically listed are determined by the Zoning Administrator based on standards for comparable uses, or alternatively based on a parking demand study.	

**(3) Stacking Lanes for Parking Lot Entrances**

Nonresidential uses shall provide stacking areas for entering vehicles in accordance with the minimum stacking lane distance established in [Table 40.2-303\(2\)](#) Stacking Lanes for Parking Lot Entrances:

<b>TABLE 40.2-302(2): STACKING LANES FOR PARKING LOT ENTRANCES</b>	
<b>NUMBER OF OFF-STREET PARKING SPACES</b>	<b>MINIMUM STACKING LANE DISTANCE (FEET)</b>
1-24	10
25-49	20
50-249	40
250 or more	100

**(4) Design and Layout**

Required stacking spaces are subject to the following design and layout standards.

- (a) Size** Stacking spaces shall be a minimum of eight (8) feet by 20 feet in size.
- (b) Location** Stacking spaces shall not impede onsite or offsite traffic movements or movements into or out of off-street parking areas.
- (c) Design** Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the Zoning Administrator for traffic movement and safety.
- (d)** Entrances into parking structures may be credited towards the stacking lane distance requirement provided the parking structure entrance is accessed from a development driveway and not a principal drive aisle.
- (e)** Stacking lane distance is measured within the driveway apron from the right-of-way line along the centerline of the stocking lane to its intersection with the centerline of the adjacent drive aisle.

**(B) Drive-through Configuration**

- (1)** Drive-throughs shall be located to the side or at the rear of the building so as not to compromise the quality of the pedestrian experience at the street edge.

- (2) A drive-through may be permitted on the front façade, provided the building is located 150 feet or more from the edge of the right-of-way.
- (3) Drive-throughs serving a building located on a corner lot shall be located to the rear or interior side. In no instance shall the drive-through be located on the side of a building facing a street.
- (4) If covered, the roof over the drive-through shall be of a complementary architectural design as the design covering the principal portion of the structure.

**(C) Driveway Standards**

- (1) Any required parking area shall have direct access to a public or private street via a driveway.
- (2) Unless otherwise approved by the City Engineer, no driveway shall exceed 50 feet in width at the curblines or more than 35 feet at the front lot line.
- (3) One-way driveways shall have a minimum width of 15 feet.
- (4) Two-way driveways shall be at least 24 feet wide.
- (5) Driveway aprons shall be constructed to current City standards and shall be provided between the curblines and the front lot line.
- (6) No driveway shall be located within 15 feet of a corner side lot line or closer than five (5) feet from the end of a curb radius.
- (7) Lots with two (2) or more driveways along the same street frontage shall provide at least 75 feet between driveways.
- (8) In no instance shall the number of driveways serving a single lot along a single street frontage exceed a maximum of four (4).
- (9) Medians may be provided within driveway entrances provided:
  - (a) The median is surrounded curbing meeting City standards,
  - (b) No signage is included within sight triangles;
  - (c) Planted material within the median is limited to understory trees, shrubs, and ground cover to not block sight triangles and sight distance; and
  - (d) The minimum aisle width is maintained for each travel and turning lane.

**(D) Loading Berth Standards**

- (1) The following uses shall provide on-site loading berths in accordance with the requirements in [Table 40.2-302\(3\)](#), Required Off-Street Loading Berths.
  - (a) No property is required to provide more than three (3) loading berths.
- (2) Buildings that were built prior to the adoption of this Ordinance and do not currently have any loading berths are exempt from off-street loading requirements.

- (3) Residential floor area within a mixed-use development is not included within the gross floor area (GFA).

<b>TABLE 40.2-302(3): REQUIRED OFF-STREET LOADING BERTHS</b>		
<b>sf. = Square Feet</b>		
<b>USE OR ACTIVITY</b>	<b>GROSS FLOOR AREA (GFA)</b>	<b>MINIMUM NUMBER OF LOADING BERTHS</b>
Offices and personal service establishments	50,000 sf. or more	1
All other commercial or industrial use types	20,000 sf.— 70,000 sf.	1
	Greater than 70,000 sf.	1 plus 1 per every additional 50,000 sf. of GFA with a maximum of 3 required loading berths

**(4) Design of Off-Street Loading Berths Minimum Dimensions**

- (a) Each loading berth required by this subsection shall be at least 10 feet wide by 35 feet long (or deep), with at least 15 feet of overhead clearance.
- (b) Each off-street loading space shall have adequate, unobstructed means for the ingress and egress of vehicles.

**(5) Delineation of Loading Spaces**

Each loading berth shall be delineated by signage and striping and labeling of the pavement.

**(6) Access to a Street**

- (a) Every loading berth shall be provided with safe and convenient access to a street, but in no case shall the loading space extend into the required aisle of the parking lot.
- (b) Off-street loading berths shall be configured to avoid the need for vehicles to back up within the street right-of-way.

**Sec. 40.2-303 – Bicycle Parking and Pedestrians**

**(A) Bicycle Parking**

Bicycle parking is intended to primarily serve visitors, whose bicycles will be left for short stops, requiring a high degree of convenience.

- (1) The required amount of bicycle parking is shown in [Table 40.2-301\(1\)](#) Minimum Off-Street Parking and Bike Parking Standards.
- (2) No bicycle parking is for any residential development in the Downtown (D1) district and for any commercial facility of less than 1,000 square feet.
- (3) For multi-family residential uses, long-term bicycle spaces and short-term bicycle spaces are required.
  - (a) Long-term bicycle parking spaces are intended to primarily serve residents and employees whose bicycles will be left for longer periods of time and require a safe and weatherproof storage area.
  - (b) Long-term bicycle parking shall be located in an enclosed, limited access area designed to protect bikes from precipitation and theft.
  - (c) Short-term bicycle parking spaces are intended to primarily serve visitors, such as retail patrons, whose bicycles will be left for short stops, requiring a high degree of convenience.
  - (d) Individual garages shall account for one (1) long-term bicycle space.
- (4) All provided bicycle parking shall comply with the following standards:
  - (a) Bicycle parking shall be located as close as the closest vehicular parking space or within 50 feet of a publicly accessible entrance to the building or buildings containing the use or uses it serves, whichever is greater.
  - (b) Bicyclists shall not be required to travel over stairs to access parking.
  - (c) Access routes to bicycle parking areas must have a minimum five (5) foot width, with an allowable constriction of no less than three (3) feet for distances totaling no more than five (5) feet.
  - (d) Access and egress for bicycle parking in a parking structure shall not be via gated or ramped entrance/exit lane shared with motor vehicles.
  - (e) Bicycle parking racks should be designed with at least two (2) contact points for bicycle placement.

#### **Sec. 40.2-304 – Landscaping and Screening**

##### **(A) Purpose and Intent**

It is the purpose of this section to promote and protect the public health, safety, and general welfare by providing for the planting, maintenance, and preservation of trees, shrubs, and other plants within the City. The intent of this section is to promote this purpose by:

- (1) Ensuring and encouraging the planting, maintenance, restoration and survival of trees, shrubs, and groundcover;

- (2) Ensuring the protection of community residents and visitors from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs, or other plants;
- (3) Mitigating against erosion;
- (4) Reducing audible noise from vehicles and land uses;
- (5) Increasing the tree canopy to provide shade and moderate the effect of urban heat islands;
- (6) Limiting glare created by exterior lighting;
- (7) Reducing visual pollution from the urban environment and increasing privacy between incompatible uses;
- (8) Protecting and enhancing property values and aesthetic qualities;
- (9) Helping to differentiate streets and other areas of the public realm from private lands;
- (10) Providing additional improvements to air quality through the carbon dioxide uptake process provided by trees and landscaping; and
- (11) Providing visual screening, where appropriate.

**(B) Types of Required Landscaping**

- (1) Vehicular Use Area Landscaping ([Sec. 40.2-304\(D\)](#))
- (2) Landscape Buffer ([Sec. 40.2-304\(E\)](#))
- (3) Screening ([Sec. 40.2-304\(F\)](#))
- (4) Site Landscaping ([Sec. 40.2-304\(G\)](#))

**(C) General Requirements**

**(1) Applicability**

- (a) Except as exempted by this section, these standards shall apply to all development and redevelopment in the City, including accessory structures that require a building permit,
- (b) Review for compliance with the standards of this section shall occur during review of a Site Plan (Article IV, Division IV) or Zoning Permit (Sec. 40.2-530), as appropriate.
- (c) Development within historic districts or development that has specific conditional zoning or a Use Permit shall comply with the standards in this section in addition to those that specifically apply to the parcel.

**(2) Landscape Plan**

- (a) To ensure compliance with the standards of this section, a landscape plan demonstrating how and where landscaping will be planted on a development site shall

be included as a part of any Site Plan (Article V, Division IV), or Zoning Permit (Sec. 40.2-530), as appropriate.

- (b) A landscape plan shall be prepared by a Virginia Licensed Landscape Architect, Virginia Certified Landscape Designer, Certified Horticulturist, or Certified Arborist.
- (c) Single-family residential developments shall provide a plan showing compliance with the Tree Canopy Coverage requirements of this section. In addition, other landscaping regulations may also apply to single-family residential developments.

### **(3) Planting Standards**

Plantings provided in accordance with this section shall comply with the following standards:

#### **(a) Canopy Trees**

Canopy or shade trees are deciduous and/or evergreen trees that have an expected height at maturity of 30 feet or more. Canopy tree plantings shall comply with the following standards:

- (i) Be a minimum of two (2) inches in caliper at the time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2014, as amended; and
- (ii) Be a minimum of eight (8) feet in height above ground level at the time of planting.

#### **(b) Understory Trees**

Understory, small maturing, or ornamental trees are trees that have an expected height at maturity of no greater than 30 feet. Understory tree plantings shall comply with the following standards:

- (i) Have a caliper of one-and-one-half (1.5) inches at time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2014, as amended; and
- (ii) Be a minimum of six (6) feet in height above ground level at the time of planting.

#### **(c) Shrubs**

Shrubs are deciduous and/or evergreen woody plants, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrub plantings shall comply with the following standards:

- (i) Be upright in nature; and
- (ii) Be a minimum of 24 inches in height at the time of planting.

#### **(d) Calculations**

In cases where application of the requirements in this subsection result in a fraction in the number of shrubs or trees to be provided, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

**(e) Conformity and Quality**

- (i) All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1 2014, as amended).
- (ii) Plant material shall be of standard quality or better, true to name and type of species or variety.
- (iii) The use of native, drought tolerant vegetation is encouraged to reduce dependency upon irrigation.
- (iv) To curtail the spread of disease or insect infestation in a plant species, new tree plantings shall comply with the following standards:
  - a. When 20 or fewer trees are required on a site, at least two (2) different species shall be utilized, in roughly equal proportions.
  - b. When more than 20 but fewer than 40 trees are required to be planted on site, at least three (3) different species shall be utilized, in roughly equal proportions.
  - c. When 40 or more trees are required on a site, at least four (4) different species shall be utilized, in roughly equal proportions.
  - d. Nothing in this subsection shall be construed to prevent the utilization of a larger number of different species than specified above.

**(4) Existing Vegetation**

Existing healthy, well-formed canopy trees, understory trees, and shrubs may be credited towards the requirements of this section, provided:

- (i) The vegetation meets the minimum size standards of this Ordinance;
- (ii) The vegetation is protected before and during all phases of development of the site in accordance with [Sec. 40.2-304\(L\)](#) Tree Protection; and
- (iii) The vegetation is maintained thereafter in a healthy growing condition.

**(5) Berms**

All berms shall comply with the following design standards:

- (a) The slope of all berms shall not exceed a three-to-one (3:1) ratio (horizontal to vertical).
- (b) All berms shall have a top width at least one-half (0.5) the berm height.
- (c) All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

- (d) Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.
- (e) The toe of slope of the berm may not extend onto the public right-of-way.
- (f) Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

**(6) Easements**

Nothing except groundcover shall be planted or installed within any underground utility, overhead utility, drainage easement, gas easement, or within five (5) feet of any underground utility line without the consent of the utility provider, easement holder, or the City, as appropriate.

**(D) Vehicular Use Area Landscaping**

**(i) Location**

Except where exempted in subsection (2) below, all vehicular use areas shall include the following vehicular use area landscaping:

- (a) Interior vehicular use area landscaping within the interior of the vehicular use area; and
- (b) Perimeter vehicular use area landscaping strip around the perimeter of the vehicular use area.

**(2) Exemptions**

The following uses shall be exempt from the requirements to provide vehicular use area landscaping. However, other landscaping regulations may apply to the development.

- (a) Single-family detached dwellings;
- (b) Two-family dwellings; and
- (c) Off-street surface vehicular use areas with three (3) or fewer spaces.

**(3) Interior Vehicular Use Area Landscaping Standards**

Except where exempted in subsection (a) below, all vehicular use areas shall provide and maintain landscaped planting areas within the interior of the vehicular use area in accordance with the standards in this subsection.

**(a) Exemptions**

Interior vehicular use area landscaping shall not apply to the following. However, other landscaping regulations may apply to the development.

- (i) Parking structures; or
- (ii) Vehicle display areas.

**(b) Configuration**

Interior vehicular use area landscaping shall be designed in accordance with the following standards:

**(i) Location**

- a. Interior vehicular use area landscaping shall be distributed throughout the parking area for the purpose of heat abatement.
- b. Interior vehicular use area landscaping shall be installed on a landscaping island, a driveway median, or a principal drive aisle median.

**(ii) Required Plantings**

Each landscaping island or median shall contain the following:

- a. At least one (1) canopy tree per every 153 square feet, or portion thereof, of the landscaping island or median; and
- b. Shrubs at a minimum rate necessary to ensure that at least 25 percent of the area of each landscaping island or median is planted with shrubs.

**(iii) Landscaping Islands**

Interior vehicular use area landscaping shall be installed on a landscaping island in accordance with the following standards.

- a. Be located at both ends of parking bays.
- b. Be included at a minimum every 12 spaces within a single row of parking.
- c. Contain shrubs and trees in accordance with the standards in Sec. 40.2-304(D)(3)(b)(ii).
- d. Be a minimum size of 153 square feet for single loaded parking bays.
- e. Be a minimum size of 306 square feet for double loaded bays.
- f. No reduction in the size of landscaping islands is permitted.

**(iv) Driveway and Principal Drive Aisle Medians**

Interior vehicular use area landscaping shall be installed on a driveway median and principal drive aisle median with the following standards:

- a. Be a minimum width of six (6) feet; and
- b. Contain shrubs and trees in accordance with the standards in Sec. 40.2-304(D)(3)(b)(ii).

**(v) Off-Street Surface Parking Areas with 100 or more Spaces**

Off-street surface parking areas with 100 or more parking spaces shall comply with the following standards.

- a. Be organized into a series of modules of 15,000 square feet or less per module; and
- b. Be visually separated by continuous landscaping islands containing pedestrian pathways located at least every six (6) parking bays.

**(c) Protection of Interior Vehicular Use Area Landscaping**

- (i) All interior vehicular use area landscaping shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.
- (ii) This standard shall not prohibit the use of planting areas as on-site stormwater management devices.

**(4) Perimeter Vehicular Use Area Landscaping Strip Standards**

Perimeter vehicular use area landscaping strips shall be required where the vehicular use area abuts a public right-of-way, a railroad track, vacant property, or any other development other than another vehicular use area and shall comply with the following standards.

**(a) Location**

- (i) Perimeter vehicular use area landscaping strips shall be provided and maintained between the vehicle use area and the abutting right-of-way or property line.
- (ii) Perimeter vehicular use area landscaping strips shall be located on the same land where the vehicular use area is located.
- (iii) Perimeter vehicular use area landscaping strips shall be placed to assure visibility and safety of pedestrians.
- (iv) Perimeter vehicular use area landscaping strips may not be placed within future street rights-of-way as identified in the City’s Master Transportation Plan.

**(b) Minimum Width**

- (i) The perimeter vehicular use area landscaping strip shall be located within a planting strip at least ten (10) feet wide.
- (ii) Areas outside the property boundaries cannot be considered as part of the required width of planting strip.
- (iii) No reduction in width of planting strip is permitted.

**(c) Protection of Perimeter Vehicular Use Area Landscaping Strip**

- (i) The perimeter landscaping strip shall be protected from vehicular damage by the installation of curbing, wheel stops, extra width in the landscaping strip, or other method approved by the Zoning Administrator.

- (ii) Nothing in this subsection shall prevent the configuration of vehicular use area landscaping as a stormwater management device.

**(d) Required Plantings**

**(i) Visual Screen**

- a. The perimeter vehicular use area landscaping strip shall form a continuous and opaque visual screen, excluding required sight triangle clearances at driveways (see Sec. 40.2-218(A)(6)).
- b. The visual screen of the perimeter vehicular use area landscaping strip shall meet all city, state, and federal highway sight distance standards.
- c. In cases where the visual screen is comprised of vegetation, evergreen shrubs shall be used to form the continuous, opaque visual screen.
- d. A decorative fence or wall may be substituted for the evergreen shrubs.
  - i. The use of a fence or wall does not allow for a reduction in width.
  - ii. The fence or wall may be opaque or transparent and supplemented with evergreen shrubs.
  - iii. In no instance shall chain link fencing qualify as decorative fencing for the purpose of providing vehicular use area screening.
  - iv. In either case, the combination of the fence and/or shrubs must provide a continuous, opaque visual screen.

**(ii) Trees**

- a. In addition to the evergreen shrub requirements, each perimeter vehicular use area landscaping strip shall include at least four (4) canopy trees per 100 linear feet of landscaping strip.
- b. Understory trees may be used beneath overhead utilities in which case 12 understory trees per 100 linear feet of landscaping strip shall be required.

**(e) Minimum Height**

- (i) Shrubs associated with the perimeter vehicular use area landscaping shall be maintained at a minimum height of at least three (3) feet above the surface elevation of the adjacent vehicular use area pavement within four (4) years of planting.
- (ii) Fences or walls used in-lieu of shrubs shall maintain a height of four (4) feet above the adjacent grade, except where there is a requirement for a lower height because the fence or wall is located within a sight triangle.

**(g) Adjacent to Landscape Buffers**

Perimeter vehicular use area landscaping strips may be credited towards landscape buffer standards (See [Sec.40.2-304\(E\)](#) Landscape Buffers) provided the minimum buffer standards of this section are met.

**(h) Adjacent to Off-Street Surface Vehicular Use Area on Other Lots**

Where two (2) or more off-street surface vehicular use areas are located adjacent to one another, but upon different lots, a perimeter vehicular use area landscaping strip shall not be required between the two (2) vehicular use areas.

**(E) Landscape Buffers**

**(1) Applicability**

Except as exempted in subsection (2) below, all development shall provide a landscape buffer to separate it from uses in a different use classification.

**(2) Exemptions**

The following shall be exempt from the landscape buffer requirement.

- (a) Single-family detached residential uses; and
- (b) Uses in the D1 district.

**(3) Types of Buffers**

[Table 40.2-304\(1\)](#) Buffer Types describes four different buffering types in terms of their function, opacity, width, and planting requirements.

- (a) Where a particular buffer type is required in [Table 40.2-304\(2\)](#) Buffer Type Application, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2.
- (b) Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of [Sec. 40.2-305](#) Fences and Walls.
- (c) In cases where an adjacent use is designed for solar access, understory trees may be substituted for canopy trees.
- (d) Industrial development abutting or fronting on arterial or major collector roadways shall use Type D Option 1 for the buffers along those roadways.

<b>TABLE 40.2-304(1): BUFFER TYPES</b>		
<b>BUFFER TYPE AND CONFIGURATION</b>	<b>MINIMUM LANDSCAPE BUFFER</b>	
	<b>OPTION 1: 20 FEET MINIMUM WIDTH</b>	<b>OPTION 2: 10 FEET MINIMUM WIDTH</b>
<b>TYPE A—BASIC</b>		
<i>This landscape buffer functions as basic edge demarcating individual properties with a slight visual obstruction from the ground to a height of 10 feet.</i>		
1 canopy tree PLUS 6 understory trees PLUS 15 shrubs per 100 linear feet		1 canopy tree PLUS 8 understory trees plus 25 shrubs per 100 linear feet
<b>TYPE B—AESTHETIC</b>		
<i>This landscape buffer functions as an intermittent visual obstruction from the ground to a height of at least 20 feet and creates the impression of spatial separation without eliminating visual contact between uses.</i>		
4 canopy trees PLUS 6 understory trees PLUS 15 shrubs per 100 linear feet		1 canopy tree PLUS 9 understory trees plus 35 shrubs per 100 linear feet
<b>TYPE C—SEMI-OPAQUE</b>		
<i>This landscape buffer functions as a semi-opaque screen from the ground to at least a height of 6 feet.</i>		
6 canopy trees PLUS 9 understory trees PLUS 25 shrubs per 100 linear feet		4-foot high berm or 4-foot high solid fence plus 1 canopy tree PLUS 11 understory trees PLUS 35 shrubs per 100 linear feet
<b>TYPE D—OPAQUE</b>		

<b>TABLE 40.2-304(1): BUFFER TYPES</b>		
<b>BUFFER TYPE AND CONFIGURATION</b>	<b>MINIMUM LANDSCAPE BUFFER</b>	
	<b>OPTION 1: 20 FEET MINIMUM WIDTH</b>	<b>OPTION 2: 10 FEET MINIMUM WIDTH</b>
<i>This landscape buffer functions as an opaque screen from the ground to a height of at least 6 feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation.</i>		
9 canopy trees PLUS 13 understory trees PLUS 55 shrubs per 100 linear feet	6-foot high solid fence PLUS 6 canopy trees per 100 linear feet	

**(4) Buffer Type Application**

- (a) [Table 40.2-304\(2\)](#) Buffer Type Application shows the type of landscape buffer that new development shall provide between the new development and adjacent property, based on the zoning district of the development site and that of the adjacent property.
- (b) The buffer type is indicated by a letter corresponding to one of the four buffer types depicted in [Table 40.2-304\(1\)](#) Buffer Types.

<b>Table 40.2-304(2): BUFFER TYPE APPLICATION</b>					
<b>Buffer A = “Type A”    Buffer B = “Type B”    Buffer C = “Type C”    Buffer D = “Type D”    Buffer N/A = “No Buffer Required/Not Applicable”</b>					
<b>PROPOSED USE TYPE</b>	<b>EXISTING ZONING ON ABUTTING LAND</b>				
	<b>SINGLE-FAMILY RESIDENTIAL</b>	<b>ALL OTHER RESIDENTIAL</b>	<b>MIXED-USE &amp; PUBLIC/ INSTITUTIONAL</b>	<b>COMMERCIAL</b>	<b>INDUSTRIAL</b>
<b>Single-Family Residential</b>	N/A	N/A	N/A	N/A	N/A

<b>All other Residential</b>	A	N/A	N/A	N/A	N/A
<b>Mixed-Use and Public/Institutional</b>	B	A	N/A	N/A	N/A
<b>Commercial</b>	C	B	A	N/A	N/A
<b>Industrial</b>	D	D	D	C	N/A

**(5) Location of Buffers**

**(a)** Landscape buffers required by this section shall:

- (i)** Be located along the outer perimeter of the parcel where it abuts another parcel; and
- (ii)** Extend to the parcel boundary line or right-of-way line.

**(b)** Landscape buffers are not required along lot lines abutting streets, except as needed to:

- (i)** Screen outdoor industrial operations on lots in an industrial district; or
- (ii)** Screen storage on lots in an industrial district.

**(c)** Industrial uses with outdoor operations or storage components shall include landscape buffers as necessary to screen outdoor use areas from all off-site views.

**(d)** Industrial development abutting or fronting on arterial or major collector roadways shall use Type D Option 1 buffer for the buffers along these roadways.

**(e)** A landscape buffer may be located along shared access easements between parcels in nonresidential developments.

**(f)** The following developments shall provide buffers around the perimeter of the development instead of around individual buildings:

- (i)** Multi-family;
- (ii)** Townhouse;
- (iii)** Three-to-four family;
- (iv)** Two-family;
- (v)** Multi-building;
- (vi)** Multi-tenant; or

- (vii) Shopping center.

**(6) Responsibility for Buffer Installation**

- (a) The developing parcel shall provide the full landscape buffer required adjacent to the existing use in accordance with this section.
- (b) Buffers shall not be required along existing non-conforming uses on property adjacent to proposed development.

**(7) Development within Required Buffers**

- (a) The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section.
- (b) Walkways, trails, and other elements associated with passive recreation may be placed in landscape buffers if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent possible.
- (c) Overhead and underground utilities required or allowed by the city are permitted to cross a required buffer in a perpendicular fashion but shall minimize the impact to vegetation to the maximum extent practicable.
- (d) Where required landscaping material is damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this Ordinance.

**(8) Sight Triangles**

No fencing, berms, walls, or other landscaping features may exceed 36 inches above grade within required sight triangles for streets, alleys, or driveways (See [Sec. 40.2-302](#)).

**(9) Credit for Existing Vegetation**

Existing vegetation meeting the size standards of [Sec. 40.2-304\(C\)\(3\)](#) Planting Standards, located within the landscape buffer area may be preserved and credited toward the landscape buffer standards.

**(F) Screening**

**(1) Applicability**

- (a) In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from all off-site views.
- (b) Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

## **(2) Items to be Screened**

The following areas shall be screened in accordance with this section:

- (a)** Large waste receptacles (e.g., dumpsters and cardboard recycling containers) and refuse collection areas;
- (b)** Loading and service areas;
- (c)** Outdoor storage areas (including, but not limited to: inoperable vehicles, appliances, tires, manufactured homes, building materials, equipment, raw materials, and above-ground storage tanks) located within 600 feet of a public right-of-way, railroad, or body of water;
- (d)** Ground-level mechanical equipment, transformers, and utility meters;
- (e)** Construction, demolition, or other site conditions that could be unsafe for pedestrian or vehicles; and
- (f)** Ground-level utility cabinets and mechanical equipment associated with a telecommunications tower or other similar structure.

## **(3) Screening Methods**

- (a)** The following methods are permitted to screen areas and more than one method may be used on a lot or site.
  - (i)** Vegetation that provide a fully opaque screen to the minimum height necessary to fully screen the facility from all off-site views; or
  - (ii)** An opaque fence or wall consistent with the standards in [Sec. 40.2-305](#) Fences and Walls.
- (b)** Alternative screening methods that are not listed or alternative configurations may be proposed as part of an Alternative Landscaping Plan (see [Sec. 40.2-304\(I\)](#)) if the alternative method or configuration provide an equivalent or superior screening function.

## **(4) Configuration of Vegetative Screening**

In cases where vegetative materials are used for screening in accordance with this subsection, the vegetation shall:

- (a)** Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;
- (b)** Be located outside of any fencing used as part of the enclosure;
- (c)** Be configured in two (2) staggered rows or other arrangement that provides maximum screening;

- (d) Be upright, large evergreen shrubs that are capable of reaching at least six (6) feet in height within three (3) years of planting; and
- (e) Spaced no farther than three (3) feet on-center.

**(5) Large Waste Receptacles and Refuse Collection Areas**

The screening of large waste receptacle and refuse collection areas shall be subject to the following standards.

- (a) The location and configuration of screening for large waste receptacles and refuse collection areas shall be depicted on all development plans.
- (b) In cases where access to large waste receptacles and refuse collection areas faces a public right-of-way:
  - (i) The accessway shall be screened with an opaque gate.
  - (ii) Chain link fencing shall not be used for such gates.
- (c) Large waste receptacles and refuse collection areas and the vegetation and fences or walls screening them shall:
  - (i) Maintain setbacks applicable for accessory buildings in the district where located; and
  - (ii) Shall not be located within front or corner side yards.
- (d) Areas intended for large waste receptacles and refuse collection shall be surfaced with concrete that meets or exceeds minimum city standards.

**(G) Site Landscaping**

**(1) Distinguished from Other Required Landscaping**

Site landscaping is required landscaping that is not:

- (a) Required vehicular use area landscaping;
- (b) Located within a required landscape buffer; or
- (c) Required screening.

**(2) Applicability**

- (a) Except for the exemptions in subsection (b) below, site landscaping shall be required for all development including free-standing Automatic Teller Machines (ATMs), Ice Dispensers, coffee kiosks, and similar uses, and parking structures.

**(b) Exemptions**

The following developments are exempt from the site landscaping requirements.

- (i) Single-family detached dwellings; and

- (ii) Two-family dwellings.
- (c) Site landscaping shall be supplied in the amounts identified in [Table 40.2-304\(3\)](#) Required Site Landscaping Plantings.
- (d) See [Table 40.2-216](#) Use Table to determine the Use Type indicated in the table.
- (e) Site landscaping shall meet the minimum size standards for new planting specified in [Sec. 40.2-304\(C\)\(3\)](#) Planting Standards.

<b>Table 40.2-304(3): REQUIRED SITE LANDSCAPING PLANTINGS</b>	
<b>USE TYPE</b>	<b>REQUIRED PLANTINGS PER SITE</b>
<b>Multi-family and three-to-four family uses</b>	8 canopy trees (including at least 3 evergreen trees) per acre PLUS at least 2 shrubs per each 10 feet of building perimeter
<b>Public and Institutional uses</b>	7 canopy trees (including at least 2 evergreen trees) per acre PLUS at least 1 shrub per each 10 feet of building perimeter
<b>Commercial and mixed uses</b>	5 canopy trees (including at least 1 evergreen tree) per acre PLUS at least 2 shrubs per each 10 feet of outer building perimeter
<b>Industrial uses</b>	2 canopy trees (including at least 1 evergreen tree) per acre PLUS at least 1 shrub per each 10 feet of building wall facing a public right-of-way

**(3) Shrub Placement**

Required shrubs shall be:

- (a) Placed around the building perimeter;
- (b) A minimum of three (3) feet from the building, with emphasis placed on the building foundation visible from the public right-of-way;
- (c) Required shrubs may be planted up to fifteen (15) feet from the building provided there is a sidewalk located between the planting area and the building wall; and
- (d) At least one-half (0.5) of the required shrubs shall be of an evergreen variety.

**(4) Tree Placement**

Trees serving as site landscaping shall be dispersed across a site in accordance with good planting practice.

**(H) Tree Canopy Coverage**

**(1) Purpose**

The regulations in this section are established pursuant to authority granted under Code of Virginia, § 15.2-961, and reflect a determination that the planting and preservation of trees is essential for the present and future health, safety and welfare of the citizens of the City (Code 1988, § 36-50; Ord. No. 1990-50, § 1, 6-11-1990).

**(2) Tree Canopy Coverage Definitions**

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

CALIPER - the diameter of a tree measured six (6) inches above existing grade.

CANOPY COVER - the crown "branch" area of either a single tree or several combined trees.

CONSTRUCTION FOOTPRINTS - the area of all impervious surfaces including, but not limited to, buildings, roads and drives, parking areas, sidewalks, and the area necessary for construction of such improvements.

CRITICAL PROTECTION ZONE (CPZ) - the area of undisturbed natural soil around a tree defined by a concentric circle with a diameter in feet equal to the number of inches of trunk diameter.

DRIP LINE - an imaginary line that extends downward from the outermost tips of a tree's branches to the ground.

MULTI-STEM TREE - a tree having more than one trunk emerging from the root system.

TREE - any self-supporting, woody plant of a species that normally grows in the city at maturity to an overall height of a minimum of five (5) feet.

**(3) Applicability**

- (a) Tree canopy requirements shall apply to all development in the City.
- (b) Trees provided or protected to meet other sections of the Zoning Ordinance may be credited towards the required tree canopy coverage provided they meet the standards of this section.

**(4) Tree Canopy Cover Requirements**

- (a) [Table 40.2-304\(4\)](#) identifies the tree canopy cover requirements for development in each zoning district.
- (b) The landscape plan shall provide for the planting or replacement of trees on the site to the extent that, after 20 years, minimum tree canopy cover percentages will be provided as specified in [Table 40.2-304\(4\)](#).

<b>Table 40.2-304(4): CANOPY COVER REQUIREMENTS</b>			
<b>ZONING DISTRICT</b>	<b>NOT APPLICABLE</b>	<b>10% CANOPY REQUIRED</b>	<b>20% CANOPY REQUIRED</b>
<b>RESIDENTIAL ZONING DISTRICTS</b>			
Neighborhood Residential (NR)			X
General Residential (GR)			X
Urban Residential (UR)			X
Multi-Family Urban Residential (UR-M)		X	
<b>COMMERCIAL ZONING DISTRICTS</b>			
Neighborhood Mixed-Use (NMU)		X	
General Mixed-Use (GMU)		X	
High Density Mixed-Use (MU-H)		X	
<b>INDUSTRIAL ZONING DISTRICTS</b>			
Light Industrial (IL)		X	
Industrial (IN)		X	
<b>SPECIAL ZONING DISTRICTS</b>			
Waterfront (WF)		X	
Conservation (C)	X		

<b>Table 40.2-304(4): CANOPY COVER REQUIREMENTS</b>			
<b>ZONING DISTRICT</b>	<b>NOT APPLICABLE</b>	<b>10% CANOPY REQUIRED</b>	<b>20% CANOPY REQUIRED</b>
<b>HISTORIC SUB-DISTRICTS</b>			
Historic Residential (HR)		X	
Historic Limited Business (HLB)		X	
Historic Limited Office (HLO)		X	
<b>DOWNTOWN D1 SUB-DISTRICTS</b>			
D1: T4, T5, T6 and SD sub-districts	X		
Downtown D1 T3 sub-district		X	

(c) To encourage the planting of a variety of tree species, [Table 40.2-304\(5\)](#) Credit for Tree Canopy below, outlines the following credit that will be given for each tree.

<b>Table 40.2-304(5): CREDIT FOR TREE CANOPY</b>	
<b>“sf.” = Square Feet</b>	
<b>CALCULATED 20-YEAR TREE CANOPY</b>	<b>ALLOWED CREDIT</b>
<b>0—300</b>	300
<b>300—1,000</b>	1,000
<b>1,001 +</b>	2,000

**(d) Tree Canopy Area**

The area of a site to be used in calculating canopy cover shall be the area of the zone lot or the actual size of the lot at the time of plan submittal, as defined in in this Ordinance.

**(e) Tree Canopy Lists**

Trees shall be selected from those listed on the City of Portsmouth’s approved lists, which shall be maintained and amended as necessary by the environmental manager or the City Manager’s designee.

- (i) Substitutions using trees not on the list may be made with the approval of the Zoning Administrator, environmental manager, or City Manager’s designee.
- (ii) No tree from the list of nonacceptable trees may be used.

**(f) Tree Canopy Planting Requirements**

Trees to be planted shall comply with the planting standards in Section Sec. 40.2-304(C)(3).

**(g) Existing Trees**

Trees existing on the site may be used to satisfy the tree canopy coverage requirements of this section.

- (i) The landscape plan must identify such existing trees by genus, species, and size.
- (ii) Existing trees must be physically and structurally in good condition.
- (iii) All such trees on the site during construction must be protected in accordance with the provisions of subsection (aa).
- (iv) Stands of five (5) or more existing trees shall be credited to canopy area equal to that covered at the time of application for approval of the landscape plan.
- (v) Trees to be retained on the lot in accordance with the approved landscape plan shall be protected utilizing methods prescribed in the most current version of the Virginia Erosion and Sediment Control Handbook.
- (vi) Trees or tree areas that are to be retained shall be marked visibly in the field prior to clearing or construction.
- (vii) Protection devices shall be installed prior to clearing or construction and shall be shown on the submitted landscape plan.
- (viii) Such protection devices shall be evident and effective and shall be maintained at all times.

- (ix) Failure to maintain protection devices shall be cause for the issuance of a stop work order.
- (x) If it becomes necessary to remove additional trees that were shown on the approved plan to be retained, such trees may be removed if:
  - a. Compliance with the required canopy coverage is maintained;
  - b. Compliance with all other requirements of this Ordinance are maintained;  
and
  - c. A revised landscape plan is submitted and approved.

#### **(4) Exceptions**

The Zoning Administrator may grant a partial exception to the requirements of this Tree Canopy section under the circumstances listed below:

- (a) Such exception shall reduce the required tree canopy by the minimum extent necessary to provide a reasonable buildable area.
- (b) Exceptions may be granted under the following conditions:
  - (i) Where the Zoning Administrator finds that the combined requirements of this Ordinance, or any ordinances adopted in compliance with the Chesapeake Bay Preservation Act, Chesapeake Bay Preservation Overlay District, or the requirements of Ch. 39 of the City Code for the protection of tidal wetlands would result in the elimination of a reasonably developable area on the site.
  - (ii) Where the proposed use of the property is agriculture, outdoor recreation, or aviation and the Zoning Administrator finds that full compliance with this Ordinance would unreasonably reduce the unwooded area of the site necessary for such use.
  - (iii) Where the proposed development is an expansion of an existing development on the same zone lot, the procedure for calculating required tree canopy coverage shall be modified by substituting the term "construction footprint" for the term "zone lot."

#### **(5) Exemptions**

A lot or portion of a lot that is dedicated as a playing field or similar non-wooded recreation area is exempt from the requirements of this Tree Canopy section.

#### **(I) Alternative Landscape Plan**

- (1) In cases where development conditions require a deviation from the landscaping standards in this section or the tree protection standards in [Sec. 40.2-304\(K\)](#) Tree Protection, an Alternative Landscaping Plan shall be required.

- (2) An Alternative Landscaping Plan shall indicate how compliance with the standards in this Ordinance is impossible, and shall illustrate how compliance can be achieved to the maximum extent possible.
- (3) Nothing in this subsection shall prohibit a development configuration that meets or exceeds the landscaping and tree protection standards in this Ordinance.
- (4) Alternative plans, materials, or methods may be justified due to:
  - (a) Natural conditions, such as streams, or topography;
  - (b) The likelihood that landscaping material would be ineffective at maturity due to topography, placement, or other existing site conditions;
  - (c) Lot size or configuration;
  - (d) The presence of utility or other easements;
  - (e) The potential for interference with public safety; and
  - (f) Other situations where strict adherence to the landscaping or tree protection standards in this Ordinance are determined to be impractical by the Zoning Administrator.

**(5) Allowable Deviations**

With input from other city departments, the Zoning Administrator may approve an alternative landscape plan if it meets the purpose and intent of the landscaping standards in Landscaping and Screening, as appropriate. Allowable deviations from the standards of this section include, but are not limited to the following:

**(a) Reduced Planting Rates due to Public Facilities**

An adjustment to planting locations or reduction of up to 20 percent in the type or total number trees may be allowed when underground connections to public facilities or public utilities, or public easements or right-of-way, are located upon or the parcel.

**(b) Reduction in Count or Spacing Standards due to Nature of Parcel**

A reduction in the count or spacing standards by up to 20 percent may be allowed where the reduction is desirable in terms of protection of existing natural resources, better consistency with the goals of the comprehensive plan, or a site design that exceeds the quality of what would otherwise result under a strict application of the standards in this Ordinance, in the opinion of the Zoning Administrator.

**(c) Redevelopment of Nonconforming Sites**

The installation of required landscaping during redevelopment of existing nonconforming sites shall occur in accordance with [Article V](#) Nonconformities.

**(d) Additional Deviations**

- (i) Deviations allowed under this section shall be the minimum required to provide relief.

- (ii) No reduction in any landscaping and screening dimensional standard or landscaping performance standards required by this Ordinance is permitted unless otherwise provided for in this Ordinance or by a Variance application to the BZA.

## **(K) Landscaping Performance Standards**

### **(1) Time for Installation of Required Landscaping**

#### **(a) Time Limit**

All required landscaping (including mulching) shall be installed in accordance with the required planting standards set forth in this section prior to issuance of a permanent or non-temporary Certificate of Occupancy unless the Zoning Administrator grants an extension to this time limit.

#### **(b) Extensions**

- (i) The Zoning Administrator may, for good cause shown, grant extensions to the above time limit, allowing a developer/owner to delay the installation of required landscaping.
- (ii) Circumstances that may warrant an extension include, but are not limited to, the following:
  - a. Unusual environmental conditions, such as drought, ice, hurricanes, or over-saturated soil (deep mud);
  - b. It is not yet the appropriate planting season for the approved plant species;
  - c. Credible evidence that the approved plant species or required plant sizes are not commercially available and cannot be substituted within a reasonable time despite an applicant's diligent effort to secure the required materials.
  - d. Extensions shall not be granted to allow undersized plant material to grow to the required size.
- (iii) Upon receipt of a performance guarantee, the City may issue a temporary Certificate of Occupancy for a maximum period of up to 90 days.

### **(2) Maintenance of Landscaping Materials**

- (a) The owner shall be responsible for the maintenance of all landscape areas.
- (b) Such areas shall be maintained in a healthy and orderly appearance free from refuse and debris.
- (c) All plant material shown on an approved landscape plan or alternative landscape plan shall be replaced if it dies, is seriously damaged, or removed.

- (d) In the event that any vegetation functioning to meet the standards of this section is severely damaged the owner or developer may be required to replant if the landscaping standards are not being met.
  - (i) The owner shall have one growing season to replace or replant.
  - (ii) The Zoning Administrator shall consider the landscape requirements as well as the propensity for natural re-vegetation when making a determination on the replanting requirements.
  - (iii) Plants shall be maintained in a way that does not obstruct sight triangles at roadway and drive intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.
- (e) Trees that have been severely pruned, sheared, topped, or shaped as shrubs no longer serve the intended canopy, buffering or screening function and shall be considered as damaged vegetation in need of replacement.
- (f) The natural death of existing vegetation within any required landscape area does not necessarily constitute a violation unless the required landscape area no longer complies with the required standards of this section. This shall not apply to plant material that dies due to neglect or lack of proper maintenance.

## **(L) Tree Protection**

### **(1) Tree Protection During Construction**

#### **(a) Owner's Responsibility**

During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

#### **(b) Tree Protection Fencing**

- (i) Existing trees being used for credit towards landscaping requirements shall be protected with a sturdy and visible fence before any grading, demolition, or other development activity begins.
- (ii) Fencing shall be erected at least one (1) linear foot outside the tree's dripline.
- (iii) The Zoning Administrator shall consider the existing site conditions in determining the exact location of tree protection fencing.
- (iv) Area located inside of tree protection fencing are considered as “tree save areas.”
- (v) No construction, demolition, grading, equipment or material storage, or any other activity shall be allowed within the fenced area.
- (vi) Fencing shall be maintained until after the final site inspection.

## **(2) Tree Preservation Incentives**

### **(a) Tree Preservation Credits**

In order to encourage the preservation of as many trees as practical on a development site, credit towards the minimum landscaping requirements shall be applied to all existing trees retained on a site that comply with the credit standards of this subsection. Credits are offered only for trees that are not required to be retained by other sections of this Ordinance. Credits shall be granted in accordance with the following standards.

### **(b) Credit Amount**

A credit of one (1) tree per each 1.5 inches of existing tree diameter shall be credited and applied towards the landscaping standards in [Sec. 40.2-304](#) Landscaping and Screening when the trees that are saved comply with the following minimum size standards:

#### **(i) Canopy Trees**

Canopy trees, whether deciduous or evergreen, of seven (7) inches in diameter or greater, measured at the DBH (Diameter at Breast Height).

#### **(ii) Credit Applied Towards Required Plantings**

The credit shall be applied to the required tree standards for landscaping. In no case shall credits substitute for more than 75 percent of the required trees.

#### **(iii) Reduction in the Minimum Number of Required Parking Spaces**

- a.** Up to a five (5) percent reduction in the number of off-street parking spaces required on a development site shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy trees.
- b.** The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Zoning Administrator.
- c.** Alternative paving materials may be required by the Zoning Administrator in cases where required parking areas encroach upon root zones.

## **Sec. 40.2-305 – Fences and Walls**

### **(A) Purpose**

The purpose and intent of this section is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within residential, business, and special districts; protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls; and ensure the safety, security, and privacy of properties.

**(B) Applicability**

- (1) Unless exempted in accordance with this section, the provisions of this section shall apply to the construction, reconstruction, replacement, or relocation of fences or walls in the City.
- (2) All fence or wall construction, reconstruction, replacement, or relocation must obtain a Zoning Permit.
- (3) Compliance with the standards of this section shall occur prior to approval of a building permit or zoning permit, whichever occurs first.
- (4) In the event of any conflict between the provisions of this section and any screening standard, [Sec. 40.2-304\(F\)](#) Screening, shall govern.
- (5) For purposes of this section, 50 percent transparency is a fence or wall that is no less than 50 percent see-through.
- (6) All fences serving as pool barriers must comply with all state and local standards.

**(C) Exemptions**

The following are exempted from the requirements of this section.

- (1) Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility.
- (2) Temporary fencing established around construction sites, demolitions, or other site conditions unsafe for pedestrians or vehicles, provided it is consistent with the Building Code.

**(D) Standards**

**(1) Location**

- (a) Fences may be located directly on a property line between two (2) or more parcels of land held in private or public ownership.
- (b) No fence shall be installed within or in a manner, which obstruct access to any public easements, unless expressly granted by the easement holder.
- (c) No fence shall be installed that blocks or diverts drainage.

**(2) Appearance**

- (a) The posts and rails of the fence shall face the interior of the lot, with the smooth/finished side facing away from the lot.
- (b) Fences and walls shall be constructed of the following materials: wood (pressure treated or rot resistant), wrought iron, ornamental metals, brick, stone, masonry materials, vinyl, or chain link (see stipulations in [Sec.40.2-305\(D\)\(2\)\(d\)](#)).
- (c) Chain link fencing shall meet the following standards:
  - (i) Chain link fencing shall not be opaque and shall not have slats.

- (ii) Chain link fencing in industrial districts shall be coated with black or green vinyl coated.
- (iii) Black or green vinyl coated chain link fencing in GMU, NMU, MU-H, and D1 SD zoning districts shall be screened with a Type C Buffer in accordance with [Sec.40.2-304](#) on all sides facing right-of-way. In such cases, the fence should be set back to accommodate the required landscaping buffer.
- (d) Prohibited materials for the construction of fences and walls include: debris, junk, rolled plastic, sheet metal, pallets, plywood, razor wire, or concertina wire in all zoning districts.
  - (i) Barbed wire is prohibited in all zoning districts unless specifically approved in accordance with a security plan (See [Sec. 40.2-305\(E\)](#)).
  - (ii) Electric fencing is prohibited in all zoning districts with the exception of invisible fences used for containing pets.
  - (iii) Chain link fencing is prohibited in historic districts and the D1 T3, D1 T4, D1 T5, and D1 T6 sub-districts.

**(3) Maximum Height Requirements for Fences and Walls**

In all cases, fence and wall heights are measured from finished grade on the highest point of the fence or wall. If a fence is constructed on top of a retaining or other wall, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone.

- (a) Residential, commercial, and industrial district fence requirements are shown in [Table 40.2-305](#) Residential, Commercial, and Industrial Fence Requirements. See [Table 40.2-201](#), Zoning Districts Established to determine category of zoning districts.

<b>TABLE 40.2-305: RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL FENCE REQUIREMENT</b>			
<b>“ft.” = feet</b>			
	<b><u>Residential Districts</u></b>	<b><u>Commercial Districts</u></b>	<b><u>Industrial Districts</u></b>
<b>INTERIOR LOTS</b>			
<b>Front Yard</b>	4 ft and 50% transparent; 6 ft. and solid at the front façade	4 ft and 50% transparent	8 ft
<b>Side Yard</b>	6 ft.	8 ft.	8 ft
<b>Rear Yard</b>	6 ft.	8 ft.	8 ft.

<b>TABLE 40.2-305: RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL FENCE REQUIREMENT</b>			
<b>“ft.” = feet</b>			
	<b><u>Residential Districts</u></b>	<b><u>Commercial Districts</u></b>	<b><u>Industrial Districts</u></b>
<b>CORNER LOTS</b>			
<b>Front Yard</b>	4 ft. and 50% transparent; 6 ft. and solid at the front façade	4 ft. and 50% transparent	8 ft.
<b>Side Yard</b>	6 ft.	6 ft.	8 ft.
<b>Rear Yard</b>	6 ft.	8 ft.	8 ft.
<b>Sight Triangle</b>	See <a href="#">Sec. 40.2-218(A)(6)</a>	See <a href="#">Sec. 40.2-218(A)(6)</a>	See <a href="#">Sec. 40.2-218(A)(6)</a>
<b>DOUBLE FRONTAGE LOTS</b>			
<b>Front Yard</b>	4 ft. and 50% transparent; 6 ft. and solid at the front facade	4 ft. and 50% transparent	8 ft.
<b>Side Yard</b>	6 ft.	8 ft.	8 ft.
<b>Rear Yard</b>	6 ft.	8 ft.	8 ft.
<b>Sight Triangle</b>	See <a href="#">Sec. 40.2-218(A)(6)</a>	See <a href="#">Sec. 40.2-218(A)(6)</a>	See <a href="#">Sec. 40.2-218(A)(6)</a>

**(b) Historic Districts** (see [Table 40.2-201](#) Zoning Districts Established)

- (i) All fence or wall construction, reconstruction, replacement, or relocation must obtain a Certificate of Appropriateness from the Historic Preservation Commission.
- (ii) Fences and walls in historic districts shall comply with the applicable fence requirements in [Table 40.2-305](#).

**(c) Major Utilities, Wireless Communications, Government Facilities, and Other Public Safety Uses**

Fences and walls in front, side, and rear yards of major utilities, wireless communication towers, government facilities, and other public safety uses shall not exceed eight (8) feet.

**(d) Vacant Property**

Vacant property, where no use on the lot has been lawfully established, may be fenced if:

- (i) The fence does not exceed four (4) feet in all districts;
- (ii) Fencing maintains a minimum transparency of 50 percent; and
- (iii) The purpose of the fencing is to discourage unauthorized dumping or unauthorized parking on the property.

**(E) Modification for Security Plan**

An applicant may submit to the Zoning Administrator a site security plan proposing fences or walls taller than those permitted by this section, proposing modifications to the location of fences or walls, and/or proposing the use of barbed or concertina wire atop a fence or wall for security reasons. As part of the site security plan, the applicant must describe all other potential security measures they have considered and why they have deemed them unacceptable. The Zoning Administrator may deny, approve, or approve with conditions the site security plan and its proposed modification to the standards of this section, only upon finding:

- (1) The applicant provides a detailed assessment of other alternative security measures considered before opting for barbed wire.
- (2) The condition, location, or use of the property, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land, or represent a significant hazard to public safety without a taller fence or the use of barbed or concertina wire atop a fence or wall;
- (3) The proposed security plan will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area;
- (4) The proposed fence shall not limit the visibility of pedestrians, bicyclists, or motorists from streets, alleys, or driveways;
- (5) The proposed fence does not exceed eight (8) feet; A fence taller than eight (8) feet can only be approved with approval of a Special Exception in accordance with [Sec. 40.2-535](#); and
- (6) Barbed wire will only be approved if no other security measures are available. Barbed wire and other similar types of wire shall only be approved through a Special Exception in accordance with [Sec. 40.2-535](#). Barbed wire and other similar types of wire shall comply with the following standards:
  - (a) The proposed fence includes a maximum of three (3) strands of barbed wire;
  - (b) The proposed fence is not made of razor or concertina wire; and
  - (c) The barbed wire shall not extend on to or over public right-of-way or adjacent properties.

**Sec. 40.2-306 – Exterior Lighting**

**(A) Purpose**

The purpose of this section is to regulate light spillage and glare to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent properties. More specifically, this section is intended to:

- (1) Ensure that all site lighting is designed and installed to maintain adequate lighting levels on site while limiting negative lighting impacts on adjacent lands;
- (2) Conserve energy and resources to the greatest extent possible; and
- (3) Provide security for persons and land.

**(B) Applicability**

- (1) The provisions of this section shall apply to all development in the city unless exempted in accordance with [Sec. 40.2-306\(C\)](#) Exemptions.
- (2) An exterior lighting plan shall be submitted with the plan of development to the City and approved.

**(C) Exemptions**

The following is exempted from the exterior lighting standards of this section.

- (1) Lighting exempt under state or federal law;
- (2) FAA-mandated lighting associated with a utility tower or airport;
- (3) Single-family detached dwellings;
- (4) Existing athletic field lighting;
- (5) City-owned, -operated, or -maintained street lights located within a street right-of-way or other easement granted to the city;
- (6) Lighting and fixtures approved as part of a Certificate of Appropriateness ([Sec. 40.2-536](#));
- (7) Lighting for public monuments, statuary, and art; and
- (8) Temporary lighting of construction sites, provided such lighting is discontinued upon completion of the construction activity.

**(D) General Standards for Exterior Lighting**

All exterior lighting shall meet the following standards:

**(1) Illumination Direction**

- (a) Upwardly-directed lighting of structures and landscaping is permitted in the D1 district, the D2 Innovation Overlay District, an Entertainment Overlay District, and where specifically indicated.

**(2) Maximum Lighting Height**

- (a) Except for outdoor sports fields or performance areas, the height of outdoor lighting, whether mounted on poles or walls or by other means, shall be no greater than 16 feet

in residential districts and no greater than 30 feet in commercial and mixed-use districts.

(b) Illumination of outdoor seating areas, building entrances, and walkways shall be accomplished by use of ground-mounted fixtures not more than four (4) feet in height.

**(3) Shielding**

(a) Except as specified in subsection (1), exterior light fixtures in excess of 60 watts or 100 lumens shall use downwardly-directed full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets.

(b) No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

**(4) Maximum Illumination Levels**

All outdoor lighting shall be designed and located so that the maximum illumination measured in footcandles at ground level at a property line shall not exceed the standards in [Table 40.2-306](#) Maximum Illumination Levels. Cut-off lighting shall be designed to direct light downward (e.g., shoe box style), except in subsection (1).

<b>TABLE 40.2-306: MAXIMUM ILLUMINATION LEVELS</b>	
<b>TYPE OF USE</b>	<b>MAXIMUM ILLUMINATION AT PROPERTY LINE (FOOTCANDLES)</b>
Residential Use	0.5
Public and Institutional Use	1.0
Commercial or Mixed Use	2.0
D1 T4, D1 T5, D1 T6, D1 SD, and D2IO	2.0
Parking Lots (when stand-alone use)	2.0

**(E) Wall Pack Lights**

(1) Wall packs on buildings may be used at entrances to a building to light unsafe areas.

(2) Wall packs on the exterior of the building shall be fully shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward and be of low wattage.

- (3) Wall pack light sources visible from any location off the site are prohibited.

**(F) Exemptions for a Security Plan**

Government facilities, parks and open areas, public safety, and other uses (see [Table 40.2-216](#), Use Table) where sensitive or dangerous materials are stored may submit to the Zoning Department a site security plan proposing exterior lighting that deviates from the standards in this subsection. The Zoning Administrator may approve or approve with conditions, the site security plan and its proposed deviation from the standards of this subsection, upon finding that the plan meets the following conditions:

- (1) The proposed deviation from the standards is necessary for the adequate protection of the public;
- (2) The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding land; and
- (3) The proposed deviation from the standards is the minimum required and will not have a significant adverse effect on neighboring lands.

**(G) Illumination of Outdoor Sports Fields and Performance Areas**

Lighting of outdoor sports fields and performance areas shall comply with the following standards:

**(1) Glare Control Package**

All lighting fixtures shall be equipped with an existing glare control package (e.g., louvers, shields, or similar devices) and aimed so that their beams are directed and fall within the principal playing or performance area.

**Sec. 40.2-307 – Signage**

**(A) Sign Definitions**

AWNING – See [Article VI](#) Definitions

MARQUEE – See [Article VI](#) Definitions

PENNANT – A lightweight plastic, fabric, paper, or similar material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

SIGN - A surface, fabric, display, device, figure, painting, drawing, message, placard, poster, billboard, or other structure that is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from a street or bicycle or pedestrian path or from property other than the lot on which it is located. This term does not include flags displayed from flagpoles or staffs.

**SIGN, A-FRAME** - A sign designed to rest on the ground that consists of two (2) sign faces connected together at the top to form an "A" shape sign with a broad base and narrow top when viewed from the side.

**SIGN, ATTACHED** - A sign that is attached, directly or indirectly to a building (e.g. wall sign, marquee sign) or structure that has a principal purpose other than supporting the sign (e.g. fence, light pole).

**SIGN, AWNING** - A sign that is part of or attached to the surface of an awning.

**SIGN, BANNER** - A sign constructed of cloth, canvas, fabric, paper, or other light materials, that does not have an integral supporting framework.

**SIGN, BANNER POLE** - A sign constructed of lightweight material and attached to and projecting from a light pole or similar structure, but not from a building.

**SIGN, CANOPY** - A sign attached to a canopy.

**SIGN, FREESTANDING** - A sign installed upon the ground directly or through a structure designed for the exclusive purpose of supporting the sign, and not attached to a building or other structure.

**SIGN, GROUND** - A permanent freestanding sign that is not a monument sign (e.g., because the sign is not wider than it is tall), a pole sign (e.g., because there is less than two feet of open air under the sign), or an off-premises sign.

**SIGN, INFLATABLE** - A sign that requires air pressure to maintain its shape.

**SIGN, MARQUEE** - A sign attached to or hung from a marquee.

**SIGN, MONUMENT** - A freestanding sign permanently mounted on or affixed to a solid decorative base or pedestal with no open air between the sign and the ground, that has, including the support structure, a total width that exceeds its height.

**SIGN, NONCONFORMING** - A sign lawfully existing that does not conform to all the standards and regulations of this Ordinance or the amendment.

**SIGN, OFF-PREMISES** - A sign that draws attention to or communicates information about a business, service, commodity, product, event or any goods or services conducted, sold or offered at a location other than the premises on which the sign is located.

**SIGN, OUTDOOR ADVERTISING** – A sign structure providing displays or display space for general advertising and not primarily or necessarily for advertising related to the premises on which erected or to nearby premises. Such signs, commonly referred to as “billboards,” are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease. Outdoor advertising signs may contain light emitting diode (LED) electronic displays which comply with state and federal law.

**SIGN, PERMANENT** - A sign that is intended for other than temporary use or a limited period. A permanent sign is affixed or attached to the exterior of a building or to a pole or other structure by adhesive or mechanical means or is otherwise characterized by anchoring,

construction materials, or a foundation indicative of an intent to display the sign for more than a limited period.

**SIGN, POLE** - A freestanding sign permanently affixed to one or more masts, poles, or open braces that are secured permanently to the ground and have as their principal purpose support of the sign, such that there is a minimum of two vertical feet of open air under any portion of the bottom of the sign.

**SIGN, PORTABLE OR WHEELED** - A sign that is designed to be transported on wheels or that is constructed on a chassis.

**SIGN, PROJECTING** - A sign that is attached to and oriented approximately perpendicular to the wall or parapet of a building, the building having a principal function other than support of the sign. A projecting sign may include a blade sign.

**SIGN, ROOF** - A sign affixed to the roof of a building or to the wall of a building, and extending above the roofline.

**SIGN, TEMPORARY** - A temporary sign or display that is intended or constructed for display during a limited period of time only, and generally constructed of lightweight materials and installed in a manner so as to be easily removed.

**SIGN, T-FRAME** - Any sign designed to rest on the ground and consisting of a sign face mounted perpendicular to its base to form an upside-down "T" shape when viewed from the side.

**SIGN, WALL** - Any sign painted on or attached to the outside wall of any building and supported by such wall or building, and which displays only one surface.

**SIGN, WIND SAIL** - Any sign temporarily mounted along its edge on a single, flexible pole, and which generally resembles the shape of a feather, sail, bow, teardrop, or other similar shape.

**SIGN, WINDOW** - A sign which is painted on, applied to, or attached to a window or door, or located within three feet of the interior of the window or door, and which is legible and intended to be read from the exterior of the building.

**SIGN, YARD** - A lightweight temporary freestanding sign that is not a wind sail sign, inflatable sign, or A-frame or T-frame sign. A yard sign is generally installed in the ground on a wooden post or a thin frame made of metal.

**(B) Findings**

The City Council finds:

- (1) Signs provide a vital function for the convenience of the public and for the efficient communication of commercial and noncommercial speech.
- (2) Unlike oral speech, signs may cause harm by virtue of the physical space they occupy by obstructing views, distracting motorists, displacing alternative uses of land, and endangering the safety of persons or property.

- (3)** The City has a substantial and compelling interest in all of the purposes set forth below and has a substantial and compelling interest in regulating signs in such a way that the harms caused by signs might be reduced and mitigated.
- (4)** Signs are essential to the health and economic well-being of the City by:

  - (a)** Facilitating consumer transactions and other commercial and industrial activities that allow businesses to be successful, which in turn provides employment and supports a stable tax base; and
  - (b)** Providing information and directions for the safe and efficient travel of motor vehicles, bicycles, and pedestrians.
- (5)** Signs have a strong visual impact on the character and aesthetic appearance of the City by:

  - (a)** They are a prominent part of the cityscape and, as such, can enhance or detract from the City's image and character and facilitate or impede the creation of an attractive and harmonious environment in the City.
  - (b)** Their suitability or appropriateness helps to define the way in which the City and neighborhoods within the City are perceived.
- (6)** The visual environment and character of the City are important factors in the City's economic well-being because they influence Portsmouth's appearance and land values.
- (7)** The visual environment and character of the City, as well as the orderly flow of traffic and safety of travel, are diminished when visual clutter results and the vision of motorists, bicyclists, and pedestrians is obstructed by the unrestricted proliferation and placement of signs, or from the improper maintenance of signs.
- (8)** Regulation of the size, height, number, and spacing of signs throughout the City is necessary to protect the public safety, to assure compatibility of signs with surrounding land uses, to enhance the business and economy of the city, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, to provide ample, meaningful opportunities for persons who desire to display information by means of a sign to have their information seen and understood, and to provide for the orderly and reasonable display of advertising and other messages for the benefit of all persons in the City.
- (9)** For these reasons, the needs of individual citizens, property owners, and businesses to convey their commercial and noncommercial messages must be balanced against the goals of the City to ensure the safety of its roads and pedestrian-ways, maintain its desired character, and preserve and enhance the property values of property owners and businesses.
- (10)** The provisions of this section do not eliminate all of the harm that may be created by the installation and display of signs. Instead, 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 harm caused by signs.

- (11) The provisions of this section do not apply to every form and instance of visual speech that may be displayed within the City. They are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth below.
- (12) The provisions of this section are neither intended nor designed to restrict or control signs for the purpose of promoting or stifling any messages and content that might appear on them.

**(C) Purpose**

The purpose of this section is to:

- (1) Promote and protect the public health, safety, and welfare of those within the city;
- (2) Promote the efficient use of signs as a means of communication;
- (3) Ensure that the right to free speech is protected;
- (4) Maintain and enhance a visual environment that allows the city to attract sources of economic development and supports the economic well-being of the city's businesses;
- (5) Protect and enhance the character, quality, and viability of the city's development and neighborhoods;
- (6) Protect scenic views and avoid sign clutter;
- (7) Reduce the distractions, obstructions, and hazards to pedestrian, bicycle, and vehicle traffic caused by the excessive number, size, height, illumination, movement, indiscriminate placement, overconcentration, or unsafe construction or maintenance of signs;
- (8) Reasonably accommodate:
  - (a) The identification and advertising needs of businesses, institutions, and other entities; and
  - (b) The needs of persons moving through the public spaces of the city to identify and locate destinations and find desired products and services;
- (9) Ensure signs are compatible with their surroundings, and minimize potential adverse effects on nearby properties;
- (10) Enhance property values and business opportunities; and
- (11) Enable efficient and consistent permitting and enforcement.

**(D) Applicability**

- (1) Unless exempted in accordance with [Sec. 40.2-307\(F\)](#) below, any installation, erection, construction, alteration, or maintenance of a sign shall comply with the standards in this section.

- (2) The regulations of this section shall be in addition to any applicable provisions of the Uniform Statewide Building Code, the Virginia Outdoor Advertising Act, the 1950 Code of Virginia Sec. 33.1-351, et seq, and any other applicable codes. Nothing herein shall exempt a sign from compliance with these codes.
- (3) Signs in the Historic Districts or in the Downtown Design Overlay District shall comply with the requirements of their respective design guidelines and be approved by the Historic Preservation Commission or the Downtown Design Committee.
- (4) Except for temporary signs installed in accordance with [Sec. 40.2-307\(K\)](#) Temporary Sign Standards, all signs shall be permanently installed as defined by the Uniform State Building Code. Installation using ropes, cords, and the like is not considered permanent.

**(E) Prohibited Signs**

The following signs are prohibited in all zoning districts:

- (1) Roof signs;
- (2) Pennants;
- (3) Balloons which meet the definition of "sign" and are greater than two (2) feet in diameter with tether more than two (2) feet long extending from a roof or structure by means of a rope, string, or other device;
- (4) Obsolete signs containing sign copy, print, or graphics which advertise an activity, business, product, or service no longer produced or conducted on the premises.
  - (a) Obsolete signs shall be removed within six (6) months of the halt of operations.
  - (b) An exception to the immediate removal of obsolete sign copy, print or graphics will occur where the owner or lessor of the premises on which the sign is located is seeking a new tenant, in which event the sign copy, print or graphics shall be removed by the owner or lessor at least two (2) years from the date of vacancy of the premises on which the obsolete sign is located.
- (5) Portable or wheeled signs and portable or nonstructural signs with no permanently mounted, self-supporting structure, including signs mounted on wheels and otherwise constructed to be used as a temporary sign display, but not including signs applied directly to and flush with the body of a motor vehicle, as defined in Code of Virginia § 46.2-100, that is operable and duly licensed;
- (6) Off-premises signs, except in accordance with [Sec. 40.2-307\(J\)](#);
- (7) Signs that include movement or animation, other than changeable copy in accordance with [Sec. 40.2-307\(J\)](#);
- (8) Signs located in the right-of-way, except A-frame and T-frame signs in accordance with this section and signs placed in the right-of-way in accordance with Ch. 32 of the City Code;
- (9) Signs of a size, location, movement, content, coloring, or manner of illumination that may cause them to be misconstrued as traffic-control devices or signs; and

- (10) Signs that hide from view any traffic or street sign or signal or that obstruct the view at a street or road intersection, as determined by the City Engineer.

**(F) Exempted Signs**

Where not prohibited by Sec. [40.2-307\(E\)](#) Prohibited Signs, the following signs are exempt from the standards in this section:

- (1) Any sign carved into masonry that is integral to a structure;
- (2) Any sign consisting of a solid plate of bronze or similar corrosion-resistant metal that is permanently attached to a building and does not exceed four (4) square feet in area;
- (3) Gravestones;
- (4) Traffic control signs and devices and similar signs erected by a government agency for public safety purposes;
- (5) Any sign erected on city-owned property by a public agency that is under the control of the City Manager;
- (6) Any sign required to be erected by city, state, or federal law;
- (7) Any sign the City is prohibited from regulating by state or federal law, to the extent of the prohibition;
- (8) Any sign applied directly and entirely to, and flush with, a horizontal surface paved with asphalt, concrete, or a similar material;
- (9) Any permanent sign that is located in a parking lot or parking structure or adjacent to a loading area, if the sign is less than two (2) square feet in area and, if freestanding, less than four (4) feet in height and not located closer than the height of the sign from adjoining properties;
- (10) Political campaign yard signs placed on private property pursuant to Code of Virginia §15.2-109; and
- (11) Any sign that is applied directly to and flush with the body of a motor vehicle, as defined in Code of Virginia § 46.2-100, that is operable and duly licensed.

**(G) Signs Not Requiring a Zoning Permit**

The following are subject to the standards in this section but do not require issuance of a Zoning Permit in accordance with [Sec. 40.2-307\(G\)](#):

- (1) Routine maintenance of a sign or changing of lettering or parts of signs designed to be regularly changed, including sign face changes;
- (2) For each residential structure, and for each public entrance to a nonresidential or mixed-use structure, one sign that is permanently attached to the structure if the sign does not exceed two (2) square feet in area;
- (3) For each roadway frontage on a parcel of land upon which construction activities of any type are being performed, one temporary sign that does not exceed 32 square feet in area

in a commercial or industrial zoning district or 24 square feet in area any other zoning district;

- (4) A temporary sign securely and tautly affixed to temporary protective fencing erected around an area where construction activities of any type are being performed;
- (5) For each roadway frontage on a parcel of land that is actively marketed for sale, lease, or rent, one-yard sign that does not exceed four (4) square feet in a residential zoning district, eight (8) square feet in a mixed-use zoning district, and 16 square feet in any other zoning district;
- (6) In addition to signage required by state or federal law, signs attached to a gas pump that do not exceed four (4) square feet in area;
- (7) Window signs located in the NMU, GMU, IN, and WF districts; and if consistent with applicable adopted design standards, window signs located in the MU-H district; and
- (8) Signs oriented toward the interior of and intended to be viewed from within an outdoor recreation or entertainment establishment or facility.

**(H) Procedure for Compliance**

(1) Unless not required in accordance with [Sec. 40.2-307\(G\)](#) above, a Zoning Permit issued in accordance with [Sec. 40.2-530](#) Zoning Permit, is required prior to any activity that is subject to this section. The Sign Zoning Permit application may be reviewed concurrently with a development plan application for the same site.

**(2) Signage Requiring a Use Permit**

A Use Permit must be obtained, pursuant to [Sec. 40.2-533](#) Use Permits prior to undertaking any of the following activities:

- (a) Installation of a new outdoor advertising sign;
- (b) Replacement of an outdoor advertising sign; and
- (c) Changing the technology of the sign face on an outdoor advertising sign, including a conversion to an LED electronic display.

**(I) General Sign Standards**

**(1) Classification of Sign Types**

For purposes of this section, signs are generally classified as either permanent or temporary, and as either freestanding or attached. [Table 40.2-307\(1\)](#), Classification of Sign Types, identifies signs according to their classification.

<b>TABLE 40.2-307(1): CLASSIFICATION OF SIGN TYPES</b>		
	<b>Attached</b>	<b>Freestanding</b>

<b>Permanent</b>	Awning sign Banner pole sign Canopy sign Marquee sign Off-premises sign Projecting sign Wall sign Window sign	Ground sign Monument sign Off-premises sign Pole sign
<b>Temporary</b>	Banner sign Banner pole sign Inflatable sign Window sign	A-frame or T-frame sign Inflatable sign Wind sail sign Yard sign

**(2) Measurement of Signs**

**(a) Sign Height**

The height of a sign shall be measured from the top edge of the sign to the ground level measured at the edge of the pavement of the public street on which the sign faces.

**(b) Sign Area**

- (i) The area of a sign shall be computed as the area within the smallest standard geometric shape that encloses the extreme limits of lettering, representations, emblems, or other figures, together with all surrounding material, trim, or ornamentation that either form the integral part of the display or differentiate the sign from the background where it is placed.
- (ii) The structural supports for a sign, whether they be columns, pylons or a building or part thereof, shall not be included in the sign area unless they are designed as integral parts of the sign for the purpose of illustration or attraction.

**(3) Sign Faces**

No sign shall have more than two (2) faces.

**(4) Materials**

**(a)** Permanent signs shall be constructed of durable, weatherproof materials.

**(b) D1 District**

In the D1 district, a sign shall not be constructed of:

- (i) Unfinished materials, including unpainted wood;
- (ii) Highly reflective materials; or
- (iii) Plastic.

**(5) Illumination**

- (a) Illumination, where permitted, shall be designed, installed and maintained in a manner that avoids glare on adjoining properties and that avoids glare or reflection which in any way interferes with traffic safety.
- (b) Where illumination is by a source external to the sign, the source of illumination shall be aimed and shielded so that direct illumination is focused exclusively on the sign face and is not visible from off-site areas.
- (c) The luminance of a sign shall not exceed 1500 nits during daylight hours and 150 nits at all other times. Signs incorporating displays that use light emitting diodes (LEDs), charge coupling devices (CCDs), plasma, or functionally equivalent technologies shall be equipped with automatic dimming technology and certified by the manufacturer or a qualified professional to be compliant with the maximum luminance standards in this subsection (6)(c).
- (d) In the UR, UR-M, and historic (HR, HLO and HLB) zoning districts, signs shall be illuminated only by a source external to the sign.
- (e) In the D1 district, any illumination of a sign shall be directed at the sign from an external, shielded lamp, emitting a warm light, similar to daylight, except:
  - (i) Backlighting of individual letters is allowed; and
  - (ii) If approval of the sign by the Downtown Design Committee is required, the Committee may allow internal sign illumination, such as neon in limited amounts or incandescent bulbs, or other sign illumination, if the Committee determines the proposed illumination is compatible with the character of the street and with the historic character of individual buildings and the district as a whole.

**(6) Automatic Changeable Copy**

- (a) Signs incorporating automatic changeable copy are only permitted in the NMU, GMU, MU-H, IL, and IN districts.
- (b) A sign that incorporates automatic changes in display or copy shall comply with the following standards:
  - (i) The display or copy shall remain static prior to each change for a period of not less than eight (8) seconds.
  - (ii) Each change of the display or copy shall be accomplished within 0.25 seconds or less if the change is affected by digital means, or two (2) seconds if the change is effected by mechanical means.
  - (iii) Each change of the display or copy shall be accomplished without the use of animation, scrolling, or simulated movement.
  - (iv) The device that automatically changes the display or copy shall be designed and equipped to maintain a static display if a malfunction occurs.

**(7) Substitution of Content**

The replacement of commercial content with noncommercial content on any sign permitted by this section is expressly allowed.

**(8) Maintenance**

- (a) Each sign shall be maintained in good condition at all times. Maintenance shall include, but is not limited to, the following:
  - (i) Each sign shall be kept free of holes, tears, and fraying;
  - (ii) Each sign shall be kept free of rust, rot, and similar degradation; and
  - (iii) Cracked, shattered, or similarly damaged parts of a sign shall be replaced
- (b) In the event that a use has ceased operating on the site for a period of six (6) months, all related sign faces shall be removed by the property owner.

**(J)Permanent Sign Standards**

**(1) Permanent Sign Types Allowed in Each Zoning District**

The types of permanent signs allowed in each zoning district are identified in [Table 40.2-307\(2\)](#), Permanent Sign Types Allowed in each Zoning District. For each type of sign, the right-most column references the specific standards that apply to that type of sign.

TABLE 40.2-307(2): PERMANENT SIGN TYPES ALLOWED IN EACH ZONING DISTRICT													
TYPE OF SIGN	ZONING DISTRICT											STANDARDS SPECIFIC TO SIGN TYPE	
	NR, GR	UR, UR-M	NMU	GMU	MU-H	IL, IN	D1	WF	C	HLO, HLB	HR		
<b>ATTACHED SIGNS</b>													
Awning sign	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	<a href="#">Sec. 40.2-307(J)(3)(a)</a>	
Banner pole sign	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	Sec. 40.2-307(J)(3)(b)	
Canopy sign	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	<a href="#">Sec. 40.2-307(J)(3)(c)</a>	
Marquee sign	no	no	no	yes	no	no	yes	no	no	no	no	<a href="#">Sec. 40.2-307(J)(3)(d)</a>	
Off-premises sign	no	no	no	no	no	yes	no	no	no	no	no	<a href="#">Sec. 40.2-307(J)(3)(e)</a>	

<b>TABLE 40.2-307(2): PERMANENT SIGN TYPES ALLOWED IN EACH ZONING DISTRICT</b>												
TYPE OF SIGN	ZONING DISTRICT											STANDARDS SPECIFIC TO SIGN TYPE
	NR, GR	UR, UR-M	NMU	GMU	MU-H	IL, IN	D1	WF	C	HLO, HLB	HR	
Projecting sign	no	yes	yes	yes	yes	yes	yes	yes	no	yes	no	<a href="#">Sec. 40.2-307(J)(3)(f)</a>
Wall sign	no	yes	yes	yes	yes	yes	yes	yes	no	yes	no	<a href="#">Sec. 40.2-307(J)(3)(g)</a>
Window sign	yes	yes	yes	yes	yes	yes	yes	yes	no	yes	no	<a href="#">Sec. 40.2-307(J)(3)(h)</a>
<b>FREESTANDING SIGNS</b>												
Ground Sign	no	no	yes	yes	yes	yes	no	yes	yes	no	no	<a href="#">Sec. 40.2-307(J)(4)(b)</a>
Monument sign	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	<a href="#">Sec. 40.2-307(J)(4)(c)</a>
Off-premises sign	no	no	no	no	no	yes	no	no	no	no	no	<a href="#">Sec. 40.2-307(J)(4)(d)</a>
Outdoor Advertising Sign	no	no	no	no	no	yes	no	no	no	no	no	<a href="#">Sec. 40.2-307(J)(4)(d)</a>
Pole Sign	no	no	yes	yes	yes	yes	no	yes	yes	no	no	<a href="#">Sec. 40.2-307(J)(4)(e)</a>

**(2) Maximum Total Sign Area per Lot for Permanent Signs**

- (a) On any lot, the maximum total sign area of all permanent signs and any additional sign area restrictions for permanent attached signs and permanent freestanding signs are established in [Table 40.2-307\(3\)](#), Maximum Total Sign Area Per Lot for Permanent Signs, for the zoning district in which the sign(s) is located.
- (b) Where an individual establishment not on a separate lot directly adjoining a street is located in a shopping center, the sign area allowances of such establishment shall be

calculated on the basis of its occupancy frontage, which shall be treated for such purposes as if it were street frontage or front building facade.

**TABLE 40.2-307(3): MAXIMUM TOTAL SIGN AREA PER LOT FOR PERMANENT SIGNS**

“sf.” = square feet; ft. = feet

<b>ZONING DISTRICT</b>	<b>MAXIMUM TOTAL SIGN AREA PER LOT FOR ATTACHED AND FREESTANDING SIGNS (EXCLUDING WINDOW SIGNS)</b>	<b>ADDITIONAL SIGN AREA RESTRICTIONS FOR ATTACHED SIGNS</b>	<b>ADDITIONAL SIGN AREA RESTRICTIONS FOR FREESTANDING SIGNS</b>
<b>NR GR</b>	10% of the area of the front building facade, or 1 sf. for every 5 linear ft. of street frontage, whichever is greater, provided, no individual sign shall have a sign area in excess of 18 sf.	None	Not more than 36 sf., or 1 sf. for every 8 linear ft. of street frontage, whichever is less
<b>UR UR-M HR HLO HLB</b>	10% of the area of the front building facade, or 1 sf. for every 2 linear ft. of street frontage of the lot, whichever is greater, provided, no individual sign shall have a sign area in excess of 18 sf.	None	Not more than 36 sf., or 1 sf. for every 3 linear ft. of street frontage, whichever is less, provided, no sign shall have a sign area in excess of 18 sf.
<b>NMU GMU MU-H IL IN WF</b>	10% of the area of the front building facade or 1 sf. for every 1 linear ft. of street front of the lot, whichever is greater, provided, no sign located on a lot having less than 40 linear ft. of street frontage shall have a sign area in excess of 40 sf.	None	None
<b>C</b>	One sign permitted, maximum 20 sf. in area		

<b>D1</b>	10% of the area of the front building façade, provided no sign located on a lot having less than 40 linear ft. of street frontage shall have a sign area in excess of 40 sf.	None	Signs in the DD Overlay District shall comply with DDC guidelines.
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**(3) Permanent Attached Sign Standards (On-Site and Off-Premises)**

The general standards established for each type of permanent attached sign in subsections (a) through (g) below apply in all zoning districts, unless explicitly stated otherwise for specific zoning districts.

**(a) Awning Sign**

**(i) Standards**

**A permanent attached awning sign shall comply with the following standards:**

- a. One (1) awning sign is allowed on a lot for each public street on which the lot has frontage.
- b. Awning signs are allowed only on awnings attached to the ground floor of a building.
- c. An awning sign that is suspended from the bottom of an awning shall:
  - 1. Not extend horizontally beyond the edges of the awning; and
  - 2. Maintain a minimum vertical distance of eight (8) feet between the bottom of the sign and the grade directly below the bottom of the sign.
- d. An awning sign that is applied directly to the surface of an awning shall not be illuminated internally or have any form of backlighting.
- e. An awning sign that is mounted on the front or side of an awning shall not extend above the highest point where the awning attaches to the building.

**(b) Banner Pole Sign**

**(i) Standards**

**A permanent attached banner pole sign shall comply with the following standards:**

- a. A banner pole sign may be attached to a privately owned light pole not in the right-of-way.
- b. The surface area of a banner pole sign shall not exceed eight (8) square feet as measured on a single side.

- c. When two (2) banner pole signs are affixed to a single light pole, both banner pole signs shall be consistent with each other with respect to size and shape so as to create uniformity.
- d. When the light pole onto which a banner pole sign is placed is located within the paved portion of a parking lot, and the light pole base is unprotected from vehicular traffic, the bottom of the banner pole sign shall be a minimum of fifteen (15) feet above the parking surface over which the banner is placed. If the base of the light pole is protected from vehicular traffic, this provision shall not apply.
- e. When the light pole is located within a pedestrian area, the bottom of the banner pole sign shall be a minimum of eight (8) feet above the surface over which the banner pole sign is placed, unless the banner pole sign is sufficiently narrow so as to not extend beyond the base of the light pole.
- f. Any horizontal supporting members shall either be removed when not in use or shall be of a hinged design and folded into a vertical position when not in use.
- g. A banner pole sign shall not be illuminated in any manner except as incidental to the lighting fixture supported by the light pole.
- h. A banner pole sign shall be equipped with ventilation flaps.
- i. A banner pole sign shall be removed or replaced if faded, torn, ripped, or torn.

**(c) Canopy Sign**

**(i) Standards**

**A permanent attached canopy sign shall comply with the following standards:**

- a. One canopy sign is allowed on each side of a canopy visible from a public street on which the lot has frontage.
- b. A canopy sign shall not extend above, beyond, or below any edge of the vertical face of the canopy roof structure.
- c. The sign area of a canopy sign shall not exceed 20 percent the area of the vertical face of the side of the canopy roof structure to which it is attached.

**(d) Marquee Sign**

A marquee sign shall maintain a minimum vertical distance of eight (8) feet between the bottom of the sign and the grade directly below the bottom of the sign.

**(e) Off-Premises Sign (Attached)**

**(i) IL and IN Districts**

Off-premises signs and outdoor advertising signs are permitted only in the IL and IN districts after a Use Permit for the sign has been approved by the City Council in accordance with [Sec. 40.2-533](#) Use Permits.

**(ii) Standards**

An off-premises sign (attached) shall comply with the following standards:

- a. The maximum sign area shall not exceed 672 square feet;
- b. The maximum height shall not exceed 50 feet;
- c. An off-premises sign (attached) shall be:
  1. Oriented in only one direction;
  2. Located not less than 25 feet from the right-of-way of any public street;
  3. Located not less than 15 feet from any other property line, or, if the property line adjoins property in the NR, GR, UR, or UR-M district, by a distance at least equal to the height of the sign; and
  4. Erected not less than 500 feet from any other off-premises sign on the same side of the same street.
- d. Off-premises signs within 660 feet of the right-of-way of any highway classified as an interstate highway or as a federal aid primary highway shall also obtain all necessary approvals from the Virginia Department of Transportation pursuant to Code of Virginia § 33.2-1200 et seq.

**(f) Projecting Sign**

**(i) Standards**

A projecting sign shall comply with the following standards:

- a. Not extend more than six (6) feet from a building to which it is attached;
- b. Be perpendicular to the building to which it is attached;
- c. Maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign;
- d. Not exceed 12 square feet in area;
- e. Not be illuminated; and
- f. If located within the public right-of-way, comply with the provisions of Sec. 32-7 of the City Code pertaining to street encroachments.
- g. **D1 District**

In the D1 district, only one projecting sign is permitted per storefront.

**(g) Wall Sign**

**(i) D1 District**

In the D1 district, a wall sign shall not obscure moldings or transoms.

**(h) Window Sign**

**A window sign shall comply with the following standards:**

- (i)** On any story of a building, the total sign area of window signs shall not exceed 20 percent of the facade area comprised of windows.
- (ii)** A window sign shall not be illuminated by any source other than a source external to the sign.

**(4) Permanent Freestanding Sign Standards (On-Site and Off-Premises)**

The general standards established for permanent freestanding signs in subsection **(a)** below and for each type of permanent attached sign in subsections **(a)** through **(e)** below, apply in all zoning districts, unless explicitly stated otherwise for specific zoning districts.

**(a) Standards**

A permanent freestanding sign shall comply with the following standards:

- (i)** One freestanding sign support structure is allowed on a lot for each public street on which the lot has frontage.
- (ii)** The sign support structure shall not support multiple co-located signs unless they are placed parallel to a common plane and arranged in one or a combination of the following ways:
  - a.** Back-to-back;
  - b.** In rows; or
  - c.** In columns.
- (iii)** A freestanding sign and its supporting structure shall be located not less than:
  - a.** Seven (7) feet from the front property line; and
  - b.** Fifteen (15) feet from any adjoining property located in the NR, GR, UR, UR-M, HR, HLO, or HLB zoning district.

**(b) Ground Sign**

**(i) Standards**

In addition to the standards in [Sec. 40.2-307\(J\)\(4\)\(a\)](#), a permanent ground sign shall comply with the following standards:

- a.** A ground sign shall not exceed a height of 25 feet.
- b. NR, GR , or C District**

In the NR, GR, or C district, a ground sign shall:

- 1.** Not exceed six (6) feet in height; and
- 2.** Not be illuminated by any source other than a source external to the sign.

**c. UR or UR-H District**

In the UR or UR-M districts, a ground sign shall not exceed ten (10) feet in height.

**(c) Monument Sign**

**(i) Standards**

In addition to the standards in [Sec. 40.2-307\(J\)\(4\)\(a\)](#), a permanent monument sign shall comply with the following standards:

- a. A monument sign shall not exceed a height of 12 feet.
- b. The base of pedestal of a monument sign shall be constructed of brick, stone, concrete, or a material of similar bulk, weight, and durability.
- c. A monument sign shall not be located less than one (1) foot away from any right-of-way.

**d. NR, GR, or C District**

In the NR, GR, or C district, a monument sign shall:

- i. Not exceed six (6) feet in height; and
- ii. Not be illuminated by any source other than a source external to the sign.

**e. UR or UR-M District**

In the UR or UR-M district, a monument sign shall not exceed eight (8) feet in height.

**(d) Off-Premises Sign (Freestanding)**

In addition to the standards in [Sec. 40.2-307\(J\)\(4\)\(a\)](#), freestanding off-premises sign shall comply with the standards in [Sec. 40.2-307\(J\)\(3\)\(d\)](#).

**(e) Pole Sign**

**(i) Standards**

In addition to the standards in [Sec. 40.2-307\(J\)\(4\)\(a\)](#), a permanent pole sign shall comply with the following standards:

- a. A pole sign shall not exceed a height of 25 feet.

**b. NR or GR District**

In the NR or GR district, a pole sign shall:

- i. Not exceed six (6) feet in height; and
- ii. Not be illuminated by any source other than a source external to the sign.

**c. UR or UR-M District**

In the UR or UR-M district, a pole sign shall not exceed ten (10) feet in height.

**(K) Temporary Sign Standards**

**(1) Temporary Signs Allowed in Each Zoning District**

The types of temporary signs allowed in each zoning district are identified in [Table 40.2-307\(4\)](#), Temporary Signs Allowed in each Zoning District.

<b>TABLE 40.2-307(4): TEMPORARY SIGNS ALLOWED IN EACH ZONING DISTRICT</b>												
<b>TYPE OF SIGN</b>	<b>ZONING DISTRICT</b>											<b>STANDARDS SPECIFIC TO SIGN TYPE</b>
	<b>NR GR</b>	<b>UR, UR-M</b>	<b>NMU GMU</b>	<b>MU-H</b>	<b>IL IN</b>	<b>D1</b>	<b>D2</b>	<b>WF</b>	<b>PG</b>	<b>HR HLB</b>	<b>HLO</b>	
<b>ATTACHED SIGNS</b>												
Banner sign	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	<a href="#">Sec. 40.2-307(K)(2)(a)</a>
Banner pole sign	no	yes	yes	yes	yes	yes	yes	yes	no	yes	no	<a href="#">Sec. 40.2-307(K)(2)(b)</a>
Inflatable sign	no	no	no	no	yes	no	no	no	no	no	no	<a href="#">Sec. 40.2-307(K)(2)(c)</a>
Window sign	no	yes	yes	yes	yes	yes	yes	yes	no	no	yes	<a href="#">Sec. 40.2-307(K)(2)(d)</a>
<b>FREESTANDING SIGNS</b>												
A-frame or T-frame sign	no	no	no	no	no	yes	yes	no	no	no	no	<a href="#">Sec. 40.2-307(K)(3)(a)</a>

TABLE 40.2-307(4): TEMPORARY SIGNS ALLOWED IN EACH ZONING DISTRICT												
TYPE OF SIGN	ZONING DISTRICT											STANDARDS SPECIFIC TO SIGN TYPE
	NR GR	UR, UR-M	NMU GMU	MU-H	IL IN	D1	D2	WF	PG	HR HLB	HLO	
Inflatable sign	no	no	no	no	yes	yes	no	no	no	no	no	<a href="#">Sec. 40.2-307(K)(3)(b)</a>
Wind sail sign	no	yes	yes	yes	yes	no	yes	yes	yes	no	no	<a href="#">Sec. 40.2-307(K)(3)(c)</a>
Yard sign	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes	<a href="#">Sec. 40.2-307(K)(3)(d)</a>

**(2) Standards for Temporary Attached Signs**

**(a) Banner Sign**

Unless affixed to temporary protective fencing in accordance with this section, a temporary banner sign shall not be displayed for a cumulative period of time longer than 30 days in any calendar year.

**(b) Banner pole sign (Temporary)**

**A temporary banner pole sign shall:**

- (i) A temporary banner pole shall maintain a minimum of eight (8) feet clear height above the ground.
- (ii) A temporary banner pole sign shall not be displayed for a cumulative period of time longer than 60 days in any calendar year.

**(c) Inflatable Sign (Attached)**

A temporary inflatable attached sign shall:

- (i) Project no more than 30 feet above the roof line or top of the building or structure to which they are attached;
- (ii) Not be designed to generate animation or movement; and
- (iii) Be displayed no more than once per year per lot, for a period of time not to exceed seven (7) days.

**(d) Window Sign (Temporary)**

A temporary window sign shall comply with the standards in [Sec. 40.2-307\(J\)\(3\)\(g\)](#).

**(3) Standards for Temporary Freestanding Signs**

**(a) A-frame or T-frame Sign**

A temporary freestanding A-frame or T-frame sign shall:

- (i) One sign is permitted per establishment.
- (ii) Sign area shall not exceed two (2) feet in the horizontal dimension and three-and-one-half feet in the vertical dimension.
- (iii) The sign shall be located in front of, and within 16 feet of the main entrance to, the premises.
- (iv) The placement of signs must not interfere with pedestrian traffic, curb ramps, or access to buildings, driveways, or fire escapes
- (v) The sign shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.
- (vi) The sign shall be internally weighted so that it is stable and windproof.

**(b) Inflatable Sign (Freestanding)**

A temporary inflatable freestanding sign shall:

- (i) Have a height not exceeding 30 feet above ground level;
- (ii) Not be designed to generate animation or movement; and
- (iii) Be displayed no more than once per year per lot, for a period of time not to exceed seven (7) days.

**(c) Wind Sail Sign**

**A temporary wind sail sign shall comply with the following standards:**

- (i) One temporary wind sail sign is allowed on a lot that has at least 25 feet of street frontage. One additional temporary wind sail sign is allowed on the lot for each additional 50 feet of lot street frontage above 25 feet;
- (ii) A wind sail sign shall not exceed nine (9) feet in height;
- (iii) A wind sail sign shall not be located within 25 feet of another wind sail sign on the same lot.
- (iv) A wind sail sign shall not be located less than seven (7) feet from the right-of-way.

**(d) Yard Sign**

**A temporary yard sign shall comply with the following standards:**

(i) In addition to signs identified in [Sec. 40.2-307\(G\)](#), Signs Not Requiring a Zoning Permit, up to four (4) temporary yard signs having a combined sign area not exceeding 24 square feet are allowed per lot.

(ii) A yard sign shall not exceed six (6) feet in height.

**(L) Nonconforming Signs Section**

See [Sec. 40.2-508](#) Nonconforming Signs.

**(M) Alternative Signage Plan**

**(1) Eligibility**

Large-scale development with common design elements (such as a shopping center, an office park, or large institutions such as a university or medical center with multiple buildings on a campus) may apply for a Special Exception to authorize alternative signage in accordance with an Alternative Signage Plan that proposes a comprehensive set of signage standards in-lieu of compliance with standards in this section.

**(2) Approval and Amendment Process**

**(a) Special Exception**

(i) Application, consideration, and approval or denial of a Special Exception permit for an Alternative Sign Plan, and any subsequent amendments to an approval, shall conform to and be governed by the procedures set forth in [Sec. 40.2-535](#) Special Exceptions.

(ii) In addition to the Special Exception permit standards in [Sec. 40.2-535](#), prior to approval of the Special Exception permit, the Board of Zoning Appeals shall also find that the proposed Alternative Sign Plan is consistent with the purpose of this Section, includes common elements and a consistent design scheme, is consistent with the purposes of the zoning district in which it is located, and is compatible with surrounding development.

**(b) Reserved.**

**(N) Alternative Sign Overlay District**

**(1) Purpose**

Certain large-scale development with common design elements, including but not limited to office parks, entertainment establishments, corporate centers, and medical centers having a multi-building campus, or development that is unique in its design, operating characteristics, and presence in the city, including but not limited to outdoor performing arts centers, may present unique development opportunities of special value to the city. In order to ensure that the economic, social, and cultural benefits of that type of development are optimized, the establishment of one or more localized alternative sign overlay districts is authorized to address the unique signage needs and opportunities associated with the development.

**(2) Applicability**

The type of large-scale development described in subsection (1) above may be classified to an Alternative Sign Overlay District in accordance with subsection (3) below. All properties located within Alternative Sign Overlay District shall be subject to the signage standards of the Alternative Sign Overlay District in-lieu of the standards in this section.

**(3) Procedure for Establishment**

An application for the establishment of an Alternative Sign Overlay District shall be submitted, reviewed, and decided upon in accordance with [Sec. 40.2-532](#) Zoning Text and Zoning Map Amendments. Such an application shall include, at a minimum, the following:

- (a) A description of the boundaries of the proposed district;
- (b) A statement of the reasons for the request; and
- (c) A comprehensive set of signage standards proposed by the applicant to be applied within the district.

**(4) Comprehensive Signage Standards**

Comprehensive signage standards in an Alternative Sign Overlay District shall consist of a comprehensive design scheme that:

- (a) Includes common elements;
- (b) Is compatible with the character of the underlying base district;
- (c) Is consistent with the purpose of this Section; and
- (d) Is consistent with surrounding development.

**Sec. 40.2-308 – Open Space Set-Asides**

**(A) Purpose and Intent**

Open space set-asides are for the use and enjoyment of a development's residents, employees, and users. Open space set-asides shall not include water bodies such as lakes, ponds, streams, rivers, and other riparian areas. Open space set-asides shall not be built upon, or parked or driven upon (except for emergency access). Open space set-aside standards are intended to:

- (1) Preserve and protect natural features;
- (2) Ensure resident access to open areas and recreation;
- (3) Enhancing stormwater quality;
- (4) Reduce heat island effect; and
- (5) Providing other public health benefits.

**(B) Applicability**

(1) Unless exempted, the provisions of this section shall be applied to development of all land in the city.

**(2) Exemptions**

- (a) Single-family detached residential;
- (b) Two-family residential;
- (c) Commercial development; and
- (d) Industrial development.

**(C) Open Space Set-Aside Standards**

(1) The following developments shall set-aside 10 percent of the total development site area for open space:

- (a) Three-to-four-family residential development;
- (b) Townhouse residential development;
- (c) Multi-family residential development; and
- (d) Mixed-use development.

(2) Development on lots within the Downtown (D1) district shall comply with the open space standards in [Table 40.2-207](#).

(3) Open space set-asides required by this section shall not be disturbed, developed, or improved with any structures, parts of any structures, or mechanical equipment.

(4) Land shall be compact and contiguous unless the land is used to link or continue an existing or planned open space resource. The site shall be bounded by at least one street, if reasonably practical.

(5) They shall include at least one improved access from a public sidewalk, street, trail, or easement that includes signage designating the access point.

**(D) Not Counted as Open Space Set-Asides**

The following areas shall not be counted as open space set-aside:

- (1) Protected water features such as wetlands;
- (2) Private yards not subject to an open space or conservation easement;
- (3) Public street rights-of-way or private street easements, including sidewalks located within those rights-of-way or easements;
- (4) Open parking areas and driveways;
- (5) Land covered by structures not designated for active recreational uses; and
- (6) Designated outdoor storage areas.

**Sec. 40.2-309 – Underground Utilities**

- (A) All utilities within or serving new development (e.g., cable television, electrical (excluding transformers), gas, sewer, telephone, cell, and water lines) shall be placed underground in accordance with Sec. 33.1-53 of the City Code.
- (B) Notwithstanding (A) above, applications to construct a new wireless support structure above ground on private property shall be subject to the requirements and limitations of Code of Virginia § 15.2-2316.4, et seq., and shall be reviewed in accordance with the standards set forth in City Code § 32-137.
- (C) In addition, pursuant to the Code of Virginia subsection 15.2-2316.4:2(B)(2)(d), an application submitted for an administrative review-eligible project or for any zoning approval required for a standard process project that proposes a new structure or to co-locate a wireless facility in an area where all cable and public utility facilities are required to be placed underground may be disapproved on the grounds that an applicant has not given written notice to adjacent landowners at least 15 days before it applied to locate a new structure in the area.

**Sec. 40.2-310 – Resilient Site and Building Bonuses**

**(A) Purpose**

This section is intended to promote sustainable development within the City of Portsmouth by creating bonuses for addressing global climate change, protecting natural resources, reducing stormwater runoff and pollutants, mitigating sea level rise, and ensuring a high quality of life for future Portsmouth residents. The following resilient site and building bonuses are provided below.

**(1) Type of Bonuses**

- (a) Development providing resilient site and building features in accordance with the provisions of this section shall be eligible for bonuses shown in [Table 40.2-310\(1\)](#) and including:
  - (i) A total density bonus of up to a maximum of 20 percent beyond the maximum allowable gross residential density;
  - (ii) An increase in the maximum allowable height of up to maximum of 20 feet in residential districts and 24 feet in commercial districts beyond the maximum allowed in the base zoning district;
  - (iii) An increase in the maximum allowable building coverage by a maximum of 15 percent beyond the maximum allowed in the base zoning district; or
  - (iv) A reduction in the off-street parking requirements of up to 15 percent of the minimum amount of required parking.

**(B) Standards**

- (1) Development may include an appropriate number of resilient site and building features to take advantage of more than one type of bonus, but in no instance shall the amount of a

bonus be increased or decreased (as appropriate) beyond the maximum listed in this subsection.

- (2) Individual resilient site and building features shall not count as double bonuses if duplicated, unless indicated in [Table 40.2-310\(2\)](#).

**(C) Applicability**

- (1) The bonuses included in this section are available to new development in the business, special, Downtown (D1), and UR-M zoning districts.
- (2) Resilient site and building bonuses shall be limited to those related to building height or gross residential density in the D1 district.

**(D) Procedure**

- (1) Development seeking to use resilient site and building bonuses shall include a written request with the development application.
- (2) Review for compliance with this section, and receipt of a bonus in accordance with this section shall occur during review of a Use Permit (Sec. 40.2-533), a Zoning Text and Zoning Map Amendment ([Sec. 40.2-532](#)), a Site Plan ([Article IV, Division IV](#)), or a Zoning Permit ([Sec. 40.2-530](#)), as appropriate.
- (3) Resilient site and building features required as part of an approved Use Permit can only be modified by City Council.
- (4) The bonus shall be based on the number of resilient site and building features provided, in accordance with [Table 40.2-310\(1\)](#) Resilient Site and Building Bonuses and [Table 40.2-310\(2\)](#) Menu of Resilient Site and Building Features.

<b>TABLE 40.2-310(1): RESILIENT SITE AND BUILDING BONUSES</b>		
<b>TYPE OF BONUS</b>	<b>MINIMUM NUMBER OF FEATURES PROVIDED</b>	
	<b>OPTION 1: From Group A</b>	<b>OPTION 2: From Group B</b>
Increase in gross residential density by up to 10 percent beyond district maximum	1	2
Increase in building height by 10 feet for residential developments and 12 feet for commercial developments beyond district maximum	1	2
Increase in the maximum building coverage by up to 5 percent	1	2

<b>TABLE 40.2-310(1): RESILIENT SITE AND BUILDING BONUSES</b>		
<b>TYPE OF BONUS</b>	<b>MINIMUM NUMBER OF FEATURES PROVIDED</b>	
	<b>OPTION 1: From Group A</b>	<b>OPTION 2: From Group B</b>
Modification in the minimum number of required off-street parking spaces by up to 5 percent	1	2
Increase in gross residential density up to 20 percent beyond district maximum	2	4
Increase in building height by 20 feet for residential development and 24 for commercial developments beyond district maximum	2	4
Increase in the maximum building coverage by up to 15 percent	2	4
Modification to the minimum number of required off-street parking spaces by up to 15 percent	2	4

**(E) Menu of Resilient Site and Building Features**

One or more of the following resilient site and building features shown in [Table 40.2-301\(2\)](#) may be offered by an applicant for proposed development in accordance with [Table 40.2-310\(1\)](#), Resilient Site and Building Bonuses.

<b>TABLE 40.2-310(2): MENU OF RESILIENT SITE &amp; BUILDING FEATURES</b>	
<b>SCHEDULE</b>	<b>FEATURE</b>
<b>ENERGY</b>	
A	Generation of a minimum of 20 percent of the electricity needed by the development from alternative energy sources (such as solar, wind, geothermal, or biomass) within five (5) years and provide documentation from a certified professional
A	Proof of purchase of carbon offsets in an amount equivalent to 15 percent of the construction costs within five (5) years

<b>TABLE 40.2-310(2): MENU OF RESILIENT SITE &amp; BUILDING FEATURES</b>	
<b>SCHEDULE</b>	<b>FEATURE</b>
B	Install and operate solar photovoltaic panels or solar thermal heating devices on at least 30 percent of the roof area
A	Install and operate solar photovoltaic panels or solar thermal heating devices on at least 60 percent of the roof area
A	Install solar-powered battery backup generators with the capacity to provide electricity to the entire development
<b>RECYCLING/WASTE REDUCTION</b>	
A	Utilize approved recycled materials for 50 percent of private streets, off-street parking, sidewalks, curbs and 25 percent of building materials and site amenities
B	Provide at least one enclosed recycling station per building suitable for storage and collection of recyclable generated on-site
B	Provide on-site composting station or location for all occupants
<b>SITE CONFIGURATION</b>	
B	Provision of a community garden with at least 30 square feet per dwelling unit that is controlled by a property-owners association or multifamily entity
B	Use of paving materials in driveways and parking lots that have solar reflectance index (SRI) score of at least 29 (SRI is a measure of a parking lot's ability to reject solar heat; a higher SRI yields a cooler parking lot)
A	Include underground parking or a parking structure that accounts for at least 75% of the required off street parking
<b>RESOURCE CONSERVATION</b>	
A	Provision of 150-foot undisturbed buffers adjacent to all perennial stream banks, wetlands, and bodies of water
B	Use only native vegetation for required landscaping

<b>TABLE 40.2-310(2): MENU OF RESILIENT SITE &amp; BUILDING FEATURES</b>	
<b>SCHEDULE</b>	<b>FEATURE</b>
A	Preservation of at least 15 percent of the tree canopy on a site comprised of the canopies of trees 10 inches or greater in DBH (Diameter at Breast Height)
A	Utilize on-site standards to meet stormwater water quality compliance criteria.
A	Provide double the minimum required open space set-aside amount
AA	Remediate site contamination on a documented "brownfield" site (by means of a Phase II Environmental Site Assessment)  (credited as provision of two schedule "A" features)
<b>TRANSPORTATION</b>	
B	Inclusion of showering and dressing facilities in nonresidential development for employees using alternative forms of transportation
B	Provide preferred parking spaces and signage for carpool, shared-use, and/or low-emitting vehicles located closest to the building entrance equal to 10% of required off-street parking
A	Provide a receptacle to accommodate use of electric vehicle supply equipment (EVSE) and verify that the electrical system has sufficient capacity to charge a minimum of two electric vehicles simultaneously at a minimum of Level 2 charging levels.
<b>BUILDING CONFIGURATION</b>	
A	Inclusion of green or blue roofs on at least 50 percent of the roof area within the development
B	Inclusion of green or blue roofs on at least 25 percent of the roof area within the development

<b>TABLE 40.2-310(2): MENU OF RESILIENT SITE &amp; BUILDING FEATURES</b>	
<b>SCHEDULE</b>	<b>FEATURE</b>
A	Use roofing materials that have a SRI equal to or greater than 78 for low-sloped roofs (<2:12) or 29 for steep-sloped roofs (>2:12) for a minimum of 75% of the roof surface of all new buildings within the development
A	Inclusion of green walls on at least 30 percent of the wall area within the development
B	Inclusion of green walls on at least 15 percent of the wall area within the development
B	Obtain Elizabeth River Project’s River Star Homes or River Star Business certification
B	Meet minimum Energy Star (or equivalent) criteria for at least 75 percent of the residential floor area
AA	Design the building to achieve a minimum LEED certification of platinum (credited as provision of two schedule “A” features)
A	Design the building to achieve a minimum LEED certification of gold
B	Design the building to achieve a minimum LEED certification of silver
A	Design buildings such that 50 percent of the residential units are consistent with Universal Design practices
B	Design buildings such that 25 percent of the residential units are consistent with Universal Design practices
B	Use flood damage resistant construction materials beyond those required by standards in the City’s flood regulations.
<b>WATER CONSERVATION</b>	

<b>TABLE 40.2-310(2): MENU OF RESILIENT SITE &amp; BUILDING FEATURES</b>	
<b>SCHEDULE</b>	<b>FEATURE</b>
A	Inclusion of a recycled or grey water system for landscaping irrigation that accounts for 75% of water used.
B	Inclusion of drip or subsurface irrigation systems for all landscape irrigation equipped with pressure regulators, filters, and emitters
<b>INNOVATIVE STRATEGY</b>	
B	Provide documentation of implementation of an innovative product or strategy that increases the resiliency of the development that is not provided in this section.

**Article IV. – Nonconformities**

**Sec. 40.2-400 – Purpose**

- (A) It is the intent of this Ordinance not to impair any vested right, as defined under Virginia law.
- (B) Virginia law recognizes that the integrity and uniform application of this Ordinance and the encouragement of consistency of development and harmony of communities require the regulation of nonconforming uses, structures, and lots in a manner consistent with sound planning and zoning principles.
- (C) Nonconforming uses, structures, and lots that are declared to be incompatible with the zoning districts in which they are located are, therefore, authorized to continue only under the circumstances provided in this Article.
- (D) Except in certain specified instances, those uses, structures and lots that have become nonconforming with the standards applied to other development under this Ordinance should not be encouraged to maintain their nonconformity and should not be allowed to expand in a manner that would increase their nonconformity.
- (E) In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the owner of the land on which the alleged nonconformity is located.
- (F) No use shall be determined to be illegal under this Ordinance where such determination is prohibited under Section 15.2-2307 of the Code of Virginia.

**Sec. 40.2-401 – Vested Rights Not Impaired**

- (A) Nothing in this article shall be construed to authorize the impairment of any vested right.

**(B)** Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner:

- (1) Obtains or is the beneficiary of a significant affirmative governmental act (as defined in Sec. 15.1-2307 of the Code of Virginia) which remains in effect allowing development of a specific project,
- (2) Relies in good faith on the significant affirmative governmental act, and
- (3) Incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

### **Sec. 40.2-402 – Nonconforming Uses**

#### **(A) Nonconforming Uses**

Any lawful use that exists as of the adoption or amendment of this Ordinance but no longer conforms to the zoning requirements or standards of the city as a result of the adoption or amendment shall be considered a nonconforming use and may be continued subject to the requirements of this article.

#### **(B) Continuation of Nonconforming Uses**

In addition to ongoing lawful uses, a nonconforming use may continue, subject to the provisions, conditions, and prohibitions set forth herein, under the following circumstances and subject to the following limitations.

##### **(1) Permit Issued**

When a land disturbance or building permit has been issued as of the adoption or amendment of this Ordinance for development of a use and the use no longer conforms to the zoning requirements or standards of the city as a result of the adoption or amendment, the development may proceed and the use shall be considered nonconforming so long as the development is completed prior to expiration or earlier termination of the permit.

##### **(2) Completed Site Plan**

When a site plan for development of a use is deemed by the City Engineer to be substantially complete in its submission as of the adoption or amendment of this Ordinance for development of a use and the use no longer conforms to the zoning requirements or standards of the city as a result of the adoption or amendment, the development may proceed and the use shall be deemed nonconforming so long as final approval of the site plan is obtained within six (6) months of the date of adoption or amendment.

##### **(3) Single-Family Residential Uses**

Nonconforming single-family residential uses may be expanded to the extent authorized by a Special Exception granted pursuant to [Sec. 40.2-535](#) of this Ordinance.

##### **(4) Change, Enlargement, or Extension of Area used by a Nonconforming Use**

The area occupied or used by a nonconforming use shall not be:

- (a) Changed, enlarged, or extended to either occupy or use an additional area of the same lot or structure other than that which existed on the effective date of the zoning regulations applicable to the district in which the use is located; or
- (b) Changed, enlarged, or extended to occupy a structure not used for the nonconforming use on the effective date of the zoning regulations applicable to the district in which the use is located; or
- (c) Moved, in whole or in part, to any portion of the lot or any other lot, unoccupied or unused by the nonconforming use on the effective date of the zoning regulations applicable to the district in which the use is located; or
- (d) Moved, in whole or in part, to another structure unoccupied or unused by the nonconforming use on the effective date of the zoning regulations applicable to the district in which the use is located.

**(5) Enlargement or Extension of a Nonconforming Use**

- (a) A nonconforming use shall not be enlarged or extended such that the character of the use existing on the effective date of the zoning regulations applicable to the district in which the use is located is changed.
- (b) The Zoning Administrator’s determination of whether the character of a nonconforming use has changed shall be based on the magnitude of the change in size and scope of the use and the effects these changes have upon the purposes of this section.
- (c) In evaluating the change in the size and scope the use an increase in the volume or intensity of the use and any alteration or variation in the use shall be considered.
- (d) A mere increase in the volume, intensity, or frequency of the use that is trivial, insubstantial, or reasonably customary or incidental, and that is not accompanied by an alteration or variation in the use, shall not be deemed to be an enlargement or extension of the use.

**(6) Enlargement, Extension, Reconstruction, or Structural Alteration of a Structure**

A structure that is used, in whole or in part, for a nonconforming use shall not be enlarged, extended, reconstructed, or structurally altered, except in the following circumstances:

**(a) Residential Sanitary Facilities**

Notwithstanding any other provision of this Ordinance, the sole purpose of the enlargement or extension is to house a potable water supply, toilet, or other sanitation facilities in a location approved by the Zoning Administrator.

**(b) Ordinary Repairs and Maintenance of Structure**

The repairs consist of ordinary repairs and maintenance, or the repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, which is necessary to keep the structure in an unstable condition.

**(c) Repairs or Reconstruction of Structure**

The repairs or reconstruction is performed on a structure that is damaged as a result of factors beyond the control of the owner or occupant thereof, provided that:

- (i) The repairs or reconstruction commence within one (1) year and are completed within two (2) years, from the date of the damage;
- (ii) The structure is not enlarged or extended as a result of the repair or reconstruction.

**(7) Change to another Nonconforming Use**

- (a) If a nonconforming use is changed to a more restricted nonconforming use, the original nonconforming use shall be deemed to be abandoned and the use shall not thereafter be changed back to the original nonconforming use, unless granted a Special Exception in accordance with [Sec. 40.2-535](#).

**(8) Change of Ownership**

A change in occupancy or ownership of the nonconforming use, the structure, or the lot on which the nonconforming use is located, shall not affect the right to continue such use.

**(9) Termination of Nonconforming Status**

- (a) The nonconforming status of a use shall terminate and become unlawful if the use is enlarged or extended, or the structure used for the nonconforming use is enlarged, extended, reconstructed or structurally altered, in a manner not authorized by this section.
- (b) Upon termination of the nonconforming status, the use of the lot or structure shall immediately comply with the regulations set forth in this Ordinance applicable to the district in which the use is located.

**(10) Discontinuance of a Nonconforming Use**

- (a) A nonconforming use and all uses accessory thereto shall be discontinued, and any use of the structure or lot shall thereafter comply with the regulations set forth in this Ordinance applicable to the district in which the use is located, if the nonconforming use is discontinued for more than two (2) years, regardless of whether the use was continuous or seasonal.
- (b) The two (2) year period shall not be tolled during any period during which a structure in which the nonconforming use is conducted is extended, enlarged, repaired, reconstructed or altered as provided in this section.
- (c) The continuation of a use that is accessory to the nonconforming use during the two (2) year period shall not continue the nonconforming use.

## **Sec. 40.2-403 – Nonconforming Structures**

### **(A) Nonconforming Structures**

Any lawfully used or configured structure which exists as of the adoption or amendment of this Ordinance, but no longer conforms to the zoning requirements or standards of the city as a result of the adoption or amendment, shall be considered a nonconforming structure and may continue to be used subject to the requirements of this article.

### **(B) Continuation of Nonconforming Structures**

A nonconforming structure may continue, subject to the provisions, conditions, and prohibitions set forth herein.

#### **(1) Permit Issued**

When a land disturbance or building permit has been issued as of the adoption or amendment of this Ordinance for development of a structure and the structure no longer conforms to the zoning requirements or standards of the city as a result of the adoption or amendment, the development may proceed and the structure shall be considered nonconforming so long as the development is completed prior to expiration or earlier termination of the permit.

#### **(2) Completed Site Plan**

When a site plan for development of a structure is deemed by the City Engineer to be substantially complete in its submission as of the adoption or amendment of this Ordinance for development of a structure and the structure no longer conforms to the zoning requirements or standards of the city as a result of the adoption or amendment, the development may proceed and the structure shall be deemed nonconforming so long as final approval of the site plan is obtained within six (6) months of the date of adoption or amendment.

#### **(3) Extension or Enlargement of a Nonconforming Structure**

A nonconforming structure shall not be enlarged or extended except in the following circumstances, and provided that the enlargement or extension comply with all other applicable requirements:

##### **(a) Conforming Use and Compliance with Setbacks**

The use of the structure complies with the zoning regulations applicable to the district in which the structure is located, and otherwise complies with the front yard, rear and side setback requirements applicable to the district in which the lot is located.

##### **(b) Special Exception**

A nonconforming structure may be enlarged or extended to the extent authorized by a Special Exception granted pursuant to [Sec. 40.2-535](#) of this Ordinance. A Special Exception may be applied for to authorize the expansion of a nonconforming structure in accordance with [Sec. 40.2-535](#).

##### **(c) Residential Sanitary Facilities**

Notwithstanding any other provision of this Ordinance, the sole purpose of the enlargement or extension is to house a potable water supply, toilet or other sanitary facilities in a location approved by the Zoning Administrator.

**(4) Repairs, Reconstruction or Structural Alterations of a Nonconforming Structure**

A nonconforming structure shall not be reconstructed or structurally altered, except in the following circumstances:

**(a) Damage Caused by Factors Beyond Control of Owner or Occupant.**

The nonconforming structure (other than a nonconforming sign) is damaged as a result of factors beyond the control of the owner or occupant thereof, provided that:

- (i) The repairs, reconstruction or structural alterations commence within one (1) year, and are completed within two (2) years, from the date of such damage; and
- (ii) The structure is not enlarged or extended as a result of such repair, reconstruction or structural alteration; and
- (iii) Except as provided in [Sec. 40.2-403\(B\)\(4\)\(d\)](#) below, if a building or other structure that is nonconforming, or that houses a nonconforming use or is located on a nonconforming lot, is damaged or destroyed and the cost of restoration to its condition before the occurrence exceeds 50 percent of the value of the building or structure prior to the damage, then it shall be restored only in a manner that is no longer nonconforming and complies with the requirements of this Ordinance.

**(b) Repair to Correct Unsafe Condition in Structure**

- (i) Notwithstanding any other provision of this Ordinance, a nonconforming structure that has been declared unsafe by a public safety official may be repaired to strengthen or restore the structure or any part thereof to a safe condition.
- (ii) The repairs may include improvements to provide fire safety and handicapped access, as provided in the Americans with Disabilities Act (ADA) guidance on buildings and structures, even though these improvements are not mandatory.

**(c) Structural Alteration Reducing Size of Nonconforming Structure**

- (i) A nonconforming structure may be structurally altered to reduce its height or floor area.
- (ii) However, if a nonconforming structure is altered so as to reduce either the height or the floor area of the structure, the height or the floor area of the original nonconforming structure shall be deemed to be abandoned and the structure shall not thereafter be altered to the original nonconforming structure.

**(d) Major Restoration due to Acts of God**

The provisions of this section shall apply notwithstanding any provision to the contrary in this article or this Ordinance.

- (i) If any building or other structure that is nonconforming, or that houses a nonconforming use or is located on a nonconforming lot, is damaged or destroyed by a natural disaster or other act of God or an accidental fire, then it may be repaired, rebuilt or replaced in a manner so as to eliminate or reduce any nonconforming features to the extent possible, without the need to obtain a [Variance](#) or [Special Exception](#). Any work done to repair the structure shall be in compliance with the:
  - a. Uniform Statewide Building Code; and
  - b. Chapter 14.1 of the City Code (Flood Protection).
- (ii) If the building or structure is damaged such that the cost of restoration exceeds 50 percent of its value prior to the damage, and it cannot be repaired, rebuilt or replaced other than to restore it to its original nonconforming condition, then it may be restored to its original nonconforming condition.
- (iii) The right to repair, rebuild or replace a building as provided in subsection (ii) shall expire on that date which is two years from the date of the natural disaster, act of God or accidental fire; provided however, if the building is in an area under a federal disaster declaration and the damage was a direct result of the conditions that gave rise to the declaration, then the right to repair, rebuild or replace a building as provided in subsection (ii) shall expire on that date which is four (4) years from the date of the natural disaster, act of God or accidental fire.

**(e) General Rules Applicable to Restoration**

- (i) The provisions of this section are applicable to repairs, rebuilds, replacements or restorations of buildings and structures under [Sec.40.2-403](#).
- (ii) To retain nonconforming status, the repairs, reconstruction or structural alterations commence within one (1) year, and be completed within two (2) years, from the date of such damage; and
- (iii) The value of a building or structure prior to the damage necessitating the repair, rebuild, replacement or restoration shall be determined based on the City's assessed value of the building or structure, unless the owner submits a current appraisal prepared by a certified appraiser.
- (iv) The cost of restoration shall be based on the market value of the work to be done, including materials and labor shall be based on the market value of the work to be done, including materials and labor, and may be established by an estimate from a licensed contractor that is approved by the building official.

- (v) All repair or replacement work shall be performed only after obtaining any required building or other permits and shall be in compliance with the provisions of the Uniform Statewide Building Code and Ch. 14.1 of the City Code (Flood Protection).
- (vi) In no event shall any repair or restoration increase, expand, or enlarge the degree of nonconformity unless otherwise approved under the provisions of this Ordinance.

**(5) Relocation of a Nonconforming Structure**

A nonconforming structure shall not be moved to another location on the same lot or to any other lot unless the structure becomes conforming as a result of the relocation.

**(6) Accessory Structures**

The construction of accessory structures on lots with an existing single-family residential use is permitted, so long as the accessory structure complies with the requirements of this Ordinance.

**(7) Effect of Change of Ownership**

A change of the ownership or occupancy of the nonconforming structure or the lot on which the nonconforming structure is located shall not affect the status of the nonconforming structure.

**(8) Termination of Nonconforming Status**

- (a) The nonconforming status of a structure shall terminate and become unlawful if the structure is enlarged, extended, repaired, reconstructed, structurally altered or replaced in a manner not authorized by this section.
- (b) Upon termination of the nonconforming status, the structure shall immediately comply with the regulations set forth in this Ordinance applicable to the district in which the structure is located.

**(9) Discontinuance of Use of Nonconforming Structure**

- (a) Use of a nonconforming structure shall be discontinued, and the structure shall thereafter comply with the regulations set forth in this Ordinance applicable to the district in which the structure is located, if the occupation or use is discontinued for more than two (2) years, regardless of whether the prior occupancy or use of the structure was continuous or seasonal.
- (b) The two (2) year period shall be tolled during any periods during which the owner diligently and in good faith pursues obtaining an occupant or use for the structure and during the period during which the owner diligently and in good faith extends, enlarges, repairs, reconstructs or alters a structure as authorized in this section.

**Sec. 40.2-404 – Nonconforming Lots**

**(A) Nonconforming Lots**

Any lawfully used or configured lot which exists as of the adoption or amendment of this Ordinance, but no longer conforms to the zoning requirements or standards of the City as a result of the adoption or amendment, shall be considered a nonconforming lot and may continue to be used subject to the requirements of this article.

### **(B) Continuation of Nonconforming Lots**

A nonconforming lot may continue, subject to the provisions, conditions, and prohibitions set forth herein.

#### **(1) Uses Allowed on a Nonconforming Lot**

A nonconforming lot may be used as though it satisfies the zoning regulation that makes it nonconforming, provided that:

- (a)** The use is either an existing nonconforming use, or
- (b)** Is a proposed use that complies with the zoning regulations applicable to the district in which the lot is located other than the zoning regulation that makes the lot nonconforming.

#### **(2) Nonconforming Lot Subdivision Requirements**

A nonconforming lot may be subdivided as part of a subdivision provided that all of the resulting lots comply with the requirements of the zoning district in which they are located and all other applicable requirements of the City Code.

- (a)** If a nonconforming lot of record has continuously been in separate ownership from any contiguous lot on the same existing or proposed public right-of-way since April 25, 1961, the nonconforming lot may be developed in accordance with the applicable standards in this Ordinance.
- (b)** If a nonconforming lot of record has, at any time since April 25, 1961, been in common ownership with any contiguous lot on the same existing or proposed public right-of-way, such lots shall be consolidated with the following exceptions:
  - (i)** Lots within an historic district;
  - (ii)** Preexisting adjacent nonconforming lots in common ownership and occupied by a detached single family dwelling where the principal building, associated accessory building(s), and related site improvements cross interior lot lines shall be deemed a single lot of record under this Ordinance. Such interior lot lines may be vacated at the option of the landowner. However, no such deemed lot of record shall be subdivided unless all lots so created are in conformity with the lot requirements of the district in which the subdivision is located; and
  - (iii)** Preexisting nonconforming lots occupied by a detached single-family residence that has been damaged or destroyed by fire, natural disaster or other act of God.

#### **(3) Combination of a Nonconforming Lot with Another Lot**

- (a)** A nonconforming lot may be combined with another lot provided the size, area, and frontage of the resulting lot is increased to make it conforming; or

(b) A nonconforming lot may be combined with another lot if the size, area, and/or frontage of the resulting lot is less nonconforming in order to make the resulting lot less nonconforming.

(i) This is permitted in circumstances where the owner does not own or control sufficient property to make the lot conforming.

(ii) This is permitted to authorize the approval of adjusting lot lines to make a parcel less nonconforming.

**(4) Change to Nonconforming Lot resulting from Public Dedication or Eminent Domain**

The area of a nonconforming lot may be reduced by the dedication of land for public use or by the exercise of eminent domain.

**(5) Effect of Change of Ownership**

A change of the ownership or occupancy of a nonconforming lot shall not affect the status of the nonconforming lot.

**Sec. 40.2-405 – Nonconforming Signs**

(A) If a sign that is nonconforming due to its size, height, and/or location is destroyed by acts of God, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this Ordinance. For purposes of this section, a nonconforming sign is "destroyed" if damaged to the extent that the cost of repairing the sign to its former stature equals or exceeds the value of the sign so damaged.

(B) If a sign that is nonconforming due to its size, height and/or location is abandoned, it shall be removed or brought into conformance with all requirements of this Ordinance. 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 (2) years.

(C) Upon notice from the City, any nonconforming sign that has been abandoned shall be removed by the owner of the property on which the sign is located.

(D) If the City has made a reasonable attempt to notify the property owner and the sign has not been removed, the City may enter upon the owner's property and remove the sign.

(E) The cost of such removal shall be chargeable to the property owner.

**Sec. 40.2-406 – Manufactured Homes**

(A) Nothing in this Ordinance shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code (Code of Virginia § 8.9A-102(53)).

(B) In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home.

- (C)** The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.
- (D)** Any such replacement home shall retain the valid nonconforming status of the prior home.

## **Article V. - Administration**

### **Division I – Roles and Responsibilities of Public Bodies and Officials**

#### **Sec. 40.2-500 – Zoning Administrator**

##### **(A) Establishment**

The position of Zoning Administrator has been established by City Council in accordance with Code of Virginia § 15.2-2286. The Zoning Administrator shall designate in writing agents for the administration and enforcement of the Zoning Ordinance.

##### **(B) Power and Duties**

The Zoning Administrator shall have all necessary authority on behalf of City Council to administer and enforce this Ordinance, including the following general powers and duties:

- (1) To review and approve, approve with conditions, or deny applications for:
  - (a) Zoning Permits; and
  - (b) Temporary Use Permits.
- (2) To make interpretations of matters within the scope of this Ordinance.
- (3) To process and review BZA applications.
- (4) To enforce the provisions of this Ordinance.
- (5) To maintain the Zoning Map and other such records and official materials as relate to the adoption, amendment, or administration of this Ordinance.
- (6) To determine vested rights.
- (7) To take such other actions to administer and enforce this Ordinance as are authorized elsewhere in this Ordinance or are expressly permitted by or fairly implied from the scope of authority of Zoning Administrators under the Code of Virginia, including without limitation Code of Virginia § 15.2-2286.

#### **Sec. 40.2-501 – City Council**

##### **(A) Establishment**

City Council was established by the City Charter.

##### **(B) Powers and Duties**

The City Council shall have the following powers and duties under this Ordinance:

- (1) To hear and decide applications for amendment of the Zoning Map or zoning text.
- (2) To hear and decide development applications for Use Permits.
- (3) To hear and decide on appeals of the Downtown Design Committee and the Historic Preservation Commission.

- (4) To hear and decide applications to amend existing proffers.
- (5) To hear and decide appeals of interpretations of proffered conditions by the Zoning Administrator.
- (6) To take such other actions with regard to this Ordinance as are authorized elsewhere in this Ordinance or are expressly permitted by or fairly implied from the scope of authority of local governing bodies with respect to zoning under the Code of Virginia.

**Sec. 40.2-502. – Planning Commission (PC)**

**(A) Establishment**

The Planning Commission was established under Ch. 2, Article X of the City Code and Code of Virginia § 15.2-2210.

**(B) Powers and Duties**

The Planning Commission serves primarily in an advisory capacity and has no legislative authority except where expressly granted in the Code of Virginia. The Planning Commission shall have the following powers and duties under this Ordinance:

- (1) To hear and make recommendations to City Council on:
  - (a) Amendments to the Zoning Map or zoning text; and
  - (b) Use Permits.
- (2) To take such other actions with regard to this Ordinance as are authorized elsewhere in this Ordinance or the City Code or are expressly permitted by or fairly implied from the scope of authority of planning commissions under the Code of Virginia.

**Sec. 40.2-503 – Board of Zoning Appeals (BZA)**

**(A) Establishment**

The Board of Zoning Appeals (BZA) is established pursuant to Code of Virginia § 15.2-2308.

**(B) Powers and Duties**

The BZA shall have the following powers and duties under this Ordinance:

- (1) To hear and decide applications for a Variance.
- (2) To hear and decide applications for a Special Exception.
- (3) To hear and decide applications for a Variance to Ch. 14.1 Flood Protection of the City Code.
- (4) To hear and decide applications for a Variance to allow for a deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot of land or the size, height, area, bulk, or location of a building or structure prior to pursuing a CBPA exception (Ch. 9 - Chesapeake Bay Preservation Area Overlay District 9 VAC 10-20-150 C 2 a).

- (5) To hear and decide appeals taken from any interpretation or final decision made by the Zoning Administrator under this Ordinance other than interpretations of proffered conditions.
- (6) To hear and decide applications for interpretations of the Zoning Map where there is uncertainty as to the location of a district boundary.
- (7) To take such other actions with regard to this Ordinance as are authorized elsewhere in this Ordinance or are expressly permitted or fairly implied from the scope of authority of boards of zoning appeals under the Code of Virginia.

**(C) Membership, Meetings, Conduct**

**(1) Membership**

- (a) The BZA shall consist of seven (7) regular members and may include one (1), but not more than three (3) alternate members. The regular members and alternate members shall be appointed by the City Council and serve without compensation.
- (b) Each member shall be a resident of the City of Portsmouth;
- (c) Alternate members shall be required to attend all regular meetings and training of the BZA, but shall not participate in the voting or decisions of the BZA unless asked by the chairperson to fill a position when a regular member is absent or unavailable to vote on a matter.
- (d) When seated, alternate members shall have the same powers and duties as the member they replace.
- (e) The Zoning Administrator shall serve as a non-voting member and Secretary of the BZA.

**(2) Meetings**

- (a) BZA meetings shall be held at the call of the chairperson and at such other times as the BZA may determine.
- (b) Four (4) members of the BZA shall constitute a quorum.
- (c) Alternate members may be seated as necessary to establish a quorum.
- (d) No official business of the board shall be conducted without a quorum present.

**Sec. 40.2-504 – Historic Preservation Commission (HPC) and Downtown Design Committee (DDC)**

**(A) Establishment**

The Historic Preservation Commission (HPC) and Downtown Design Committee (DDC) are established as historic review boards under Code of Virginia § 15.2-2306.

**(B) Powers and Duties**

HPC and DDC shall each have the following powers and duties under this Ordinance:

- (1) To review and decide on applications for Certificates of Appropriateness in the Historic District(s) in which it has jurisdiction.
- (2) To advise on the creation of new Historic Districts.
- (3) To adopt, and amend from time to time, standards and guidelines for implementing the standards established by City Council for the issuance of Certificates of Appropriateness in the Historic District(s) under its jurisdiction.

**(C) Membership, Meetings, Conduct**

- (1) Each of HPC and DDC shall consist of seven (7) members, and may include one (1), but not more than three (3) alternate members, appointed by the City Council, who serve without compensation for terms of three (3) years.
- (2) Members may be reappointed for a maximum of two (2) consecutive terms.
- (3) All members shall be residents of the City of Portsmouth.
- (4) Alternate members shall be required to attend all regular meetings and training of the HPC and DDC, but shall not participate in the voting or decisions of the HPC and DDC unless asked by the chairperson to fill a position when a regular member is absent or unavailable to vote on a matter. When seated, alternate members shall have the same powers and duties as the member they replace.
- (5) All members must demonstrate an interest, competence, or knowledge in historic preservation.
- (6) Each of HPC and DDC should include at least one (1) member who is an architect or architectural historian, at least two (2) members with professional training or equivalent experience in architecture, history, architectural history, archaeology, or planning, and the HPC should include at least one (1) member residing in each Historic District within the HPC's jurisdiction. However, the failure of the membership of HPC or DDC to meet those qualifications shall not render void or otherwise invalidate any action taken by HPC or DDC, as applicable.
- (7) Any member may be removed from office by City Council for inefficiency, neglect of duty, malfeasance, or continued absence from regular or called meetings of the Board. Continued absence shall mean absence from three (3) consecutive meetings or a total of four (4) meetings in a 12 month period.

**Division II. – Process**

**Sec. 40.2-520 – Applications**

**(A) Applications for Permits or Approvals**

- (1) Applications for permits or approvals under this Ordinance may be submitted and prosecuted by the owner of the land on which the development is proposed, or any other individual or entity with the signed written consent of owner.
- (2) Applications for Zoning Map or text amendments may also be initiated by the City Council or Planning Commission in accordance with Code of Virginia § 15.2-2286.
- (3) Required submittals for applications shall be established as follows:
  - (a) By the Zoning Administrator for Zoning Permits, Temporary Use Permits and Variances.
  - (b) By the City Engineer for Site Plan approval.
  - (c) By the Planning Director for all other applications.
  - (d) Without limitation, required submittals may include the following in accordance with Code of Virginia § 15.2-2286: Phase I environmental site assessments; Phase II environmental site assessments; disclosure and plans for disclosure of adverse environmental conditions of the subject property; and plans for remediation of adverse environmental conditions of the subject property.
- (4) City Council shall establish all application fees. All fees under this Ordinance shall be collected in accordance with the most recent fee schedule adopted by City Council set forth in Appendix A of the City Code.
- (5) All applications must be complete, including all required submittals and payment of all fees and costs, prior to processing.
- (6) Unless otherwise authorized by the City Treasurer, no application shall be processed unless the applicant produces satisfactory evidence that any delinquent or outstanding real estate taxes, nuisance charges, stormwater management utility fees, or other charges that constitute a lien on the subject property have been paid.
- (7) No application, permit or approval shall be considered on property where there is a known outstanding violation of this Ordinance, unless the application, permit, and/or approval would remedy the violation.

**(B) Applications for Appeals to City Bodies**

- (1) Applications for appeals to city bodies under this Ordinance may be submitted by any individual or entity with standing under the Code of Virginia or other applicable State law to appeal.
- (2) City Council shall establish all application fees.

**Sec. 40.2-521 – Public Notice and Hearings**

**(A) Public Notice**

- (1) Public notice shall be provided for all applications and appeals requiring public notice under the Code of Virginia, including without limitation § 15.2-2204, § 15.2-2286, and § 15.2-2309.
- (2) The manner and form of notice shall be as required or permitted by the Code of Virginia.
- (3) In accordance with Code of Virginia §15.2-2204(B), where written notice regarding a proposed change to the Zoning Map classification of a parcel or parcels of land is required to be provided to a condominium or cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.
- (4) Supplemental means of providing notice beyond what is legally required may be undertaken at the discretion of the City.

**(B) Public Hearings**

- (1) Public hearings shall be held for all applications requiring a public hearing under the Code of Virginia.
- (2) The manner and form of notice of public hearings shall be as required or permitted by the Code of Virginia.

**(C) Cost of Additional Notice**

If an additional public advertisement is required because of an applicant's request for deferral or other action or inaction of applicant, then the applicant shall pay the costs of the additional public advertisement.

**Sec. 40.2-522 – Appeals**

**(A) Appeal of City Council Decisions Under This Ordinance**

- (1) Appeal of City Council shall be to the Circuit Court.
- (2) This Ordinance is not intended to and does not grant or establish any right or standing to appeal broader than what is granted by the Code of Virginia or under applicable Virginia jurisprudence.
- (3) Only the applicant shall have the right to appeal the denial in whole or in part by City Council of appeals from HPC or DDC.
- (4) Any action contesting a decision of the City Council (a) adopting or failing to adopt a proposed zoning ordinance or amendment thereto or (b) granting or failing to grant a Use Permit (c) denying an appeal from HPC or DDC in whole or in part under this Ordinance or (d) taking or failing to take any other action under this Ordinance must be filed with the Circuit Court within 30 days of the decision.

- (5) If an appeal complying with the requirements of the Code of Virginia and applicable Virginia jurisprudence is not timely filed, the decision of City Council shall be final and unappealable.

**(B) Appeal of Zoning Administrator Decisions Under This Ordinance**

- (1) Appeal of the Zoning Administrator shall be to the BZA.
- (2) Any appeal of a written determination made by the Zoning Administrator (including decisions, interpretations, orders, requirements, notices of violation and any other determinations) under this Ordinance must be filed and perfected within 30 days of the registered mailing or posting of the written decision in accordance with the Code of Virginia § 15.2-2311.
- (3) To perfect an appeal of a written determination made by the Zoning Administrator, the appellant must timely file with the Zoning Administrator and the BZA:
  - (a) A written notice of appeal specifying the grounds of appeal; and
  - (b) The appeal filing fee.
- (4) If an appeal of a written determination of the Zoning Administrator is not timely filed and perfected, the determination of the Zoning Administrator shall be final and unappealable.
- (5) The BZA shall hear timely filed and perfected appeals within 90 days.
- (6) The determination of the Zoning Administrator shall be presumed to be correct. At the hearing, the appellant has the burden of proof to rebut the presumption of correctness by a preponderance of the evidence.
- (7) The BZA may reverse or affirm, wholly or partly, or may modify, the determination made by the Zoning Administrator.

**(C) Appeal of BZA Decisions Under This Ordinance**

- (1) Appeal of the BZA shall be to the Circuit Court.
- (2) Any action contesting a final decision of the BZA under this Ordinance must be filed with the Circuit Court within 30 days of the decision.
- (3) If an appeal complying with the requirements of the Code of Virginia and applicable Virginia jurisprudence is not timely filed, the decision of the BZA shall be final and unappealable.

**(D) Appeal of HPC or DDC Decisions Under This Ordinance**

- (1) Appeal of HPC and DDC shall be to City Council.
- (2) Any appeal of a decision of HPC or DDC under this Ordinance must be filed and perfected within 30 days of the decision.
- (3) To perfect an appeal of a decision of HPC or DDC, the appellant must timely file with the Planning Department:
  - (a) A written notice of appeal specifying the grounds of appeal; and

- (b) The appeal filing fee.
- (4) If an appeal of a decision of HPC or DDC is not timely filed and perfected, the determination of HPC or DDC shall be final and unappealable.
- (5) Perfected appeals shall be reviewed by a committee consisting of a representative designated by the Planning Director, a representative designated by the Building Official, and a representative designated by the City Attorney. The committee may either:
  - (a) Remand the appeal to HPC or DDC for reconsideration; or
  - (b) Forward the appeal to City Council for action.
- (6) The committee shall not remand the appeal more than once, and if the appellant still desires to prosecute the appeal after the reconsideration then applicant may submit a written statement of its intent to the Planning Department and no additional fees or filings shall be required.
- (7) The standard of review for City Council consideration of HPC or DDC appeals shall be de novo.
- (8) City Council may grant the appeal in full, deny the appeal in full, or grant the appeal in part and deny the appeal in part.

**(E) Appeal of Other Administrative Decisions Under This Ordinance**

Appeal of administrative decisions under this Ordinance made by individuals or bodies other than City Council, the Zoning Administrator, BZA, HPC or DDC shall be identical in all respects to appeal of determinations of the Zoning Administrator.

**Division III – Permits and Approvals**

**Sec. 40.2-530 – Zoning Permits**

**(A) Purpose and Intent**

The purpose of this section is to establish a procedure for the review of proposed development to ensure its compliance with the requirements of this Ordinance.

**(B) Applicability**

A Zoning Permit must be obtained from the Zoning Administrator prior to:

- (1) Establishing, expanding, altering or otherwise changing the use of a property
- (2) Installing signs that are subject to the standards in [Sec. 40.2-307](#) Signage;
- (3) Development in a historic district that requires a COA;
- (4) All structural improvements, regardless of size or association with a building permit; and
- (5) Obtaining a Business License from the Commissioner of Revenue.

**(C) Review Standards**

A Zoning Permit shall be approved upon a finding the proposed development complies with all applicable standards in this Ordinance and all applicable conditions of relevant permits and development approvals.

**(D) Review and Action**

Upon receipt of a complete application, the Zoning Administrator shall review the application and issue one of the following determinations:

- (1) Approval of the application;
- (2) Approval of the application with conditions; or
- (3) Denial of the application.

**Sec. 40.2-531 – Temporary Use Permits**

**(A) Purpose and Intent**

The purpose of this section is to establish a procedure for the review of temporary uses.

**(B) Applicability**

The provisions of this section shall apply to all proposed temporary uses as set forth in [Sec. 40.2-217\(J\)](#) Temporary Use Standards.

**(C) Review Standards**

An application for a Temporary Use Permit shall be approved upon a finding the applicant demonstrates the proposed temporary use complies with the relevant standards in [Sec. 40.2-217\(J\)](#) Temporary Use Standards.

**(D) Review and Action**

Upon receipt of an official complete application, the Zoning Administrator shall review the application and issue one of the following determinations:

- (1) Approval of the application;
- (2) Approval of the application with conditions; or
- (3) Denial of the application.

**(E) Expiration**

A Temporary Use Permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.

**(F) Amendment**

A Temporary Use Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

**Sec. 40.2-532 – Zoning Text and Zoning Map Amendments (Rezoning)**

**(A) Purpose and Intent**

The purpose and intent of this section is to provide procedures and standards for amending the Zoning Map or text of this Ordinance.

**(B) Authority**

The City Council may approve or deny amendments to the Zoning Map or text of this Ordinance in accordance with the procedures and standards outlined within this section.

**(C) Initiation**

Pursuant to Code of Virginia § 15.2-2285, a Zoning Text or Zoning Map Amendment may be initiated as follows:

- (1) By the City Council.
- (2) By the Planning Commission.
- (3) By an owner, a contract purchaser with the owner’s consent or the owner’s authorized agent.

**(D) Applicability**

The provisions of this section apply to:

- (1) Requested amendment to the text of this Ordinance;
- (2) Requested amendment to the Zoning Map; or
- (3) Requested amendment to the Zoning Map with Proffers (Conditional Zoning).

**(E) Provisions for Conditional Zoning**

- (1) As part of the application, any applicant for an amendment to the Zoning Map may voluntarily proffer reasonable conditions, which shall apply to the subject property. No applicant is required to make any proffer.
- (2) All proffers must be made in a written statement signed by the owner of the subject property and including language substantially similar to “I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.”
- (3) Any proffers must be made prior to the commencement of any public hearing before City Council on the subject application. However, City Council may accept amended proffers once the hearing has begun if the amended proffers do not materially affect the overall proposal.
- (4) All conditions included in proffers must comply with all applicable limitations in the Code of Virginia, including without limitation:
  - (a) The rezoning itself must give rise to the need for the condition;
  - (b) The condition must have a reasonable relation to the rezoning;

- (c) The condition must not include a cash contribution to the City;
  - (d) The condition must not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in Code of Virginia § 15.2-2241;
  - (e) The conditions must not require the mandatory creation of a property owner's association;
  - (f) The conditions must not include payment for, or construction of, off-site improvements except those provided for in Code of Virginia § 15.2-2241;
  - (g) The condition must be related to the physical development or physical operation of the property; and
  - (h) The condition must be in accordance with the Comprehensive Plan.
- (5) Proffers are strictly voluntary. By engaging directly or through their agents in any discussion or other communication with City staff regarding potential proffers, applicants and owners acknowledge and agree that any comments or suggestions made by City staff are non-binding on applicant and owner and do not reflect an action of City Council or impose an obligation to proffer any condition.
- (6) The Planning Department shall review all proffered conditions and, in consultation with the City Attorney's Office, may reject any condition that could violate the Code of Virginia prior to consideration of the application by Planning Commission or City Council. The failure of the Planning Department to reject a condition does not constitute a representation or warranty to applicant or owner that the condition complies with the Code of Virginia.
- (7) City Council shall not be obligated to accept any proffered condition.
- (8) Upon approval of any conditional rezoning, all conditions proffered and accepted by City Council shall be binding on the subject property and shall remain in force and effect until amended by City Council. All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.
- (9) Applications to amend proffers may be processed in the same manner as a Zoning Map Amendment application or may be heard directly by City Council in accordance with Code of Virginia § 15.2-2202(A).

**(F) Review Standards for Zoning Text, Zoning Map, and Conditional Zoning Amendments**

Whether to amend the text of this Ordinance or the Zoning Map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment, the City Council may consider any factor it deems applicable and consistent with the Code of Virginia, including but not limited to the city's comprehensive plan, and the public health, safety, and general welfare.

**(G) Review and Action**

After an application is complete, the Planning Commission shall hold a public hearing and make a recommendation to City Council whether to approve or deny the application. After the Planning Commission has made a recommendation, City Council shall hold a public hearing on the application and approve or deny the application. Approval of any application shall require readings at two (2) separate meetings of City Council, with City Council affirmatively voting for approval at the second reading. On its own initiative or at the request of the applicant, Planning Commission or City Council may also defer consideration of an application to a future meeting.

**(H) Effect of Zoning Amendment on Existing Proffer**

- (1) When a Zoning Map Amendment that is not part of a comprehensive implementation of a new or substantially revised zoning ordinance changes the zoning of property that is subject to existing proffers, the existing proffers shall become void and of no further force or effect.
- (2) Existing proffers may also be amended outside the context of map amendments by direct application to City Council as provided in subsection 40.2-432(E)(9).

**(I) Effect of Denial**

If an application to amend the text of this Ordinance or the Zoning Map is denied by City Council, no other application for substantially the same change shall be filed until 12 months from the date of the denial.

**Sec. 40.2-533 – Use Permits**

**(A) Purpose and Intent**

The general purpose of a Use Permit is to authorize the City Council to exercise legislative discretion in reviewing applications for uses that may be appropriate in a zoning district, but because of their nature, extent, and external effects, require special consideration of their location, design, and methods of operation before they can be deemed appropriate in the district and compatible with their surroundings.

**(B) Authority**

The City Council may grant, grant with conditions, or deny Use Permits in accordance with the procedures and standards outlined in this section.

**(C) Applicability**

- (1) A Use Permit is required for development of any use designated in [Sec. 40.2-216 Table 40.2-216](#), as requiring a Use Permit.
- (2) Any legally established use that existed prior to the adoption of this Ordinance, or any subsequent amendments, shall not be considered a nonconforming use where a Use Permit is now required for establishment of such use. The use shall be allowed to

continue operation, as well as reconstruct or structurally alter the building or structure without the necessity of obtaining a Use Permit. However, approval of a Use Permit shall be required when either of the conditions below are present, as determined by the Zoning Administrator.

- (a) There is a twenty (20) percent or greater net increase in the square footage of the use or structure proposed for expansion or enlargement; or
- (b) The expansion or enlargement will substantially alter the site design and layout as it relates to circulation, parking, or other site characteristics so as to adversely affect surrounding properties.

#### **(D) Conditions of Approval**

In approving a Use Permit, the City Council may impose any conditions regarding the location, character, and other features of the proposed Use Permit as may be deemed necessary in City Council's legislative discretion to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the use. Conditions shall be included as part of the approval.

#### **(E) Waiver or Modification of Use-Specific Standards**

In approving a Use Permit, City Council may waive or modify use-specific standards set forth in [Sec. 40.2-217](#) Use-Specific Standards applicable to the use as and to the extent deemed necessary in City Council's legislative discretion to ensure compliance with the general intent and purposes of this Ordinance, permit the development and operation of the use in accordance with good zoning and land use practice, or minimize adverse effects from the proposed use approved.

#### **(F) Review Standards**

- (1) Whether to approve or deny a Use Permit is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor.
- (2) In determining whether to adopt or disapprove the proposed Use Permit, the City Council may consider any factor it deems applicable and consistent with the Code of Virginia, including but not limited to the nature, extent, external effects, location, design, or method of operation of the use, the City's comprehensive plan, and the public health, safety, and general welfare of the residents.

#### **(G) Review and Action**

- (1) After an application is complete, the Planning Commission shall hold a public hearing and make a recommendation to City Council whether to approve or deny the application.
- (2) After the Planning Commission has made a recommendation, City Council shall hold a public hearing on the application and approve, approve with conditions, or deny the application.

- (3) Approval of any application shall require readings at two separate meetings of City Council, with City Council affirmatively voting for approval at the second reading.
- (4) On their own initiative or at the request of the applicant, Planning Commission and City Council may also defer consideration of an application to a future meeting.

**(H) Effect of Approval**

A Use Permit authorizes only the particular use and associated development that are approved.

**(I) Effect of Denial**

If an application for a Use Permit is denied by City Council, no other application for substantially the same use may be filed until 12 months from the date of the denial.

**(J) Runs with the Land**

- (1) A Use Permit, including any approved plans and conditions, runs with the subject property and is not personal to an applicant.
- (2) Change of ownership of the property does not alter or extend time periods or conditions of Use Permits.

**(K) Expiration and Extension**

- (1) Except as provided for in subsection (2) and (3) below, a Use Permit shall automatically expire and become void two (2) years from the date of approval by City Council if the use is inactive or changed to a different use, unless within such two-year period:
  - (a) A building permit is obtained and erection or alteration of a structure is started; or
  - (b) A Certificate of Occupancy is obtained and a use commenced.
  - (c) For the purposes of this section, the starting of erection of a structure shall mean the completion of all foundation work, and the starting of alteration of a structure shall mean the completion of all demolition work required prior to construction of alteration improvements.
- (2) City Council shall have the authority to specify a shorter or longer time period for the automatic expiration of a Use Permit under this section. Such shorter period shall be specified at the time that the Use Permit is granted.
- (3) The two (2) year time period for commencement of the use after City Council approval of a Use Permit may be extended by City Council once for a period of not to exceed one (1) year from the original expiration date provided that a written application for the extension is submitted to the Planning Department at least thirty (30) days prior to the expiration of the Use Permit. If an application for an extension is timely submitted, the Use Permit shall be deemed extended until City Council has voted to approve or deny the request for extension.

**(L) Revocation**

A Use Permit may be revoked by City Council after conducting a public hearing. The permit shall be revoked only if Council finds:

- (1) The Use Permit was obtained or extended by fraud or deception;
- (2) The applicant has failed to comply with one or more of the conditions of approval;
- (3) There is a change in conditions affecting the public health, safety, and welfare, since adoption of the Use Permit; or
- (4) There are repeated violations of this Ordinance by the holder of the Use Permit, related to the development approved by the Use Permit.

**(M) Amendment**

Except for revocation, a Use Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

**Sec. 40.2-534 – Variances.**

**(A) Purpose and Intent**

The BZA shall review applications for Variances in accordance with the procedures and standards of this section.

**(B) Applicability**

- (1) Applications for a Variance may be made by any property owner, tenant, government official, department, or board to the Board of Zoning Appeals.
- (2) A Variance may be applied for to allow for a deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot of land or the size, height, area, bulk, or location of a building or structure.
- (3) A Variance may not be applied for to authorize a use.
- (4) A Variance may be applied for to authorize the approval of adjusting lot lines to make a parcel less nonconforming in accordance with [Article IV](#) Nonconformities.
- (5) A Variance may be applied for to allow for a deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot of land or the size, height, area, bulk, or location of a building or structure prior to pursuing a CBPA exception (City Code Ch. 9.1 - Chesapeake Bay Preservation Area Overlay District 9 VAC 10-20-150 C 2 a) in accordance with the Virginia Department of Conservation and Recreation Guidance on the Chesapeake Bay Preservation Area - Exceptions that states that “other forms of regulatory relief should be considered before an exception is pursued.”
- (6) Variances may be applied for to allow for a deviation from the provisions of City Code Ch. 14.1 Flood Protection (City Code Sec. 14.1-13.-Variances; factors to be considered.).

**(C) Conditions of Approval**

In authorizing a Variance, the BZA may impose such conditions regarding the location, character, duration, and other features of the property or proposed structure as it may deem necessary in the public interest to ensure compliance with the requirements of this section and to prevent or minimize adverse effects from the proposed Variance. Conditions, where imposed, shall be included as part of the approval.

**(D) Review Standards**

A Variance shall be granted if the applicant demonstrates that the strict application of the terms of the Ordinance would unreasonably restrict the utilization of the property or that the granting of the Variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and:

- (1) The property interest for which the Variance is being requested was acquired in good faith and any hardship was not created by the applicant for the Variance;
- (2) The granting of the Variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- (3) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to the Ordinance;
- (4) The granting of the Variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- (5) At the time of the filing of the Variance application, the relief or remedy sought by the Variance application is not available through a Special Exception, Use Permit, or Rezoning process under this Ordinance.

**(E) Review and Action**

- (1) After an application is complete and proper notice is given, the BZA shall hold a public hearing on the application and approve, approve with conditions, or deny the application.
- (2) On its own initiative, or at the request of the applicant, BZA may also defer consideration of an application to a future meeting.

**(F) Prohibitions**

- (1) No provision of this Ordinance shall be construed as granting the BZA the power to rezone property.
- (2) Except where expressly permitted in other Chapters of the City Code, no Variance shall be granted to any standard or requirement in the City Code other than this Ordinance.

**(G) Effect of Approval**

- (1) Issuance of a Variance shall authorize only the particular Variance that is approved.

- (2) A Variance, including any conditions, shall run with the land and not be affected by a change in ownership.

**(H) Effect of Denial**

If an application for a Variance is denied by BZA, no other application for substantially the same Variance may be filed until 12 months from the date of the denial.

**(I) Amendment**

A Variance may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

**Sec. 40.2-535 – Special Exceptions**

**(A) Purpose and Intent**

The BZA may grant or deny Special Exceptions in accordance with the procedures and standards outlined in this section. The purpose of Special Exceptions is to:

- (1) Provide for review of specified uses that have heightened impacts but not to the extent of uses requiring a Use Permit; and
- (2) Provide a process for obtaining exceptions to specified development standards in this Ordinance that may not be eligible or appropriate for a Variance
- (3) Provide a process for allowing exceptions to nonconforming uses, structures and/or lots.

**(B) Applicability**

- (1) Applications for a Special Exception may be made by any property owner, tenant, government official, department, or board to the Zoning Administrator.
- (2) A Special Exception is required for any use designated in [Sec. 40.2-216](#), [Table 40.2-216](#), as a use requiring a Special Exception in accordance with this section.
- (3) A Special Exception may be applied for to authorize alternative signage in accordance with an Alternative Signage Plan in [Sec. 40.2-307\(J\)](#).
- (4) A Special Exception may be applied for to authorize a fence taller than eight (8) feet;
- (5) A Special Exception may be applied for to authorize the number, form, or nature of the parking requirements in accordance with an Alternative Parking Plan in [Sec. 40.2-301\(F\)](#).
- (6) A Special Exception may be applied for to authorize the expansion or enlargement of an existing development on a site that does not comply with the parking standards in [Sec. 40.2-301](#).
- (7) Developments in the D2I Overlay District may apply for a Special Exception in accordance with this section if complying with the parking requirements in [Sec. 40.2-301](#) is not feasible.

- (8) A Special Exception may be applied for to authorize the expansion of a nonconforming structure or lot in accordance with [Article IV](#) Nonconformities.
- (9) A Special Exception may be applied for to authorize a nonconforming use that was abandoned in accordance with [Article IV](#) Nonconformities.
- (10) A Special Exception may be applied for to authorize a nonconforming single-family residential use in accordance with [Article IV](#) Nonconformities.

**(C) Conditions of Approval**

In approving a Special Exception, BZA may impose any conditions regarding the location, character, duration, and other features of the proposed Special Exception as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed use or modification.

**(D) Review Standards**

- (1) Whether to approve a Special Exception is a matter delegated by City Council to the legislative discretion of the BZA and is not controlled by any one factor.
- (2) The delegation of legislative discretion by City Council is subject to and constrained by any limitation on the scope of Special Exceptions expressly set forth in this Ordinance.
- (3) Applications for a Special Exception need not prove that granting the Special Exception would alleviate a hardship due to the physical condition relating or reasonable modification to the property but must comply with all other applicable zoning regulations and any conditions for approval imposed by the BZA.
- (4) In determining whether to approve or disapprove the proposed Special Exception, the BZA may consider any factor it deems applicable and consistent with the Code of Virginia, including but not limited to the nature, extent, external effects, location, design or method, or operation of a use or the impact of the requested modification of standards thereon, the City's comprehensive plan, and the public health, safety, and general welfare.

**(E) Review and Action**

- (1) After an application is complete and proper notice is given, the BZA shall hold a public hearing on the application and approve, approve with conditions, or deny the application.
- (2) On its own initiative, or at the request of the applicant, BZA may also defer consideration of an application to a future meeting.

**(F) Effect of Approval**

- (1) A Special Exception authorizes only the particular use or modification of standards that is approved.
- (2) A Special Exception, including any approved conditions, shall run with the land and shall not be affected by a change in ownership.

**(G) Effect of Denial**

If an application for a Special Exception is denied by BZA, no other application for substantially the same use or modification may be filed until 12 months from the date of the denial.

**(H) Expiration and Extension**

- (1) A Special Exception automatically expires and is immediately null and void if:
  - (a) A Special Exception shall automatically expire and become void two (2) years from the date of approval by BZA if the use is inactive or changed to a different use, unless within such two-year period:
    - (i) A building permit is obtained and erection or alteration of a structure is started; or
    - (ii) A Certificate of Occupancy is obtained and a use commenced.
  - (iii) For the purposes of this section:
    - a. The starting of erection of a structure shall mean the completion of all foundation work; and
    - b. The starting of alteration of a structure shall mean the completion of all demolition work required prior to construction of alteration improvements.
- (2) The two (2) year time period for commencement of the use (or the use to which a modification applies) may be extended for a period of not to exceed one (1) year from the original expiration date provided that a written application for an extension is submitted to the Zoning Administrator at least 30 days prior to the expiration of the Special Exception.
- (3) If an application for an extension is timely submitted, the Special Exception shall be deemed extended until the Board of Zoning Appeals has voted to approve or deny the request for an extension.

**(I) Revocation**

- (1) A Special Exception may be revoked or modified by either City Council or the BZA after conducting a public hearing. The permit shall be revoked only if there is a finding that:
  - (a) The Special Exception was obtained or extended by fraud or deception;
  - (b) The applicant has failed to comply with one or more of the conditions of approval;
  - (c) There is a change in conditions affecting the public health, safety, and welfare, since adoption of the Special Exception; or
  - (d) There are repeated violations of this Ordinance by the holder of the Special Exception, related to the development approved by the Special Exception.

**(J) Amendments**

A Special Exception may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

## **Sec. 40.2-536 – Certificates of Appropriateness (COA)**

### **(A) Purpose and Intent**

The purpose and intent of this section is to establish standards and procedures for applications for COAs for development in a historic district described in [Sec. 40.2-206](#) Historic Districts and development within the Downtown Design Overlay District described in [Sec. 40.2-208\(C\)](#) Downtown Design Overlay District. A COA is an approval of the design and materials only.

### **(B) Applicability**

A COA is required prior to initiating any material change in appearance to the exterior of a building, structure, or lot located in an historic district and the Downtown Design Overlay District, or to the exterior of an historic structure or a lot on which an historic structure is located that can be seen from a right-of-way.

### **(C) Reviewing Bodies**

- (1)** A member of the Planning Department conferred by the Zoning Administrator shall review and decide on administrative COA applications.
  - (a)** Administrative COA applications are those seeking approval for actions having a minimal impact on the exterior appearance of a building, structure, or lot, as more specifically described in the historic guidelines for the applicable historic district.
  - (b)** If the Zoning Administrator designee denies an administrative COA application, the applicant, at its option, may elect to have the application heard and decided by HPC or DDC. Upon applicant's election to have the application heard by HPC or DDC, the application is no longer considered administrative.
- (2)** HPC shall review and decide non-administrative applications for COAs for the following historic districts, which have been designated by City Council:
  - (a)** Cradock
  - (b)** Olde Towne
  - (c)** Park View
  - (d)** Port Norfolk
  - (e)** Truxtun
- (3)** DDC shall review and decided non-administrative applications for COAs for the following historic district, which has been designated by City Council:
  - (a)** Downtown Design District

### **(D) Exemptions**

The following activities are exempt from the requirements of this section:

- (1)** The normal repair and maintenance of any exterior architectural feature;

- (2) Ordinary yard maintenance and the planting of trees and shrubs in the historic districts that does not involve a material change in design, material, color or outer appearance;
- (3) Repainting resulting in the same color. Painting of previously unpainted masonry surfaces is not exempted from review.
- (4) Replacing broken windowpanes, missing roof shingles, or missing features with matching in-kind materials;
- (5) Addition or removal of television or radio antennas, skylights, or solar collectors in locations not visible from a public street;
- (6) Any change to a structure or feature that is not visible from a public street.
- (7) Repairs, maintenance, painting, demolition, or other alteration that the Building Official certifies is required due to an unsafe or dangerous condition.
- (8) Construction of a ramp to serve the handicapped.
- (9) Creation or placement of murals, sculptures or similar works of art.
- (10) Activities within the right-of-way, except as otherwise expressly provided in other sections of this Ordinance.

**(E) Conditions**

In approving a COA, the approving entity may impose any conditions regarding the location, character, and other features of the proposed material change of appearance as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the change of appearance. Provided, however, that no conditions to which the applicant does not agree shall be imposed.

**(F) Review Standards**

A COA shall be issued upon a finding that the proposed material change(s) in appearance would not have a substantial adverse effect on the aesthetic, cultural, historic, or architectural significance and value of the historic structure or the historic district, based on review of the following factors.

- (1) Whether the property is used as it was historically or is given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- (2) Whether the historic character of the property is retained and preserved.
- (3) Whether the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.
- (4) Whether the changes do not create a false sense of historical development, such as adding conjectural features or elements from other historic properties. Each property is recognized as a physical record of its time, place, and use.
- (5) Whether changes to a property that have acquired historic significance in their own right are retained and preserved.

- (6) Whether distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property or the historic district are preserved.
- (7) Whether deteriorated historic features are repaired rather than replaced, except where required by the severity of deterioration.
- (8) Whether the cost of materials and labor is financially reasonable in relation to the assessed value of the historic structure.
- (9) Where the severity of deterioration requires replacement of a distinctive feature, whether the new feature matches the old in design, color, texture, and, where possible, materials.
- (10) Whether replacement of missing features is substantiated by documentary and physical evidence.
- (11) Whether chemical or physical treatments, if appropriate, are undertaken using the gentlest means possible, and treatments that cause damage to historic materials are not used.
- (12) Whether archeological resources are protected and preserved in place or, if such resources must be disturbed, whether mitigation measures are undertaken.
- (13) Whether new additions, exterior alterations, or related new construction do not destroy historic materials, features, and spatial relationships that characterize the property. Whether the new work is differentiated from the old and is compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- (14) Whether new additions and adjacent or related new construction is undertaken in a manner that, if removed in the future, the essential form and integrity of the historic property and historic district are unimpaired.

**(G) Design Guidelines**

The design guidelines for the historic district shall be used as a guide in evaluating the factors identified in [Sec. 40.2-536\(F\)](#) above.

**(H) Review and Action**

COA applications shall be approved, approved with conditions, or denied.

**(I) Effect of Approval and Posting Requirement**

- (1) A COA authorizes only the particular actions that are approved.
- (2) A COA, including any conditions, shall run with the land and shall not be affected by a change in ownership.
- (3) During construction or installation, the COA shall be posted on the property in a location where it is visible from the public right-of-way and a complete set of the approved plans shall be retained on the premises and shall be made available to designated staff.

**(J) Effect of Denial by HPC or DDC**

- (1) An applicant whose application for a COA is denied by HPC or DDC shall have the right to appeal to City Council as provided in [Sec. 40.2-522\(D\)](#).
- (2) There is no time limitation on filing a new COA application after a denial.
- (3) If an application to raze, demolish, or move a structure is denied, then in addition to the right of appeal the applicant may obtain the authority to raze, demolish or move the structure of right by making a bona fide offer to sell the property and complying with all requirements of Code of Virginia § 15.2-2306(A)(3).

**(K) Amendment**

An approved COA may be amended or modified only in accordance with the procedures and standards established for its original approval.

**(L) Expiration**

- (1) An approved COA automatically expires and is immediately null and void as to any work not commenced within two (2) years of issuance.
- (2) An expired COA shall require approval of a new COA application to complete any incomplete work in accordance with the procedures and standards in this section.

**Division IV. - Site Plans**

**Sec. 40.2-540 – Purpose**

The purpose of site plan review is to ensure that proposed development meets all standards required by this Ordinance, other approvals under this Ordinance, the City Code, and the Code of Virginia and state regulations, and applicable federal law and regulations.

**Sec. 40.2-541 – Authority**

The City Engineer and his designees shall have the authority to administer the site plan review process, including submittal requirements and review timeframes, subject to compliance with the Code of Virginia.

**Sec. 40.2-542 – Applicability**

- (A) Site plans must be submitted and approved prior to commencement of any development (including new structures, renovated structures, additions to existing structures, and grading and land disturbing activities).
- (B) Where site plan approval is required for development, no permit shall be issued for the development except in compliance with the approved site plan.

**Sec. 40.2-543 – Exemptions**

The following types of development do not require site plan approval unless approval is required under Ch. 9.1 (Chesapeake Bay Preservation Area Overlay District) or another chapter of the City Code:

- (A) Installation of a new manufactured home on an existing manufactured home site within an existing manufactured home park; or
- (B) A change of use, provided that:
  - (1) The new use does not require the provision of additional parking under this Ordinance; and
  - (2) No additional vehicular access points with adjacent streets are proposed or required under this Ordinance.

**Sec. 40.2-544 – Type of Site Plan Required**

- (A) Major Site Plans are required for development other than detached single-family residential that exceeds 2,500 square feet of disturbed area.
- (B) Minor Site Plans are required for multi-family, townhouse dwellings, two-family dwellings, three-to-four family dwellings, institutional, commercial, or industrial development that is equal to or less than 2,500 square feet of disturbed area.
- (C) Single-Family Site Plans are required for all new detached single-family residential development.

**Sec. 40.2-545 – Traffic Impact Analysis (TIA)**

**(A) Applicability**

The provisions of this section shall apply to all new development as follows:

- (1) Any residential, commercial, industrial use, or combination thereof, where the anticipated average weekday 24-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.
- (2) Any development or subdivision of a portion of property where the potential average weekday 24-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) for the developable portion of the entire property based on permitted uses under existing zoning equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends, regardless whether the remainder of the property is currently proposed for development unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.
- (3) Any Amendment of the Zoning Map or Use Permit applications, other than those requests initiated by the Planning Commission or City Council , where the anticipated average weekday 24-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds

100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous-studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

- (4) Any non-residential development which proposes to access a street which is residential in character and classified as a minor collector or lower order street.
- (5) Any other development proposal that, as determined by the City Engineer, has a significant potential to cause or aggravate traffic safety or congestion problems and, as such, would benefit from a professional review of proposed access and circulation designs.

**(B) Traffic Impact Analysis Standards and Requirements**

- (1) For any development described in subsection (A) above, a traffic impact analysis, prepared by a licensed professional engineer, shall be submitted for review and consideration by the City.
- (2) Subdivision Plats, Site Plans, Amendments to the Zoning Map, Use Permit applications, and other development proposals for which a traffic impact analysis is required shall not be deemed to be complete until the traffic impact analysis is submitted. The Engineering Department will provide available technical information. The applicant must collect traffic data that is not already available or is outdated.
- (3) The submitted TIA shall, unless otherwise approved by the City Engineer in writing, contain the following information and analysis:
  - (a) Existing conditions summary including 24-hour volumes, peak periods and peak volumes on adjacent roadways, peak periods and peak volumes of the generator, and peak hour factor(s); roadway geometrics; grades; lateral clearance; heavy vehicles, pedestrian, bicycle, and recreational vehicle percentages; existing lane configurations; traffic control devices and timing plans if signals are present and level of service analysis based on the most current version of the Highway Capacity Manual.
  - (b) Future conditions summary, including the horizon (analysis) year(s) and the criteria used in its selection, committed future roadway improvements, traffic growth factors combined with forecasts for adjacent sites to determine future background traffic (both 24-hour and peak period), and level of service analysis, compared with existing conditions.
  - (c) Trip generation and design hour volumes-including traffic forecast for site development to include twenty-four-hour and peak hour volumes both for the traffic generator itself and on adjacent roadways. Trip Generation Manual (Institute of Transportation Engineers, Sixth Edition, or as it may from time to time be amended) rates or equations shall be used unless verifiable local data is available. Any assumptions or adjustments shall be fully documented and, where appropriate, justified with source references provided.
  - (d) Trip distribution and traffic assignment, including a directional distribution of site traffic to its area of influence based on primary market, analogy, origin-destination,

gravity model, or other similar methods. Each step in the process shall be fully and carefully documented.

- (e) Design year total volumes developed for both twenty-four-hour and for the peak periods of the generator and on adjacent roadways.
- (f) Capacity analysis-including intersection and lane capacity based on the 2000 Highway Capacity Manual as it may from time to time be amended and revised. Where intersections (both signalized and unsignalized) are spaced in such proximity or the volumes are such that the intersection does not operate independently, appropriate progression and queuing analyses performed using a recognized methodology or analysis or simulation package must accompany the capacity analyses. Capacity analyses shall be prepared for each potential access design scenario. Any assumptions and adjustments to the default values in the 2000 Highway Capacity Manual (most up to date version) shall be fully documented and justified. These include, but are not limited to, peak hour factor, average running speeds, and cycle lengths, especially very short or long cycles. All worksheets shall be submitted.
- (g) The distribution and frequency of traffic accidents shall be analyzed and a determination made as to whether any safety deficiencies exist or will be caused or exacerbated. This shall specifically include a safety analysis of all proposed street extensions.
- (h) The recommended roadway and traffic network improvements based on the design hour in the design year shall be shown on a scaled plan sheet with appropriate narrative. Such improvements shall be designed to yield a minimum level of service of "C" as defined by the 2000 Highway Capacity Manual as it may from time to time be amended, supplemented, or revised. Where the existing conditions provide a current level of service of less than "C," the improvements shall be designed to at least maintain the current volume to capacity ratio as determined by the methods contained in the 2000 Highway Capacity Manual without further degradation through the design year plus two years. A detailed construction cost estimate of the required improvements shall be provided.
- (i) Including the number and width of driveway lanes, the appropriate throat lengths (both unobstructed and with cross traffic permitted) for ingress and egress points, stacking and queuing lanes, pedestrian accommodations, bicycle facilities, and any other facilities or accommodations and any other factor which could impact traffic operations along the adjacent roadways or overall traffic safety, both internal and external. The internal circulation system shall be designed to preclude stacking or queuing in the travel lanes of adjacent roadways during the peak hours of the traffic generator.
- (j) Including all conclusions of the analyst applicable to the site, particularly with respect to the appropriate timing and phasing of improvements. Timing and phasing must be clearly tied to identifiable stages of development or specific time frames. Conclusions about the relative safety of the post-development situation shall also be included.
- (k) An executive summary containing key findings and recommended actions.

- (4) All intersections, commercial entrances, median breaks, pavement markings, driveways, or other roadway features potentially affecting traffic flow located within 500 feet of the proposed development as well as all intersections and driveways internal to the development shall be considered and either shown or clearly noted on a scaled plan submitted with the traffic impact analysis.

#### **Sec. 40.2-546 – Site Plan Submittal and Review**

##### **(A) Licensing Requirement**

Site plans shall be prepared and certified respectively by an engineer, architect, landscape architect, or land surveyor licensed in Virginia and submitted to the City Engineer.

##### **(B) Submittal Requirements**

- (1) The City Engineer shall have authority to promulgate standards for legibility and content of site plan submittals, including different standards for Major Site Plans, Minor Site Plans and Single-Family Site Plans.
- (2) Submittals which do not comply with the established standards may be rejected by the City Engineer or his designee prior to review.
- (3) Commercial developments shall submit building elevations for new construction with all Major Site Plans.

##### **(C) Review**

The City Engineer or his designees shall provide the applicant with comments on or approval of a submittal within the timeframes required by the Code of Virginia.

#### **Sec. 40.2-547 – Approval**

- (A) The City Engineer or his designee shall approve site plans that conform to the requirements of this Ordinance, other approvals under this Ordinance, the City Code, and the Code of Virginia.
- (B) Approval of a site plan may include conditions that are reasonably required to satisfy the standard for approval of the site plan.
- (C) Developments shall be required to install public improvements in accordance with the requirements of Ch. 32 of the City Code.

#### **Sec. 40.2-548 – Expiration**

Site plan approvals shall expire five (5) years from the date of approval unless building permits have been obtained.

#### **Sec. 40.2-549 – Amendment**

- (A) Any change to an approved site plan requires submission and approval of a new site plan, except that minor changes may be approved administratively by the City Engineer or designee.
- (B) A minor modification is one that will not substantially alter the terms of the original approval.
- (C) Approval of minor modifications does not extend the expiration date of the original approval.

**Division V. – Enforcement**

**Sec. 40.2-550 – Authority**

- (A) The Zoning Administrator shall have all necessary authority on behalf of City Council to enforce the Zoning Ordinance.
- (B) The Zoning Administrator’s authority shall include, without limitation, ordering in writing the remedying of any condition found in violation of the ordinance and insuring compliance with the ordinance and bringing legal action, including injunction, abatement, or other appropriate action or proceeding.
- (C) The Zoning Administrator may order, without limitation, discontinuance of any illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or any other action or cessation authorized by this Ordinance or state law to ensure compliance with the Ordinance or to prevent violation of its provisions.

**Sec. 40.2-551 – Conformity with Ordinance Required**

- (A) Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development approval or authorization granted under the authority of this Ordinance, shall constitute a violation of this Ordinance.
- (B) All permits, licenses or authorizations affecting uses or structures within the city must conform with the provisions of this Ordinance.
- (C) Any permit, license or other authorization which is issued in conflict with the provisions of this Ordinance shall be null and void.
- (D) It shall be the responsibility of the person obtaining a permit, license or other authorization affecting uses or structures on land to determine whether such permit, license or other authorization is in conformity with this Ordinance, and whether additional authorizations are needed to enable such person to use the land or structure as proposed.
- (E) Provided however that nothing in this Division V Enforcement shall impair vested rights as set forth in Sec. 15.2-2307 of the Code of Virginia.

**Sec. 40.2-552 – Notice of Zoning Violation**

**(A) Issuance**

Upon becoming aware of any violation of the provisions of this Ordinance, the Zoning Administrator may issue written notice of such violation to any person committing or permitting the violation.

**(B) Contents**

The notice of violation shall:

- (1) 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.
- (2) 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 of the mailing or posting of the notice in accordance with Subsection 15.2-2311(A) of the Code of Virginia, and that the decision shall be final and unappealable if not appealed within 30 days.
- (3) Include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal.

**(C) Service**

- (1) The notice of violation shall be sent by registered or certified mail to, or posted at, the last known address or usual place of abode of the property owner or other alleged violator, as applicable, or the alleged violator's registered agent, if any.
- (2) The notice shall include language advising the alleged violator of the right to appeal to the BZA in accordance with Sec. 15-2-2309 of the Code of Virginia.

**Sec. 40.2-553 – General Penalty for Violation**

- (A)** Except as provided in Sec. 40.2-554 **(A)** and **(B)** below, any person or entity, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$1,000 (exclusive of civil penalties previously assessed under Sec. 40.2-554 below).
- (B)** 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 the Zoning Ordinance, within a time period established by the court.
- (C)** Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,000; any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than \$2,000.
- (D)** Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including without limitation, pursuing injunctive relief.

**Sec. 40.2-554 – Infractions and Civil Penalties**

- (A)** Except as provided in Sec. 40.2-554(D), a violation of the following provisions of this Ordinance shall be deemed an infraction and shall be punishable by a civil penalty of \$50.00 for a first offense, \$100.00 for a second offense, and \$200.00 for each subsequent offense arising out of the same set of operative facts:

- (1) Violation of [Sec. 40.2-217\(D\)\(3\)\(m\)](#) regarding parking of major recreational equipment in residential zoning districts;
  - (2) Violation of [Sec. 40.2-301\(C\)\(2\)](#) regarding parking of commercial vehicles in residential zoning districts;
  - (3) Violation of [Sec. 40.2-217\(C\)\(2\)](#) regarding parking on unimproved surfaces in residential zoning districts;
  - (4) Violation of [Sec. 40.2-307](#) of this Ordinance regarding signage (each individual violating sign shall constitute a separate infraction), other than the illegal posting of signs on public property or public right-of-way;
  - (5) Violation of [Sec. 40.2-217](#) of this Ordinance regarding home occupations, including violations of a condition of approval for an authorized home occupation.
  - (6) The making of a false certification on any application for a zoning approval required by this Ordinance.
- (B)** A violation of the provisions of this Ordinance regarding the requirement to obtain or comply with an approved Certificate of Appropriateness for development or rehabilitation in an historic district shall be deemed an infraction and shall be punishable by civil penalties in the amounts listed below:
- (1) \$100 for removal and/or installation of roofing materials (initial violation)
  - (2) \$100 for removal and/or installation of wall siding materials (initial violation)
  - (3) \$200 for removal and/or installation of windows (initial violation)
  - (4) \$100 for removal and/or installation of exterior doors (initial violation)
  - (5) \$100 for removal and/or installation of fences (initial violation)
  - (6) \$50 for the painting of any exterior surfaces (initial violation)
  - (7) \$100 for the removal and/or installation of driveways and/or sidewalks (initial violation)
  - (8) \$200 for the demolition of part or all of any structure (initial violation)
  - (9) \$200 for the construction of any addition (initial violation)
  - (10) An additional \$500 for a continuing offense where the violator has been issued a notice for a violation listed in **(1)-(10)** above and assessed a civil penalty, but has failed to timely correct the violation
  - (11) An additional \$500 for a repeat offense where the violator has previously been issued a notice a violations listed in **(1)-(10)** above and assessed a civil penalty, and subsequently commits another violation with respect to the same property or any other property within an historic district
- (C)** Each day during which any violation of the provisions enumerated in subsection **(A)** or **(B)** above is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than

once in any ten(10)-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of \$5,000.

**(D)** The designation of any violation of this Ordinance as an infraction pursuant to subsections **(A)** and **(B)** above shall be in lieu of criminal sanctions, and except for any violation resulting in injury to any person or persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

**(1)** Provided however, that when civil penalties assessed against a violator for the same violation or type of violation equal or exceed \$5,000, the violation may be prosecuted as a criminal misdemeanor in accordance with Sec. 40.2-553.

**(2)** Zoning violations resulting in injury to a person or persons are not to be subject to Sec. 40.2-554 and may be prosecuted criminally, including pursuant to Sec. 40.2-553.

**(E)** After having served a notice of violation on any person, firm or corporation, whether as principal, agent, employee or otherwise, causing or permitting a violation of the zoning ordinance provisions enumerated in subsections **(A)** and **(B)** above, and if such violation has not ceased or been corrected within such reasonable time as is specified in such notice or recurs thereafter, the Zoning Administrator shall issue a civil summons or cause a summons or ticket to be served on such person as provided by law.

**(F)** The summons or ticket shall contain the following information:

**(1)** The name and address of the person charged.

**(2)** The nature of the infraction and the ordinance provision[s] being violated.

**(3)** The location, date and time that the infraction occurred or was observed.

**(4)** The amount of the civil penalty assessed for the infraction.

**(5)** The manner, location and time in which the civil penalty may be paid to the City.

**(6)** The right of the recipient of the summons or ticket to elect to stand trial for the infraction and the date of such trial.

**(G)** The summons or ticket shall provide that any person summonsed for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the City Treasurer, or designee, at least 72 hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such summons or ticket shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court; however, an admission shall not be deemed a criminal conviction for any purpose. No admission of liability shall relieve the violator of the obligation to correct or cease, as applicable, the underlying violation.

**(H)** If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.

**(1)** An admission or finding of liability shall not be deemed a criminal conviction for any purpose.

- (2) If the violation remains uncorrected at the time of the finding of liability, the court may order the violator to abate or remedy the violation within a time period ordered by the court but, except as otherwise provided by the court for good cause shown, no later than six (6) months after the date of a finding of liability.
- (3) Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense.

**Sec. 40.2-555 – Remedies Cumulative; Emergency Enforcement**

- (A) Except as expressly set forth in this Division V, the remedies provided herein are cumulative and not exclusive and shall be in addition to any other remedies provided by law, including but not limited to injunctive relief, mandamus and any other appropriate action to prevent, enjoin, abate or remove any structure, vehicle or use in violation of the Ordinance.
- (B) Nothing in this Division V shall be construed to prohibit the Zoning Administrator or the City from seeking immediate enforcement through injunctive relief without prior written notice upon a determination that a delay in correcting the violation would pose a danger to the public health, safety or welfare.
- (C) Nothing in this Division V shall be construed to limit the City's authority to seek or impose remedies for the violations described herein that are established by other chapters of the City Code or by the Code of Virginia, including without limitation the Virginia Uniform Statewide Building Code.

## **Article VI. – Definitions**

The following definitions shall be used in the interpretation and administration of this ordinance. The definitions of various terms as presented do not necessarily represent the same definitions as may be found for the same terms in other chapters of the City Code.

**(A)** The following rules for general construction of language shall apply to this ordinance:

- (1)** Any words pertaining to gender shall be interchangeable.
- (2)** The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- (3)** All public officials, bodies, and agencies referred to in this Ordinance are those of the City of Portsmouth, Virginia, unless otherwise specifically indicated.

**(B)** Where terms are not defined, they shall have their ordinarily accepted meaning, or such as the context may imply.

**(C)** The following definitions shall apply in the administration of this Ordinance:

### **ABANDONMENT**

With regard to nonconformities, abandonment shall mean that use or occupancy of a nonconformity has ceased for a period of two (2) or more consecutive years.

### **ABUTTING**

Having a common property line or boundary with; touching.

### **ACCESSORY DWELLING UNIT**

A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

### **ACCESSORY BUILDING OR STRUCTURE**

A structure that is detached from and subordinate to the principal structure in use and square footage and located on the same lot, such as a shed, detached garage, carport, etc. No such accessory structure or building shall be used as a dwelling unit unless expressly permitted.

### **ACT OF GOD**

Any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire.

### **ADDITION**

Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

### **ADJACENT**

Abutting or located directly across a street or alley.

**ALLEY**

A minor way that is of relatively narrow width and is designed to give access to the side or rear of properties whose principal frontage is on another street.

**ALTERATION**

Any change or expansion in the size, configuration, or location of a structure; or any change or expansion in the use of a structure or lot.

**APIARY**

A place where bee colonies are kept.

**AMATEUR RADIO TOWER**

A 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.

**AWNING**

A cover constructed of fabric, plastic, or a similar lightweight material that is entirely supported by the building to which it is attached, that has the purpose of shielding a doorway, window, porch, terrace, or platform from the elements. This term does not include a marquee or a canopy.

**BASEMENT**

That portion of a building all or partly underground but having at least one-half of its height, the distance between the ceiling and the floor, below grade.

**BICYCLE PARKING**

An area or structure used for mounting and securing bikes when not in use. Bicycle parking may include, but shall not be limited to, outdoor bike racks, outdoor bike lockers, and indoor bike storage rooms.

**BOARD OF ZONING APPEALS, BZA**

The Board of Zoning Appeals for the City of Portsmouth, Virginia appointed by City Council.

**BUFFER**

An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which buffer is used for recreation or parking.

**BUILDABLE AREA**

The portion of the lot remaining after required yards have been provided and after the limitations of any pertinent utilities and environmental regulations such as wetlands, Chesapeake Bay

Resource Protection Areas (RPAs), and land below mean high tide are subtracted from the total lot area.

#### BUILDING

A combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property.

#### BUILDING CODE

The Virginia Uniform Statewide Building Code adopted by the Department of Housing and Community Development and any amendments thereto.

#### BUILDING, OFFICIAL

The person appointed by the City Manager as the executive official in charge of the Department of Permits and Inspections as described in Ch. 7 of City Code.

#### BUILDING, PERMIT

An approval statement signed by the Building Official authorizing the construction, alteration, reconstruction, or demolition of all or part of any building as described in Ch. 7 of City Code. Building permits are required to erect, enlarge, alter, remove, demolish, or repair a structure or portion thereof. This includes everything from decks, fireplaces, storage sheds and garages, to commercial construction, alterations and additions.

#### BUILDING PERMIT APPLICATION

An application to request the approval of the Building Official to construct, alter, reconstruct, or demolish all or part of any building as described in Ch. 7 of City Code.

#### BUILDING, PRINCIPAL

A building or buildings that contain the principal use of the lot on which it is situated.

#### BY RIGHT

A use permitted in a zoning district as designated by a “P” in [Sec.40.2-216](#), without review by a review board, and that complies with the provisions of these zoning regulations and other applicable ordinances and regulations.

#### CARPORT

A roofed structure not more than 75 percent enclosed by walls for the shade and shelter of private passenger vehicles.

#### CERTIFICATE OF OCCUPANCY, CO

A certificate granted by the city's Building Official which permits the use of a building, or a portion thereof, in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the Building Permit.

#### CERTIFICATE OF APPROPRIATENESS, COA

A permit issued by the HPC or DDC granting an applicant approval for the alteration, change, demolition, relocation, excavation, or new construction of contributing site, contributing structure, noncontributing structure, or noncontributing site in a historic district.

#### CIVIC USE

Public parks and playgrounds, municipal buildings including police fire and rescue facilities and all other buildings or properties that are owned by a governmental body.

#### CO-LOCATE (CO-LOCATION)

To install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure.

#### COMMERCIAL VEHICLE

A truck, bus, or other self-propelled vehicle of any type or a container constructed for the transportation of materials used or maintained primarily for business purposes to transport goods, equipment or passengers. This definition is not applicable to a vehicle described as a pickup, van or panel truck that does not exceed one ton in manufacturer's rated capacity and does not exhibit a company name or logo.

#### CONSTRUCTION

Building, erecting, altering, reconstructing, demolishing, or removing any structure, facility, or addition thereto, including related activities such as land disturbing activities.

#### DECK, ATTACHED

A structure constructed of any materials, without a roof, attached to a building that has an average elevation of 30 inches or greater from finished grade.

#### DECK, UNATTACHED

A structure constructed of any materials, without a roof, not attached to a building that has an average elevation of 30 inches or greater from finished grade.

#### DEMOLITION

The dismantling or tearing down of all or part of any building or structure and all incidental related operations.

#### DEVELOPMENT

Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

#### DISTRICT

An area delineated on the Zoning Map that is subject to area-specific standards and guidelines set forth in the zoning ordinance.

#### DISTRICT, OVERLAY

A district established by ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.

**DOCK**

A piling-mounted stationary or floating platform extending into the water.

**DOCK, DRY**

A dock that can be drained of water to allow the inspection and repair of a ship's hull.

**DOWNTOWN DESIGN COMMITTEE, DDC**

The Downtown Design Committee for the City of Portsmouth, Virginia appointed by City Council.

**DRIVE-THROUGH**

A facility designed to enable a person to acquire products or services while remaining in a motor vehicle.

**DWELLING (DWELLING UNIT)**

A single unit of a building or portion thereof providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**EASEMENT**

A right granted by the property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

**EGRESS**

An exit from a building or site.

**ENCROACHMENT**

The portion of a structure or attachment to the structure that intrudes into a required setback.

**FAÇADE**

The entire exterior wall of a building that faces, and is most nearly parallel to, a public or private street. The façade includes the entire building walls, including wall faces, parapets, and visible roof structures of one complete elevation.

**FAÇADE, FRONT**

The side or elevation of a structure that faces and is most closely parallel to the front lot line that contains the structure's architectural front, excluding any steps, porches, etc.

**FAMILY**

An individual, or two or more persons related by blood, marriage, or adoption living together as a single dwelling unit; or a group of not more than eight persons not related by blood, marriage, or adoption living together as a single housekeeping unit (Code of Virginia § 15.2-2291).

**FARMER'S MARKET**

Retail sale of fresh fruits and vegetables, and other food and related items, at an indoor or outdoor facility with spaces occupied by several different temporary tenants on a short term or daily basis. This term does not include roadside stands.

#### FENCE

A close type vertical barrier used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.

#### FENESTRATION

The arrangement and design of windows and other openings in a building including doors and skylight openings.

#### FIRST FLOOR

The floor of a building that is at, or first above, average finished grade.

#### 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.

#### FLOOR AREA RATIO, FAR

The ratio of gross floor area of all structures on a lot to total lot area.

#### FOOD TRUCK

See Sec. 32-276 of the City Code as the definition may be amended, moved, or superseded.

#### FOOTCANDLE

A unit of illumination that falls onto a surface as emitted by an exterior lighting device.

#### FRONTAGE

The width in linear feet occupied by each separate business or other use or the width in linear feet of a lot that abuts on a public or private street.

#### FRONTAGE, BUILDING

The linear length of only that portion of a building used by an individual tenant on a separate lot or by an individual tenant in a multiple tenant development that faces a public or private street.

#### FRONTAGE, LOT

The width in linear feet of a lot that abuts on a public or private street.

#### GARAGE

A structure for parking vehicles.

#### GLAZING

The portion of an exterior building surface occupied by glass or windows.

#### GRADE

The average level of the finished surface of the ground adjacent to the exterior walls of the building.

#### GREENWAY

A linear greenbelt linking various types of development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and area immediately adjacent to the pathway.

#### HAZARDOUS MATERIAL

Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes but is not limited to hazardous wastes.

#### HEIGHT

See [Sec. 40.2-218\(C\)](#).

#### HISTORIC DISTRICT

A geographically definable area consisting of public and/or private property within the city, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. An historic district shall further mean an area designated by City Council as an historic district under this Ordinance.

#### HISTORIC LANDMARK

One or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. Contributing properties within a registered district are historic landmarks by definition (Code of Virginia § 10.1-2200).

#### HISTORIC PRESERVATION COMMISSION, HPC

The Historic Preservation Commission for the City of Portsmouth, Virginia appointed by City Council.

#### INGRESS

Access or entry to a building or site.

#### LAND-DISTURBING ACTIVITY

Any movement of earth or substrate, manually or mechanically, including but not limited to any modification of existing grade by dredging, demolition, excavation or fill, grading, scraping,

vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes, for which any permit or approval is required under the provisions of the City Code.

#### LOADING SPACE, OFF-STREET

An off-street parking space used for the temporary parking of motor vehicles for deliveries and for the loading and unloading of goods.

#### LOT

A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. The terms “lot” and “parcel” are used interchangeably in this Ordinance.

#### LOT AREA

The total area, measured on a horizontal plane, included within lot lines and excluding areas of the lot that are major utility easements (e.g. gas pipeline, electric, etc.), wetlands, and Chesapeake Bay RPA features (other than the buffer). For purposes of this Ordinance, “lot area” and “lot size” (see [Sec. 40.2-218\(A\)](#)) shall have the same meaning.

#### LOT, CORNER

A lot abutting on two or more streets at their intersection, regardless of whether such streets intersect at right angles.

#### LOT CONSOLIDATION

The removal of lot lines between contiguous parcels by recordation of a plat in the land records.

#### LOT, DOUBLE-FRONTAGE

An interior lot having frontage on more than one street.

#### LOT, FLAG

A lot which has a narrow appendage, not less than 16 feet in width, providing the required street frontage and through which access is provided to an enlarged portion of the lot typically located behind another lot that abuts the street.

#### LOT, FRONT OF

The front of a lot shall be considered to be that boundary of the lot which abuts on a public street. An alley shall never be considered the front of a lot. For a corner lot, the front shall be the shorter of the two (2) frontages. For a corner lot with equal frontage on two (2) or more streets AND for a double frontage lot, the lot shall be considered to front on the street on which the greatest number of lots have been platted within the same block or the lot shall be considered to front on the lower volume street of the two frontages.

#### LOT FRONTAGE

See FRONTAGE, LOT.

#### LOT OF RECORD

A lot legally created in the land records by recordation of a plat at any time or by deed recorded (1) prior to the adoption of the City’s first subdivision ordinance on March 27, 1956 or (2) in the case of land annexed by Portsmouth after March 27, 1956, prior to annexation and prior to the adoption of a subdivision ordinance by Norfolk County.

#### LOT, INTERIOR

Any lot other than a corner lot.

#### LOT, NONCONFORMING

See "NONCONFORMING LOT".

#### LOT SIZE

See “LOT AREA” or Sec. 40.2-218(A)(1).

#### LOT WIDTH

The mean horizontal distance between side lot lines (See Sec. 40.2-218(A)(2)).

#### LOT, ZONE

A parcel or parcels of land under common ownership that has a sufficient size to meet minimum zoning requirements for the base zoning district where it is located.

#### MAJOR RECREATIONAL EQUIPMENT

Major recreational equipment is defined for the purposes of this Ordinance as including recreational vehicles, boats and boat trailers, combinations thereof and other similar equipment, and cases and boxes used for transporting recreational equipment, whether occupied by such equipment or not.

#### MANUFACTURED HOME

A structure that complies with Code of Virginia § 8.9A-102(53).

#### MARQUEE

A permanent roof-like shelter constructed of durable material that is supported solely by the building to which it is attached, and projects from the building face. A marquee is generally located at the main entrance to a building. This term does not include a canopy or an awning.

#### MIXED-USE DEVELOPMENT

Property that incorporates two (2) or more different uses, such as (but not limited to) residential, commercial, or industrial, within a single development. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.

#### MOTOR VEHICLE, INOPERATIVE

Any motor vehicle, trailer or semitrailer which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle; or on which a valid license plate or a valid inspection decal is not displayed.

#### NATURAL DISASTER

Any event in which damage to a nonconforming use or structure is caused by flooding, hail, wind event or wind storm, lighting strike, tornado damage, explosion, falling trees, or falling tree limbs.

#### NONCONFORMING LOT

A lot that was lawfully created but no longer conforms to the applicable standards for lots due to a subsequent revision or amendment of this Ordinance.

#### NONCONFORMING SIGNS

A sign that was lawfully established but no longer conforms to the applicable standards for signs due to a subsequent revision or amendment of this Ordinance.

#### NONCONFORMING STRUCTURE OR BUILDING

A structure or building that was lawfully established but no longer conforms to the applicable standards for buildings or structures due to subsequent revision or amendment of this ordinance.

#### NONCONFORMING USE

A use that was lawfully established but no longer conforms to the applicable standards for buildings or structures due to subsequent revision or amendment of this ordinance.

#### NOTICE OF VIOLATION

A notice indicating an alleged violation of this Ordinance.

#### OCCUPANCY

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

#### OPACITY

A measurement indicating the degree of obscuration of light or visibility.

#### OPEN SPACE

Space suitable for recreation, gardens or landscaping. Such space must be free of vehicle traffic and parking, and be readily accessible to all those for whom it is required.

#### OPEN SPACE SET-ASIDE

Portion of a proposed development required for reservation as permanent open space by [Sec. 40.2-308](#) Open Space Set-Asides.

#### OUTPARCEL

A portion of land in a subdivision, shopping center, or other development that does not contain the principal building associated with the development, and that is intended for development of one

or more, smaller, independent buildings usually located adjacent to a development's street frontage. Outparcels are typically smaller than the parent parcel and may not be contiguous to the parcel containing the principal building or buildings.

#### PARAPET

A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

#### PARCEL

A designated lot, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. The terms “lot” and “parcel” are used interchangeably in this Ordinance.

#### PARKING LOT

The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.

#### PARKING LOT DRIVE AISLE

A vehicular access strip located within an off-street parking or vehicular use area that serves individual parking stalls and driveways.

#### PARKING, SHARED

Off-street parking facilities shared by two or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other use(s).

#### PARKING SPACE

A space that is designated for the parking of one motor vehicle.

#### PARKING SPACE, ACCESSIBLE

A space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose.

#### PARKING SPACE, OFF-STREET

A space that is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle.

#### PARKING SPACE, ON-STREET

A location or area within the right-of-way of a public or private street that is set-aside or designated for the parking of vehicles.

#### PARKING STRUCTURE

A structure primarily designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building.

**PARKING, OFF-SITE**

An off-street parking area provided on a different parcel than the use it is intended to serve.

**PARKING, TANDEM**

A parking space within a group of two or more parking spaces arranged one behind the other.

**PATIO**

A horizontal flat surface constructed of any materials, without a roof, which has an average elevation of less than 30 inches from finished grade.

**PAVED SURFACE**

Brick, concrete, asphalt, or similar improved surface acceptable by the City Engineer placed on land.

**PERMITTED USE**

Use or activity, which because of its nature and impact, is allowed to occur within a designated zoning district as a use by right.

**PLANNING COMMISSION**

The Planning Commission for the City of Portsmouth, Virginia appointed by City Council.

**PLAT**

A map or plan for a tract or parcel of land meeting the requirements of Ch. 33.1 of the City Code, which is to be or which has been subdivided.

**PORCH**

A roofed structure not more than 75 percent enclosed by walls, attached to the main building, and not heated or cooled.

**PORTABLE STORAGE CONTAINER**

A container typically intended for transport by large truck, train, or ship, that is used for the temporary storage and or transport of personal property.

**PORT**

A facility for the docking, loading, or unloading of ships, barges, or boats that primarily transport freight.

**PORTICO**

A large porch usually with a pediment generally associated with an entrance, supported by columns.

**PROFFER**

Reasonable conditions supplemental to or modifying the regulations provided for a particular zoning district that are voluntarily submitted by an applicant/property owner in connection with an application for a Zoning Map Amendment (see [Sec. 40.2-532\(E\)](#) Provisions for Conditional Zoning).

#### RECREATIONAL VEHICLE

A vehicle that is:

1. Built on a single chassis;
2. Designed to be self-propelled or permanently towable by a light-duty truck; and
3. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

This includes vehicles such as travel trailers, motor homes, boats, houseboats, and campers.

#### RELIGIOUS INSTITUTION

A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social, educational, and recreational activities that is maintained and controlled by a religious group.

#### REZONING

See “ZONING TEXT & MAP AMENDMENT.”

#### RIGHT-OF-WAY (ROW)

Land dedicated, deeded, used, or to be used for a street, road, alley, pedestrian way, crosswalk, bikeway, drainage facility, or other public uses. Right-of-way also means the area between lot property lines that generally contains only the street pavement, sidewalk, grass areas, and underground or aboveground utilities.

#### ROOFLINE

The highest edge of the roof or the top of the parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

#### SATELLITE DISH ANTENNA

A round or parabolic antenna and its supporting structure for the purposes of sending and/or receiving radio or electromagnetic signals.

#### SETBACK

The minimum distance by which any building or structure must be separated from a lot line.

#### SHIPPING CONTAINER

A portable, weather-resistant receptacle designed for use in the multi-modal shipment of goods, wares or merchandise, including a receptacle designed for the transport of goods. The terms “freight shipping container” and “shipping container” are used interchangeably in this Ordinance.

#### SHOPPING CENTER

A group of primarily 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. A shopping center may be on a single parcel or may be on multiple parcels of land.

#### SIGHT TRIANGLE

The triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines.

#### SIGN

See [Sec. 40.2-307\(A\)](#).

#### SITE PLAN

A detailed engineering drawing of the proposed improvements required in the development of a given lot in accordance with [Article IV, Division IV](#) Site Plans.

#### SPECIAL EXCEPTION

A permit approved, approved with conditions, or denied by the BZA in accordance with [Sec. 40.2-535](#) Special Exceptions.

#### SPECIFIED ANATOMICAL AREAS

This means: (a) Less than completely or opaquely covered: (i) Human genitals; (ii) Buttocks; (iii) Human breasts below a point immediately above the top of the areola; and (b) Human genitals in a discernibly turgid state, even if completely or opaquely covered.

#### SPECIFIED SEXUAL ACTIVITIES

This means: (a) Humans genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; (c) Fondling or erotic touching of human genitals, buttocks, or breasts.

#### SQUARE FEET, GROSS

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

#### STACKING AREA

A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development. Parking or storage of vehicles is not permitted within the stacking/standing area.

#### STOOP

A platform, without a roof, located at the entrance of a building with sufficient area to facilitate the ingress and egress to the building.

#### STREET, PRIVATE

A dedicated strip of land that is privately maintained for vehicular or pedestrian traffic and that is not an alley.

#### STREET, PUBLIC

A dedicated strip of land that is publicly maintained for vehicular or pedestrian traffic and that is not an alley.

#### 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 creates the visual image of the street.

#### STRUCTURE

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building that can be used for residential, business, commercial, or office purposes, either temporarily or permanently. Also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

#### TEMPORARY USE PERMIT

A permit, approved, approved with condition(s), or denied by the Zoning Administrator for a limited period of time in accordance with [Sec.40.2-531](#) Temporary Use Permits.

#### TRANSPORTATION ANALYSIS

A general study of the degree or extent to which proposed land use developments, and the traffic they are expected to generate, will affect the adjacent or surrounding transportation system.

#### USE

The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

#### USE, ACCESSORY

A use that is customarily incidental, and subordinate to the principal use of land or buildings and located on the same lot.

#### USE, CHANGE OF

A change from one category in the Use Table to another or the addition of a new category of use to an existing use.

#### USE, NONCONFORMING

See “NONCONFORMING USE”

#### USE, PRINCIPAL

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

#### USE, TEMPORARY

A use that is not so recurring in nature as to constitute a permanent use.

#### USE PERMIT

A permit, approved, approved with condition(s), or denied by the City Council in accordance with [Sec.40.2-533](#) Use Permits.

#### VALET PARKING

The provision of parking for vehicles whereby vehicles are parked and un-parked in a parking area, parking lot or any parking structure by a person other than the owner or operator of the vehicle.

#### VARIANCE

A reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure that is approved, approved with condition(s), or denied by the BZA in accordance with [Sec. 40.2-534](#) Variances. It shall not include a change in use, which change shall be accomplished by a rezoning.

#### VEHICULAR USE AREA

All vehicular parking areas, stacking areas, methods of vehicular ingress and egress, internal aisles, and loading spaces within a parcel or development.

#### VENDING MACHINE

Any unattended self-service device that dispenses anything of value including food, beverage, goods, wares, merchandise, or services.

#### 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.

#### YARD

An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided by this Zoning Ordinance. A yard extends the full width of the lot between the building and the lot line.

#### YARD, FRONT

An open space on the same lot as a building between the front façade and the front lot line, and extending across the full width of the lot. For a corner lot, the front shall be the narrower of the two (2) frontages. For a corner lot with equal frontage on two (2) or more streets AND for a double frontage lot, the front yard shall be considered the frontage on the street on which the greatest number of lots have been platted within the same block or the frontage on the street with the lower volume street of the two (2) frontages.

#### YARD, REAR

An open space on the same lot as a building between the rear façade of the building and the rear line of the lot and extending the full width of the lot. For a double frontage lot, the rear yard shall be considered the yard opposite from the predetermined front of the lot.

#### YARD, SIDE

An open space on the same lot as a building between the side line of the building and the side line of the lot, and extending from the front yard line to the rear yard line. The side yard runs from the front yard line to the required rear yard line. On corner lots, the side yards shall run from the point where side yard lines intersect to front yard lines.

#### ZONING ADMINISTRATOR

A staff member of the Portsmouth Department of Planning whose primary responsibility is to administer and enforce the Zoning Ordinance.

#### ZONING MAP

The official, adopted map or maps which are part of this Ordinance, and delineate the boundaries of each zoning district in [Article II](#).

#### ZONING MAP AMENDMENT (REZONING)

A change in the zoning or district boundaries of one or more parcels of the Zoning Map reviewed and approved or denied by the City Council in accordance with [Sec. 40.2-532](#) Zoning Text and Zoning Map Amendment (Rezoning).

#### ZONING PERMIT

A permit approved, approved with conditions, or denied by the Zoning Administrator, as required in [Sec.40.2-530](#) Zoning Permit.

#### ZONING TEXT AMENDMENT

A zoning revision, change, addition, or deletion in the text of this Ordinance reviewed and approved or denied by the City Council in accordance with [Sec. 40.2-532](#) Zoning Text and Zoning Map Amendment (Rezoning).