

## Chapter 86 ZONING<sup>1</sup>

### ***ARTICLE I. ADMINISTRATION<sup>2</sup>***

#### **Sec. 86-1. Jurisdiction.**

The provisions of this chapter shall apply to all property within the corporate limits of the Town of Altavista, Virginia, with the exception that any property held in fee simple ownership by the United States of America or the Commonwealth of Virginia shall not be subject to the provisions contained herein when such property is directly used for public purposes by the United States of America or the Commonwealth of Virginia.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-2. Authority.**

- (a) This chapter and the Official Zoning Map of Altavista, Virginia shall be known and referred to as the Town of Altavista, Virginia Zoning Ordinance.
- (b) The provisions of this chapter have been adopted by the town council pursuant to the declaration of legislative intent contained in Code of Virginia, § 15.2-2200, and the authority contained in § 15.2-2280 and § 15.2-2281.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-3. Effective date.**

This chapter shall be effective on January 1, 2012 as adopted by the town council.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-4. General purpose.**

- (a) This chapter and any subsequent amendments have been adopted for the general purpose of implementing the Comprehensive Plan of the Town of Altavista, Virginia, and for the purpose of promoting the health,

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<sup>1</sup>Editor's note(s)—An ordinance of October 11, 2011, enacted a new chapter 86Editor's note(s)— as set out herein and on November 8, 2011, repealed the former chapter 86Editor's note(s)—, articles I—XII. The former chapter 86Editor's note(s)— pertained to similar subject matter. Please see the Code Comparative Table for the ordinance history. This new chapter is to be effective January 1, 2012.

Cross reference(s)—Environment, ch. 34Cross reference(s)—; manufactured homes and trailers, ch. 42Cross reference(s)—; planning, ch. 58Cross reference(s)—; subdivisions, ch. 66Cross reference(s)—.

State law reference(s)—Zoning, Code of Virginia, § 15.2-2280 et seq.

<sup>2</sup>Cross reference(s)—Administration, ch. 2Cross reference(s)—.

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safety, and general welfare of the public. To these ends, this chapter is consistent with the applicable provisions of the Charter of the Town of Altavista and the Code of Virginia and is intended to give reasonable consideration to each of the following purposes:

- (1) Facilitate the creation of a convenient, attractive and harmonious community;
- (2) Encourage economic development activities that provide desirable employment and enlarge the tax base;
- (3) Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic or other dangers;
- (4) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the town.
- (5) Protect surface and groundwater resources.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-5. Application of regulations.**

- (a) All land uses and activities not specifically provided for or addressed in this chapter shall be considered uses and activities prohibited within the town.
- (b) If a land use or activity is deemed by the administrator to be prohibited within the town, that use or activity shall not be permitted within the town.
- (c) Where the standards imposed by this chapter are more or less restrictive than the standards imposed by any other public regulation, the more restrictive standard shall apply.
- (d) This chapter shall not apply to, or interfere with, any private covenant. However, if the regulations imposed by this chapter are more restrictive, or impose a higher standard than the private covenant, then the provisions of this chapter shall apply.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-6. Zoning permits.**

- (a) It shall be unlawful for any person to use or to permit the use of any building, structure or premises or portion thereof, other than an existing single-family dwelling, unless a zoning permit for such building, structure or premises or portion thereof shall have been approved by the zoning administrator as required by this article. It shall also be unlawful for any person to construct or erect any building or structure which is exempt from application for a building permit under the provisions of the Virginia Uniform Statewide Building Code, unless a zoning permit for such building or structure has been approved by the zoning administrator. However, a zoning permit shall not be required for fences, walls, poles, posts and other customary yard ornaments and accessories which are exempt from application for a building permit and which are permitted by the provisions of this chapter. The zoning permit shall certify that the building, structure or premises and the use thereof comply with the applicable sections of this chapter.
- (b) The administrator may request a review by the planning commission of the zoning permit application in order to determine if the contemplated use is in accordance with the district in which the construction lies.

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- (c) Each application for a zoning permit shall include a copy of a drawing or sketch. The drawing or sketch shall show the size and shape of the parcel of land on which the proposed building is to be constructed or altered, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of such parcel of land and to the right-of-way of any street or highway adjoining such parcel of land. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter and the building ordinance, a permit shall be issued to the applicant by the administrator.
  - (d) Zoning permits are issued for a period of six months from the date of approval. Zoning permits shall automatically expire if the applicant cannot demonstrate that the permit is being exercised for the purpose for which it was issued, or if the work authorized in the permit is suspended or discontinued for a period of two years.
  - (e) A zoning permit shall not be transferable to any person. Any new tenant or new owner of such building, structure or premises shall make application for a new zoning permit. New occupants of single-family dwellings shall be exempt from the requirements of this division.
  - (f) Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer.

(Ord. of 10-11-2011(3), § 2; Ord. of 12-8-2020(3) , § 1)

### **Sec. 86-7. Special use permit.**

- (a) All specifically designated permitted uses as set forth in this chapter shall require, in addition to all other required permits, a special use permit.
- (b) The town council specifically reserves unto itself the right and authority to issue special use permits. No such special use permit shall be issued except after notice and hearing as set forth in section 86-782.
- (c) Applications for special use permits shall be made to the administrator upon such form as may be required by the administrator and after payment of such fee as may be required. Applicants shall supply such plans and other information as may be required by the administrator. Upon the receipt of such application, the administrator shall refer it to the commission which shall make its recommendation to the town council.
- (d) If the town council shall find that the use for which a special use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use, will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood, and will be in accord with the purposes of this chapter and the comprehensive plan of the town, it shall issue the special use permit, provided that all other provisions of law and ordinance shall have been complied with. If the town council shall find that the use for which the special use permit is sought does not meet such requirements, it shall have the right to deny the special use permit. In granting any special use permit, the council shall designate such conditions in connection therewith as will, in its opinion, ensure that the use will conform to the requirements in this subsection and that it will continue to do so and specifically may impose reasonable conditions that:
  - (1) Abate or restrict noise, smoke, dust, or other elements that may affect surrounding property;

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- (2) Establish setback, side, and front yard requirements necessary for orderly expansion and to prevent traffic congestion;
  - (3) Provide for adequate parking and ingress and egress to public streets or roads;
  - (4) Provide adjoining property with a buffer or shield from view of the proposed use if such use is considered to be detrimental to adjoining property;
  - (5) Tend to prevent such use from changing the character and established pattern of development of the community.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-8. Uses not provided for.**

If a use is not listed as any of the allowable uses, by right or by special use permit, in any zoning district in the entirety of the ordinance and the use falls within the stated intent for uses in a specific district, the administrator shall present the proposed use to the planning commission, which at its discretion may recommend an amendment to the code or require an application for a special use permit.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-9. Commission must act within a timely manner.**

- (a) In any case in which the commission is required to review an application for a zoning permit, a special use permit, the commission shall act on any application or matter received within 90 days after receiving such application or matter except that upon formal notice in writing to the applicant, the time for action may be extended for a 30-day period. Failure on the part of the commission to act on the application or matter within the established time limit shall be deemed to constitute a decision favorable to the applicant.
- (b) In any case in which the commission is required to review an application for a site plan approval, the commission shall act on any complete application or matter received within 60 days after receiving such application or matter except that upon formal notice in writing to the applicant, the time for action may be extended for a 30-day period. Failure on the part of the commission to act on a complete application or matter within the established time limit shall be deemed to constitute a decision favorable to the applicant.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-10. Widening of highways and streets; setbacks may be altered.**

Whenever there shall be plans in existence approved by either the Virginia Department of Transportation or by the town council for the widening of any street or highway, the commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-11. Preventing construction of building in violation of provisions.**

Where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of this chapter, by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the

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permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the board of zoning appeals.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-12—86-19. Reserved.**

## ***ARTICLE II. DEFINITIONS AND USE TYPES***

### **Sec. 86-20. Object of chapter definitions.**

The object of this chapter is to promote the health, safety, and general welfare of the public and to promote the orderly development of the town.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-21. Provisions for definitions.**

(a) For the purposes of this chapter, the following rules of language shall apply:

The specific shall supersede the general.

The word "person" includes a firm, association, organization, partnership, and company, as well as an individual.

The word "he" shall mean she, and she shall mean he.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot shall include plot or parcel.

The present tense includes the future tense; the singular number includes the plural; the plural includes the singular.

The word shall is mandatory; the words may and should are permissive.

All public officials, bodies, and agencies referred to in this chapter are those of the Town of Altavista, Virginia, unless otherwise specifically indicated herein.

(b) Where terms in this chapter are undefined, the meaning of the term shall be as ascribed in the most recent edition of Webster's Unabridged Dictionary, unless it is the opinion of the administrator that based upon normal zoning practice, a different meaning shall apply.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-22. Definitions, general terms.**

The words and terms listed below shall have the following meanings:

*Abutting* means contiguous or adjoining; having property or zoning district lines in common, or separated by a right-of-way.

*Access* means of approach, to provide vehicular or pedestrian physical entrance to a property.

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*Accessory building or structure* means a building or structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. Where an accessory building or structure is attached to the principal building in a substantial manner, as a covered structure made of materials complementary to the principal structure, such accessory building shall be considered a part of the principal building. A walkway alone shall not be considered a substantial connection for the purposes of this chapter. For purposes of this chapter, any swimming pool in a residential district shall be considered an accessory structure.

*Accessory use* means a use of land, or a building or structure or portion thereof, customarily incidental and subordinate to the principal use of the land or building or structure and located on the same lot with such principal use.

*Acreage* means a parcel of land, regardless of area, described by metes and bounds and not as a lot shown on any recorded subdivision plat.

*Addition* means any construction that increases the gross floor area of a building or structure, or results in an expanded footprint of a building or structure on the ground.

*Alley* means a right-of-way that provides secondary vehicle and service access to abutting properties that have frontage on one or more streets.

*Alteration* means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, or any enlargement or reduction of a building or structure, whether horizontally or vertically, or the moving of a building or a structure from one location to another.

*Amendment* means a modification to this chapter, including the text or associated maps that has been approved by the town council.

*Antenna* means a communication device that transmits or receives electromagnetic signals. Antennas may be directional, including panels and microwave dishes, or omni-directional including satellite dishes, whips, dipoles, and parabolic types. An antenna does not include the tower or other supporting structure to which it is attached. For purposes of this chapter, an "antenna" does not include a satellite dish antenna, which is otherwise defined.

*Base flood* means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of being equaled or exceeded in any given year). Areas including the base flood are depicted as zone A, AE, AH, AO, AR, A99, V and VE on the Altavista flood insurance rate map (FIRM).

*Base flood elevation (BFE)* means the water surface elevation which occurs in a 100-year flood as designated by the Federal Emergency Management Agency.

*Basement* means that portion of a building that is partly or completely below grade plane. A basement shall be considered a story above grade where the finished surface of the floor above the basement is (i) more than six feet above grade, (ii) more than six feet above grade for more than 50 percent of the total building perimeter, or (iii) more than 12 feet above the finished ground at any point.

*Berm* means a landscaped earthen mound, incorporated as part of a site design, and intended to enhance the compatibility of abutting or nearby properties through the mitigation of sound, the screening of views, and/or the visual enhancement of a property's landscaped character.

*Best management practices (BMP)* means a practice, or combination of practices as determined by the appropriate state and/or local agencies to be the most effective, practical means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with the water quality goals of the Town of Altavista and/or the Commonwealth of Virginia.

*Board of zoning appeals* means the Town of Altavista Board of Zoning Appeals, also referred to in this chapter as the BZA.

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*Buffer yard* means a yard improved with screening and/or landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

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

*Building, coverage* means that portion of a lot, which when viewed from directly above, would be covered by any building or structure. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

*Building, height* means the vertical distance measured from the average adjoining grade on all sides of a building or structure to the highest point of a flat roof, the deck line of a mansard roof or in the case of a pitched, gambrel or hip roof, the mean level between the eaves and the highest point of the roof.

*Building wall, front* means, when viewed from above, the wall, parallel to the street right-of-way, that passes through the point of the principal building nearest the street right-of-way.

*Building wall, rear* means, when viewed from above, the wall, parallel to the rear lot line that passes through the point of the principal building nearest the rear lot line.

*Building wall, side* means when viewed from above, the wall, parallel to a side lot line that passes through the point of the principal building nearest the side lot line.

*Caregiver* means, for purposes of section 86-460, an adult who provides care for a mentally or physically impaired person within the commonwealth and the caregiver shall be either related by blood, marriage, or adoption to, or shall be the legally appointed guardian of, the mentally or physically impaired person for who care is being provided.

*Certificate of zoning compliance* means, for the purposes of this chapter, official certification that premises conform to all applicable provisions of the town zoning ordinance and may be lawfully used or occupied.

*Channel* means a perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

*Cluster subdivision* means an alternative means of subdividing land that concentrates building density in specific areas of a site to allow the remaining land to be permanently reserved for the preservation of environmentally-sensitive features and open space.

*Code of Virginia* means the Code of Virginia 1950, as amended.

*Commercial delivery* means the delivery of goods, products, materials or other items associated with a home occupation by any means or frequency other than that which would normally occur in a residential neighborhood.

*Commission* means the Planning Commission of the Town of Altavista.

*Condominium* means a building or group of buildings, created pursuant to the Virginia Condominium Act, Code of Virginia, § 55-79.39 et seq., in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

*Construction, new* means structures for which construction commenced on or after the effective date of this chapter and including any subsequent improvements to such structures.

*Construction, start* means the date a building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it

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include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwellings units or not part of the main structure.

*Council* means the Town Council of Altavista, Virginia.

*Deck* means a structure, of any materials, without a roof, directly adjacent to a principal building which has an average elevation of 30 inches or greater from finished grade

*Dedication* means the transfer of private property to public ownership upon written acceptance.

*Density* means the number of dwelling units permitted per unit of land, commonly expressed as dwelling units per acre.

*Development* means any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials.

*District* means a zoning district as described and permitted by Code of Virginia, § 15.2-2280 et seq.

*Driveway* means a private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

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

*Easement* means a portion of a lot or acreage reserved for present or future use by a person or entity other than the fee simple owner of the lot or acreage. Easements may exist on the ground, or under or above the lot or acreage.

*Establishment* means any business, enterprise, or other land use permitted by this chapter.

*Family* means one or more persons related by blood, marriage, or adoption, or under approved foster care, or a group of not more than four persons (including domestic help) living together as a single housekeeping unit. For the purposes of dwelling unit occupancy in a single-family residential zoning district (R1), the term shall include not more than two unrelated persons in addition to the family. For dwelling unit occupancy in all other zoning districts, the term shall include not more than four unrelated persons in addition to the family.

*Flood* means general and temporary inundation of normally dry land areas from (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; (3) mudslides (i.e. mudflows), which are approximately caused or precipitated by accumulations of water on or under the ground; or (4) the collapse or subsidence of land along a body of water as a result of erosion or undermining caused by water or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated form of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in this section.

*Flood, one hundred-year* means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).

*Flood proofing* means any combination of structural and nonstructural additions, changes or adjustments to a structure or property which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodplain* means:

- (1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or



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- (2) An area subject to the unusual and rapid accumulation of run-off or surface waters from any source.

*Floodway* means the designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this article, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

*Floodway fringe* means that area characterized during floods by shallow, slow-moving water and represents a low hazard potential; more specifically, the floodway fringe is that area of the 100-year flood elevations contained in the flood profiles of the flood insurance study adopted by the Town of Altavista and as shown on the flood insurance rate map (FIRM) accompanying that study.

*Floor area, finished* means the sum of the horizontal areas of a building which is intended for human habitation and use and which has a floor to ceiling height of six and one-half feet or greater. Areas excluded from the finished floor area would include unfinished basements and attics, storage and utility rooms, and garages.

*Floor area, gross* means 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 interior parking and loading spaces, and airspace above atriums.

*Floor area ratio (FAR)* means the ratio of the total floor area of buildings located on a certain parcel of land to the area of that parcel. [Note: As a formula: Floor area ratio = (total covered area on all floors of all buildings on a parcel) divided by (area of the parcel). Thus, a FAR of 2.0 would indicate that the total floor area of a building is two times the gross area of the parcel on which it is constructed.]

*Garage, private* means a building for the private use of the owner or occupant of a principal residential building situated on the same lot as the principal building for the storage of motor vehicles.

*Glare* means the effect produced by lighting, with a brightness or intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

*Greenhouse, private* means a structure for the raising of plants or flowers indoors not for commercial retail purposes.

*Greenhouse, retail* means a structure for the raising of plants or flowers indoors for commercial or retail purposes.

*Hardscaping* means the paved areas such as streets, sidewalks, man-made stormwater management or drainage features, retaining walls, or other permanent structures for any permissible use where the soil is no longer exposed to the surface of the earth.

*Historic structure* means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places instates with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or

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- b. Directly by the Secretary of the Interior in states without approved programs.

*Land disturbing activity* means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

*Landscaping* means the improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials.

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

*Lot* means a parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivision, or as otherwise permitted by law.

*Lot, corner* means a lot abutting on two or more streets at their intersection, or on two parts of the same street forming an interior angle of less than 135 degrees.

*Lot coverage* means that portion of a lot, which when viewed from directly above, would be covered by any building or structure, parking and loading areas and other surface which is impermeable or substantially impervious to storm water. Gravel parking areas shall be considered impervious. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

*Lot, double frontage* means an interior lot having frontage on two streets.

*Lot, flag lot* means a panhandle or flag-shaped lot with its widest point (called the "flag") set back from the road at the rear of another lot, and having a thin strip of land (called the "stem") connecting to the road to provide legal access and frontage.

*Lot, frontage* means the horizontal distance between the side lot lines measured at the front yard setback line. All sides of a lot which abut a street shall be considered frontage. On curvilinear streets the arc between the side lot lines shall be considered the lot frontage.

*Lot, interior* means a lot, other than a corner lot.

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

*Lot of record* means a lot which has been recorded in the office of the clerk of the appropriate court.

*Lot, width of* means the mean horizontal distance between the side lot lines. The mean shall consist of the straight line horizontal distances of the front and rear lot lines and the distance of a line connecting the midpoints of the side lot lines; provided however, that for a flag-lot, no part of the pole shall be considered in calculating such distances.

*Lowest floor* means the lowest enclosed area, including basement, of any structure. An unfurnished or flood-resistant enclosure usable solely for the parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

*Mentally or physically impaired person* means, for purposes of section 86-460, a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Code of Virginia, § 63.2-2200 and as certified in writing by a physician licensed by the Commonwealth of Virginia.

*Mixed-use building* means a combination of two or more use types within a single structure.

*Monopole* means a single pole structure, usually self supporting, used to support antennas.

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*Natural watercourse* means any natural stream river, creek, waterway, gully, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

*Nonconforming lot* means a lot, the area, dimensions or location of which was lawful at the time the lot was created, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

*Nonconforming structure* means any structure the size, dimensions or location of which was lawful when erected or altered, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

*Nonconforming use* means a use or activity which was lawful when originally established, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

*Not-for-profit* means an organization or activity which has obtained nontaxable status from the U. S. Internal Revenue Service.

*Off-street parking area* means space provided for vehicular parking outside the dedicated street right-of-way.

*Open space* means any parcel or area of land or water essentially unimproved and set aside, dedicated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may be passive or active. Passive open space remains in a completely undeveloped state and lacks formal facilities. Active open space has developed facilities such as recreation centers, playgrounds, swimming pools, tennis and basketball courts, and similar facilities.

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

*Outdoor display* means the display and sale of products primarily outside of a permanent building or structure, including vehicles, garden supplies, plant materials, tires, oil and other vehicle maintenance supplies, food and beverages, fireworks and holiday decorations.

*Outdoor storage* means the keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than 24 consecutive hours.

*Overlay district* means a district established by this chapter to prescribe special regulations to be applied to a site in combination with the underlying or base district.

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

*Perennial* means occurring or existing on a regular or continual basis.

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

*Principal building or structure* means a building or structure in which the primary use of the lot on which the building is located is conducted.

*Principal use* means the main use of land or structures as distinguished from a secondary or accessory use.

*Private* means, unless otherwise specifically indicated, private shall mean anything not owned, operated, provided and/or maintained by a local, state, or federal government.

*Projections (into yards)* means the parts of buildings, such as architectural features, that shall be exempted from the yard requirements of this chapter. Thus, bay windows, vestibules, eaves, uncovered porches, and the like

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may be permitted to project up to three feet into required yards. Ramps providing means of ingress or egress required by law may project into required yards when such ramps cannot be located elsewhere in compliance with applicable yard and ingress or egress requirements.

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

*Public water and sewer systems* means a water or sewer system owned and operated by: (1) a municipality, public service authority or county; or (2) a private individual or a corporation approved and properly licensed by the State Corporation Commission prior to the adoption date of this chapter; and meeting the requirements of the State Health Department and/or Virginia Department of Environmental Quality.

*Recreational vehicle* means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation camping, travel or seasonal use.

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

*Right-of-way* means a legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded.

*Screening* means a method of visually shielding or obscuring one or more abutting or nearby structures or uses from other structures or uses by fencing, walls, berms or by densely planted vegetation. Screening is intended to substantially obscure the visual impacts between adjoining uses.

*Setback* means the minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

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

*Shoreline* means a boundary line between a body of water and the land. This line shall consist of the sloping margin of, or the ground bordering a stream, river, reservoir, lake, etc., and serve to define the limits of, and confine the waters to, the natural channel or impoundment during periods of normal flow or volume.

*Slope, steep* means terrain generally classified as having a 25 percent vertical rise to the horizontal run.

*Special use permit* means a use with operating and/or physical characteristics different from those uses permitted by right in a given zoning district which may, nonetheless, be compatible with those by-right uses under special conditions and with adequate public input and review. Special use permits are allowed only at the discretion and approval of council following review and recommendation by the commission and staff.

*Specified anatomical areas* means: (1) less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, and (iii) female breast below a point immediately above the top of the areola; and (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means: (1) human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse, or sodomy; and (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

*Stoop* means a platform, without a roof, located at the entrance of a building with sufficient area to facilitate only the ingress and egress to the building.

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*Story* means that portion of a building included between the surface of any floor and the floor next above it, or if there is not a floor above it, then the space between the floor and the ceiling above it.

*Story, above grade* means any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the distance from grade to the finished surface of the floor above the basement is more than six feet for more than 50 percent of the total perimeter or more than 12 feet at any point.

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

*Street* means any vehicular way which: (1) is an existing federal, state or municipal roadway; or (2) is shown on a plat approved pursuant to law; or (3) is approved by other official action. The term street shall include road and highway. Unless otherwise indicated, the term street shall refer to both public and private streets.

*Street, cul-de-sac* means a street with only one outlet and an appropriate turnaround for a safe and convenient reversal of traffic movement.

*Structure* means anything that is constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, signs, manufactured homes and above-ground swimming pools. Walls and fences shall not be deemed structures except as otherwise specifically provided in this chapter.

*Substantial alteration* means expansion or modification of a building or site which would result in a disturbance of land exceeding an area of 2,500 square feet.

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

*Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either any project for improvement for a structure to comply with existing state or county health, sanitary or safety code specifications which are solely necessary to assure safe living condition or any alteration of a structure listed on the National Register of Historic Places.

*Transient* means, for purposes of this chapter, transient shall refer to the limited, temporary and/or short term occupancy, associated with the hotel/motel/motor lodge or extended stay lodging use types. Transient occupants must have, and be able to demonstrate that they maintain, a principal place of permanent residence elsewhere.

*Town charter* means the Charter of the Town of Altavista, Virginia.

*Use* means an activity on a piece of land other than development.

*Variance* means a reasonable deviation from the provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure in accordance with, and as further defined in Code of Virginia, § 15.2-2201.

*Yard* means a required open space on a lot, unoccupied and unobstructed from the ground upward, unless otherwise provided by this chapter.

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*Yard, front* means a yard between the front building line and the street right-of-way extending across the full width of the lot. For the purpose of placement of accessory buildings when the principal building exists on the lot the term front yard shall mean a yard between the front building wall and the street right-of-way extending across the full width of the lot.

*Yard, rear* means a yard between the rear line of the building and the rear line of the lot extending the full width of the lot.

*Yard, side* means a yard between the side line of the building and the side line of the lot extending from the front lot line to the rear lot line.

*Zoning administrator* means the zoning administrator of the Town of Altavista or an authorized agent thereof, also referred to in this chapter as the administrator.

(Ord. of 10-11-2011(3), § 2; Ord. of 5-9-2017(1), § 1; Ord. of 4-13-2021(4), § 1)

## **Sec. 86-23. Definitions, signage.**

The words and terms listed below shall have the following meanings:

*Accessory sign* means a sign relating only to the uses of or products sold on the premises on which the sign is located, indicating the name or address of a building, or the occupants or management of a building.

*Animated sign* means a sign utilizing any form of movement, including, but not limited to animation, revolution, vertical or horizontal motion, whether electrical, mechanical, windblown. This definition shall not include devices defined in this section as "streamers/festoons."

*Awning* means a roof-like structure set up over a window or door as a shelter from the weather.

*Awning sign* means a sign painted or printed on, attached flat or sewn onto a valance or body of any awning.

*Banner* means a piece of cloth, plastic or other flexible material on which words, letters, figures, colors, designs, or symbols are inscribed or affixed for the purposes of advertisement, identification, display, or direction and which is suspended for display, typically from buildings or poles. Governmental flags or symbolic flags of religious, charitable, public or nonprofit organizations shall not be considered banners.

*Billboard sign* means a large outdoor advertising sign used to advertise a product or business and located off-premises.

*Brand name/products sign* means a sign that advertises a particular brand or product without specific reference to the premises on which it is located.

*Bulletin board* means a sign that identifies an institution or organization on the premises of which it is located and that contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar message.

*Canopy* means any permanent covering or roof-like structure of rigid materials that would be erected over an elongated entrance into a building or a covering over the sidewalk entrance to a building to protect from weather or from viewing.

*Canopy sign* means a sign attached to or displayed on a canopy.

*Changeable copy sign* means a sign or part of a sign that is designed or illuminated so that characters, letters, or illustrations can be changed or rearranged, manually or electronically, without altering the face or surface of the sign.

*Conspicuous vehicle sign* means any sign mounted or painted on or otherwise affixed to any parked vehicle, parked trailer, or other parked device capable of being towed, which is obviously and conspicuously parked so as

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to advertise the business to the passing motorist or pedestrian, and for which the primary purpose is to provide additional on-site signage or is to serve the function of an outdoor advertising sign. Excluded from this sign type are vehicles and equipment in operating condition which are currently registered and licensed to operate on public streets with a valid inspection sticker and which are actively used in the daily function of the business to which such signs relate.

*Construction sign* means a temporary sign which identifies the character of the facilities being actively constructed or altered, the anticipated sale, lease or rental of those facilities, or the identity of the persons or firms engaged in the promotion, financing, design, construction, or alteration of such facilities.

*Directional sign* means an on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "entrance," "exit," "parking," "one-way," or similar directional instruction, but not including any advertising message.

*Directory sign* means a sign on which the names and locations of occupants or the use of a building or group of buildings is given.

*Double-faced sign* means a sign with two parallel, or nearly parallel, faces, back to back, and located no more than 24 inches from each other.

*External illumination* means lighting from externally provided sources and not from within the sign itself. External sources shall be shielded to prevent glare.

*Flashing sign* means a sign used for identification, direction, advertising, or promotion that includes lights which flash, blink, or turn on and off intermittently.

*Freestanding sign* means a sign, supported by one or more columns, uprights or braces, in or upon the ground, but not attached to any building. A sign attached to a flat surface not a part of the building, such as a fence or wall, shall be considered a freestanding sign. A monument sign, as defined hereinbelow, shall also be considered a freestanding sign. For the purpose of this chapter, a freestanding sign listing two or more businesses located on a property or in a shopping center, and which is designed as one sign, shall be considered one freestanding sign.

*General advertising sign* means any sign that is not an accessory sign or which is not specifically limited to a special purpose by these regulations.

*Ground mounted sign.* See *Freestanding sign*.

*Historical marker sign* means any historical marker, monument, sign or notice, on public or private property or any public street, road or highway, bearing any inscription or notice which purports to record an historical event directed in the town, conforming to the requirements of Code of Virginia, tit. 10, ch. 11.

*Illuminated sign* means a sign illuminated in any manner by an artificial light source, whether internally or externally lit.

*Internal illumination* means lighting source comes from within the sign itself.

*Institutional bulletin board sign* means a sign containing a surface upon which is displayed the name of a religious institution, school, library, community center, or similar institutional or community service use, and the announcement of its services or activities.

*Marquee* means a permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

*Marquee sign* means a sign attached to and made part of a marquee or any other similar projection from a building.

*Monument sign* means a sign that is mounted on a contiguous base having a minimum width of at least 90 percent of the sign width and its supporting structure and not attached to any building. For the purpose of this

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article, a monument sign listing two or more businesses located on a property or in a shopping center and which is designed as one sign shall be considered one monument sign.

*Multi-tenant sign* means any freestanding sign that contains three or more independent businesses or uses.

*Mural* means a large image, such as a painting, produced by hand and applied to the side of a building wall, generally for the purpose of decoration or artistic expression, that shall not advertise or suggest the advertisement of products or services related to a business, which would otherwise be subject to sign regulations.

*Off-premises sign* means a sign which directs attention to a business, service or establishment conducted, sold or offered at a location other than the premises on which the sign is erected or which directs attention to an organization, event, person, place, or thing not located on the premises where the sign is erected.

*Off-premises directional open house/temporary sign* means a temporary sign which is intended to provide information on the location of a real estate open house, auction, or temporary off site sale, and which is not located on the same premises as the dwelling unit, property, or merchandise to which it refers.

*Permanent off-premises directional sign* means a sign, which is not located on the same premises as the use to which it refers and which is intended to provide information as to the identity and location of the use, but which does not otherwise qualify as an advertising sign. A way-finding sign is considered an off-premises directional sign.

*Pole sign* means a sign that is mounted on one or more freestanding poles or similar supports.

*Political campaign sign* means a temporary sign, which pertains to a political issue or candidate in an election.

*Portable a-frame and portable t-frame sign* means a sign which is ordinarily in the shape of an "A" or an inverted "T" or some variation thereof, located on the ground, easily moveable, not permanently attached and usually two-sided.

*Portable sign* means any sign, other than an A-frame or T-frame sign, designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted on a trailer, wheeled carriage, or other non-motorized mobile structure. A portable sign which has its wheels removed shall still be considered a portable sign.

*Primary wall frontage* means the facade of a building, which faces the primary public street bounding the structure, as defined by the plat of record for the subject lot. In circumstances where it is unclear which street serves as the primary street (and thus, which is the primary wall frontage), the zoning administrator will be responsible for determining the primary wall frontage.

*Projecting sign* means any sign, other than a wall sign, awning or marquee sign, which is affixed to a building and is supported only by the wall on which it is mounted, and projects more than 12 inches.

*Real estate sign* means a temporary sign which advertises the sale, lease, rental, or display of the lot or building upon which such sign is displayed.

*Roof sign* means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.

*Sandwich board.* See *Portable A-frame sign and portable T-frame sign*.

*Shopping center sign* means any freestanding sign used pursuant to section 86-652(d).

*Sign* means any writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner, pennant, or any other device, figure or character which is employed to announce, direct attention to, identify, or make known, and which is visible from a public street or sidewalk or public area.



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*Special event sign* means any temporary sign used to promote fundraisers or other similar events that benefit religious, charitable, military, fraternal or community service organizations or that promotes employee safety or similar corporate or organizational promotional activities.

*Streamers/festoons* means any device attached to a premises, either in a series or by multiple placements, whether lettered or not, intended to attract the attention of the public by means of movement, color, or pattern of arrangement, including but not limited to flags, pennants, propellers, discs or strings of pennants or flags.

*Temporary sign* means a sign or advertising display designed or intended to be displayed for a specified limited period of time, as provided in section 86-558. For the purpose of this definition, a "limited period of time" is defined as a period not more than 30 days during a period of 365 consecutive days, which will be a calendar year.

*Wall sign* means a sign attached to a wall, or painted on or against a flat vertical surface of a structure, which displays only one advertising surface, and projects less than 12 inches.

*Wayfinding sign* means a permanent off-premises sign used for directional purposes only to the business district or places of interest.

*Window sign* means all signs attached to or applied directly onto the interior surface, or set back less than one foot from the interior surface of any window in view of the general public from outside the structure.

*Yard sale sign* means a temporary sign used to display advertising for yard or garage sales.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-24. Definitions, telecommunications facilities.**

The following words, terms and phrases shall have the meanings ascribed to them for article VI of this chapter, except where the context clearly indicates a different meaning:

*Antenna support structure* means a building or other structure 30 feet in height or taller other than a tower which can be used for location of telecommunications facilities.

*Applicant* means any person that applies for a tower development permit.

*Application* means the process by which the owner, or the owner's legal representative, of a plot of land within the town submits a request to develop, construct, build, modify, or erect a tower upon such land. The application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the town concerning such a request.

*Electrical engineer* means an electrical engineer licensed by the commonwealth.

*EMI* means electromagnetic interference.

*Existing tower* means a tower that is in existence or is under construction on the effective date of the ordinance from which this chapter is derived.

*FAA* means the Federal Aviation Administration.

*Fall zone* means that area within a radius equal to the height of the tower as measured from the base of a tower. The fall zone is the area within which there is a potential hazard from falling debris or collapsing material.

*FCC* means the Federal Communications Commission.

*Owner* means any person with fee simple title to any plot of land within the town who desires to develop, construct, build, modify, or erect a tower upon such land.

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*Parcel* means a plot of land described by property lines. When multiple parcels are owned and used by the same party, the grouping may be considered to constitute the parcel.

*Radio frequency engineer* means a professional engineer licensed by the commonwealth with appropriate documented expertise in radio frequency engineering.

*RFI* means radio frequency interference.

*Stealth design* means any tower that is designed so that all of its structural components including the associated antenna are camouflaged, disguised or otherwise hidden for the purpose of making the tower and antennae unnoticeable to the casual observer, or otherwise unrecognizable as a tower.

*Structural engineer* means a professional engineer licensed by the commonwealth with appropriate documented expertise in structural engineering.

*Telecommunications facilities* means any cables, wires, lines, wave guides, antennas, and any other equipment associated with the transmission or reception of communications, other than radio or television broadcast communications, which a person seeks to locate or has installed upon or near a tower or antenna support structure. The term "telecommunications facilities" shall not include:

- (1) Any satellite earth station or antenna which is permitted pursuant to division 2, article IV of this chapter or other provision thereof;
- (2) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial;
- (3) Any satellite earth station antenna one meter or less in diameter, regardless of zoning district; or
- (4) Any federally licensed amateur radio station operators.

*The Act* means the Federal Communications Act of 1996, as amended.

*Tower* means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term "tower" shall not include amateur radio operators' equipment, as licensed by the FCC.

*Tower owner* means the person that owns or controls a tower.

(Ord. of 10-11-2011(3), § 2)

## **Secs. 86-25—86-30. Reserved.**

## **Sec. 86-31. Use types; general provisions.**

- (a) The purpose of use types is to establish a classification system for land uses and a consistent set of terms defining uses permitted within various zoning districts in the town. The use types section also facilitates the process of determining the applicable use type of any activity not explicitly defined.
- (b) In the event of any question as to the appropriate use type of any existing or proposed use or activity, the administrator shall have the authority to determine the appropriate use type. In making such determination, the administrator shall consider the operational and physical characteristics of the use in question and shall consider the classification contained in the most recent edition of the North American Industry Classification System Manual published by the U. S. Office of Management and Budget. In addition, the administrator shall consider the specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to

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exclusive lists. The administrator may also determine that a proposed use or activity is sufficiently different from any use type listed below and thus will require an amendment to the text of this chapter.

- (c) The administrator shall make such determinations of appropriate use types in writing, which shall include an explanation of the reasons for the determination.
- (d) A determination of the administrator may be appealed to the board of zoning appeals pursuant to the procedures for administrative appeals outlined in sections 86-734 and 86-735.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-32. Use types.**

*Accessory apartment* means a second dwelling unit within a detached single-family dwelling or within an accessory structure on the same lot as the detached single-family dwelling, which is clearly incidental and subordinate to the main dwelling unit.

*Adult bookstore* means an establishment that devotes more than 15 percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following: (a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, blue ray discs, compact discs, digital video discs, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas;" or (b) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than 15 percent of the total floor area of the establishment to the sale of books and periodicals, or photographs, films, motion pictures, blue ray discs, compact discs, digital video discs, video cassettes, slides, tapes, records, or other forms of visual or audio representations.

*Adult drive-in-theatre* means an open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" for observation by patrons.

*Adult mini-motion picture theatre* means an establishment, with a capacity of more than five but less than 50 persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

*Adult model studio* means an establishment open to the public where, for any form of consideration or gratuity, figure models who display "specified anatomical areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation, or institution which meets the requirements established in the Code of Virginia, for the issuance or conferring of, and is in fact authorized there under to issue and confer, a diploma.

*Adult motion picture arcade* means a place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or specified "anatomical areas."

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*Adult motion picture theatre* means an establishment, with a capacity of 50 or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown; and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

*Adult use* means any adult bookstore, adult motion picture theatre, adult mini-motion picture theatre, adult motion picture arcade, adult model studio, or adult drive-in theatre, as defined in this chapter.

*Agricultural service* means services provided specifically for the agricultural community which is not directly associated with a farm operation. Included in this use type would be servicing of agricultural equipment, independent equipment operators, and other related agricultural services.

*Agriculture* means the use of land for the production of food and fiber, including farming, dairying, pasturage, agriculture, horticulture, viticulture, and animal and poultry husbandry. The keeping of a cow, pig, sheep, goat, male chicken (rooster) or similar animal shall constitute agriculture regardless of the size of the animal and regardless of the purpose for which it is kept. The keeping of female chickens in compliance with section 86-515.1 shall not constitute agriculture. The keeping of horses in compliance with section 86-515.2 shall not constitute agriculture. A garden accessory to a residence shall not be considered agriculture (see definition for Garden, home).

*Amateur radio tower* means 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 Federal Communications Commission (FCC).

*Antique shop* means a place offering primarily antiques for sale. An antique for the purposes of this chapter shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

*Asphalt plant* means an establishment engaged in manufacturing or mixing of paving materials derived from asphaltic mixtures or tar.

*Assembly hall* means a building, designed and used primarily for the meeting or assembly of a large group of people for a common purpose. Typical uses include meeting halls, union halls, bingo halls, and catering or banquet facilities.

*Assisted care residence* means an establishment, regulated by the Commonwealth of Virginia, that provides shelter and services which may include meals, housekeeping, and personal care assistance primarily for the elderly. Residents are able to maintain a semi-independent lifestyle, not requiring the more extensive care of a nursing home.

*Automobile dealership, new* means an establishment that uses building, land area or other premise for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use.

*Automobile dealership, used* means a lot or establishment where three or more used or previously-owned motor vehicles, including automobiles, trucks, and motorcycles are displayed at one time for sale.

*Automobile parts/supply, retail* means retail sales of automobile parts and accessories. Typical uses include automobile parts and supply stores which offer new and factory rebuilt parts and accessories, and include establishments which offer minor automobile repair services.

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

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*Automobile repair service, major* means repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. This includes minor automobile repairs in conjunction with major automobile repairs. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops and other similar uses where major repair activities are conducted.

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

*Aviation facility, general* means landing fields, aircraft parking, service facilities and related facilities for the operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

*Aviation facility, private* means any area of land used or intended to be used for the landing or taking-off of aircraft for personal use of the tenant or owner of the site, and not available for public use or commercial operations. Aircraft include helicopters, and all fixed wing planes and gliders, including hang gliders.

*Bed and breakfast* means a dwelling, occupied by the owner or member of owner's immediate family or, with the written permission of the owner, tenant leasing the entire home, in which not more than five bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without meals.

*Brewpub* means a restaurant featuring beer that is brewed, on site, as an accessory use, either for consumption on-site or in hand-capped containers.

- (1) The area used for brewing, bottling, and kegging shall not exceed 30 percent of the total floor area of the commercial space.

*Business support service* means an establishment or place of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

*Business/trade school* means a school providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as an educational facility, either primary and secondary, or college and university.

*Car wash* means an establishment that washes and cleans vehicles. Typical uses include automatic conveyor machines and self-service vehicle washes.

*Cemetery* means land used or dedicated to the burial of the dead, including columbariums, crematoriums, mausoleums, and necessary sales and maintenance facilities. Funeral services use types shall be included when operated within the boundary of such cemetery.

*Club* means a use providing meeting or social facilities for civic or social clubs, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. This definition shall not include fraternal or sororal organizations associated with colleges or universities. A club does not include a building in which members reside.

*Commercial indoor amusement* means an establishment which 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.

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*Commercial indoor entertainment* means an establishment conducting predominantly spectator uses within an enclosed building. Typical uses include motion picture theaters, and concert or music halls.

*Commercial indoor sports and recreation* means an establishment conducting predominantly participant uses within an enclosed building. Typical uses include bowling alleys, ice and roller skating rinks, indoor shooting ranges, indoor racquetball, swimming, and/or tennis facilities.

*Commercial outdoor entertainment* means an establishment conducting predominantly spectator uses in open or partially enclosed or screened facilities. Typical uses include sports arenas, go-cart, lawn mower, motor vehicle or animal racing facilities, tractor pulls, and outdoor amusement parks.

*Commercial outdoor sports and recreation* means an establishment conducting predominantly participant uses in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, and motorized model airplane flying facilities.

*Communications service* means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as utility services — major or minor. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

*Community recreation* means 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.

*Composting* means a process by which animal wastes and plant discards are combined and manipulated to produce a soil additive/nutrient. Composting does not include the processing of municipal wastes.

*Construction sales and service* means 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 automobile or equipment supplies otherwise classified herein. Typical uses include lumber yards, building material stores and home supply establishments.

*Construction yard* means an establishment housing facilities of businesses primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

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

*Convenience store* means an establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores may include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

*Correction facility* means a public or privately operated use providing housing and care for individuals legally incarcerated, designed to isolate those individuals from a surrounding community.

*Crisis center* means a facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of physical attacks, rape, or abuse.

*Cultural service* means a library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

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*Custom manufacturing* means establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses.

*Dance hall* means an establishment in which more than ten percent of the total floor area is designed or used as a dance floor, or where an admission fee is directly collected or some other form of compensation is obtained for admission to or use of a dance floor.

*Day care center* means a facility operated for the purpose of providing care, protection and guidance to 13 or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

*Duplex* means the use of an individual lot for two dwelling units which share at least one common wall, each occupied by one family.

*Educational facility, college/university* means an educational institution authorized by the Commonwealth of Virginia to award associate, baccalaureate or higher degrees.

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

*Equipment sales and rental* means an establishment primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, similar industrial equipment, and the rental of recreational vehicles. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

*Extended stay lodging* means a building or group of attached or detached buildings containing lodging units available for rental or lease to transients for periods of 30 consecutive days or more. Lodging units generally contain full kitchens and kitchen wares, and onsite guest laundry facilities, periodic maid service, and may offer restaurants, meeting rooms and/or recreation facilities.

*Family day care home* means a single-family dwelling in which more than five but less than 13 individuals receive care, protection and guidance during only part of a 24-hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home, or is providing the care, shall not be counted towards this total. The care of five or less individuals for portions of a day shall be considered a home occupation.

*Farmers market* means a place where locally-grown plants, produce, canned goods, or baked goods excluding livestock are sold on a temporary or seasonal basis to the general public. It shall not include wholesale or bulk sales to commercial enterprises or the sale of crafts, household items, or other non-agricultural products.

*Financial institution* means an establishment that provides financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, free-standing automatic teller machines, and lending establishments, but, for purposes of this chapter, not including a "pawn shop" or a "payday loan establishment" which are defined separately.

*Flea market* means a business engaged in the sale of used or new items, involving regular or periodic display of merchandise for sale or for bartering, that may be located outdoors or indoors.

*Food bank, food pantry, or similar uses* means a public or charitable institution that collects and/or distributes food or edible commodities to individuals in need. This can include food banks, food pantries, soup kitchens, hunger relief centers or other food or feeding centers similar in nature.

*Funeral services* means establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. Typical uses include mortuaries and crematories.

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*Garden center* means establishments or places of business primarily engaged in retail or wholesale (bulk) sale, from the premises, of 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 some material which they grow themselves. Typical uses include nurseries, plant stores and lawn and garden centers.

*Garden, community* means a garden in a residential district for the production of vegetables, fruits and flowers specifically intended for use and/or consumption by the residents of the general community and not for commercial production.

*Garden, home* means a garden in a residential district for the production of vegetables, fruits and flowers specifically intended for use and/or consumption by the occupants of the premises and not for commercial production. For purposes of this chapter, a home garden is considered an accessory use of the parcel to a primary use.

*Gasoline station* means any place of business with fuel pumps and gasoline storage tanks which provides fuels for motor vehicles.

*General office* means use of a site for business, professional, or administrative uses excluding medical offices. Typical uses include real estate, insurance, management, travel, computer software or information systems research and development, or other business offices; organization and association offices; or law, architectural, engineering, accounting or other professional offices. Retail sales do not comprise more than an accessory aspect of the primary activity of a general office.

*Golf course* means a tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par three golf courses. Specifically excluded would be independent driving ranges and any miniature golf course.

*Governmental service* means a governmental office providing administrative, clerical or public contact services that deal directly with the citizens. Typical uses include federal, state, city, town and county offices.

*Group home* means a building used as a dwelling unit where not more than eight mentally ill, intellectually disabled, or other developmentally disabled persons, not related by blood or marriage, reside, with one or more resident counselors or other staff persons and for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority, pursuant to Code of Virginia, § 15.2-2291. Excluded from this definition are drug or alcohol rehabilitation centers, half-way houses and similar uses.

*Guidance service* means a use providing counseling, guidance, recuperative, or similar services for persons requiring rehabilitation assistance or therapy for only part of a 24-hour day. This use type shall not include facilities operated for the treatment of drug addiction or substance abuse.

*Halfway house* means an establishment providing residential accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction, to persons reentering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders or circumstances.

*Home occupation* means an accessory use of a dwelling unit, or an accessory use of an accessory building on a residential property, for gainful employment involving the production, provision, or sale of goods and/or services in accordance with article IV, use and design standards.

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

*Hotel/motel/motor lodge* means a building or group of attached or detached buildings containing lodging units available for rental or lease to transients for periods of less than 30 consecutive days. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms and/or recreation facilities.



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*Industry, heavy* means an establishment which has the potential to be dangerous or extremely obnoxious. Included are those in which explosives are stored, petroleum is refined, natural and liquid gas and other petroleum derivatives are stored and/or distributed in bulk, radioactive materials are compounded, pesticides and certain acids are manufactured, and hazardous waste is treated or stored as the establishment's principal activity.

*Industry, light* means an establishment engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. A machine shop is included in this category. Also included is the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, food, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature or requiring similar production characteristics.

*Industry, medium* means enterprises in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Included in this use type are industries involved in processing and/or refining raw materials such as chemicals, rubber, wood or wood pulp, forging, casting, melting, refining, extruding, rolling, drawing, and/or alloying ferrous metals, and the production of large durable goods such as automobiles, manufactured homes, or other motor vehicles.

*Intermodal facility* means a facility where freight in transit is transferred from one mode of transportation (air, rail, truck, water) to another mode of transportation.

*Kennel, commercial* means the boarding, breeding, raising, grooming or training of five or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

*Laboratory* means an establishment primarily engaged in performing research or testing activities into technological matters. Typical uses include engineering and environmental laboratories, medical, optical, dental and forensic laboratories, x-ray services; and pharmaceutical laboratories only involved in research and development. Excluded from this use type are any laboratories which mass produce one or more products directly for the consumer market.

*Landfill, construction debris* means the use of land for the legal disposal of construction and demolition wastes consisting of lumber, wire, sheet rock, broken brick, shingles, glass, pipes, concrete, and metals and plastic associated with construction waste from land clearing operations consisting of stumps, wood, brush, and leaves.

*Landfill, rubble* means the use of land for the legal disposal of only inert waste. Inert waste is physically, chemically and biologically stable from further degradation and considered to be non-reactive, and includes rubble, concrete, broken bricks, and block.

*Landfill, sanitary* means the use of land for the legal disposal of municipal solid waste derived from households, business and institutional establishments, including garbage, trash, and rubbish, and from industrial establishments, other than hazardous wastes as described by the Virginia Hazardous Waste Regulations.

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

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

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*Manufactured home* means a structure subject to federal regulations, built since June 15, 1976, which is transportable in one or more sections; is eight feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. This structure is not constructed to meet the Industrialized Building Code, Council of American Building Officials, Virginia Uniform Statewide Building Code Use Group R-4.

*Manufactured home park* means one or more contiguous parcels of land in which two or more lots are provided for manufactured homes.

*Manufactured home sales* means an establishment primarily engaged in the display, retail sale, rental, and minor repair of new and used manufactured homes, parts, and equipment.

*Manufactured home, emergency* means a manufactured home used temporarily for the period of reconstruction or replacement of an uninhabitable dwelling lost or destroyed by fire, flood, or other act of nature, or used temporarily as housing relief to victims of a federally declared disaster in accordance with section 86-456.

*Meat packing and related industries* means industries processing of meat products and by-products directly from live animals or offal from dead animals.

*Medical office* means use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Excluded from this definition shall be facilities operated for the treatment of drug addiction and substance abuse. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the commonwealth.

*Microbrewery* means a facility for the production, bottling, packaging and sale of beer, malt beverages, mead, wine, artisan spirits, and/or hard cider, produced on site for distribution, retail or wholesale, on or off-premises sales, with a capacity of not more than 15,000 barrels per year.

- (1) If operated in conjunction with a restaurant, the operation shall be considered a brewpub.
- (2) The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.
- (3) All state ABC laws shall apply to the production and sale of all alcoholic beverages.

*Mini-storage* means a building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods. Cubicles may or may not be climate controlled.

*Mobile home* means a factory assembled structure or structures equipped with the necessary service connections and made to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit without a permanent foundation and built before June 14, 1976 (also see Manufactured Home). This unit does not meet the requirements of the Council of American Building Officials (CABO) or the Virginia Uniform Statewide Building Code Use Group R-4. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon will be moved from time to time at the convenience of the owner.

*Modular home* means a dwelling unit constructed on-site in accordance with the Virginia Uniform Statewide Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

*Modular home sales* means a site used for the construction and display of model modular homes, including a sales office and incidental storage associated with the construction of the model homes.

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

*Non-profit facility* means a building owned or controlled by a non-profit organization holding an exemption under Internal Revenue Code Section 501(c) said exempt status to be evidenced by a currently valid exemption letter from the Internal Revenue Service. Such non-profit organization shall be in good standing with the Internal Revenue Service in all respects.

*Nursing home* means a use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Nursing homes have doctors or licensed nurses on duty.

*Outdoor gathering* means any temporary organized gathering expected to attract 500 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section. Such activities held on publicly owned land shall not be included within this use type.

*Park and ride facility* means a publicly-owned short term parking facility for commuters.

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

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

*Pawn shop* means an establishment engaged in the loaning of money on the security of property pledged to a pawnbroker and the incidental sale of such property.

*Payday loan establishment* means a place of business engaged in offering small, short-maturity loans on the security of (i) a check, (ii) any form of assignment of an interest in the account of an individual or individuals at a depository institution, or (iii) any form of assignment of income payable to an individual or individuals, other than loans based on income tax refunds. For the purposes of this chapter, such establishments shall not be construed to be "banks" or "financial institutions."

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

*Personal services* means 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; tattoo and piercing establishments; grooming of pets; seamstresses, tailors; florists; and laundromats and dry cleaning services.

*Planned unit development (i.e. — P.U.D.)* means a type of building development specifically described by ordinance standards in which a thoughtfully designed grouping of varied and compatible land uses, such as housing, recreation, commercial centers, and industrial parks, are all contained within one overall development plan.

*Post office* means an establishment providing postal services directly available to the consumer operated by the United States Postal Service.

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*Public assembly* means a facility owned and operated by a public or quasi-public agency accommodating public assembly for sports, amusement, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, fairgrounds, and sales and exhibition facilities.

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

*Public park and recreational area* means publicly-owned and operated parks, picnic areas, playgrounds, indoor or outdoor athletic facilities, and open spaces.

*P.U.D.* See *Planned unit development* (above).

*Railroad facilities* means railroad yards, equipment servicing facilities, and terminal facilities.

*Recreational vehicle sales and service* means an establishment engaged in the retail sales of recreational vehicles, boats, and jet skis, including service and storage of vehicles parts and related accessories.

*Recycling center* means a receptacle or facility used for the collection and storage of recyclable materials designed and labeled for citizens to voluntarily take source separated materials for recycling.

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

*Resource extraction* means an establishment 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 type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

*Restaurant, fast food or drive-thru* means an establishment engaged in the preparation and sale of food and beverages for take-out, delivery, or table service, served in disposable containers at a counter, a drive-up or drive-thru service facility, or at a curb.

*Restaurant, general* means an establishment engaged in the preparation and sale of food and beverages containing more than 3,000 gross square feet and typically characterized by table service to customers.

*Restaurant, mobile* means a readily movable wheeled cart, trailer, or vehicle designed and equipped for the preparing, serving, and/or selling of food and operated at temporary locations. This definition shall include food trucks, food trailers, and food carts and shall not apply to ice cream trucks, "meals on wheels" or food home delivery services.

*Restaurant, small* means an establishment engaged in the preparation and sale of food and beverages containing no more than 3,000 gross square feet. Typical uses include cafes, coffee shops and small restaurants. Customers may be served over the counter or by table service by a wait staff.

*Retail sales* means an establishment engaged in sale or rental with incidental service, of commonly used goods and merchandise for personal or household use, excluding those classified more specifically by these use type classifications.

*Safety service* means a facility for the conduct of safety and emergency services for the primary benefit of the public, whether publicly or privately owned and operated, including police, fire protection, emergency medical and ambulance services.

*Satellite dish antenna* means an accessory use that is a combination of:

- (1) An antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other distant sources;

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- (2) A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and
  - (3) A coaxial cable whose purpose is to carry the signals to the exterior of the building.

*Sawmill* means an establishment for the storage of harvested timber and/or the sawing of timber into lumber products.

*Scrap and salvage service* means a place of business primarily engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses include paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies.

*Shooting range, outdoor* means a site where land is used for archery and the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot. Excluded from this use type shall be general hunting and the unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

*Single-family dwelling* means a site-built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy.

- (1) *Detached* means a single-family dwelling which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.
- (2) *Attached* means two single-family dwellings sharing a common wall area, each on its own individual lot.

*Stable, private* means the boarding, keeping, breeding, pasturing or raising of horses, mules, donkeys, ponies or llamas exclusively for personal use and enjoyment by the owner or occupant of the property or the riding of said animals by the owner or occupant of the property and/or their non-paying guests.

*Studio, fine arts* means a building, or portion thereof, used as a place of work by a sculptor, artist, photographer or similar artisan and/or for sale of such products.

*Substance abuse clinic* means an establishment which provides outpatient services primarily related to the treatment of alcohol, or other drug or substance abuse disorders, which services include the dispensing and administering of controlled substances and pharmaceutical products by professional medical practitioners as licensed by the commonwealth.

*Temporary family health care structures* means as described by Code of Virginia, § 15.2-2292.1 and in section 86-460 of this chapter, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, and which has been primarily assembled at a location other than the site of installation.

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes but is not limited to radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone and wireless communication towers. Tower types include, but are not limited to monopoles, lattice towers, wooden poles, and guyed towers. Excluded from this definition are amateur radio towers, which are otherwise defined.

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

*Transfer station* means any storage or collection facility which is operated as a relay point for municipal solid waste which ultimately is to be transferred to a landfill.

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*Transportation terminal* means a facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or packages between modes of ground transportation, including bus terminals, railroad stations, and public transit facilities.

*Travel center* means an establishment containing a mixture of uses which cater to the traveling public and in particular motor freight operators. A travel center might include such uses as fuel pumps, restaurants, overnight accommodations, retail sales related to the motor freight industry, and similar uses.

*Truck terminal* means a facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.

*Upper-story residential unit* means residential dwellings, as a secondary or ancillary use in mixed-use commercial or office structures, located on any floor above the ground floor (second-story or above). Such units may provide a residence for the owner, manager, or employees of the business on the first-floor of the same building or may be rented out to the public.

*Utility service, major* means services of a regional nature which normally entail the construction of new buildings or structures such as generating plants and sources, electrical switching facilities and stations or substations, water towers and tanks, community waste water treatment plants, and similar facilities. Included in this definition are also electric, gas, and other utility transmission lines of a regional nature which are not otherwise reviewed and approved by the Virginia State Corporation Commission.

*Utility service, minor* means services which are necessary to support existing and future development within the immediate vicinity and involve only minor structures. Included in this use type are distribution lines and small facilities that are underground or overhead, such as transformers, relay and booster devices, and well, water and sewer pump stations. Also included are all major utility services that were in existence prior to the adoption of this chapter.

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

*Warehousing and distribution* means an establishment specializing in storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses include wholesale distributors, storage warehouses and moving/storage firms.

*Wedding/event facility* means a facility which is utilized by individuals or groups to accommodate private functions including but not limited to, banquets, weddings, celebrations, and other events. Civic, religious and community owned buildings are not included in this definition.

(Ord. of 10-11-2011(3), § 2; Ord. of 7-14-2015(1), § 1; Ord. of 4-12-2016(1), § 1; Ord. of 5-9-2017(2), § 1; Ord. of 8-8-2017(1), § 1; Ord. of 11-13-2018(1); Ord. of 5-14-2019(1), § 1; Ord. of 7-9-2019(3), § 1)

**Secs. 86-33—86-70. Reserved.**

## ***ARTICLE III. DISTRICTS***

### ***DIVISION 1. GENERALLY***

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## **Sec. 86-71. Establishment of districts.**

For the purpose of this chapter, the incorporated area of the town is divided into seven districts and one overlay district as follows:

- R-1 (low-density residential);
- R-2 (medium-density residential);
- R-MHP (residential manufactured home park);
- C-1 (local commercial);
- C-2 (general commercial);
- M (industrial);
- PUD (planned-unit development);
- DRO (downtown revitalization overlay).

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-72. Official zoning map.**

- (a) The town is divided into districts as indicated in section 86-71, and as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) The official zoning map shall be identified by the signature of the mayor attested by the town clerk, and bearing the seal of the town under the following words: "This is to certify that this is the official zoning map referred to in section 86-72 of the Code of the Town of Altavista, Virginia, 2011," together with the date of the adoption of this chapter.
- (c) If, in accordance with the provisions of this chapter and Code of Virginia, § 15.2-2200 et seq., changes are made in districts, boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the town council, with an entry on the official zoning map as follows: "On [date], by official action of the town council, the following [change] changes were made in the official zoning map: [brief description of nature of change]," which entry shall be signed by the mayor and attested by the town clerk. No amendment to this chapter which involves matter portrayed on the official zoning map shall become effective until after such change and entry have been made on such map.
- (d) No changes of any nature shall be made in the official zoning map except in conformity with the procedures set forth in article IX of this chapter.
- (e) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the town hall shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the town.
- (f) If the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the town council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor attested by the clerk, and bearing the seal of the town under the

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following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted May 2002, pursuant to section 18-3, 1968 Code of the Town of Altavista, Virginia."

- (g) Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-73. Ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance that rezones any specific property or that amends a zoning map with respect to any specific property, and all such ordinances are hereby recognized as continuing in full force and effect.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-74. Rules for interpretation of district boundaries.**

- (a) Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:
- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
  - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - (3) Boundaries indicated as approximately following town limits shall be construed as following such town limits.
  - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
  - (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
  - (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (a)(1)—(a)(5) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
  - (7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (a)(1)—(a)(6) of this section, the planning commission shall interpret the district boundaries.
  - (8) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the town council may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
- (b) Where one or more lots or parcels of land (the transit parcel) is used for vehicular or pedestrian access to another lot or parcel (the accessed parcel), the transit parcel shall be deemed the same use as the accessed parcel and must comply with the use regulations in the district in which it is situated.



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- (c) If the rules contained in subsection (a) above do not provide sufficient certainty to determine the location of a zoning district boundary, the administrator shall request the board of zoning appeals to interpret the location of the district boundary pursuant to the authority granted by this chapter.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-75—86-130. Reserved.**

*DIVISION 2. R-1 (LOW-DENSITY RESIDENTIAL) DISTRICT*

**Sec. 86-131. Statement of intent.**

The R-1 (low-density residential) district is composed of low to medium-density single-family residential areas and open areas where similar residential development is planned and/or appears likely to occur. The regulations for this R-1 district are designed to stabilize and protect the basic characteristics and amenities of the R-1 district, and to promote and encourage a suitable environment for the enjoyment of family life. To these ends, development is limited to low-to-medium concentration of dwellings and permitted uses are limited basically to single-unit dwellings and certain additional uses such as schools, parks, churches, and certain public facilities that serve the R-1 district.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-132. Permitted uses.**

- (a) Only one building and its accessory buildings may be erected on any lot or parcel of land in the R-1 low-density residential district.
- (b) The following uses are permitted by right or by special use permit in the R-1 low-density residential district, subject to all other applicable requirements contained in this chapter. A special use permit is required where indicated. Certain uses are subject to additional, modified or more stringent standards as indicated.
- (1) *Agricultural use types.*
- (None)
- (2) *Residential use types.*
- Accessory apartment—Subject to section 86-453
- Community garden—Special use permit required
- Family day care home—Subject to section 86-477, special use permit required
- Group home—Subject to Code of Virginia § 15.2-2291
- Home garden
- Home occupation—Subject to section 86-454
- Keeping of chickens per section 86-515.1
- Keeping of horses per section 86-515.2. Special use permit required
- Manufactured home, emergency—Subject to section 86-455
- Single-family dwelling, detached—Subject to section 86-596

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Temporary family health care structure—Subject to section 86-460

(3) *Civic use types.*

Community recreation—Subject to section 86-474

Cultural service

Educational facilities, primary/secondary—Special use permit required

Non-profit facility—Subject to section 86-482, special use permit required

Public parks and recreational areas—Special use permit required

Religious assembly—Subject to section 86-479, special use permit required

Safety service

Utility service, minor

(4) *Office use types.*

(None)

(5) *Commercial use types.*

Bed and breakfast—Subject to section 86-507, special use permit required

Restaurant, mobile per section 86-520

(6) *Industrial use types.*

(None)

(7) *Miscellaneous use types.*

Amateur radio tower—Subject to section 86-542

Satellite dish antenna one meter or less in diameter or measured diagonally

Satellite dish antenna in excess of one meter in diameter or measured diagonally—Subject to section 86-544.

(Ord. of 10-11-2011(3), § 2; Ord. of 1-14-2014(1), § 1; Ord. of 4-12-2016(2), § 1; Ord. of 5-9-2017(3), § 1; Ord. of 5-9-12-2017(15), § 1; Ord. of 11-13-2018(2))

### **Sec. 86-133. Site development regulations.**

The following (sections 86-134 thru 86-140) are the site development regulations for the R-1, low-density residential district. For additional standards see article IV, use and design standards.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-134. Minimum lot area.**

With public water and sewage:	10,000 square feet
With public water and individual sewage*:	15,000 square feet
With individual water and sewage*:	20,000 square feet

\* Subject to approval by the health department.

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-135. Minimum lot frontage.**

One hundred feet (measured at the front setback line).

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-136. Minimum setback requirements—Principal structure.**

Front yard:	35 feet
Side yard:	10 feet
Side yard (aggregate):	25 feet
Side yard—Corner lot:	20 feet
Rear yard:	25 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-137. Minimum setback requirements—Accessory structures.**

Front yard:	Not permitted in front yard
Side yard:	5 feet
Side yard—Corner lot:	20 feet
Rear yard:	5 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-138. Maximum lot coverage—Accessory structures.**

Twenty-five percent of rear yard area.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-139. Maximum height of structures.**

Principal structures:	35 feet
Accessory structures:	Shall not exceed height of principal structure; however no accessory building in the R-1 district which is within ten feet of any lot line shall be more than one story high.
Exempt structures:	These structures are exempt from the 35-foot height limit: Church spires, belfries, cupolas, municipal water towers, chimneys, flues, utility poles, transmission structures, flagpoles, television antennas (except satellite antennas which are regulated by article IV of this chapter), and radio aerials.

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-140. Provisions for corner lots.**

Of the two sides of a corner lot, the front of the lot shall be deemed to be the shorter of the two sides fronting on streets.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-141—86-190. Reserved.**

*DIVISION 3. R-2 (MEDIUM-DENSITY RESIDENTIAL) DISTRICT*

**Sec. 86-191. Statement of intent.**

The R-2 (medium-density residential) district is composed of medium to high-density residential areas, ordinarily located near commercial areas or employment centers, and open areas where similar development is planned and/or likely to occur. The regulations for this R-2 district are designed to stabilize and protect the basic characteristics of the R-2 district, to promote and encourage, compatibility with the intensity of land use, a suitable environment for the enjoyment of family life and to permit limited commercial uses of a compatible character which are unlikely to develop general concentration of traffic, crowds of customers, and general outdoor advertising. The R-2 district is intended to protect against encroachment of general commercial or industrial uses. A wide variety of residential uses for both permanent and transient occupancy are permitted. Development is focused on medium to high concentrations of dwellings and permitted uses are basically dwellings and additional uses such as schools, parks, clubs, churches and certain public facilities that serve the R-2 district.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-192. Permitted uses.**

The following uses are permitted by right or by special use permit in the R-2 medium-density residential district, subject to all other applicable requirements contained in this chapter. A special use permit is required where indicated. Certain uses are subject to additional, modified or more stringent standards as indicated.

(1) *Agricultural use types.*

(None)

(2) *Residential use types.*

Accessory apartment—Subject to section 86-453

Community garden—Special use permit required

Duplex (no guidelines listed in Code)

Family day care home—Subject to section 86-477

Group home—Subject to Virginia Code, § 15.2-2291

Home garden

Home occupation—Subject to section 86-454

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Keeping of chickens per section 86-515.1

Keeping of horses per section 86-515.2. Special use permit required

Manufactured home, emergency—Subject to section 86-455

Multi-family dwelling—Consisting of three or fewer units

Multi-family dwelling—Consisting of more than three units—Subject to section 86-458, special use permit required

Single-family dwelling, attached—Subject to section 86-459

Single-family dwelling, detached—Subject to section 86-596

Temporary family health care structures—Subject to section 86-460 ;b2;Townhouse—Subject to section 86-461

(3) *Civic use types.*

Assisted care residence (no guidelines listed in Code - regulated by State of Virginia)

Cemetery—Special use permit required

Club—Subject to section 86-473, special use permit required

Community recreation—Subject to section 86-474

Crisis center—Special use permit required

Cultural service

Educational facilities, primary/secondary—Special use permit required

Governmental service—Special use permit required

Guidance service—Special use permit required

Halfway house—Special use permit required

Life care facility—Special use permit required

Non-profit facility—Subject to section 86-482, special use permit required

Nursing home—Special use permit required

Public parks and recreational areas—Special use permit required

Religious assembly—Subject to section 86-479, special use permit required

Safety service

Utility service, minor

(4) *Office use types.*

(None)

(5) *Commercial use types.*

Bed and breakfast—Subject to section 86-507, special use permit required

Day care center—Subject to section 86-510, special use permit required

Golf course—Special use permit required

Personal service business—Subject to section 86-483, special use permit required

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Restaurant, mobile per section 86-520

(6) *Industrial use types.*

Recycling center—Special use permit required

(7) *Miscellaneous use types.*

Amateur radio tower—Subject to section 86-542

Satellite dish antenna one meter or less in diameter or measured diagonally

Satellite dish antenna in excess of one meter in diameter or measured diagonally—Subject to section 86-544

(Ord. of 10-11-2011(3), § 2; Ord. of 1-14-2014(2), § 1; Ord. of 4-12-2016(3), § 1; Ord. of 5-9-2017(4), § 1; Ord. of 8-8-2017(2), § 1; Ord. of 11-13-2018(3))

**Sec. 86-193. Site development regulations (in general).**

The following (sections 86-194 thru 86-200) are the site development regulations for the R-2, medium-density residential district in general. For additional, modified or more stringent standards see article IV, use and design standards.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-194. Minimum lot area.**

With public water and sewage:	8,000 square feet, however 12,000 square feet for a duplex
With public water and individual sewage*:	15,000 square feet
With individual water and sewage*:	20,000 square feet

\* Subject to approval by the health department.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-195. Minimum lot frontage.**

Eighty feet (measured at the front setback line).

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-196. Minimum setback requirements—Principal structure.**

Front yard:	35 feet
Side yard:	10 feet
Side yard (aggregate):	25 feet
Side yard—Corner lot:	20 feet
Rear yard:	25 feet

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-197. Minimum setback requirements—Accessory structures.**

Front yard:	Not permitted in front yard
Side yard:	5 feet
Side yard—Corner lot:	20 feet
Rear yard:	5 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-198. Maximum lot coverage—Accessory structures.**

Twenty-five percent of rear yard area.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-199. Maximum height of structures.**

Principal structures:	35 feet
Accessory structures:	Shall not exceed height of principal structure; however no accessory building in the R-2 district which is within ten feet of any lot line shall be more than one story high.
Exempt structures:	These structures are exempt from the 35-foot height limit: Church spires, belfries, cupolas, municipal water towers, chimneys, flues, utility poles, transmission structures, flagpoles, television antennas (except satellite antennas which are regulated by article IV of this chapter), and radio aerials.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-200. Provisions for corner lots.**

Of the two sides of a corner lot, the front of the lot shall be deemed to be the shortest of the two sides fronting on streets.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-201—86-220. Reserved.**

**Sec. 86-221. Site development regulations (for townhouses).**

The following (sections 86-222 thru 86-228) are the site development regulations for the R-2, medium-density residential district for townhouses. All townhouse dwelling units must be served by public water and sewer. For additional, modified or more stringent standards see article IV, use and design standards.

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-222. Minimum lot area.**

Standard townhouse unit:	1,700 square feet
End unit:	2,320 square feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-223. Minimum gross acreage.**

Townhouse development:	1 contiguous acre
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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-224. Minimum lot width.**

Standard townhouse unit:	19 feet
End unit:	29 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-225. Minimum setback requirements—Principal structure.**

Front setback:	35 feet from the right-of-way line
Front yard:	10 feet
Side yard:	None, except 20 feet for end units
Rear yard:	25 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-226. Minimum setback requirements—Accessory structures.**

Front yard:	Not permitted in front yard
Side yard:	5 feet
Rear yard:	5 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-227. Maximum lot coverage.**

All structures:	40 percent of lot area
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Accessory structures:	25 percent of rear yard area
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(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-228. Maximum height of structures.**

Principal structures:	35 feet or 2½ stories
Accessory structures:	Shall not exceed height of principal structure; however no accessory building in the R-2 district which is within ten feet of any lot line shall be more than one story high.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-229—86-250. Reserved.**

### **Sec. 86-251. Site development regulations (for multi-family dwellings).**

The following (sections 86-252 thru 86-256) are the site development regulations for the R-2, medium-density residential district for multi-family dwellings. All multi-family dwellings must be served by public water and sewer. For additional, modified or more stringent standards see article IV, use and design standards. It is the intent of this chapter that these sections shall apply to individual residential dwelling units intended to be leased as apartments, or individually owned as condominiums under the Condominium Act (Code of Virginia, § 55-79.39 et seq.), or as "cooperatives" under the Virginia Real Estate Cooperative Act (Code of Virginia, § 55-424 et seq.).

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-252. Minimum gross acreage.**

Multi-family development:	1 contiguous acre
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(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-253. Minimum setback requirements—Principal structures.**

Front setback:	35 feet from the right-of-way line
Front yard:	10 feet
Side yard:	25 feet
Rear yard:	25 feet

(Ord. of 10-11-2011(3), § 2)

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**Sec. 86-254. Minimum setback requirements—Accessory structures.**

Front yard:	Not permitted in front yard
Side yard:	5 feet
Rear yard:	5 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-255. Maximum lot coverage.**

All structures:	40 percent of lot area.
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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-256. Maximum height of structures.**

Principal structures:	35 feet or two and one-half stories, however up to 40 feet or three and one-half stories may be permitted with a special use permit.
Accessory structures:	Shall not exceed height of principal structure; however no accessory building in the R-2 district which is within ten feet of any lot line shall be more than one story high.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-257—86-290. Reserved.*****DIVISION 4. R-MHP (RESIDENTIAL MANUFACTURED HOME PARK) DISTRICT<sup>3</sup>*****Sec. 86-291. Statement of intent.**

The R-MHP (residential manufactured home park) district is intended to accommodate manufactured homes. This R-MHP district is based on the premise that the demand for manufactured homes can best be supplied by the designation of appropriately located manufactured home parks. The following regulations are designed to provide an attractive and harmonious environment for manufactured home dwellings, with all amenities normally found in a substantially residential neighborhood.

(Ord. of 10-11-2011(3), § 2)

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<sup>3</sup>Cross reference(s)—Manufactured homes and trailers, ch. 42Cross reference(s)—.

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## Sec. 86-292. Permitted uses.

The following uses are permitted by right or by special use permit in the R-MHP residential manufactured home park district, subject to all other applicable requirements contained in this chapter. A special use permit is required where indicated. Certain uses are subject to additional, modified or more stringent standards as indicated.

(1) *Agricultural use types.*

(None)

(2) *Residential use types.*

Accessory apartment—Subject to section 86-453, special use permit required

Family day care home—Subject to section 86-477, special use permit required

Group home—Subject to Code of Virginia, § 15.2-2291

Home garden

Home occupation—Subject to section 86-454

Manufactured home—Subject to section 86-455

Manufactured home, emergency—Subject to section 86-456

Manufactured home park—Subject to section 86-457

(3) *Civic use types.*

Community recreation—Subject to section 86-474

Cultural service

Public parks and recreational area—Special use permit required

Religious assembly—Subject to section 86-479, special use permit required

Safety service

Utility service, minor

(4) *Office use types.*

(None)

(5) *Commercial use types.*

(None)

(6) *Industrial use types.*

(None)

(7) *Miscellaneous use types.*

Amateur radio tower—Subject to section 86-542

Satellite dish antenna one meter or less in diameter or measured diagonally

Satellite dish antenna in excess of one meter in diameter or measured diagonally—Subject to section 86-544

(Ord. of 10-11-2011(3), § 2; Ord. of 1-14-2014(3), § 1; Ord. of 5-9-2017(5), § 1)

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## **Sec. 86-293. General regulations for residential manufactured home parks.**

### *General standards.*

- (1) Every manufactured home lot in a manufactured home park will front on either a public or private street.
- (2) The site plan for each manufactured home park shall be approved by the planning commission. All utilities shall be underground.
- (3) Manufactured home parks shall be enclosed with an approved fence or planted hedge, not less than seven feet in height and without openings to adjoining property other than the required entrances and exists to streets or public spaces.
- (4) Area; minimum lot area. The minimum area for an individual manufactured home lot shall be a minimum area of 5,000 square feet.
- (5) Width; minimum lot width. The minimum average width for each manufactured home lot shall be 50 feet.
- (6) Percentage of lot coverage. The maximum area that shall be covered, including patios and accessory buildings, is 30 percent of the allocated space area.
- (7) Minimum distance between mobile homes. No manufactured home shall be placed within 25 feet of another.
- (8) Setback. All mobile homes shall be set back a minimum distance of 25 feet from any boundary line or street right-of-way.
- (9) The minimum number of lots completed and ready for occupancy before first occupancy is permitted shall be eight.
- (10) Water supply. An approved water supply system shall be installed with an individual water tap and connection for each mobile home lot to supply running water for all sanitary and washing fixtures, drinking and domestic purposes as required by the plumbing code. Connections to individual units shall be arranged to prevent backsiphoning into the main system. Lines shall be of sufficient depth to prevent freezing and shall be insulated above ground.
- (11) Sewerage facilities. All waste or wastewater from a manufactured home shall empty into a public system or a state department of health approved sewage disposal system. Lines shall be completely underground except where under the mobile home.
- (12) Additions to manufactured homes. No permanent or semi-permanent structure shall be affixed to any manufactured home as an addition to such manufactured home when located in a manufactured home park, nor shall any accessory structure be permitted on any lot or in any manufactured home park except those accessory structures allowed by this article and a structure to house an office. If an office structure is provided, its construction shall comply with all applicable laws and ordinances. The prohibition against any addition or accessory to a manufactured home shall not apply to a canopy or awning designed for use with a manufactured home, nor to any expansion unit of accessory structures specifically made for manufactured homes.
- (13) No manufactured home dwelling shall be parked or installed outside the R-MHP district except when used as construction offices or when offered for sale on an authorized manufactured home sales lot.
- (14) All construction shall comply with the Virginia Uniform Statewide Building Code.

(Ord. of 10-11-2011(3), § 2; Ord. of 5-9-2017(6), § 1)

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**Sec. 86-294. Minimum size requirements.**

Manufactured home park:	5 acres
Manufactured home lot:	5,000 square feet
Lot width:	50 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-295. Yard and setback requirements.***General standards.*

- (1) *Minimum distance between manufactured homes:* No manufactured home shall be placed within 25 feet of another.
- (2) *Yards abutting common areas:* The distance from the line or corner of the manufactured home stand to a private access drive, a common parking area, a common walk or other common area shall be 20 feet minimum including patios, carports and individual storage facilities.
- (3) *Distance manufactured homes to be located from manufactured home park boundary and public streets:* All manufactured homes shall be setback a minimum distance of 25 feet from any boundary line or street right-of-way.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-296. Minimum setback requirements—Principal structure.**

Front yard:	35 feet
Side yard:	10 feet
Side yard—Corner lot:	20 feet
Side yard—Aggregate:	25 feet
Rear yard:	25 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-297. Minimum setback requirements—Accessory structures.**

Front yard:	Not permitted in front yard
Side yard:	5 feet
Side yard—Corner lot:	20 feet
Rear yard:	5 feet

(Ord. of 10-11-2011(3), § 2)

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**Sec. 86-298. Maximum height of accessory structures.**

Shall not exceed the height of principal structure.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-299. Maximum lot coverage—All structures.**

Twenty-five percent of total yard area.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-300. Streets.**

All streets, serving manufactured home lots, shall be built to public road standards and shall conform to the standards of the Virginia Department of Transportation.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-301. Utilities.**

All units must be connected to public water and sewer before a certificate of occupancy may be issued.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-302. Skirting and underpinning.**

Within a period of 90 days after placement of a manufactured home on a stand in district R-MHP, skirting shall be placed between the base of the body of the manufactured home and the stand or ground, completely enclosing the entire circumference of the manufactured home, the skirting to be a material to enhance the appearance of the individual manufactured home unit.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-303—86-320. Reserved.*****DIVISION 5. C-1 (LOCAL COMMERCIAL) DISTRICT<sup>4</sup>*****Sec. 86-321. Statement of intent.**

The purpose of the C-1 (local commercial) district is to provide for the establishment or continuance of small business areas that will serve the surrounding residential neighborhoods with convenience goods and services. Since traffic and parking congestion should be held to a minimum near residential areas to protect property values and preserve amenities of residential areas, all development in the C-1 district shall take place in a limited business setting. A desirable size for such an area is several offices or stores and would include such activities necessary for

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<sup>4</sup>Cross reference(s)—Businesses, ch. 22Cross reference(s)—.

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the day-to-day operation of a typical household or uses that do not detract from the character of the surrounding community. All retail uses in the C-1 district are intended to be compatible with adjoining office and/or residential uses. Certain residential uses are allowed in the C-1 district, provided that minimum standards are met.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-322. Permitted uses.**

The following uses are permitted by right or by special use permit in the C-1 local business district, subject to all other applicable requirements contained in this chapter. A special use permit is required where indicated. Certain uses are subject to additional, modified or more stringent standards as indicated.

(1) *Agricultural use types.*

(None)

(2) *Residential use types.*

Accessory apartment—Subject to section 86-453

Duplex—No Guidelines listed in Code

Home garden

Home occupation—Subject to section 86-554

Keeping of chickens—Subject to section 86-515.1

Multi-family dwelling—Subject to section 86-458, special use permit required.

Single-family dwelling, attached—Subject to section 86-459

Single-family dwelling, detached—Subject to section 86-596

Temporary family health care structures—Subject to section 86-460

Townhouse—Subject to section 86-461

(3) *Civic use types.*

Assisted care residence—Regulated by the Commonwealth of Virginia

Club—Subject to section 86-473

Crisis center—Special use permit required

Cultural service

Educational facilities, college/university—Special use permit required

Educational facilities, primary/secondary

Food bank, food pantry, or similar uses. Subject to section 86-482.1.

Governmental service

Guidance service

Halfway house—Special use permit required

Life care facility

Nursing home

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- Park and ride facility
  - Post office
  - Public assembly—Special use permit required
  - Public parks and recreational areas—Special use permit required
  - Religious assembly—Subject to section 86-479
  - Safety service
  - Utility service, major—Special use permit required
  - Utility service, minor
  - (4) *Office use types.*
    - Financial institution—No Guidelines listed in Code.
    - General office
    - Laboratory—Special use permit required
    - Medical office
    - Substance abuse clinic Licensed by the Commonwealth of Virginia—Special use permit required.
  - (5) *Commercial use types.*
    - Bed and breakfast—Subject to section 86-507
    - Business support service
    - Business/trade schools
    - Car wash—Special use permit required
    - Commercial indoor sports and recreation—Special use permit required.
    - Communications service
    - Day care center—Subject to section 86-510
    - Funeral service
    - Garden center
    - Gasoline station—Subject to section 86-513, special use permit required
    - Hospital—Special use permit required
    - Microbrewery
    - Personal improvement service
    - Personal service
    - Restaurant, mobile—Subject to section 86-520.
    - Restaurant, small—Whether in a new or existing shopping strip center—Subject to section 86-32 definitions
    - Restaurant, small—As a stand-alone buildin—Subject to section 86-32 definitions, special use permit required
    - Retail sales—Not exceeding 3,000 gross square feet per use



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Studio, fine arts

Wedding/event facility—Subject to section 86-521, special use permit required

(6) *Industrial use types.*

(None)

(7) *Miscellaneous uses.*

Amateur radio tower—Subject to section 86-542

Parking facility, surface/structure—Special use permit required

Satellite dish antenna one meter or less in diameter or measured diagonally

Satellite dish antenna in excess of one meter in diameter or measured diagonally—Subject to section 86-544

Tower—Subject to section 86-545 and article VI, special use permit required.

(Ord. of 10-11-2011(3), § 2; Ord. of 1-14-2014(4), § 1; Ord. of 7-14-15(3); Ord. of 4-12-2016(4), § 1; Ord. of 5-9-12-2017(16), § 1; Ord. of 12-11-2018(1); Ord. of 5-14-2019(2), § 1; Ord. of 7-9-2019(4), § 1)

### **Sec. 86-323. Site development regulations.**

The following (sections 86-324 thru 86-327) are the site development regulations for the C-1, local commercial district. All commercial uses must be served by public water and sewer. For additional, modified or more stringent standards see article IV, use and design standards.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-324. Minimum lot area.**

None, except any residential uses must meet the requirements of the R-2 district.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-325. Minimum setback requirements—Principal structures.**

Front yard:	35 feet from the right-of-way line
Side yard:	None; except 25 feet when bordering a street, alley, or residential district
Rear yard:	None; except 25 feet when bordering a street, alley, or residential district

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-326. Minimum setback requirements—Accessory structures.**

Front yard:	Not permitted in front yard
Side yard:	5 feet
Rear yard:	5 feet

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-327. Maximum height of structures.**

Principal structures:	35 feet or 2½ stories
Accessory structures:	Shall not exceed height of principal structure; however no accessory building in the C-1 district which is within ten feet of any lot line shall be more than one story high.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-328—86-350. Reserved.**

*DIVISION 6. C-2 (GENERAL COMMERCIAL) DISTRICT<sup>5</sup>*

**Sec. 86-351. Statement of intent.**

The C-2 (general commercial) district covers those areas of the community intended for the conduct of a wide variety of businesses to which the public requires direct and frequent access and is characterized by frequent vehicular and pedestrian traffic. This C-2 district is the major business district of the town which is the focal point of where business can be successful and grow in the community. Certain residential uses are allowed in the C-2 district, provided that minimum standards are met. Site development regulations are designed to ensure compatibility with adjoining land uses.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-352. Permitted uses.**

The following uses are permitted by right or by special use permit in the C-2 general business district, subject to all other applicable requirements contained in this chapter. A special use permit is required where indicated. Certain uses are subject to additional, modified or more stringent standards as indicated.

(1) *Agricultural use types.*

(None)

(2) *Residential use types.*

Accessory apartment—Subject to section 86-453

Duplex—No Guidelines listed in Code

Home garden

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<sup>5</sup>Cross reference(s)—Businesses, ch. 22Cross reference(s)—.

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Home occupation—Subject to section 86-454

Keeping of chickens per section 86-515.1

Multi-family dwelling—Subject to section 86-458, special use permit required

Single-family dwelling, attached—Subject to section 86-459

Single-family dwelling, detached—Subject to section 86-596

Temporary family health care structures—Subject to section 86-460

Townhouse—Subject to section 86-461

Upper-story housing unit—Subject to section 86-462

(3) *Civic use types.*

Assisted care residence—Regulated by the Commonwealth of Virginia

Club—Subject to section 86-473

Correction facility—Special use permit required

Crisis center

Cultural services

Educational facilities, college/university—Special use permit required

Educational facilities, primary/secondary

Food bank, food pantry, or similar uses. Subject to section 86-482.1. Special use permit required.

Governmental service

Guidance service

Halfway house—Special use permit required

Life care facility

Nursing home

Park and ride facility

Post office

Public assembly

Public maintenance and service facility—Special use permit required

Public parks and recreational areas—Special use permit required

Religious assembly—Subject to section 86-479

Safety services

Utility service, major—Special use permit required

Utility service, minor

(4) *Office use types.*

Financial institution—No Guidelines listed in Code

General office

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Laboratory  
Medical office  
Substance abuse clinic—Licensed by the Commonwealth of Virginia, special use permit required  
(5) *Commercial use types.*  
Adult use—Subject to section 86-502, special use permit required  
Agricultural service  
Antique shop  
Assembly hall  
Automobile dealership, new—Subject to section 86-503  
Automobile dealership, used—Subject to section 86-504, special use permit required  
Automobile parts/supply, retail  
Automobile rental/leasing  
Automobile repair service, major—Subject to section 86-505, special use permit required  
Automobile repair service, minor  
Brewpub  
Business support service  
Business/trade schools  
Car wash  
Commercial indoor amusement  
Commercial indoor entertainment  
Commercial indoor sports and recreation  
Commercial outdoor entertainment  
Commercial outdoor sports and recreation  
Communications service  
Construction sales and service  
Consumer repair service  
Convenience store  
Dance hall—Special use permit required  
Day care center—Subject to section 86-510  
Equipment sales and rental—Special use permit required  
Farmers market—Special use permit required  
Flea market—Special use permit required  
Funeral service  
Garden center

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Gasoline station—Subject to section 86-513

Hospital

Hotel/motel/motor lodge

Kennel, commercial—Subject to section 86-515, special use permit required

Laundry

Manufactured home sales

Microbrewery

Mini-storage—Subject to section 86-517, special use permit required

Modular home sales

Pawn shop

Payday loan establishment

Personal improvement service

Personal service

Recreational vehicle sales and service

Restaurant, small

Restaurant, fast food or drive-thru—Subject to section 86-562

Restaurant, general

Restaurant, mobile per section 86-520

Retail sales—Subject to section 86-519

Studio, fine arts

Transient merchant—Subject to section 86-514 - Itinerant merchant

Travel center—Special use permit required

Veterinary hospital/clinic

Wedding/event facility—Subject to section 86-521

(6) *Industrial use types.*

Construction yard—Special use permit required

Custom manufacturing

Recycling center

Transportation terminal—Special use permit required

Truck terminal—Special use permit required

(7) *Miscellaneous uses.*

Amateur radio tower—Subject to section 86-542

Parking facility, surface/structure—Special use permit required

Satellite dish antenna one meter or less in diameter or measured diagonally

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Satellite dish antenna in excess of one meter in diameter or measured diagonally—Subject to section 86-544

Tower—Subject to section 86-545 and article VI, special use permit required

(Ord. of 10-11-2011(3), § 2; Ord. of 1-14-2014(5), § 1; Ord. of 7-14-15(4); Ord. of 4-12-2016(5), § 1); Ord. of 5-9-12-2017(17), § 1; Ord. of 12-11-2018(2); Ord. of 5-14-2019(3), § 1; Ord. of 7-9-2019(1), § 1)

### **Sec. 86-353. Site development regulations.**

The following (sections 86-354 thru 86-356) are the site development regulations for the C-2, general commercial district. All commercial uses must be served by public water and sewer. For additional, modified or more stringent standards see article IV, use and design standards.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-354. Minimum lot area.**

None, except any residential uses must meet the requirements of the R-2 district.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-355. Minimum setback requirements.**

None, except when adjacent to any residential district. If adjacent to residential, then:

Front yard:	35 feet
Side yard:	25 feet
Rear yard:	25 feet

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-356. Maximum height of structures.**

Principal structures:	45 feet or 4 stories
Accessory structures:	Shall not exceed height of principal structure

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-357—86-380. Reserved.**

## *DIVISION 7. M (INDUSTRIAL) DISTRICT<sup>6</sup>*

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<sup>6</sup>Cross reference(s)—Businesses, ch. 22Cross reference(s)—.

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## **Sec. 86-381. Statement of intent.**

The M (industrial) district shall provide an area where the principal use of the land is for light, moderate, and heavy industrial operations where business can be successful and grow in the community. These businesses, industries, and employment centers may create some nuisance effects but will not be detrimental to the environment or the surrounding community. The specific intent is to encourage the construction of and the continued use of the land for industrial and commercial purposes; limit residential use of the land, prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the M district.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-382. Permitted uses.**

The following uses are permitted by right or by special use permit in the M (industrial) district, subject to all other applicable requirements contained in this chapter. A special use permit is required where indicated. Certain uses are subject to additional, modified or more stringent standards as indicated.

(1) *Agricultural use types.*

(None)

(2) *Residential use types.*

Home garden

Home occupation—Subject to section 86-454, special use permit required

Keeping of chickens per section 86-515.1

Multi-family dwelling Subject to section 86-458.—Special use permit required—Only when redeveloping or renovating an existing industrial building

(3) *Civic use types.*

Correction facility—Special use permit required

Educational facilities, college/university—Special use permit required

Food bank, food pantry, or similar uses—Subject to section 86-482.1

Governmental services

Post office

Public maintenance and service facility

Safety services

Utility service, major—Special use permit required

Utility service, minor

(4) *Office use types.*

Financial institution—No guidelines listed in Code

General office

Laboratory

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Medical office

(5) *Commercial use types.*

Automobile repair service, major—Subject to section 86-505

Business support services

Business trade school

Communication services

Construction sales and services

Equipment sales and rental

Mini-storage—Subject to section 86-517

Restaurant, mobile per section 86-520

Wedding/event facility—Subject to section 86-521

(6) *Industrial use types.*

Construction yard

Custom manufacturing—Special use permit required

Industry, light

Industry, medium

Industry, heavy—Special use permit required

Recycling center

Resource extraction—Special use permit required

Transportation terminal

Truck terminal

Warehousing and distribution

(7) *Miscellaneous use types.*

Parking facility, surface/structure—Special use permit required

Satellite dish antenna one meter or less in diameter or measured diagonally

Satellite dish antenna in excess of one meter in diameter or measured diagonally—Subject to section 86-544

Tower—Special use permit required, subject to section 86-545

(Ord. of 10-11-2011(3), § 2; Ord. of 1-14-2014(6), § 1; Ord. of 4-12-2016(6), § 1; Ord. of 5-9-12-2017(18), § 1; Ord. of 12-11-2018(3); Ord. of 5-14-2019(4), § 1; Ord. of 7-9-2019(5), § 1; Ord. of 12-10-2019(1), § 1)

### **Sec. 86-383. Site development regulations.**

The following (sections 86-384 thru 86-388) are the site development regulations for the M (industrial) district. All industrial uses must be served by public water and sewer. For additional, modified or more stringent standards see article IV, use and design standards.



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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-384. Minimum lot area.**

None, except any residential uses must meet the requirements of the R-2 district.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-385. Minimum setback requirements—Industrial uses.**

Front yard:	30 feet
Side yard:	None; except 25 feet when adjacent to any residential district
Rear yard:	None; except 25 feet when adjacent to any residential district

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-386. Minimum setback requirements—Principal residential structures.**

Front yard:	30 feet
Side yard:	10 feet
Side yard (aggregate):	25 feet
Side yard—Corner lot:	20 feet
Rear yard:	25 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-387. Minimum setback requirements—Accessory structures.**

Front yard:	Not permitted in front yard
Side yard:	5 feet
Side yard—Corner lot:	20 feet
Rear yard:	5 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-388. Maximum height of structures.**

All structures:	45 feet or four stories.
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(Ord. of 10-11-2011(3), § 2)

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**Secs. 86-389—86-400. Reserved.**

***DIVISION 8. PUD (PLANNED UNIT DEVELOPMENT) DISTRICT***

**Sec. 86-401. Statement of intent.**

The purpose of the PUD (planned unit development) district is to promote a broad mix of land uses in more intensive development settings, promote the efficient use of land, allow for flexible development standards, provide open space, and protect the natural features and beauty of the land. Planned unit developments (PUD's) are intended to provide variety, flexibility, mixed-uses, and convenience for residents. PUD's should be created in accordance with areas deemed suitable for such a mix of uses on the comprehensive plan and should be developed to be compatible with existing land uses.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-402. Size and location.**

- (a) The location of planned unit developments shall be in accordance with the approved comprehensive plan and an approved master plan of the PUD.
  - (1) The minimum PUD size shall be no less than two acres of contiguous land.
  - (2) The proposed PUD shall be designed in a manner consistent with the provisions of the comprehensive plan as well as other town plans and/or policies.
  - (3) The PUD shall provide for the appropriate use and management of available land and will preserve and protect, to the greatest possible extent, the natural features of the land such as topographic features, trees and streams.
  - (4) PUD's shall only be developed in areas where adequate transportation facilities, fire protection, schools, public water and sewer and other public and community facilities exist or will be available for the uses and densities proposed.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-403. Submittal process.**

- (a) A pre-application conference shall be held with the zoning administrator prior to any filing for a rezoning. The administrator, prior to filing, may require a preliminary plan review from the applicant.
- (b) The applicant shall be required to send notification and conduct a public meeting to explain the proposed PUD to residents that live in the vicinity of such development. This public meeting shall be conducted prior to filing an application with the town.
- (c) The applicant shall submit any information required by the administrator necessary to evaluate a rezoning application or site plan including, but not limited to, the following:
  - (1) Application for rezoning.
  - (2) A required application fee, as set forth within the most recent fee schedule approved by the town council.
  - (3) Twelve copies of a master plan schematic for review.

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- (4) Community impact statement explaining the proposed impact on public services.
  - (d) A Professional planner, licensed surveyor, architect, landscape architect and/or engineer shall prepare the master plan. It shall include:
    - (1) A vicinity map showing the property with surrounding roads and adjacent properties at a scale of not less than one inch to one mile.
    - (2) A north arrow.
    - (3) The approximate boundaries of each section, land use and proposed density, location of proposed streets and right-of-ways, and location of proposed common open space and recreation areas.
    - (4) A table showing for each section the uses, approximate development phasing, density and maximum number of dwelling units for residential areas, maximum area of square feet for commercial or office areas and maximum acreage of each.
    - (5) Indicate master water, sewer and drainage plans.
    - (6) A design manual for the PUD, to include descriptions and depictions for the following:
      - a. An overall PUD description establishing the community characteristics, design themes and elements to be incorporated into the PUD, to include concepts relative to bulk, material composition and physical relationships.
      - b. Proposed typical elevations for all structures to include the following details:
        - 1. Facade materials, to include color(s) to be used.
        - 2. Building height, depth and length. Building height shall be pursuant to the development standards for PUD's, contained in section 86-406.
        - 3. Roof lines and roof material(s) to be used.
        - 4. Screening for the air conditioning, heating and electrical systems used for commercial or mixed use buildings. Screening shall be established pursuant to the development standards for PUD's contained in section 86-406.
      - c. Community design characteristics to include the following details:
        - 1. Functional classifications for internal roads.
        - 2. Streetscape design within the PUD. Streetscape design shall be established pursuant to the development standards for PUD's.
        - 3. Proposed setback lines for each road type classified (if applicable).
        - 4. Pedestrian system, including type(s) of impervious surface or paving to be used.
      - d. Landscape details, plantings, and larger specimen tree types and locations, street furniture, site lighting and recreational improvements and/or the following areas:
        - 1. Along the perimeter of the PUD.
        - 2. Along major thoroughfares external to the PUD.
        - 3. Internal streets.
        - 4. Common areas.
        - 5. Parking lots.

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- e. An open space plan, to include areas proposed for passive and active recreational uses, natural and undisturbed areas, and proposed buffer areas around the perimeter of the PUD. The plan shall address how the features described in the submission materials shall be preserved including information on the specific design, location, and timing of these areas and their ownership and maintenance.
- (e) The community impact statement shall be prepared and address:
- (1) Assessment of impact on schools.
  - (2) A public utilities and services plan providing requirements for and provision of all utilities, public services, and public facilities to serve the PUD. This plan shall address:
    - a. Adequacy of existing utilities, water, sewer, public services and public facilities in the vicinity of the PUD.
    - b. Public improvements both offsite and onsite that are proposed for construction and a cost estimate for providing these improvements.
  - (3) A traffic impact study pursuant to Code of Virginia, § 15.2-2222.1.
  - (4) Economic impact of the proposed project.
  - (5) Employment opportunities to be created by the development.
  - (6) Environmental impact analysis, to include:
    - a. Wetlands determination pursuant to the Army Corps of Engineers manual.
    - b. Topography shown at five-foot contour intervals. Pre-development and post-development storm water runoff amounts shall be provided.
    - c. Groundwater to be impacted including any ponds, lakes, streams, and rivers.
    - d. Floodplains.
    - e. Tree lines to be impacted, limits of clearing, and where buffers will be installed.
    - f. Endangered native plant and animal life pursuant to the Virginia Department of Conservation and Recreation's 2003 Natural Heritage Plan.
    - g. Historic resources to be impacted including, but not limited to, historic places designated by the National Register of Historic Places.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-404. Review process.**

- (a) The proposed master plan shall be reviewed by all appropriate agencies to ensure that existing or planned public infrastructure can accommodate rezoning for the PUD.
- (b) The planning commission shall review the proposed master plan for a recommendation to the town council after the public hearing has been advertised pursuant to Code of Virginia, § 15.2-2204. The commission shall report its recommendation to the town council after the public hearing. The commission shall recommend approval, approval with appropriate modifications, or deny the master plan.
- (c) The town council shall review the proposed master plan, and act to approve, approve with modifications or deny the proposed master plan after receiving a recommendation from the planning commission and after a public hearing has been advertised pursuant to Code of Virginia, § 15.2-2204. Approval of the proposed master plan shall constitute acceptance of the plan's provisions for permitted uses in PUD developments,

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maximum PUD densities, and development standards for PUD's. The plan approved by the council shall constitute the final plan for the PUD.

- (d) Major revisions to the approved master plan shall be reviewed at a public hearing before the planning commission and town council and comply with the requirements of this section. Major revisions include, but are not limited to, changes such as:
  - (1) Density increases in the PUD.
  - (2) Changes that intensify permitted uses in a PUD by 20 percent or more.
  - (3) Substantial changes in access or circulation.
  - (4) Substantial changes in the mixture of dwelling unit types within the PUD.
  - (5) Substantial changes in the mixture of land use types.
  - (6) Substantial changes in the amount of acreage devoted to nonresidential uses.
  - (7) Reduction of acreage approved for open space, buffering or landscaping.
  - (8) Substantial changes in site design or architectural features.
  - (9) Any other change that the administrator deems a major change to the approved master plan.
- (e) All other changes of the approved master plan shall be considered as minor revisions. The administrator, upon receipt of a written request of the owner or authorized agent, may approve such minor revisions after consultation and agreement with any other impacted town or state agency.
- (f) A request which is not approved by the administrator shall be considered as a major revision and shall be subject to the approval process outlined in this section.
- (g) Following the approval of the final master plan, the owner or the authorized agent shall be required to submit preliminary and final site plans.
- (h) Subdivision plans shall be submitted and reviewed simultaneously with the site plan submittal. Subdivision plans shall be submitted pursuant to the applicable requirements of the subdivision ordinance.
- (i) Preliminary and final site plans submitted for review shall conform to the final master plan approved by the town council.
- (j) If a preliminary site plan for the PUD or any phase of the PUD is not submitted for approval within five years of the approval of the final master plan, town council shall notify the owner by certified mail of council's intent to initiate a rezoning action to revert acreage in the PUD to its former zoning district. The town council may act to approve the zoning reversion after planning commission review, and a public hearing has been advertised pursuant to Code of Virginia, § 15.2-2204. The applicant and owner shall bear all costs associated with the rezoning application and advertising.
- (k) The administrator, upon receipt of a written request of the owner or authorized agent, may grant a time extension beyond five years to submit a preliminary site plan provided; however, such extension shall not exceed one year.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-405. Permitted uses.**

- (a) Any residential, civic, office or commercial use type may be permitted within PUD developments, provided the use is specifically shown on the approved master plan approved by the town council.

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- (b) Accessory structures and uses that are typically subordinate and incidental to the principal use shall be permitted on any parcel within the PUD.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-406. Development standards.**

- (a) Maximum densities allowable in the PUD shall be established through a recommendation of the planning commission and approval by the town council. The density within the PUD shall not exceed that which can be served by adequate public infrastructure either existing or planned at the time of rezoning.
- (b) Off street parking shall be provided in accordance with the standards in article IV.
- (c) Single-family detached dwellings shall not exceed 35 feet in height. Other residential structures shall be erected to a height not to exceed four stories. Mixed-use buildings that include residences shall not be less than two stories in height. The first floor of a mixed-use building shall be used for commercial and/or office uses, not residential uses. Nonresidential structures shall be erected to a height not to exceed 65 feet. Nonresidential structures over four stories shall not be located at the boundaries of land zoned for lower maximum height restrictions.
- (d) All landscaping shall be established pursuant to an approved master plan. Plantings should be of low height with preference given to native and drought-resistant species. Landscaping is also encouraged throughout parking areas of multi-family, office and business development. Larger specimen trees shall be used between parking areas and public rights-of-way. Within large parking areas, planting shall be designed to break up large parking areas into smaller parking areas.
- (e) Site lighting shall be provided to allow for safe and efficient pedestrian and vehicular movement. Site lighting shall be designed to minimize the glare of light onto adjacent buildings. The type of light fixtures shall enhance the character of the PUD. Light fixture locations are subject to site plan review pursuant to an approved master plan. Site plans for any commercial use that operates during any evening hours shall include a lighting plan for the entire site to be developed which shall include a photometric plan, light fixture specifications, and fixture mounting detail. Light sources from commercial sites shall be directed away from adjoining residential parcels.
- (f) Signs shall comply with the requirements set forth in article V of this chapter. In addition, signage shall be compatible with the architecture of the building.
- (g) Usable open space shall be provided within the PUD. No less than 20 percent of the gross acreage of the PUD shall be usable open space. Undevelopable acreage shall not be applied to meet the usable open space requirement. Recreation improvements in usable open spaces may be used as a credit towards the gross acreage requirement upon review by the planning commission and the town council.
- (h) Sidewalks shall be installed along all roads and streets in residential and commercial areas according to town standards.
- (i) Natural features such as wildlife habitats, historic sites, and irreplaceable assets shall be preserved to the maximum extent possible.
- (j) Screening is required for service, loading and trash areas, as well as, mechanical equipment. Screening shall be constructed in a manner that minimizes views into the areas from adjacent right-of-ways and buildings. Mechanical equipment shall be screened by walls, fences or plantings that are a minimum of five feet in height.
- (k) Vehicular access to the internal streets within the PUD shall be established through a boulevard style collector road. Parking areas shall be accessed from internal streets. Access points along internal streets shall

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align with streets and/or parking area access that intersect at a common point. Shared common access points into parking lots shall be established where possible, in order to limit conflict points. Cross-access easements between adjacent parking lots shall be established whenever possible to limit conflict points along internal streets. All streets shall meet VDOT public road standards.

- (l) Commercial uses shall be compatible with residential uses when integrated together. Any traffic, noise, and light generated by commercial uses shall be mitigated by design when integrated with residential uses. No outside storage nor any exterior emissions that may have a harmful effect in the community shall be permitted.
- (m) A homeowners' association shall be created during the subdivision process when any of the following conditions are proposed:
  - (1) Alleys, pedestrian accessways or sidewalks that are not maintained by the town.
  - (2) Commonly held parcels or open space are proposed.
  - (3) Stormwater management infrastructure/best management practices are located on a commonly held parcel.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-407. Development standard modification.**

- (a) The planning commission may recommend, and the town council may grant, modifications to development standards established in this section. Modifications may be granted with or without conditions. The owner or authorized agent shall submit an application to the administrator to request modifications to development standards at the time of submittal of the original PUD application.
- (b) No development standard modification shall be authorized by the planning commission unless substantial compliance has been determined for the following factors, as applicable:
  - (1) By reason of the exceptional size and/or shape of the parcel or parcels or by reason of exceptional topographic conditions when strict application of the terms of this chapter would prevent or reasonably restrict the use of the parcel or parcels.
  - (2) The granting of the modification will provide relief from a clearly demonstrated hardship. This hardship shall be distinguishable from a special privilege or convenience.
  - (3) The modification will not endanger the public safety, health or general welfare of adjacent parcel owners; and will not change the character of the PUD.
  - (4) The modification will comply with the provisions of the comprehensive plan.

(Ord. of 10-11-2011(3), § 2)

#### **Secs. 86-408—86-420. Reserved.**

### ***DIVISION 9. DRO (DOWNTOWN REVITALIZATION OVERLAY) DISTRICT***

#### **Sec. 86-421. Statement of intent.**

- (a) The DRO (downtown revitalization overlay) district (hereinafter referred to as "the district") seeks to fulfill the comprehensive plan's goal of recognizing Altavista's unique character and promoting the revitalization of

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the town's downtown area, as well as promoting tourism as a viable economic development strategy. The district regulations are adopted pursuant to authority granted to the town under Code of Virginia, §§ 15.2-2280 et seq. and 15.2-2306.

- (b) The district is established to promote the health, safety and general welfare; to bring harmony and cohesiveness to the visual appearance and uses of the district; to protect and promote compatibility in the appearance, character and uses; and to prevent intense automobile-oriented uses within the district.
- (c) The portions of Main Street (U.S. 29 Business), Bedford Avenue (State Route 43), Broad Street, and Seventh Street that lie within the district serve as key access routes by tourists traveling through the district en route to the Central Business District, English Park and the Staunton River, Leesville Lake, the Altavista Trade Lot, and to the Historic Avoca Museum.
- (d) Main Street and contiguous streets are significant routes of tourist access to the town and the core components of the town's rehabilitation, redevelopment, and economic revitalization of the town.
- (e) The district is intended to promote architecturally responsible commercial development; to emphasize historic development techniques; to reduce vacant, dilapidated, and empty lots in the district; to encourage designs that integrate the relationship between individual sites, multiple modes of transportation, and adjacent areas; and to promote the district as a vibrant commercial hub of the town.

(Ord. of 10-11-2011(3), § 2; Ord. of 12-8-2020(4) , § 1)

#### **Sec. 86-422. District boundaries.**

- (a) To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, an overlay district, the DRO district, has been created to provide special regulations that are to be in addition to, and shall overlap and overlay all other districts regulations contained in the zoning ordinance (the "ordinance").
- (b) The boundaries of the district have been drawn and adopted by the town council to include all lands closely related to and bearing upon the character and function of the downtown area, thus composing a landscape unit and affording transitional regulations needed to control potentially adverse and conflicting uses and structures.
- (c) The district boundaries shall be delineated as an overlay district on the zoning map or a separate downtown revitalization project area map incorporated by reference into the zoning map.
  - (1) The boundaries of the district are: A section of the Town of Altavista beginning at a point being the intersection of Pittsylvania Avenue and Fifth Street, thence following the northeast side of Pittsylvania Avenue, crossing Main Street and Seventh Street to a point on the northwest side of Seventh Street, thence running southwest with the northwest side of Seventh Street crossing Lynch Creek and Campbell Avenue, to a point on the northeast corner of Campbell Avenue and Seventh Street, thence running northwest with the northeast side of Campbell Avenue crossing a 20-foot alley to a point on the northwest side thereof, thence running parallel to Seventh Street a distance of approximately 420 feet to a point on the northeast side of a 20-foot alley, thence with the northeast side of said alley parallel to Broad Street and in a northwest direction, crossing Eighth Street to the point of intersection with the Norfolk Southern Railroad right-of-way, thence following said right-of-way southwest, crossing Broad Street to the northeast side of Bedford Avenue, thence following the northeast side of Bedford Avenue, crossing Main Street (U.S. Route 29 Business) to a point 36 feet north of the center of the main line of the Norfolk Southern Railroad (formerly Norfolk and Western) and thence east, parallel to and 36 feet north of the center line of said main rail line, crossing Pittsylvania Avenue to the northeast side of the said right-of-way, thereof, thence following the east side of the right-of-way of Pittsylvania Avenue in a northwest direction to the point of beginning.



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(Ord. of 10-11-2011(3), § 2; Ord. of 5-9-2017(7), § 1)

**Sec. 86-423. General provisions.**

All buildings or land within the district shall be subject to the following general conditions:

- (1) The uses, structures, minimum lot requirements, minimum yard requirements, maximum heights and accessory uses and accessory signs as well as all construction and demolition shall be determined by the regulations applicable to the underlying zoning and shall be applicable except as modified by the district regulations. Should there be a conflict between the underlying zoning and the district requirements, the more restrictive provisions shall apply.
- (2) Nothing in this division shall be construed to prevent or limit the application of the building code or other laws and ordinances of the Town of Altavista.
- (3) Exterior lighting shall be controlled so that no direct illumination will occur beyond any property line.
- (4) *Minimum setback requirements.* For all newly-constructed buildings:

Front yard:	0 to 10 feet
Side yard:	0 feet
Rear yard:	0 feet

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-424. Architectural treatment.**

- (a) No portion of a building constructed of unadorned cinderblock or corrugated and/or sheet metal shall be visible from any adjoining public right of way.
- (b) Buildings shall be designed to utilize to the greatest extent feasible such building materials which are compatible with the character of the district, such as stone, brick, stucco, and wood.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-425. Maximum square footage of use.**

Any individual permitted use in the DRO shall not exceed 10,000 square feet in lot coverage. However, if an existing building exceeds 10,000 in gross floor area, all permitted uses contained in that building shall not exceed a floor area ratio (FAR) of 2.0.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-426. Residences.**

- (a) Any residential units (or apartments accessory to the business use) shall not occupy the front, ground floor (storefront) space of any building within the district.
- (b) No more than 49 percent of the ground floor area of a building within the district may be of residential use.

(Ord. of 10-11-2011(3), § 2)

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## **Sec. 86-427. Permitted uses.**

The following uses are permitted by right or by special use permit in the DRO downtown revitalization overlay district, subject to all other applicable requirements contained in this chapter. A special use permit is required where indicated. Certain uses are subject to additional, modified or more stringent standards as indicated. This list of permitted uses for the DRO supersedes the list of permitted uses for the underlying zoning district.

(1) *Agricultural use types.*

(None)

(2) *Residential use types.*

Accessory apartment—Subject to section 86-426

Home occupation—Subject to section 86-454, special use permit required

Upper-story residential unit—Subject to section 86-462

(3) *Civic use types.*

Club—Subject to section 86-473, special use permit required

Cultural service

Governmental service

Guidance service

Post office

Public assembly—Special use permit required

Public parks and recreational areas—Special use permit required

Religious assembly—Subject to section 86-479

Safety service

Utility service, minor—Special use permit required.

(4) *Office use types.*

Financial institution—No guidelines listed in Code

General office

Medical office

(5) *Commercial use types.*

Antique shop

Automobile repair service, minor—Special use permit required

Assembly hall—Special use permit required

Bed and breakfast—Subject to section 86-507, special use permit required

Brewpub

Business support service

Business/trade schools—Special use permit required

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Commercial indoor entertainment—Special use permit required

Commercial indoor sports and recreatio—Special use permit required

Communications servic—Special use permit required

Consumer repair service

Convenience store

Dance hall—Special use permit required

Day care center—Subject to section 86-510, special use permit required

Farmers market—Special use permit required

Flea market—Special use permit required

Funeral service—Special use permit required

Hotel/motel/motor lodge—Special use permit required

Microbrewery

Pawn shop—Special use permit required

Payday loan establishment—Special use permit required

Personal improvement service

Personal service

Restaurant, small

Restaurant, fast food or drive-thru—Subject to section 86-562, special use permit required

Restaurant, general

Restaurant, mobile per section 86-520

Retail sales

Studio, fine arts

(6) *Industrial use types.*

(None)

(7) *Miscellaneous uses.*

Amateur radio tower—Subject to section 86-542

Parking facility, surface

Parking facility, structure—Special use permit required

(Ord. of 10-11-2011(3), § 2; Ord. of 7-14-15(2), § 1; Ord. of 5-9-2017(19), § 1; Ord. of 12-11-2018(4))

## **Sec. 86-428. Regulations for signs in the DRO.**

Unless otherwise specified below, all signage within the district must comply with the regulations set forth in article V of this zoning ordinance.

(1) *Maximum size and number of signs.*

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- a. Four signs maximum per business per street or opened alley facing. Where buildings only face one street, but signs can be seen from passing traffic, wall signs (only) may be used on side walls, but all sign sizes and numbers apply as if they were placed at the building front. Number and size of all signs will be limited to a maximum of four regardless of where they are placed.
  - b. Total area of all signs shall be limited to two square feet for each linear foot of lot frontage.
  - c. No freestanding sign shall exceed 15 feet in height measured from the base of the sign or the grade of the nearest street, whichever is higher.
  - d. No wall sign may exceed the height of the wall where it is located.
- (2) *Signs for multiple businesses on a single zoning lot.*
- a. *Maximum size of signs per business.*
    - 1. Total area of all signs shall be limited to two square feet for each linear foot of lot frontage regardless of the number of businesses.
    - 2. Request for additional signage. Additional signage may be approved through a special use permit in accordance with section 86-7.

(Ord. of 10-11-2011(3), § 2; Ord. of 4-13-2021(2) , § 1)

#### **Sec. 86-429. Regulations for parking areas.**

- (a) All parking areas shall be suitably landscaped (in a manner conforming with the town's guidelines for landscaping and public spaces within the DRO and generally screened from public view by fences, walls, or screen planting.
- (b) Parking areas shall be located to the side or rear of buildings and not located between a building and the street.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-430. Landscaping and accessory structures.**

Plants, trees, fencing, walls, walkways, gazebos, and other accessory structures should be retained or designed to reflect the property's history, character and development. Underground utilities should be encouraged at all locations. Mechanical equipment shall be placed in inconspicuous locations, or shielded from the view of motorists traveling on a public street (alleys and parking lots excepted) within the district. Municipal utility appurtenances should be selected to harmonize with the character of the historic district or placed in inconspicuous locations.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-431. Demolition, razing or moving a building or structure.**

- (a) The owner of a building or structure within the district shall not raze or demolish such building or structure unless such owner has first complied with the provisions of this section.
  - (1) The owner or applicant shall apply to the town planning commission for permission to raze or demolish a building or structure within the district and the planning commission shall render a decision within 30 days either granting the request or requiring the applicant to offer the property for sale pursuant to subparagraph (2) below.

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- (2) Upon such a finding by the planning commission, the applicant shall for the period of time set forth in the time schedule set forth in subparagraph (4) below and at a price reasonably related to its fair market value as reflected in an appraisal by a licensed appraiser, make a bona fide offer to sell such building, or structure and the land pertaining thereto, to the town or to any person, firm, corporation, government or agency thereof, which gives reasonable assurance that it is willing to preserve and rehabilitate the building or structure and the land pertaining thereto.
  - (3) Should no offer to purchase the property for such price by such purchaser be received within the said period then the property may be demolished.
  - (4) No offer to sell other than pursuant to subparagraph (2) above shall be made less than one year after an unfavorable decision by the planning commission, but thereafter the owner may renew his request to the town council to approve the razing or demolition of the building or structure.
- (b) The time schedule for offers to sell shall be as follows:
- (1) Three months when the offering price is less than \$25,000.00.
  - (2) Four months when the offering price is \$25,000.00 or more but less than \$40,000.00.
  - (3) Five months when the offering price is \$40,000.00 or more but less than \$55,000.00.
  - (4) Six months when the offering price is \$55,000.00 or more but less than \$75,000.00.
  - (5) Seven months when the offering price is \$75,000.00 or more but less than \$90,000.00.
  - (6) Twelve months when the offering price is \$90,000.00 or more.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-432. Procedure in the event of significant damage.**

In the event of significant damage being inflicted on a structure due to fire, flood, earthquake, or other calamity that leaves the structure safely standing but unusable, the owner may obtain a revised appraisal by a licensed appraiser to establish the fair market value. If the fair market value of the property is lowered due to the aforesaid calamity, the new value shall be applied to the timetable in subsection 86-431(b).

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-433. Appeal of planning commission decision on demolition, razing, and moving of a building or structure.**

- (a) Any person aggrieved by the decision of the planning commission relating to the demolition, razing, or moving of a building or structure in the district may request a review of the request by the town council. Such request shall be made by filing a request therefore in writing with the clerk of the town council within 30 days after the date of the decision of the planning commission. In so doing, the council shall give due consideration to the recommendation of the commission together with such other evidence as it deems necessary for a proper review of the application.
- (b) The town council shall set a date for a public appeal hearing and give public notice thereof as provided in subsection 86-782(b). Town council shall issue a written decision within 60 days of the date of the appeal hearing.
- (c) Any party may appear in person or be represented by an agent or by an attorney at the appeal before the town council.

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- (d) The town council may, in conformity with the provisions of this division, and giving due consideration to the decision of the planning commission, reverse or affirm, wholly or in part, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as it deems proper.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-434. Appeal to the circuit court from a decision of the town council on the demolition, razing, or moving of a building or structure.**

- (a) Any person or persons jointly or severally aggrieved by any decision of the town council may appeal such decision to the Circuit Court of Campbell County for review by filing a petition for such review within 30 days after the date of a final decision is rendered by the town council. The filing of a petition shall stay the decision of the town council pending the outcome of the appeal to the circuit court.
- (b) The court may reverse or modify the decision of the town council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion. It may affirm the decision of the town council.
- (c) For the purposes of this division, the term "person aggrieved" shall be limited to the applicant, the planning commission, the town council, or any person having an immediate financial and substantial interest in the subject matter at issue and not a remote or indirect interest. Such person, in order to be "aggrieved", must exhibit a substantial grievance and show a denial of some personal or property right, legal or equitable, or imposition of a burden or obligation upon himself or herself different from that suffered by the public generally.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-435—86-450. Reserved**

***ARTICLE IV. DEVELOPMENT STANDARDS***

***DIVISION 1. USE AND DESIGN STANDARDS***

**Sec. 86-451. Use and design standards.**

- (a) The standards contained in the district regulations in article III shall apply to all of the following use types listed in article IV, unless specifically modified and/or superseded by the use and design standards below.
- (b) The standards listed as general standards in article IV shall apply in all districts in which the use type is permitted by right or permitted subject to approval of a special use permit, as indicated in article III, district regulations.
- (c) Where a specific zoning district is indicated, the standards listed in article IV shall apply to that zoning district, in addition to any general standards listed for that use.

(Ord. of 10-11-2011(3), § 2)

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### **Sec. 86-452. Residential use types.**

- (a) The standards listed below must be adhered to at all times for each of the following residential use types.
- (b) Where possible, all reasonable efforts should be made so that residential units are designed with the front side of such unit facing the front property line, public road, or accessway on which its lot fronts.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-453. Accessory apartments.**

- (a) *Intent.* Accessory apartments afford an opportunity for the development of small dwelling units designed to meet the housing needs of single persons, persons with fixed or limited income, and/or extended families who live or desire to live with a degree of privacy and independence. Accessory apartments provide a degree of flexibility for homeowners with changing economic conditions and/or family structure, while providing reasonable protection for existing property values and neighborhood character.
- (b) *General standards.*
  - (1) An accessory apartment shall only be considered as an accessory use to a detached single-family dwelling and no accessory apartment shall be located in any structure other than the principal structure on the lot, unless a special use permit is approved for the accessory apartment.
  - (2) Except in situations specifically intended for multi-family residential units, only one accessory apartment shall be allowed on any one lot or parcel, and the owner of the property shall reside on the premises, and only members of the owner's family shall reside in the accessory apartment.
  - (3) No new exterior entrances to an accessory apartment within a detached single-family dwelling shall be allowed. Access to the accessory apartment must be through an existing exterior entrance.
  - (4) Upon completion of the construction, the accessory apartment shall not contain more than 50 percent of the finished floor area of the principal dwelling unit located on the same lot, but in no case shall the accessory apartment exceed 1,000 square feet.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-454. Home occupations.**

- (a) *Intent.* The purpose of the home occupation provisions of this division is to allow for home occupations that are compatible with the residential character of the neighborhood in which they are located. These provisions recognize that certain small-scaled commercial activities may be appropriate accessory uses on residential properties. The character and scale of such commercial activities must be subordinate and incidental to the principal use of the premises for dwelling purposes. The provisions contained in this division shall supersede any provisions to the contrary found elsewhere in this chapter.
- (b) *Permit procedures.* Home occupations complying with the criteria established in section 86-454 shall be considered minor in character and permitted by right. The zoning administrator may issue a zoning permit for such uses upon application and evidence of payment of the appropriate business license tax. So long as the business remains in compliance with the criteria set forth in subsection 86-454(d), it may continue to operate. Evidence of continued compliance shall be certified annually to the town clerk in such manner as the clerk may require.
- (c) Permitted home occupations include the following uses and those with similar land use characteristics:

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- (1) Professional offices, including offices for a physician, dentist, lawyer, engineer, architect, accountant, salesperson, real estate agent, insurance agent, or other similar occupation.
  - (2) Personal service establishments (other than tattoo parlors and body piercing establishments), photographers, or other similar occupations.
  - (3) Instructional service businesses, including music instruction, academic tutoring, or other similar occupations limited to no more than two pupils at one time.
  - (4) Home craft businesses, including pottery, model making, weaving, dressmaking, furniture making, and artists and sculptors or other similar occupations, provided such products are made using machinery or equipment which is customary for purely domestic household purposes.
  - (5) Business offices, including offices for building trades, provided that the conduct of any phase of the trade on the property is prohibited.
  - (6) Managing, processing, and filling of orders from in-home parties for a specialized product sales business distributed by mail order or other delivery service excluding general retail sales of the products from the site.
- (d) *Criteria for home occupations.* Uses classified as home occupations shall be permitted in all zoning districts which allow single-family residences. The following regulations shall apply to all home occupations:
- (1) No person other than family members residing on the premises and one non-family member shall be engaged in such occupation.
  - (2) The home occupation shall be clearly incidental and subordinate to the primary use of the dwelling as a residence. Not more than 25 percent of the gross floor area of the dwelling shall be used in conjunction with the home occupation or combination of home occupations.
  - (3) There shall be no change in the outside appearance of the dwelling or structure and surrounding property. No display of goods or business-related items of any kind shall be visible from the street or from adjoining property. The use of colors, materials, construction, lighting, or other means inconsistent with a residential use shall be prohibited.
  - (4) Home occupations shall be confined to the primary dwelling. However, a home occupation may be conducted in an on-site accessory structure, such as a garage, only with the issuance of a special use permit by the town council. No automotive or other vehicle repair shall be permitted as a home occupation.
  - (5) There shall be no outside display, specifically including signs, or storage of equipment or materials associated with the home occupation. No more than one vehicle with the business name on it may be parked so as to be visible from the street or from adjoining property and no vehicle which is to be parked so as to be visible from the street or from adjoining property may contain signage in excess of ten square feet for the entire vehicle.
  - (6) No traffic shall be generated by a home occupation or combination of home occupations in greater volumes than would normally be expected in a residential neighborhood.
  - (7) No installation or use of mechanical or electrical equipment is permitted which could endanger surrounding persons or property or which can be heard outside of the dwelling unit. No toxic, explosive, flammable, radioactive, or other hazardous materials used in conjunction with the home occupation shall be used, sold, or stored on the site. The sale of firearms as a home occupation shall be prohibited.
  - (8) No on-site use, parking or storage of vans with a length in excess of 20 feet, tractor trailers, or heavy equipment, such as construction equipment, used in connection with the home occupation is permitted.



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- (9) No home occupation shall produce noise, obnoxious odors, vibrations, glare, fumes, or electric interferences detectable to normal sensory perception beyond the property line; nor shall such home occupation produce electric emissions or signals which interfere with normal radio and television reception in the surrounding neighborhood.
  - (10) A home occupation shall comply with all applicable local, state or federal regulations.
  - (11) Parking generated by the conduct of such home occupation shall be on-premises, off-street and in designated driveway areas.
  - (12) Other than standard delivery services, such as UPS and FedEx, the home occupation shall not involve the commercial delivery of materials or products to or from the premises.
  - (13) No illegal discharges of any materials, fluids or gases will be permitted to enter the sewer system or storm-drain system.
  - (14) There shall be no sale of goods or products not produced on the premises, except that the sale of products in connection with a service which service is the principal business being conducted on the premises shall be permitted; and except that orders previously made by telephone or at a sales party may be filled on the premises.
  - (15) No activity in conjunction with a home occupation shall adversely impact any neighboring property owners.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-455. Manufactured home.**

(a) *General standards.*

- (1) *Additions to manufactured homes.* No permanent or semi-permanent structure shall be affixed to any class B manufactured home or to any class C mobile home.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-456. Manufactured home, emergency.**

- (a) *Intent.* These regulations are adopted in recognition that temporary emergency housing options may be necessitated by fire, flood, or other unforeseen and sudden acts of nature.

(b) *General standards.*

- (1) The administrator may authorize the emergency use of a manufactured home on a lot if the building official certifies that the permanent dwelling on the lot has been lost or destroyed by a fire, flood, or other unforeseen and sudden act of nature, and as a result is uninhabitable.
- (2) Only one emergency manufactured home shall be permitted on any lot of record. It shall be located on the same lot as the destroyed dwelling, and must be occupied only by the person, persons, or family, whose dwelling was destroyed.
- (3) The emergency manufactured home shall be less than 19 feet in width.
- (4) To the extent feasible, the emergency manufactured home shall meet all setback and yard requirements for the district in which it is located. It shall be anchored and stabilized in accordance with the provisions of the Virginia Uniform Statewide Building Code.

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- (5) The emergency manufactured home is considered to be a temporary use and must be removed as soon as reconstruction or replacement of the uninhabitable dwelling is complete, or within a 12-month period of its placement on the site, whichever is sooner. A one time extension of up to six additional months may be granted by the administrator if substantial reconstruction of the destroyed dwelling has occurred, and work has, and is continuing to progress. A final certificate of zoning compliance for the reconstructed dwelling shall not be issued until the emergency manufactured home is removed from the site.
- (c) *Federal disasters.* Where the President of the United States has declared a federal disaster, the administrator, upon consent of the town manager, may authorize the placement of temporary manufactured homes supplied by the Federal Emergency Management Agency (FEMA) to disaster victims who lost their homes. In such cases, all zoning and building code requirements shall be waived in favor of FEMA standards. The period for temporary placement of manufactured homes shall be 12 months, unless FEMA authorizes an extension for an additional 12 months.
- (Ord. of 10-11-2011(3), § 2)

### **Sec. 86-457. Manufactured home park.**

The following regulations shall apply to all manufactured homes in a manufactured home park as defined by section 86-32 whether existing as nonconforming uses or as permitted uses:

- (1) *Screening.* Manufactured home parks shall be enclosed with an approved fence or planted hedge, not less than seven feet in height and without openings to adjoining property other than entrances and exits to streets or public spaces.
- (2) *Area; minimum lot area.* The minimum area for an individual manufactured home lot shall be a minimum area of 5,000 square feet.
- (3) *Width; minimum lot width.* The minimum average width for each manufactured home lot shall be 50 feet.
- (4) *Percentage of lot coverage.* The maximum area that shall be covered, including patios and accessory buildings, is 30 percent of the allocated space area.
- (5) *Minimum distance between mobile homes.* No manufactured home shall be placed within 25 feet of another.
- (6) *Setback.* All mobile homes shall be set back a minimum distance of 25 feet from any boundary line or street right-of-way.
- (7) *Water supply.* An approved water supply system shall be installed with an individual water tap and connection for each mobile home lot to supply running water for all sanitary and washing fixtures, drinking and domestic purposes as required by the plumbing code. Connections to individual units shall be arranged to prevent backsiphoning into the main system. Lines shall be of sufficient depth to prevent freezing and shall be insulated above ground.
- (8) *Sewerage facilities.* All waste or wastewater from a manufactured home shall empty into a public system or a state department of health approved sewage disposal system. Lines shall be completely underground except where under the mobile home.
- (9) *Additions to manufactured homes.* No permanent or semi-permanent structure shall be affixed to any manufactured home as an addition to such manufactured home when located in a manufactured home park, nor shall any accessory structure be permitted on any lot or in any manufactured home park except those accessory structures allowed by this article and a structure to house an office. If an office

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structure is provided, its construction shall comply with all applicable laws and ordinances. The prohibition against any addition or accessory to a manufactured home shall not apply to a canopy or awning designed for use with a manufactured home, nor to any expansion unit of accessory structures specifically made for manufactured homes.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-458. Multi-family dwelling consisting of more than three units.**

- (a) *Intent.* The following minimum standards are intended to accommodate multi-family dwellings that contain more than three units, ensuring adequate separation and other design characteristics to create a safe and healthy residential environment while protecting less intensive adjoining uses.
- (b) *General standards.*
  - (1) Additional setbacks in the form of a buffer yard shall be required in accordance with section 86-573, where the property adjoins an R-1 zoning district.
  - (2) Each multi-family building shall be separated by 40 feet between facing living areas. This separation may be reduced to 20 feet when both multi-family buildings contain facing windowless walls.
  - (3) Where buildings are placed at right angles (90 degrees) to one another and both interior walls are windowless, the minimum separation of buildings shall be 20 feet.
  - (4) Minimum common open space and recreational areas required:
    - a. Ten percent of the total lot area for parcels up to five acres; and
    - b. Twenty percent of the total lot area for parcels over five acres.
  - (5) Minimum standards for open space and recreational areas required below:
    - a. Shall be in addition to any buffer yard required in section 86-573 of this chapter;
    - b. Shall be in addition to and not be located in any required front, side or rear yard setback;
    - c. Shall have a minimum width of 50 feet or more, except that areas with a minimum width of at least 20 feet or more shall be counted as open space provided such areas contain facilities such as, but not limited to, bikeways, exercise trails, tot lots, gazebos, picnic tables, etc.;
    - d. Shall not include proposed street rights-of-way, open parking areas, driveways, or sites reserved for other specific uses; and
    - e. Shall be of an appropriate nature and location to serve the residents of the multi-family development.
  - (6) Provisions must be made for vehicular access and turn around for regularly scheduled service vehicles such as trash collection.
  - (7) Secondary access to a local residential street may be permitted by the administrator only in cases where there are overriding factors of health or safety for residents or where the arrangement and condition of local streets are such that the projected increase in traffic will not substantially affect the use and enjoyment of the street by residents.
  - (8) All lots shall have frontage on a public street or access thereto by common dedicated right-of-way within 300 feet.
  - (9) When the main utility lines servicing the multi-family dwellings are run across common property or any other property not owned by the town, the developer shall provide a 15-foot easement for these lines.

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- (10) Common areas for condominiums shall be maintained by and be the responsibility of the developer/owner in the case of a multi-family apartment building and/or the unit owner's association in the case of condominiums.

- (11) All multi-family developments shall be served by public sewer and water.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-459. Single-family, attached.**

- (a) *Intent.* The following provisions are intended to offer greater flexibility by providing a variety of housing options that meet the changing needs and demands of the public. The standards below are intended to accommodate new developments of attached single-family dwellings, as well as to allow attached single-family dwellings as in-fill development on scattered sites in existing residential areas.
- (b) *General standards within a common development.*
- (1) The minimum lot size, frontage and front and rear yard setbacks required in the district regulations may be reduced up to 20 percent, however the normal front, rear, and side yard setback requirement must be maintained adjacent to any lot or public street or right-of-way not within the common development; or not otherwise designated for zero lot line use. The 20 percent road frontage reduction does not apply to parcels with frontage in a cul-de-sac bulb.
  - (2) Minimum side yard opposite the common lot line between two attached dwellings: Ten feet.
  - (3) Maximum building coverage: 40 percent of the lot.
  - (4) A copy of the approved subdivision plat shall be submitted to the administrator. The administrator shall make the appropriate notation on the official zoning map that the affected lots have been approved for attached dwellings.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-460. Temporary family health care structures.**

- (a) *Intent.* It is the intent of this section that in accordance with Code of Virginia, § 15.2-2292.1, that temporary family health care structures be allowed as an accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings provided that the following design standards below are met.
- (b) *General standards.*
- (1) The structure shall have a maximum of one resident occupant, who shall be a mentally or physically impaired person as defined in section 86-21.
  - (2) The structure shall not exceed 300 square feet in gross floor area.
  - (3) The structure shall comply with all applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code.
  - (4) Placement on a permanent foundation shall not be required or permitted.
  - (5) Only one such structure shall be permitted on a lot.
  - (6) The structure shall comply with all setback requirements applicable to principal structures in the district in which located and with all applicable lot coverage requirements.

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- (7) Such structure shall be connected to all necessary public and/or private utilities and shall comply with all applicable requirements of the Virginia Department of Health.
  - (8) No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
  - (9) Prior to placement of such a structure on a residential property, the property owner shall obtain a zoning permit. The zoning administrator shall require submittal of a sketch plan and such other documentation as deemed necessary to ensure compliance with the standards set forth herein.
  - (10) Any temporary family health care structure installed pursuant to this section shall be removed within 30 days of the occurrence of the mentally or physically impaired person no longer receiving or no longer needing the assistance of a caregiver as defined in Code of Virginia, § 15.2-2292.1 and in section 86-32 of this chapter.
  - (11) On an annual basis, at least 30 days prior to the anniversary date of the initial permit issuance, the caregiver shall be required to provide evidence of compliance with the terms of this section and to grant the zoning administrator the opportunity to conduct an inspection of the property and the structure at a time mutually acceptable to the caregiver and the town staff.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-461. Townhouses.**

- (a) *Intent.* It is the intent of this section that townhouses be allowed in areas where they may be located near other compatible types of housing. The purpose of the following design standards is to ensure the efficient, economical, and convenient use of land and open space.
- (b) *General standards.*
  - (1) All townhouse developments shall be served by public sewer and water.
  - (2) The facades of townhouses in a group shall be varied by changed front yards and variations in design so that no more than four abutting townhouses will have the same front yard setback and the same or essentially the same architectural treatment of facades and roof lines.
  - (3) The minimum separation between any building containing a group of five or more townhouse units shall be 40 feet from any other townhouse building. The minimum separation between any buildings containing a group of four or less townhouse units shall be 20 feet from any other building containing a group of four or fewer townhouses.
  - (4) If common areas are provided for townhouses which are not contained in lots or streets conveyed to individual owners, such common areas shall be maintained by and be the sole responsibility of the developer or owner of the townhouse development until such time as the developer or owner conveys the property to the homeowner's association.
  - (5) When the main utility lines servicing the townhouse units are run across common property or any other property not owned by the town, the developer shall provide a 15-foot easement for these lines.
  - (6) Only one yard, either the front yard or the rear yard, or in the case of an end unit, the side yard, shall be improved with a driveway or other impermeable surface intended for the storage of motor vehicles or for access to a garage, or other parking areas.
  - (7) The maximum building and lot coverage requirements applying to townhouses shall be computed for the site of the entire development.

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- (8) All lots shall have frontage on a public street or access thereto by common dedicated right-of-way within 300 feet.
  - (9) Provisions shall be made for vehicular access and turn around for regularly scheduled service vehicles such as trash collection.
  - (10) A side yard setback of 20 feet shall be provided for each end residence in any group of townhouses adjoining a property boundary of the development, or a street right-of-way, private drive, parking area or walkway intended for the common use of townhouse occupants.
  - (11) When a townhouse development adjoins a single-family dwelling, a type C buffer yard as described more fully in section 86-573 shall be provided.
  - (12) Maximum gross density: 12 townhouse units per acre.
  - (13) Maximum number in a group or block of townhouses: Eight townhouse units.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-462. Upper-story residential unit.**

- (a) *Intent.* The following minimum standards are intended to apply to residential units located in the second-story (and floors above the second-story) of commercial buildings typically in the downtown revitalization overlay (DRO) district.
- (b) *General standards.*
  - (1) *Laws:* Owners and tenants of the residence(s) shall comply with all local, state, and federal laws.
  - (2) *Occupancy:* Individual units shall only be used as single-family residences and shall contain no more than three bedrooms. The total occupancy per unit shall not exceed two tenants per bedroom.
  - (3) *Parking:* Parking for tenants is restricted to the lots listed in section 74-163 of the Town Code, except between the hours of 8:00 a.m. and 6:00 p.m. when parking will be enforced as posted. (This provision does not apply to tenants of properties zoned C-2).
  - (4) *Facade displays:* All displays must be properly secured in a safe manner. Flags and banners may not exceed 32 square feet and must not impede business on the lower floors or pedestrian traffic on the sidewalk. No exterior laundry lines are permitted outside the windows.
  - (5) *Window/HVAC Units:* Outside units shall not face Main Street or Broad Street.
  - (6) All multi-family developments shall be served by public sewer and water.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-463—86-470. Reserved.**

### **Sec. 86-471. Civic use types.**

The standards listed below must be adhered to at all times for each of the following civic use types.

(Ord. of 10-11-2011(3), § 2)

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## **Sec. 86-472. Cemetery.**

(a) *General standards:*

- (1) Minimum parcel size: Ten acres.
- (2) No interment shall occur within 25 feet of the property line.

(b) Any cemetery associated with a local place of religious assembly shall be exempt from the general standards above and from the necessity of obtaining a special use permit provided the following:

- (1) The owners of any residence located within 250 yards, excluding residences separated by a public street, consent in writing to the proposed cemetery.
- (2) The cemetery is located at least 300 yards from any private well or any public property containing a well used in connection with a public water supply.
- (3) The location is legally recorded and, in the opinion of the administrator, sufficiently documented to adequately inform prospective and future property owners of the presence and location of such cemetery.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-473. Clubs.**

(a) *General standards:*

- (1) When a club adjoins a residential use type, a type C buffer yard in accordance with section 86-573 shall be provided along the property line which adjoins the residential use type.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-474. Community recreation.**

(a) *General standards:*

- (1) Any outdoor activity area, swimming pool, ball field, or court which adjoins a residential use type shall be landscaped with one row of small evergreen trees in accordance with section 86-573 along the property line adjoining the residential use type. Where nighttime lighting of such areas is proposed, large evergreen trees shall be required.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-475. Educational facility college/university.**

(a) *General standards:*

- (1) Any outdoor activity area, swimming pool, ball field, or court which adjoins a residential use type shall be landscaped with one row of small evergreen trees in accordance with section 86-573 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed, large evergreen trees shall be required.
- (2) Any area constructed in conjunction with an educational facility intended for the overnight storage of buses, trucks, or large equipment or vehicles which adjoins a residential use type shall be landscaped with a minimum six-foot high screen and one row of small evergreen trees in accordance with section

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86-573 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed a minimum six-foot high screen and large evergreen trees shall be provided along the property line adjoining the residential use type.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-476. Educational facility primary/secondary.**

(a) *General standards:*

- (1) Any outdoor activity area, ball field or court, or stadium which adjoins a residential use type shall be landscaped with a minimum of one row of small evergreen trees in accordance with section 86-573 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed, large evergreen trees shall be required.
- (2) Any area constructed in conjunction with an educational facility intended for the overnight storage of buses, trucks, or large equipment which residential use type shall be landscaped with minimum of one row of small evergreen trees in accordance with section 86-573 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed large evergreen adjoins a residential use type shall provide type C buffer yard as specified in section 86-573 of this chapter.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-477. Family day care home.**

(a) *General standards:*

- (1) Family day care homes, where applicable, shall comply with the minimum standards for family day care homes established by the Virginia Department of Social Services, as may be amended.
- (2) When a license is required, a copy of the license to operate a family day care home, approved by the Virginia Department of Social Services, shall be presented to the administrator prior to the issuance of a business license or certificate of zoning compliance to operate a family day care home.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-478. Public parks and recreational areas.**

(a) *General standards:*

- (1) Any outdoor activity area, ball field or court, or stadium which adjoins a residential use type shall be landscaped with a minimum of one row of small evergreen trees in accordance with section 86-573 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed large evergreen trees shall be required.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-479. Religious assembly.**

(a) *General standards:*

- (1) Any outdoor activity area, swimming pool, ball field or court which adjoins a residential use type shall be landscaped with a minimum of one row of small evergreen trees in accordance with section 86-573



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along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed large evergreen trees shall be required.

- (2) When a place of religious assembly adjoins a residential use type, a type C buffer yard in accordance with section 86-573 shall be provided between the parking area(s) and the residential use type.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-480. Safety service.**

When a safety service establishment adjoins a residential use type, a type C buffer yard in accordance with section 86-573 shall be provided along the property line which adjoins the residential use type.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-481. Utility services, major.**

(a) *General standards:*

- (1) In considering an application for a special use permit, the planning commission and town council shall consider the justification for the location of the proposed utility service and any alternative locations which may be available.
- (2) The minimum district lot size may be reduced as part of approval of the special use permit provided all setback and yard requirements are met and all other dimensional requirements are achieved.
- (3) The height limitation contained in each district may be increased as part of the approval of the special use permit.
- (4) No major utility service shall be located within 100 feet of an existing residence.
- (5) Except in the M district or except during construction of the utility facility in any district, outdoor storage of materials and equipment shall be prohibited in association with a major utility service, unless specifically requested and approved as part of the special use permit. In the M district outdoor storage areas shall comply with the screening provisions contained in section 86-573.
- (6) Buildings and facilities shall be designed and constructed to be compatible with the surrounding area, so that such facilities will not adversely impact nearby properties.
- (7) Type C screening and buffering consistent with section 86-573 of this chapter shall be required, unless modified as a part of an approved special use permit.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-482. Non-profit facility.**

- (a) No building which has been used as a residence at any time prior to the effective date of this ordinance [from which this section is derived] shall be permitted to be used as a non-profit facility.
- (b) All activities conducted within the building or anywhere on the property shall be consistent with the purposes stated in the charter of the non-profit organization.
- (c) No outside storage of equipment or materials.
- (d) All parking shall be off-street with the maximum number of vehicles to be determined by the zoning administrator in consultation with the planning commission and provided for in the special use permit.

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- (e) Signage shall comply with the following requirements:
- (1) Lighting may be internal or external. Internal lighting must not be so bright as to distract passing motorists and no light therefrom will carry on to adjacent properties. External lighting must be directed entirely on the sign structure and no light therefrom will carry on to adjacent properties.
  - (2) All lighting must be on a timer so that it goes off by 9:00 p.m. each evening.
  - (3) All lighting must be approved by the zoning administrator prior to installation.
  - (4) Identification signs: 24 square feet maximum.
  - (5) Temporary banners shall not exceed 40 square feet.

(Ord. of 8-8-2017(3), § 1)

#### **Sec. 86-482.1. Food bank, food pantry, or similar uses.**

- (a) All activities conducted within the building or anywhere on the property shall be consistent with the purposes stated in the charter of the organization operating the food bank.
- (b) No outside storage of equipment or materials.
- (c) All parking shall be off-street with the maximum number of vehicles to be determined by the zoning administrator and in the case of the C-2 district in consultation with the planning commission and provided for in the special use permit.
- (d) Signage shall comply with the following requirements:
  - (1) Lighting may be internal or external. Internal lighting must not be so bright as to distract passing motorists and no light therefrom will carry on to adjacent properties. External lighting must be directed entirely on the sign structure and no light therefrom will carry on to adjacent properties.
  - (2) All lighting must be on a timer so that it goes off by 9:00 p.m. each evening.
  - (3) All lighting must be approved by the zoning administrator prior to installation.
  - (4) Identification signs: Twenty-four square feet maximum.
  - (5) Temporary banners shall not exceed 40 square feet.

(Ord. of 5-14-2019(5), § 1)

#### **Sec. 86-483. Personal service business in R-2 district.**

- (a) No building which has been used as a residence at any time prior to the effective date of this ordinance [from which this section is derived] shall be permitted to be used as a personal service business.
- (b) No tattoo parlors or body piercing establishments shall be permitted.
- (c) There shall be no outside display other than one unlighted sign not to exceed four square feet, or storage of equipment or materials associated with the business.
- (d) No more than one vehicle with the business name on it may be parked so as to be visible from the street or from adjoining property and no vehicle which is to be parked so as to be visible from the street or from adjoining property may contain signage in excess of ten square feet for the entire vehicle.
- (e) All parking shall be off-street with the maximum number of vehicles to be determined by the zoning administrator in consultation with the planning commission and provided for in the special use permit.

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(Ord. of 8-8-2017(4), § 1)

**Secs. 86-484—86-490. Reserved.**

**Sec. 86-491. Office use types (reserved).**

**Secs. 86-492—86-500. Reserved.**

**Sec. 86-501. Commercial use types.**

The standards listed below must be adhered to at all times for each of the following commercial use types.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-502. Adult use.**

(a) *General standards:*

- (1) Sexually explicit material shall not be displayed in the windows of adult businesses. Further, all adult merchandise in adult uses as defined in section 86-32, shall not be visible from any point outside the establishment.
- (2) Signs or attention-getting devices for the business shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 86-22.
- (3) All off-street parking areas of the adult use shall be illuminated from dusk to closing. Adequate lighting shall also be provided for all entrances and exits serving the adult use, and all areas of the establishment where the adult use is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. "Adequate lighting" means sufficient lighting for clear visual and security camera surveillance.
- (4) No adult use shall be located within 500 feet from any building being used as a dwelling or any residential zoning district.
- (5) No adult use shall be located within 500 feet of any day care center, educational facility, primary/secondary, educational facility, college/university, nursing home, assisted living facility, public park and recreation area, cultural service, religious assembly, hotel/motel/motor lodge, or any other adult use.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-503. Automobile dealership, new.**

(a) *General standards:*

- (1) Outdoor vehicle display areas in conjunction with automobile sales shall be constructed of the same materials required for off-street parking areas.
- (2) The storage and/or display of motor vehicles in the parking area planting strip required by section 86-577 shall be prohibited.

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- (3) Exterior display or storage of new or used automobile parts is prohibited.
  - (4) Body and fender repair services are permitted as an accessory use provided:
    - a. The area devoted to such services does not exceed 20 percent of the gross floor area.
    - b. The repair facilities are at least 150 feet from any adjoining residential district.
    - c. Any spray painting takes place within a structure designed for that purpose and approved by the Altavista Fire and EMS Department.
    - d. Any vehicle awaiting body repair or painting, or missing major mechanical or body parts, or substantially damaged shall be placed in a storage yard. The storage yard shall be fully screened from public view and shall be set back at least 100 feet from any adjoining residential district.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-504. Automobile dealership, used.**

- (a) *General standards:*
  - (1) Outdoor display areas in conjunction with automobile sales shall be constructed of the same materials required as required for off-street parking areas.
  - (2) The storage and/or display of motor vehicles in the parking area planting strip required by section 86-577 shall be prohibited.
  - (3) Exterior display or storage of new or used automobile parts is prohibited.
  - (4) Any vehicle which is missing major mechanical or body parts or has been substantially damaged shall be placed in a storage yard. The storage yard shall be fully screened from public view and shall be set back at least 100 feet from any adjoining residential district.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-505. Automobile repair services, major.**

- (a) *General standards:*
  - (1) All vehicles stored on the premises shall be placed in a storage yard fully screened from public view and shall be set back at least 100 feet from any adjoining residential district.
  - (2) Body and fender repair services shall be subject to the following:
    - a. The repair facilities are at least 150 feet from any adjoining residential district.
    - b. Any spray painting takes place within a structure designed for that purpose and approved by the Altavista Fire and EMS Department.
  - (3) Exterior display or storage of new or used automobile parts is prohibited.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-506. Automobile repair services, minor.**

- (a) *General standards:*
  - (1) Exterior display or storage of new or used automobile parts is prohibited.

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- (2) Equipment and vehicles stored on the premises shall be behind the front building line or at least 35 feet from the public right-of-way, whichever is greater.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-507. Bed and breakfast.**

(a) *General standards.*

- (1) The owner or owner's immediate family or, with the written permission of the owner, tenant leasing the entire home shall reside on the same parcel occupied by the bed and breakfast establishment.
- (2) No more than five guest sleeping rooms shall be utilized for a bed and breakfast establishment. The maximum number of guest occupants shall not exceed 16 guests. These limits may be exceeded provided the special use permit approved by town council provides for it.
- (3) Any building constructed, enlarged or modified to accommodate a bed and breakfast shall maintain the appearance of a single-family residence.
- (4) Guests may stay no more than 30 consecutive nights in any one calendar year.
- (5) Meals shall be provided only to overnight guests and no cooking shall be permitted in guest rooms.
- (6) Required parking areas for guests and employees shall be provided on-site.

(Ord. of 10-11-2011(3), § 2; Ord. of 5-9-2017(8), § 1)

### **Sec. 86-508. Car wash.**

(a) *General standards:*

- (1) All new car wash facilities, whether conveyor operated or self service, shall be equipped with a water recycling system for at least 80 percent of water used.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-509. Construction sales and service.**

(a) *General standards:*

- (1) The storage and/or display of goods and materials in the parking area planting strip required by section 86-577 shall be prohibited.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-510. Day care center.**

(a) *General standards:*

- (1) All day care centers shall comply with the minimum standards for day care centers established by the Virginia Department of Social Services, as may be amended, unless specifically exempt from those minimum standards.
- (2) A zoning permit to operate a day care center shall be approved provided that a license to operate a day care center from the Virginia Department of Social Services is approved prior to beginning operation of

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the center. Failure to maintain a valid license approved by the Virginia Department of Social Services shall be considered a violation of this chapter.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-511. Equipment sales and rentals.**

(a) *General standards:*

- (1) The storage and/or display of goods and materials in the parking area planting strip required by section 86-577 shall be prohibited.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-512. Garden center.**

(a) *General standards:*

- (1) The storage and/or display of goods and materials in the parking area planting strip required by section 86-577 shall be prohibited.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-513. Gasoline stations.**

(a) *Standards for all gasoline stations.*

- (1) All parking on the premises shall occur in designated and marked parking spaces in accordance with the following provisions:
  - a. Parking spaces shall not be provided for large over-the-road tractor-trailer type trucks.
  - b. Loading zones providing for temporary standing of trucks while loading or unloading shall not accommodate more than two trucks.
  - c. Signs and pavement and curb markings shall be installed to prevent parking other than where specifically permitted and designated on the site.
  - d. No over-the-road-trucks shall remain on the premises for greater than four hours, unless that vehicle is actually under repair.
  - e. No more than two pumps capable of fueling large over-the-road trucks shall be provided. Such pumps shall be separated from non over-the-road truck pumps.
- (2) The site plan shall detail the physical methods to be employed on the premises to ensure that no hazardous or petroleum-based products are permitted to infiltrate into groundwater or surface water resources and that all federal, state and local requirements are fully satisfied.
- (3) All car wash facilities shall be equipped with a water recycling system for at least eighty percent of the water used.
- (4) Fire extinguishers and fire lanes in types, numbers and locations approved by the fire chief shall be provided and shown on the site plan.

(b) *Standards for gasoline stations in the C-1 zone.*

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- (1) All fuel dispensers shall be located at least 50 feet from the property line of any abutting residentially zoned lot.
  - (2) The following standards shall apply for any canopy over a gas pump island:
    - a. Such canopy shall have a maximum clear, unobstructed height to its underside not to exceed 14 feet six inches and a maximum overall height not to exceed 16 feet six inches.
    - b. The vertical dimension of the fascia of such canopy shall not exceed two feet.
    - c. There shall be no illumination of any portion of the fascia of the canopy. Any lighting fixtures or sources of light that are a part of the underside of the canopy shall be recessed into the underside of the canopy so as not to protrude below the canopy ceiling. All such lighting associated with the canopy shall be directed downward toward the pump islands and shall not be directed outward or away from the site.
    - d. Signs attached to or on such canopy shall not be illuminated and shall not extend beyond the ends of the fascia of the canopy to which or on which they are attached.
    - e. All canopies shall be set back at least 20 feet from the right-of-way.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-514. Itinerant merchant.**

(a) *General standards:*

- (1) The property owner shall grant written permission for the itinerant merchant to conduct business on his property.
- (2) Only one itinerant merchant per property is allowed at any one time.
- (3) The treasurer shall issue each itinerant merchant only one business license per calendar year pursuant to the Town Code, and 30 consecutive days shall be the maximum time for each transient use per calendar year.
- (4) Any time period for which a merchant receives a business license shall be counted in consecutive days.
- (5) Temporary offices, trailers, tents, or trucks are permitted, provided they do not disrupt traffic flow on the property or interfere with visibility for vehicle access to the site or vehicle movements on the site.
- (6) All business activities shall take place on private property.
- (7) Signage and lighting shall comply with the provisions of this chapter.
- (8) A concept plan showing the location of all activities shall be submitted to and approved by the administrator before a business license is issued.
- (9) All fixtures, equipment or any other structural elements of the business shall be immediately removed from the site once the license expires.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-515. Kennel, commercial.**

(a) *General standards:*

- (1) Each commercial kennel shall install and operate a kennel silencer.

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- (2) Animal waste shall be disposed of in a manner acceptable to the health department.
  - (3) Crematoria or land burial of animals in association with a commercial kennel shall be prohibited.
  - (4) All outdoor runs, training areas and pens associated with a commercial kennel shall be set back a minimum of 100 feet from any property line.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-515.1. Keeping of chickens.**

- (a) It shall be lawful for any person to keep on premises owned and occupied by him or her for such owner's personal use not more than six female chickens such chickens to be kept not less than 30 feet from any dwelling other than the owner's dwelling and 20 feet from any property line. Such chickens shall be kept in the rear yard of the lot, meaning the portion of the lot between the rear line of the main dwelling and the rear line of the lot extending the full width of the lot.
- (b) Such chickens within the town shall be provided with and kept within an enclosed secure area not to exceed 120 square feet, hereinafter known as the pen, at all times. Pens shall include a coop (enclosed structure) containing a minimum of two square feet per chicken and an open run area containing a minimum of eight square feet per chicken. The coop shall not exceed eight feet in height. Pre-manufactured coops and pens may be made from any material. Otherwise, the following materials may not be used to construct coops and pens: Tarps, plastic, fabric, rubber, paper, cardboard, or other non-traditional building materials.

It shall be the duty of such owner to maintain such coop and pen at all times in a safe, clean and sanitary condition, free of excrement and other unsanitary or offensive substances, liquids or odors, and so as not to constitute a hazard to the health or safety of any person or to become a nuisance.

- (c) The outdoor harvesting (slaughtering) of any chicken is prohibited.
- (d) Prior to locating such chickens on his or her property, such owner shall obtain a permit from the town on forms provided by the town. Newly issued permits will run from the date of issuance to December 31 and shall be renewed annually on January 1 thereafter. There shall be no fee for the issuance of such permit.
- (e) Violation of any provision of this section shall constitute a Class 4 misdemeanor and each day in violation after notification in writing shall constitute a separate offense.

(Ord. of 4-20-2016(7), § 1)

#### **Sec. 86-515.2. Keeping of horses in R-1 and R-2 district.**

- (a) Minimum contiguous fenced acreage is five acres with a minimum of two fenced acres per horse.
- (b) Horses must be stabled or penned no closer than 300 feet of the residence of any other person and such horses may be permitted to graze no closer than 100 feet from the residence or any other person.
- (c) Owner shall keep the pasture and barn cleaned so as to prevent accumulation of manure.
- (d) By special use permit, town council may place such other conditions upon such keeping and grazing of horses deemed necessary to prevent the creation of a nuisance and/or disturbance to the reasonable peace and comfort of neighboring residents as well as other requirements per the special use permit process.

(Ord. of 11-13-2018(4))



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## **Sec. 86-516. Manufactured home sales.**

(a) *General standards:*

- (1) The storage and/or display of manufactured homes in the parking area planting strip required by section 86-577 shall be prohibited.
- (2) The storage of manufactured homes on the premises which are not suitable for occupancy shall be prohibited.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-517. Mini-storage.**

(a) *General standards:*

- (1) The minimum front yard setback shall be 35 feet.
- (2) No security fencing, security gate or other obstruction to vehicle access shall be permitted in the required front yard setback or in any buffer yard required pursuant to section 86-573.
- (3) All interior driveways shall be at least 26 feet wide when cubicles open onto one side only and at least 30 feet wide when cubicles open onto both sides to accommodate loading and unloading at individual cubicles. Adequate turning radiuses shall be provided, where appropriate, for a 30-foot long single unit truck or moving van. All driveways and any other vehicle use or storage area shall be constructed of a hard surface such as asphalt bituminous concrete.
- (4) No door openings for any cubicle shall be constructed facing any residentially zoned property or any public right of way.
- (5) The following uses shall be prohibited:
  - a. The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment.
  - b. The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment.
  - c. The storage of flammable, highly combustible, explosive or hazardous materials shall be prohibited.
- (6) Outdoor storage areas shall be used for the storage of motor vehicles, trailers, and recreational vehicles only. All outdoor storage areas shall be thoroughly screened from adjoining properties.
- (7) Accommodations for a live-in manager's quarters shall be permitted.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-518. Recreational vehicle sales and service.**

(a) *General standards:*

- (1) The storage and/or display of recreational vehicles in the parking area planting strip required by section 86-577 shall be prohibited.

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- (2) Any recreational vehicle which is missing major mechanical or body parts or has been substantially damaged shall be placed in a storage yard. The storage yard shall be fully screened from public view and shall be set back at least 100 feet from any adjoining residential district.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-519. Retail sales.**

- (a) Any buildings or individual leasable tenant spaces at which retail sales are conducted in the C-1 local commercial district must not be in excess of 3,000 gross square feet.
- (b) Any buildings or individual leasable tenant spaces at which retail sales are conducted that are in excess of 3,000 gross square feet must be located in the C-2 general commercial district.
- (c) The following regulations apply to all retail establishments constructed or expanded so as to exceed 50,000 square feet in gross floor area:
  - (1) The retail establishment shall meet the minimum parking requirements set out in section 86-566.
  - (2) Areas devoted to parking shall not exceed a maximum of one parking space per 180 square feet of gross floor area unless the applicant provides an independent study showing the need for a greater number of spaces. Such study shall be based on the Institute of Transportation Engineers (ITE) Manual or other accepted documented engineering standards. Based on the content and findings of this study, the planning commission may determine that a specific number of additional parking spaces is warranted and approve the same.
  - (3) All corrals for the temporary collection of shopping carts and all shopping cart storage areas shall be designated on preliminary and final site plans.
  - (4) Outdoor vendors and vending machines shall be located only in areas designated for such purposes on the preliminary and final plans. Vending machines shall be flush with established principal building lines and shall be screened from view from all public rights-of-way.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-520. Restaurant, mobile.**

- (a) Mobile restaurants in the R-1 and R-2 districts may operate only when sponsored for a specific event by a church or other non-profit organization holding an exemption letter from the Internal Revenue Service and with prior approval by designated town staff. The mobile restaurant shall obtain a temporary mobile restaurant permit and provide evidence of such sponsorship including a description of the event and duration thereof. Mobile restaurants shall be subject to all of the requirements of subsections (b) and (c) below as they are applicable.
- (b) Requirements for mobile restaurants.
  - (1) Mobile restaurants must obtain a mobile restaurant permit. The permit shall not be transferable to a new owner of the unit. The permit is valid for 12 months - January to December. The permit fee shall be as stated in the Town of Altavista Master List, Rate Fees and Charges. (Initial recommended fee - \$25.00 with business license \$25.00 total is \$50.00 to be placed in master list).
  - (2) Mobile restaurants must maintain a valid business license issued by the town and a valid health permit issued by the Virginia Department of Health. These must be displayed at all times the restaurant is open for service.

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- (3) Mobile restaurants shall be required to collect and remit the Town of Altavista Meals Tax as provided in town Code section 70-41, et seq.
- (c) General standards.
- (1) A mobile restaurant may operate on private property but must obtain written permission from the property owner and provide when seeking a zoning permit. The mobile restaurant owner must give the town prior notice of when they will be operating in the town limits.
  - (2) No items shall be sold other than food and non-alcoholic beverages and items incidental to food and its consumption.
  - (3) No music shall be played that is audible outside of the vehicle.
  - (4) Mobile restaurant vehicles must park in locations or areas as approved in the mobile restaurant permit, and shall not block (i) the main entry drive aisles or affect pedestrian or vehicular circulation overall, (ii) other access to loading areas, or (iii) emergency access and fire lanes. The mobile restaurant must also be positioned at least 15 feet away from street intersections, driveway entrances, alleys, fire hydrants and handicapped parking spaces.
  - (5) A mobile restaurant may operate between 7:00 a.m. and 9:00 p.m. No mobile restaurant shall operate past 9:00 p.m. A mobile restaurant and all materials associated with the business shall be removed from the location by 9:30 p.m. each day.
  - (6) When open for business, the mobile restaurant operator, or his or her designee, must be present at all time, except in cases of an emergency.
  - (7) No outdoor seating shall be permitted. If space is available, one covered table is permitted to provide condiments to patrons.
  - (8) Temporary A-frame or T-frame signs may be displayed only when the mobile restaurant is open. The size of these signs is per section 86-641(a)(3). Signs may be displayed permanently affixed to the vehicle. No signs intended to move with air/wind shall be allowed (such as streamers, sails or wings or feather flags).
  - (9) Trash receptacles shall be provided by and at the mobile restaurant and all trash, refuse, or recyclables generated by the use shall be properly disposed of in them. Trash, refuse or recyclables must be removed with the mobile unit and may not be placed in any public receptacle or public trash can on a street or public dumpster.
  - (10) No liquid wastes shall be discharged from the mobile restaurant.
  - (11) No mobile restaurant shall locate within 50 feet of a business that sells food for consumption (determined by measuring from the edge of the mobile restaurant to the restaurant's foundation) unless permission of the restaurant owner is provided in writing. This standard shall not apply when an established, active restaurant is closed or outside its normal operating hours or when the mobile restaurant is part of a town sanctioned event.
  - (12) No mobile restaurant shall locate within 50 feet of a single-family or multi-family residential structure (determined by measuring from the edge of the mobile restaurant to the edge of the structure).
  - (13) Mobile restaurant vehicles may be otherwise limited by the town depending on the location or other details of the mobile restaurant permit application.
  - (14) A mobile restaurant may operate on public property at any town sanctioned event, including, but not limited to the First Saturday Trade Lot, Uncle Billy's Day, TGIF, Annual Harvest Jubilee & Wine Festival, and AOT's Food Truck Rally.

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- (15) The operation of the mobile restaurant or use of a generator may not be loud enough to be plainly audible at a distance of 100 feet from the mobile restaurant. Excessive complaints about vehicle or generator noise will be grounds for the zoning administrator to require that the mobile restaurant vendor change location on the site, to move to another property or the permit may be revoked at that location.
  - (16) Mobile restaurant permit may be revoked by the zoning administrator at any time due to the failure of the property owner or operator of the mobile restaurant permit to observe all requirements for the operation of mobile restaurants. Notice of revocation shall be made in writing to address of record for mobile restaurant permit holder. Any person aggrieved by such notice may appeal the revocation to the board of zoning appeals.

(Ord. of 12-11-2018(5))

#### **Sec. 86-521. Wedding/event facility.**

- (a) *Noise level.* All weddings and events shall adhere to the Town of Altavista Ordinances and would require a permit issued by the town.
- (b) *Structural requirements.* The facility shall meet all requirements of the Virginia Statewide Building Code and meet any environmental health requirements for sewage disposal and water supply.
- (c) *Parking.* All parking surfaces are not required to be paved. The number of parking spaces required will be based on the size of the structure.
- (d) *Screening.* The entire perimeter of the facility and area associated with the use shall be screened from adjoining properties by a buffer yard as set forth in section 86-573.
- (e) *Signs.* Signs shall be permitted as provided in article V of this chapter 86.

(Ord. of 7-9-2019(2), § 1)

#### **Secs. 86-522—86-530. Reserved.**

#### **Sec. 86-531. Industrial use types.**

The standards listed below must be adhered to at all times for each of the following industrial use types.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-532. Construction yard.**

- (a) *General standards:*
  - (1) All materials stored on the premises shall be placed in a storage yard. The storage yard shall be fully screened from surrounding views in accordance with section 86-573 and shall be set back at least 100 feet from any adjoining residential district.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-533. Custom manufacturing.**

- (a) *General standards:*

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- (1) All activities associated with a custom manufacturing establishment, other than loading and unloading, shall be conducted within an enclosed building.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-534. Recycling centers and stations.**

(a) *General standards:*

- (1) Where receptacles for recyclable materials are located outside of a building, they shall be located so as to not disrupt or interfere with on site traffic circulation, required fire lanes or required parking or stacking areas.
- (2) A specific circulation pattern shall be established to provide safe and easy access to recycling receptacles. Adequate space shall be provided for the unloading of recyclable materials.
- (3) A regular schedule for picking up recycled materials shall be established and maintained.
- (4) The site shall be maintained free of litter.
- (5) Where receptacles for recyclable materials are located outside of a building, they shall be screened from public view in accordance with section 86-573.

(Ord. of 10-11-2011(3), § 2)

#### **Secs. 86-535—86-540. Reserved.**

#### **Sec. 86-541. Miscellaneous use types.**

The standards listed below must be adhered to at all times for each of the following miscellaneous use types.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-542. Amateur radio tower.**

(a) *General standards:*

- (1) An amateur radio tower shall be considered an accessory structure and shall comply with the minimum setback requirements for the respective zoning district.
- (2) The minimum setback requirement from the base of the tower to any residential structure on an adjoining lot shall be at least equal to 40 percent of the height of the tower, measured from the closest structural member of the tower (excluding guy wires). Guy lines shall be exempt from the minimum setback requirements in side and rear yards for the respective zoning district, but shall comply with the setback requirements for the front yard.
- (3) More than one tower shall be permitted provided all setback requirements have been met.
- (4) Towers shall be illuminated as required by the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC), but no lighting shall be incorporated if not required by either agency.

- (b) In all residential, commercial and industrial zoning districts where amateur radio towers are permitted the following additional standards shall apply:

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- (1) The maximum height permitted for an amateur radio tower shall be 75 feet. Any tower which exceeds this height may be permitted only after obtaining a special use permit in accordance with section 86-7 of this chapter and the additional criteria established under subsection (c) for such permits below.
  - (c) Where a special use permit is requested, the following criteria shall be considered:
    - (1) In accordance with the FCC's Memorandum Opinion and Order in PRB-1 also known as "Amateur Radio Preemption," 101 FCC2d 952 (1985), local regulation of amateur radio towers shall consider the following:
      - a. The FCC, in regulating and licensing amateur radio stations and operators, is operating under basic federal objectives which preempt certain local regulations which preclude amateur communications;
      - b. Restrictions on the placement, screening, or height of towers based on health, safety or aesthetic considerations must reasonably accommodate amateur communications.
      - c. Restrictions must represent the minimum practicable regulation to accomplish the purpose of the district in which the tower is proposed.
    - (2) The specific height of the amateur radio tower shall be set and established as a condition of the special use permit.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-543. Parking facility, surface.**

- (a) *General standards:*
  - (1) Surface parking facilities containing 15 or more spaces shall include landscaped medians, peninsulas or planter islands. Such landscaped areas shall constitute no less than ten percent of the total paved area. They shall be planned, designed and located to channel traffic flow, facilitate storm water management, and define and separate parking areas and aisles. Each landscaped area shall be planted with a deciduous tree with a minimum caliper of one inch at the time of planting in accordance with section 86-581.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-544. Satellite dish antenna in excess of one meter.**

The design standards contained herein shall apply only to satellite dish antennae which are in excess of one meter in diameter or diagonal measurement.

- (1) *General standards:*
  - a. *Accessory structure.* Satellite dishes are considered to be an accessory structure and must meet setbacks accordingly. No satellite dishes may be constructed on a self-supporting pole or other structure in the front yard. All satellite dishes attached to residences must be properly affixed and secured by proper mountings.
  - b. *Location.* No more than two satellite antennas not exceeding six feet in diameter may be erected or installed on any one building lot in the town regardless of the zoning district in which it is located. Any such antenna shall be located only in the rear yard of such lot no closer than five feet to any side or rear lot line, nor less than ten feet from the rear of a main building; provided,

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however, that in lieu of any such antenna in a rear yard, one satellite antenna four feet or less in diameter may be suitably mounted to the roof area of a building.

- c. *Corner lot.* No satellite antenna on any corner lot shall be constructed or mounted neither forward of the building line of any adjoining lot nor closer than five feet to the side of such adjoining lot.
- d. *Height limitation.* No satellite antenna mounted in any such yard shall exceed 16 feet measured vertically from the highest point of the signal receiving apparatus, when positioned for operation, to the bottom of the base which supports the satellite antenna except any antenna which pursuant to this section, may be located and suitably mounted to the roof of a building.
- e. *Ground mounting.* Satellite antennas shall be ground mounted at ground level pursuant to all requirements of the Virginia Uniform Statewide Building Code after securing the proper building permits, and sufficiently secured to withstand a 75 mph wind; except such antenna four feet or less in diameter which is otherwise permitted by the section to be mounted to the roof of a building. All electrical cable will be buried in accordance with the applicable provisions of the building code.
- f. *Screening.* All ground-mounted satellite antennas over four feet in diameter shall be screened from adjoining properties by a wooden or masonry fence of six feet in height or by a living screen of coniferous plantings four feet in height minimum on planting planted five feet on center and of a variety which will mature to a height at least equal to the height of the antenna at its highest point as measured pursuant to this section. All such fences or plantings shall be installed at the time the antenna is installed and shall be fully and properly maintained during such time as the antenna being screened shall remain in such location.

(Ord. of 10-11-2011(3), § 2; Ord. of 1-14-2014(7), § 1)

#### **Sec. 86-545. Tower.**

- (a) *General standards:* Towers must comply with all standards in article VI.

(Ord. of 10-11-2011(3), § 2)

#### **Secs. 86-546—86-550. Reserved.**

### ***DIVISION 2. ACCESSORY USES AND STRUCTURES***

#### **Sec. 86-551. Accessory uses and structures.**

- (a) *Generally.* As defined in section 86-22, accessory uses and structures may be associated with principal use types. Principal uses which are allowed by right or by special use permit may include accessory uses and activities, provided such accessory uses and activities are subordinate and incidental to the principal use, and provided they are designed with the intent and provisions of this chapter.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-552. Accessory uses: Agricultural use types.**

(None)

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-553. Accessory uses: Residential use types.**

- (a) Residential use types may include the following accessory uses, activities or structures on the same site or lot:
- (1) Private garages and parking for the principal use.
  - (2) Recreational activities and uses used by residents, including structures necessary for such uses.
  - (3) Playhouses, gazebos, incidental household storage buildings, swimming pools, and other similar accessory structures.
  - (4) Home gardens as defined by section 86-32.
  - (5) Other uses and activities necessarily and customarily associated with purpose and function of residential use types, as determined by the administrator.
  - (6) Construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.
  - (7) Sales trailer associated with active construction on a site. A sales trailer shall be removed from an active site within 30 days of issuance of the final certificate of occupancy for the permanent sales office for the project.
  - (8) Amateur radio towers in accordance with the standards in section 86-542.
  - (9) Satellite dishes in accordance with the standards in section 86-544.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-554. Accessory uses: Civic use types.**

- (a) Civic use types may include the following accessory uses, activities or structures on the same site or lot:
- (1) Parking for the principal use.
  - (2) Accessory dwellings commonly associated with or necessitated by the location and operation of the principal use.
  - (3) Food services operated incidental to the principal use and operated primarily for the convenience of employees, residents or users of the principal use. Typical examples include cafeterias, and dining halls.
  - (4) Convenience commercial facilities clearly incidental to the principal use and operated primarily for the convenience of employees, residents, and users of the principal use. Typical examples include museum gift shops, college bookstores, or snack bars clearly incidental to the principal use.
  - (5) Other uses and activities necessarily and customarily associated with purpose or function of civic use types, as determined by the administrator.
  - (6) A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

(Ord. of 10-11-2011(3), § 2)



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**Sec. 86-555. Accessory uses: Office use types.**

- (a) Office use types may include the following accessory uses, activities or structures on the same site or lot:
- (1) Parking for the principal use.
  - (2) Recreational facilities available only to the employees of the office use type.
  - (3) Day care facilities available only to the employees of the office use type.
  - (4) Other uses and activities necessarily and customarily associated with purpose or function of office use types, as determined by the administrator.
  - (5) One accessory dwelling unit occupied by employees responsible for the security of the use.
  - (6) A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-556. Accessory uses: Commercial use types.**

- (a) Commercial use types may include the following accessory uses, activities or structures on the same site or lot:
- (1) Parking for the principal use.
  - (2) Accessory storage buildings or areas.
  - (3) One accessory dwelling unit occupied by employees responsible for the security of the use.
  - (4) Other uses and activities necessarily and customarily associated with purpose or function of commercial use types, as determined by the administrator.
  - (5) Construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-557. Accessory uses: Industrial use types.**

- (a) Industrial use types may include the following accessory uses, activities or structures on the same site or lot:
- (1) Parking for the principal use.
  - (2) Recreational facilities available only to the employees of the industrial use type.
  - (3) Day care facilities available only to the employees of the industrial use type.
  - (4) Cafeterias and sandwich shops available only to the employees of the industrial use type.
  - (5) Incidental retail sale of goods associated with the industrial use type, provided the square footage does not exceed ten percent of the gross floor area or 3,000 square feet, whichever is less.
  - (6) One accessory dwelling unit occupied by employees responsible for the security of the use.

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- (7) Other uses and activities necessarily and customarily associated with purpose or function of industrial use types, as determined by the administrator.
  - (8) A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-558—86-560. Reserved.**

***DIVISION 3. PARKING***

**Sec. 86-561. Minimum off-street parking—Generally.**

Off-street parking areas shall be provided prior to the issuance of a certificate of occupancy for any main building or expansion of an existing building, or the use thereof changed to a more intensive use.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-562. Stacking spaces and drive-thru facilities.**

- (a) Stacking spaces shall be provided for any use having a drive-thru facility or areas having a drop-off and pick up areas. The following general standards shall apply:
  - (1) Stacking spaces shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create potentially unsafe conditions.
  - (2) Drive-thru lanes shall be separated from off-street parking areas. Individual lanes shall be striped, marked, or otherwise delineated.
  - (3) Each stacking space shall be a minimum of eight feet by 20 feet.
- (b) Stacking spaces shall be provided as follows:
  - (1) Financial institutions shall provide four stacking spaces for the first drive-thru window, and two stacking spaces for each additional window.
  - (2) Car washes shall provide three stacking spaces per bay or stall.
  - (3) Restaurants shall provide six stacking spaces per drive-through window, measured from the order station.
  - (4) All other uses containing drive-thru facilities shall provide a minimum of three stacking spaces for each window.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-563. Satellite and shared parking.**

- (a) *General standards for satellite parking.*

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- (1) *Number.* If the number of off-street parking spaces required by this article cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section.
  - (2) *Location.* Satellite parking spaces, other than those intended for employee use, shall be located within 600 feet of a public entrance of a principal building housing the use associated with such parking.
  - (3) *Condition.* Property owners who obtain satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article, however, satellite parking spaces are required to comply with all of the requirements of this article.
  - (4) *Agreement.* Persons intending to take advantage of this provision are required to demonstrate that an enforceable agreement exists between the parties who intend to share the satellite parking.
- (b) *General standards for shared parking.* One parking area may contain required spaces for several different uses, but the required space assigned to one use may not be credited to any other use. Persons intending to take advantage of this provision are required to demonstrate that an enforceable agreement exists between the parties who intend to share the parking.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-564. Loading and unloading area.**

- (a) Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area, located at the rear, side, or end of the business, must be provided and in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.
- (b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles.
- (c) Loading and unloading areas shall be located and designed that the vehicles intended to use them can:
  - (1) Maneuver safely and conveniently to and from a public right-of-way, and
  - (2) Complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- (d) Multiple businesses on a single zoning lot or within the same business or group of businesses may share loading and unloading spaces.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-565. General design.**

- (a) *General standards for vehicular parking areas.*
  - (1) *Safety in relation to streets.* Every off-street vehicular parking area shall be designed so it has access to a public street without impeding vehicular movement in that street. These parking areas, other than for single-family units and duplexes on local or minor streets, shall be designed so that vehicles exit such areas without backing onto a public street.
  - (2) *Pedestrian safety.* Vehicular parking areas shall be designed so that vehicles can proceed without posing a significant danger to pedestrians or other vehicles.

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- (3) *Drainage.* Except where the town determines that adequate capacity in the storm drainage system to which the site is draining exists and is willing to accept the increased volume in runoff, no vehicle parking area shall be constructed in such a manner that a significant volume of surface water from the lot will be drained onto public streets or buildings. No vehicle parking area shall be constructed in such a manner that as to increase the quantity or decrease the quality of the runoff to adjacent lots.
  - (4) *Setback.* No part of any vehicle parking area other than the driveway entrance or exit shall be within four feet of any right-of-way line or public sidewalk, which is adjacent to the street right-of-way.
  - (5) *Disabled parking.* Site plans, as required by division 6, (below), shall provide for parking spaces reserved for the disabled. The number of spaces provided shall be as required by the Virginia Uniform Statewide Building Code. Such spaces shall be included in the total calculation of the total number of spaces required by this article.
  - (6) *Bike racks and motorcycle pads.* The number of spaces required by this article may be reduced by one space for each bicycle rack for five or more bicycles and each motorcycle pad for two or more motorcycles, which are provided up to a total of five percent of the required number of spaces.
  - (7) *Marking and maintenance.* Parking stalls in paved parking areas shall be clearly marked. Vehicular parking areas shall be properly maintained in all respects.
  - (8) *Vehicles in working condition.* All off-street parking facilities shall be used solely for the parking of vehicles in operating condition. No motor vehicle repair work except emergency service, no storage of merchandise, and no motor vehicles for sale, shall be permitted on any required vehicle parking area.
- (b) *Parking stall and aisle dimensions.*
- (1) *Normal.* A required off-street parking space or stall shall include a rectangular area with a length of at least 18 feet and a width of at least nine feet, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such space shall have a vertical clearance of at least six and one-half feet. Aisles shall be not less than 22 feet for 90 degree parking, nor less than 18 feet for 60-degree parking, nor less than 16 feet for 45-degree parking. Angles shall be measured between centerline of the parking space and centerline of the aisle. For parallel parking, the length of the space shall be increased an additional four feet and the width shall be decreased by one foot.
- (c) *Parking standards.*
- (1) All parking areas and/or sales display/service areas shall be maintained on all weather surface of gravel, surface treating, concrete or asphalt. Any newly constructed parking areas required to contain ten or more spaces shall be surface treated or paved with concrete or asphalt.
  - (2) Parking areas when required for three or more vehicles shall have individual spaces adequately designated. Single-family residential uses are exempt in all zoning districts.
  - (3) Each space shall have access to a street and shall be so arranged that any vehicle may be moved without moving another.
  - (4) Spaces shall be arranged so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public road.
  - (5) Parking lots used only for occasional use, less than two days per week, shall be exempt for the surfacing requirements.
  - (6) Any stacking lanes shall be surfaced to the same standards as the paved parking area with which they are associated.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-566. Off-street parking requirements by use.**

USE TYPE	PARKING REQUIRED
<b>Agricultural Use Types</b>	
Agriculture	No requirement
Stable, private	No requirement
<b>Residential Use Types</b>	
Accessory apartment	Schedule B
Duplex	2 spaces per dwelling unit
Family day care home	No requirement
Group home	2 spaces per facility
Home occupation	No requirement
Kennel, private	No requirement
Manufactured home, emergency	No requirement
Multi-family dwelling:	
Studio	1 space per dwelling unit
One bedroom	1.5 spaces per dwelling unit
Two bedrooms	1.5 spaces per dwelling unit
Three and four bedrooms	2.0 spaces per dwelling unit
More than four bedrooms	1.0 space per each additional bedroom
Single-family dwelling	2.0 spaces per dwelling unit
Townhouse:	
One bedroom	1.5 spaces per dwelling unit
Two or more bedrooms	2.0 spaces per dwelling unit
<b>Civic Use Types</b>	
Assisted care residence	1 space per employee on shift plus 1 space per 3 residents
Cemetery	Schedule B
Club	1 space per 3 persons based on maximum occupancy
Community recreation	Schedule B
Correction facilities	Schedule B
Crises center	1 space per employee on shift plus 1 space per 3 persons based on maximum occupancy
Cultural services	1 space per 400 square feet
Educational facilities, college/university	Schedule B
Educational facilities, primary/secondary	1 space per employee plus 1 space per 4 students in 11 <sup>th</sup> and 12 <sup>th</sup> grades
Government services	1 space per employee plus 3 spaces per 1,000 square feet
Guidance services	1 space per 300 square feet
Halfway house	1 space per 2 persons of residential capacity, plus 1 space per employee on shift
Life care facility	Schedule B
Nursing home	1 space per 4 beds
Park and ride facility	No requirement

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(Supp. No. 17, Update 2)

Post office	Schedule A
Public assembly	1 space per 5 seats
Public maintenance and service facilities	Schedule A
Public parks and recreation areas	Schedule B
Religious assembly	1 space per 5 seats in principal place of worship
Safety services	2 spaces per emergency vehicle based at facility
Utility services, major	Schedule A
Utility services, minor	Schedule B
<b>Office Type Uses</b>	
Financial institution	3 spaces per 1,000 square feet plus required stacking spaces
General offices	3.5 spaces per 1,000 square feet
Laboratories	1 space per employee plus 1 space per company vehicle based on site
Medical office	7 spaces per practitioner or 1 space per 200 square feet, whichever is greater
Substance abuse clinic	7 spaces per practitioner or 1 space per 200 square feet, whichever is greater
<b>Commercial Use Types</b>	
Adult use	Schedule B
Agricultural services	Schedule A
Antique shop	1 space per 400 square feet
Assembly hall	1 space per 5 seats
Automobile dealership, new	Schedule A
Automobile dealership, used	Schedule A
Automobile/parts supply, retail	Schedule A
Automobile repair services, major	2 spaces per repair bay plus 1 space per employee on shift
Automobile repair services, minor	3 spaces per repair bay plus 1 space per employee on shift
Automobile rental/leasing	Schedule A
Bed and breakfast	1 space per sleeping room available for guests
Business support services	1 space per 200 square feet
Business or trade schools	Schedule B
Car wash	1 space per employee on shift plus stacking spaces
Commercial indoor amusement	1 space per 3 persons based on maximum occupancy
Commercial indoor entertainment	1 space per 4 seats
Commercial indoor sports and recreation	1 space per 3 persons based on maximum occupancy plus 1 space per employee on shift
Commercial outdoor entertainment	1 space per 3 persons based on maximum occupancy plus 1 space per employee on shift
Commercial outdoor sports and recreation:	
Miniature golf	1.5 space per hole
Swimming pool	Schedule B
Tennis/court games	2 spaces per court

Other outdoor sports	Schedule B
Communications services	1 space per 300 square feet plus 1 space per company vehicle based on site
Construction sales and services	Schedule A
Consumer repair services	1 space per 300 square feet
Convenience store	5 spaces plus 1 space per 200 square feet plus 1 space per gas dispenser
Dance hall	1 space per 3 persons based upon maximum occupancy
Day care center	1 space per 20 persons receiving care plus one space per employee
Equipment sales and rental	Schedule A
Flea market	1 space per 100 square feet of sales area accessible to the public
Funeral services	1 space per 2 employees on shift plus 1 space per 5 seats in main chapel
Garden center	Schedule A
Gasoline station	1 space per employee plus required stacking spaces
Golf course	36 spaces per 9 holes
Hospital	1 space per employee on shift plus 1 space per 2 beds
Hotel/motel/motor lodge	1 space per guest room plus 1 space per employee, plus spaces as may be required for other uses on site
Kennel, commercial	Schedule B
Laundry	1 space per 300 square feet
Manufactured home sales	Schedule B
Mini-warehouse	0.2 spaces per 1,000 square feet
Modular home sales	Schedule B
Pawn shop	1 space per 300 square feet
Personal improvement services	1 space per 300 square feet
Personal services	1 space per 300 square feet
Recreational vehicle sales and service	Schedule A
Restaurant, small	1 space per 3 seats plus 1 space per employee on shift
Restaurant fast food or drive-in	1 space per 4 seats plus 1 space per employee on shift, plus required stacking spaces
Restaurant, general	1 space per 2 seats plus 1 space per employee on shift
Retail sales	
Shopping center	1 space per 250 square feet of gross leasable area
Other retail	1 space per 200 square feet
Studio, fine arts	Schedule B
Travel center	Schedule B
Veterinary hospital/clinic	1 space per 300 square feet
<b>Industrial Use Types</b>	
Asphalt plant	Schedule B
Composting	Schedule B
Construction yard	Schedule A
Custom manufacturing	Schedule A

Industry, heavy	1 space per 1,000 square feet
Industry, light	1 space per 1,000 square feet
Industry, medium	1 space per 1,000 square feet
Intermodal facility	Schedule A
Landfill, construction debris	Schedule B
Landfill, rubble	Schedule B
Landfill, sanitary	Schedule B
Meat packing and related industries	1 space per employee on shift
Railroad facilities	Schedule B
Recycling centers and stations	Schedule B
Resource extraction	1 space per employee on shift
Sawmill	Schedule A
Scrap and salvage services	Schedule A
Transfer station	Schedule B
Transportation terminal	Schedule B
Truck terminal	Schedule B
Warehousing and distribution	0.5 spaces per 1,000 square feet
<b>Miscellaneous Use Types</b>	
Amateur radio tower	Schedule A
Aviation facilities, general	Schedule B
Aviation facilities, private	Schedule B
Tower	2 spaces per tower
Shooting range, outdoor	Schedule B

#### *Schedule A.*

The following table contains minimum parking requirements for uses with elements having different functions or operating characteristics. The administrator shall consider and decide the minimum parking required for uses containing a mixture of these elements:

Element	Parking Required for Element
Office or administrative activity	3.5 spaces per 1,000 square feet
Indoor sales, display or service area	1 space per 500 square feet
Motor vehicle service bays	2 spaces per service bays
Outdoor sales, display or service area	1 space per 2,000 square feet
General equipment servicing or manufacturing	1 space per 1,000 square feet
Indoor or outdoor storage or warehousing	1 space per 5,000 square feet

#### *Schedule B.*

Specific minimum requirements shall be determined administratively by the zoning administrator in consultation with the planning commission, based on requirements for similar uses, location of the proposed use, expected demand, and traffic generated by proposed use.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-567—86-570. Reserved.**



PART II - CODE  
Chapter 86 - ZONING  
ARTICLE IV. - DEVELOPMENT STANDARDS  
DIVISION 4. BUFFERS AND LANDSCAPING STANDARDS

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***DIVISION 4. BUFFERS AND LANDSCAPING STANDARDS***

**Sec. 86-571. Buffer yards, screening, and landscaping.**

It is the intent of these provisions to promote the public health, safety and welfare by reducing common conflicts associated with incompatible abutting land uses. It is also the intent of these provisions to promote the protection of the natural environment through plantings that absorb gaseous emissions and improve air and water quality. These requirements seek to ease transition among different uses by reducing noise, glare, dust and overcrowding, redirecting emissions, confining litter, maintaining property values, protecting neighborhood character, promoting visual harmony, restricting passage, promoting peaceful enjoyment and privacy and enhancing the natural environment. Furthermore, the requirements seek to encourage innovation in landscape and architectural design.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-572. General requirements.**

These provisions shall apply to all developments requiring a site plan as specified by this chapter. All required landscaped plans shall be prepared by either a landscape architect, a professional planner, or other professional knowledgeable of plant materials and landscape design.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-573. Buffer yards.**

- (a) Buffer yards containing specified screening and plantings shall be required between zoning districts of different intensities as shown in table 1. For each required buffer type, the developer of the site shall choose which option to install.
- (b) Required buffer yards shall be located such that they provide a visual and physical barrier between abutting zoning districts of different intensities and shall buffer and screen all exterior storage, service, refuse, maintenance, repair, processing, salvage, parking, and other similar areas. No use of the site may be extended into or beyond the required buffer yard.
- (c) Required buffer yards shall not be located on any portion of any existing or dedicated public or private street or right-of-way, shall not obstruct the visibility of traffic circulation, and shall not interfere with the use of adjoining properties.

*TABLE 1—Buffer Yard Types*

		Adjoining	Zoning	District		
Site Zoning						
	R-1	R-2	C-1	C-2	M	R-MHP
R-1	*	*	*	*	*	*
R-2	*	*	*	*	*	*

C-1	C	B	*	*	*	*
C-2	C	B	*	*	*	*
M	C	C	B	A	*	A
R-MHP	B	B	B	B	B	B

Type of Buffer Yard	Option 1	Option 2
A	Six-foot screening	Eight-foot buffer yard with one row of evergreen shrubs
B	Eight-foot buffer yard with one row of small evergreen trees and one row of evergreen shrubs	15-foot buffer yard with one row of small evergreen trees
C	15-foot buffer yard with one row of large evergreen trees and one row of small evergreen trees	25-foot buffer yard with one row of small evergreen trees

**Notes:**

1. An asterisk (\*) in table 1 means that no buffer yard is required.
  2. Buffer yard and screening requirements within a proposed PUD zoning district shall be determined as a part of the PUD approval process. For standards for buffer yard planting and screening see section 86-574 below.
- (d) Required buffer yards, including screening and plantings shall be in place at the time of any occupancy or use of the property.
- (e) The buffer yard shall be reserved solely for screening and plantings, except for required pedestrian or vehicular access driveways to the property, passive recreation areas, or pedestrian or bicycle trails, which can be accommodated in a manner that preserve the intended screening between different zoning districts. In no case shall any portion of a required buffer yard be used for parking, service, refuse, storage, maintenance, or any other use that impairs the intended buffer function.
- (f) The property owner or lessee shall have the responsibility to continuously maintain the required buffer yards, screening and plantings so that they continue to meet the specified standards and intent of this section. All materials shall present an attractive appearance and be of durable construction.
- (Ord. of 10-11-2011(3), § 2)

**Sec. 86-574. Standards for buffer yard planting and screening.**

- (a) Plantings required by this section shall be provided in accordance with the following standards:
- (1) Where required, all evergreen shrubs shall have a minimum height of at least 24 inches at the time of planting and an ultimate height of six feet or more. One such shrub shall be planted for each three linear feet of buffer yard. Evergreen shrubs that meet these standards include various types of hollies, yews, and junipers.
  - (2) Where required, each small evergreen tree shall have a minimum height of at least six feet at time of planting and an ultimate height of fifteen feet or greater. One such tree shall be planted for each five linear feet of buffer yard. Small evergreen trees that meet these standards include various types of pines, hollies, upright arborvitae and junipers.

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- (3) Where required, each large evergreen tree shall have a minimum height of at least eight feet at the time of planting and an ultimate height of 50 feet or greater. One such tree shall be planted for each 15 linear feet of buffer yard. Large evergreen trees that meet these standards include various types of pines, firs and hemlocks.
  - (4) Existing evergreen trees and shrubs which meet the requirements of this section may be counted as contributing to total planting requirements.
  - (5) All portions of buffer yard areas not containing plantings shall be seeded with lawn grass or other approved vegetative ground cover.
  - (6) No landscaping plantings shall be located in easements, wherever possible.
  - (b) Screening required by this section shall be provided in accordance with the following standards:
    - (1) All screening shall be: visually opaque, constructed of a durable material, installed within the required buffer yard, and continuously maintained.
    - (2) Acceptable screening materials shall include stockade fences, decorative masonry walls, brick walls, and earth berms. Alternate materials may be approved, if in the opinion of the administrator, their characteristic and design meet the intent and standards of this section.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-575. Requirements for exterior storage, HVAC equipment, dumpsters.**

- (a) Any exterior area used for storage, service, maintenance, repair, processing, manufacturing, fabrication, salvage, refuse disposal, or other similar use that is visible from a public street right-of-way, shall be screened with a buffer yard, screening and plantings meeting type A standards listed in this section, and shall be provided in a manner which screens the use from view. Any area so used shall also be similarly screened from view of adjoining residences and businesses.
- (b) All commercial and industrial use types shall screen from surrounding views all articles and materials being stored, maintained, repaired, processed, dismantled or salvaged.
- (c) All dumpsters and refuse storage areas shall be screened on all sides per the regulations contained in section 62-43 of the Town Code.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-576. Screening requirements for outdoor recreation uses.**

Where any area used for active outdoor recreation use, playground, tennis courts, swimming pool, or other similar use is located in a residential district, such use shall be screened from any adjoining residences with buffer yards, screening and plantings meeting type B standards listed in this section.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-577. Perimeter landscaping standards for parking areas.**

- (a) When a new, expanded, or reconfigured parking area is required or proposed adjacent to a public street right-of-way, a landscaped planting strip shall be established between the parking area and the adjacent street right-of-way. This required landscaped planting strip shall have a minimum width of eight feet, if the depth of any portion of the parking area is 60 feet or less when measured at a right angle to the street right-

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of-way. The width of the required landscaped planting strip shall be increased by one foot for each additional five-foot depth of parking area provided. No required landscaped planting strip shall be required to exceed a width of 50 feet. Landscape strips adjacent to other property lines shall be a minimum of five feet.

- (b) Within the required landscaped planting area, one deciduous tree shall be planted for each 320 square feet of landscaped area. All shade trees shall have a minimum caliper of two inches at the time of planting. Lower limbs shall be removed to a clear trunk height of six feet as tree growth allows. Smaller ornamental or flowering trees may be used with the permission of the administrator. When used, these trees may retain their lower limbs, but must be planted with consideration of visibility and traffic flow.
- (c) When buffer yards as specified in this section are not required, an eight-foot wide landscaped planting strip shall be provided between all parking areas and adjacent properties. Within the required landscaped planting area, one deciduous tree shall be planted for each 160 square feet of landscaped area. All shade trees shall have a minimum caliper of two inches at the time of planting. Lower limbs shall be removed to a clear trunk height of six feet as tree growth allows. Smaller ornamental or flowering trees may be used with the permission of the administrator. When used, these trees may retain their lower limbs, but must be planted with consideration of visibility and traffic flow.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-578. Use of existing wooded areas.**

In cases where quality woodland exists, the retention and preservation of existing trees between the parking area and the adjoining right-of-way or property is encouraged.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-579. Interior landscaping standards for parking areas.**

- (a) The following minimum standards for interior parking area landscaping shall be met for all new, expanded or reconfigured parking areas:
  - (1) At least one deciduous shade tree shall be installed for every ten parking spaces provided. All shade trees shall have a minimum caliper of two inches at the time of planting. Lower limbs shall be removed to a clear trunk height of six feet as tree growth allows. Smaller ornamental or flowering trees may be used with the permission of the administrator. When used, these trees may retain their lower limbs, but must be planted with consideration of visibility and traffic flow.
  - (2) A continuous landscape strip shall be installed between every four rows of parking. This strip shall be a minimum of eight feet in width to accommodate required trees and shrubs.
  - (3) Large planting islands (greater than 200 square feet) shall be located throughout the parking area at the end of parking rows. Eighty percent of these islands shall be planted with shade trees, low shrubs and/or ground cover.
  - (4) Planting islands, with a minimum width of nine feet and a minimum depth of 18 feet, shall be provided between every 15 parking spaces to avoid long rows of parked cars. One deciduous shade tree, minimum two inches caliper at time of planting, shall be provided within each of these planting islands.
  - (5) Within the interior of the parking area, landscaping shall be used to delineate vehicular and pedestrian circulation patterns, improve stormwater quality and promote stormwater management objectives. Clear and legible signs and other techniques shall be used to further direct the flow of both vehicular and pedestrian traffic within the parking area.

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-580. Planting and design guidelines.**

- (a) Deciduous urban shade trees with ground cover or low shrubs shall be the primary landscape material. Tall shrubs or low-branching trees that will restrict visibility shall be avoided.
- (b) For planting islands that are parallel to parking spaces, islands shall be a minimum of nine feet wide and trees set back a sufficient distance to allow car doors to open.
- (c) For planting islands that are perpendicular to parking spaces, islands shall be a minimum of eight feet wide to allow for overhang of parked cars. If parking is only on one side of the island, an eight-foot width is still required.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-581. Maintenance of landscaping.**

- (a) The owner, tenant and their agents, if any, shall jointly and severally, be responsible for the maintenance of all required and provided landscaping in good condition so as to present a healthy, neat and orderly appearance. All landscaped areas shall be kept free from refuse and debris.
- (b) All landscaped areas shall be provided with a readily available water supply.
- (c) All required or provided trees, shrubs, ground covers and other plant materials must be replaced during the first opportune planting season if they die or become unhealthy because of accidents, drainage problems, disease or other causes.
- (d) Trees shall not be trimmed or topped so that advertisement signs may be visible. Trees shall instead be allowed to grow and at the appropriate time, the crown may be lifted.
- (e) An adequate maintenance surety for two consecutive growing seasons shall be required after a project is completed.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-582. Modifications.**

- (a) The requirements of this section shall be applied equally to all similarly classified and situated properties but may be modified or waived by the administrator where the intent of this section is preserved and where the proposed developments of the new use meets any of the following guidelines:
  - (1) Natural land characteristics and/or existing vegetation would achieve the same intent of this section, provided such natural features are maintained and not modified by the development or use of the site;
  - (2) Innovative landscape design, staggering of planting, screenings or architectural design would achieve the intent of this section;
  - (3) The amount of required buffer yard would occupy more than 15 percent of the total lot, parcel of land or development site, and proportional increases of planting and screening are added which are determined by the administrator to offset any reductions of the required buffer yard, or
  - (4) The subject uses are separated by an alley, public utility right-of-way, water body or other physical separation. In such case, the width of the separating feature may replace the buffer yard requirements on a foot-for-foot basis, provided the intent of the applicable screening and planting requirements is

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met. Where such separating feature is wider than the applicable buffer yard requirements, one row of the applicable planting requirements may be waived for every five feet of separation in excess of the required buffer yard; provided, however, that a minimum of one row of plantings or screening may be required.

- (5) When property lines abut an adjacent jurisdiction, the administrator shall determine the specific screening and buffering requirements along the property lines after consideration of the zoning designation and/or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated property within the town.
- (6) If site characteristics do not permit the compliance with these parking lot landscaping regulations and the requirements of this chapter, then the planning commission shall, at applicant's request, determine which standards apply to the site.
- (7) The location and design of any required landscaped area may be modified by the administrator to achieve local stormwater management and/or water quality objectives.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-583. Conflicting requirements.**

When buffering, screening or planting requirements are required by a conditional rezoning, or a special use permit approved after the effective date of this chapter, and such requirements are in conflict with the requirements contained herein, the more restrictive requirements shall apply.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-584—86-590. Reserved.**

## ***DIVISION 5. MISCELLANEOUS STANDARDS***

### **Sec. 86-591. Site lighting.**

- (a) Adequate lighting shall be provided for vehicle parking areas that are used at night. All exterior site lighting fixtures shall be designed located and arranged so as not to direct glare on adjoining streets or residential properties. All exterior fixtures shall be shielded so that light is directed towards the ground only.
- (b) Except for publicly owned fixtures, no freestanding light fixture shall exceed 18 feet in height above grade.
- (c) Lighting shall not interfere with the use of nearby properties or the safe use of public streets. Lighting intensity at the property line of any civic, office, commercial, or industrial use type shall not exceed one foot-candle.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-592. Sketch plans.**

A sketch plan shall be submitted, prior to the approval of a zoning permit, for any new or expanded use or development not requiring a site plan. Sketch plans shall be legibly drawn and shall clearly indicate the area, shape and dimensions of the property proposed for development. All existing easements, natural water courses, and existing and proposed improvements shall also be shown on the plan. The plan shall clearly indicate the minimum

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distances between existing and proposed uses and all property lines. Proposed access to the property shall also be shown.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-593. Yard, height, and setback requirements.**

- (a) The lot area and yards required for any use or structure shall be permanently maintained, and shall not be counted as the required lot area or yards for any other use or structure.
- (b) Required yards shall remain free of all uses or structures except for the following:
  - (1) Fences, walls and landscaping shall be allowed in yards provided that sight triangles are maintained per section 86-599 below. Driveways and parking areas shall also be allowed.
  - (2) Patios and steps shall be allowed within all required setback areas. Decks shall comply with the following setback requirements:
    - a. Minimum side yard: Five feet.
    - b. Minimum rear yard: Ten feet.
  - (3) Accessory structures shall be allowed in accordance with the regulations for such structures.
- (c) Height limitations contained in this chapter shall not apply to church spires, belfries, residential chimneys, flag poles, or residential television antennae.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-594. Frontage requirements on cul-de-sacs.**

The minimum lot frontage on the arc of a cul-de-sac shall be no less than 30 feet in all zoning districts.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-595. Flag lots; prohibition of irregular lots.**

- (a) Flag lots, shall have a minimum lot frontage as defined in this chapter.
- (b) The creation of irregular lots, as defined in this chapter, shall be prohibited. No lot shall be platted or modified pursuant to the town's subdivision ordinance that due to its unusual geometric shape, results in the creation of an irregular lot.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-596. One single-family detached dwelling per lot.**

Only one single-family detached dwelling shall be permitted on any lot.

(Ord. of 10-11-2011(3), § 2)

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**Sec. 86-597. Public utility lots.**

Well lots, tank lots, stormwater detention area lots, utility pumping station lots, and similar types of public utility lots may be created in compliance with the terms of this chapter and the subdivision ordinance, notwithstanding the frontage, width, area, and other design standards for lots found in article III of this chapter. Any such lot proposed for platting, shall be clearly designated on a subdivision plat reviewed and approved by the town. This plat shall contain notations and covenants that clearly restrict the use of the lot for the above cited purposes. Further, the plat shall clearly indicate that no employment shall be allowed at these lots except for the routine and necessary maintenance of the public facilities.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-598. Corner and double frontage lots, orientation of yards.**

Of the two sides of a corner lot, the front of the lot shall be deemed to be the shorter of the two sides fronting on streets.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-599. Establishment of sight triangles.**

- (a) To promote visibility for pedestrians and the operators of motor vehicles, a clear sight triangle shall be established at the intersecting right-of-ways of any two public streets. The legs of this sight triangle shall be 25 feet in length. They shall begin at the point of intersection of the two street right-of-ways, and shall extend 25 feet along each right-of-way line. The triangle shall be formed by connecting the endpoints of these two lines.
- (b) Within this sight triangle nothing in excess of three feet in height shall be constructed, placed, or permanently parked. In addition, no vegetative plantings within the triangle shall be allowed to grow to a height of greater than three feet.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-600. Location and design of fences.**

- (a) Except as stipulated in section 86-599 (above), fences may be constructed in any location, on any lot. The maximum height of a fence shall not exceed seven feet in the side and rear yard.
- (b) On any lot, fences located in front of the building line shall not exceed 42 inches in height. No solid/privacy or chain link or other wire type fencing shall be permitted in the front yard.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-601. Standards and procedures for review of condominiums.**

- (a) A subdivision plat shall be submitted to the town for any new residential, commercial or industrial condominium development, including the conversion of any existing development to the condominium form of ownership. This plat shall meet all standards for subdivision plats. Plats shall be reviewed by the administrator who shall approve the plat provided it meets the provisions of this chapter and the town subdivision ordinance.



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- (b) An approved owners' association shall be established for all condominium projects having individually owned structures or units, and common areas and facilities. The purpose of this association is for the provision of upkeep and maintenance of the common areas, roads and facilities. The administrator shall review the provisions of the association to ensure compliance with this section.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-602. On-site storage and temporary mobile storage containers.**

- (a) Storage containers and buildings shall be considered accessory structures and shall be located in accordance with the standards for accessory structures as described in article III of this chapter.
- (b) No vehicle, truck body, manufactured home, mobile home, bus, trailer, recreational vehicle, shipping container, portable storage unit, or similar equipment shall be used as a storage container of building in any zoning district, except that:
- (1) Temporary mobile storage containers designed for site delivery and pickup may be placed and used on any residentially or commercially zoned property for a period not to exceed 45 days per calendar year. Such a container may be placed in the front yard of a residentially zoned property only if it is not possible to locate it elsewhere on the property.
  - (2) Commercial and industrial use types may use shipping containers for storage provided that:
    - a. All containers are maintained in suitable condition and be free of rust, deterioration, graffiti, etc.
    - b. All containers are placed in an approved location that does not utilize existing parking spaces, fire lines, etc.
    - c. All containers are placed in the rear of the property where feasible and shielded from public views.
    - d. Such containers shall not be allowed for more than 90 consecutive days in any one-year period.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-603—86-610. Reserved.**

***DIVISION 6. SITE PLANS***

**Sec. 86-611. Site plan review.**

- (a) The purpose of this section is to provide for the submission of appropriate site plans and to enable adequate opportunity for administrative review of such to ensure compliance with the provisions of this chapter.
- (b) A site plan shall be required and shall be submitted to the town for each of the following:
- (1) All new development in every zoning district except for single-family and duplex dwellings.
  - (2) The conversion of any single-family or duplex dwelling to any other use or to a higher intensity residential use.
  - (3) Additions or modifications to buildings or sites, except single-family and duplex dwellings, if the addition or modification results in a 2,500 square foot or greater increase in impervious surface area of the site.

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- (4) The conversion of any property from fee simple ownership to a condominium form of ownership.
  - (c) All required site plans shall be prepared and sealed by a professional engineer, architect, landscape architect, or land surveyor B, who is registered by the Commonwealth of Virginia.
  - (d) A sketch plan that meets the standards contained in section 86-592 shall be required for all uses or development not requiring a site plan and may be prepared by any professional or landowner, or landowner's designee.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-612. Pre-application conference.**

At the discretion of the administrator, a preliminary site plan applicant shall schedule a pre-application conference with the administrator. The purpose of the pre-application conference is to informally review the proposed preliminary site plan to determine any issues and concerns that may emerge as part of the formal review of the site plan. The administrator's and other staff comments on the proposed preliminary site plan shall be informal, and shall not constitute a formal action on the application. Also, the time period for preliminary site plan approval shall not commence until after the pre-application conference, when the applicant files, and the town accepts, a completed preliminary site plan application.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-613. Preliminary site plan administrative procedures and requirements.**

- (a) The administrator shall establish town procedures for preliminary site plan review and approval.
- (b) The administrator shall coordinate the town review of any preliminary site plan submitted in accordance with town administrative procedures, and shall have the authority to request opinions or decisions from other town departments, agencies or authorities of the Commonwealth of Virginia, or from other persons as may from time to time be consulted.
- (c) Complete sets of preliminary site plans shall be submitted for review. The town shall establish procedures for the collection of a site plan fee and the administrator shall establish the number of complete sets of plans the applicant shall submit.
- (d) Applicants for preliminary site plan approval shall submit a preliminary site plan to the administrator for review and approval prior to preparing a final site plan. The preliminary site plan shall show the general location of all existing and proposed land uses and site features. The administrator shall prepare a checklist of the minimum information and format that is to be required on a preliminary site plan and the applicant shall provide all information required by the checklist.
- (e) The town staff shall review the preliminary site plan and shall advise the applicant whether or not the features and uses shown on the preliminary site plan conform to the provisions of this chapter and any other applicable town ordinance and requirements. If the features and uses shown on the preliminary site plan conform to the provisions of this chapter, the administrator shall refer the preliminary plan to the planning commission for its review and approval. If the features and uses shown on the preliminary site plan do not conform to the provisions of this chapter, the administrator shall advise the applicant in writing, and shall advise the applicant on what changes to the preliminary site plan are necessary prior to referral to the planning commission.
- (f) The planning commission shall review, and approve or disapprove, any complete preliminary site plan submitted for its review within 60 days of the filing of the plan with the planning commission and the planning commission's acceptance of the plan. If the planning commission disapproves a preliminary plan, it

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shall notify the applicant of what changes must be made on the preliminary site plan before re-submittal to the planning commission for approval. If a plan must be reviewed by a state agency or other public authority, approval or denial shall occur within 45 days from the date of receipt of any agency response.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-614. Final site plan.**

- (a) Every final site plan shall be submitted in accordance with the requirements of this chapter. The final site plan shall show the location of all existing and proposed land uses and site features. The zoning administrator shall prepare a checklist of the minimum information and format that is to be required, and the applicant shall provide all information required by the checklist to ensure conformance with town ordinances and standards. Plans which lack required information shall be deemed to be incomplete and shall be denied by the zoning administrator or his designees within five working days after initial submission. The developer may request reinstatement of review.
- (b) A final site plan shall be submitted for approval within one year of the approved preliminary site plan. Thereafter, the preliminary site plan shall expire.
- (c) A final site plan fee shall be submitted by the applicant in accordance with the town's adopted fee schedule. If such a plan is rejected or not approved by the zoning administrator, the applicant need not submit an additional fee upon the first resubmittal of the plan. However, for a second or subsequent resubmittal, the applicant shall pay a resubmittal fee in accordance with the town's adopted fee schedule.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-615. Format of final site plans and technical information.**

- (a) Final site plans shall be prepared on such materials and format as the zoning administrator may specify, with the number of copies that he prescribes.
- (b) The final site plan shall reflect all those elements approved on the preliminary site plan. In addition, it shall include those specific construction plans and other technical information as determined by the zoning administrator, and it shall provide for all improvements required pursuant to this code or other applicable laws.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-616. Final site plan administrative procedures and requirements.**

- (a) The zoning administrator shall have the administrative authority to establish town standards and procedures for final site plan review and approval and shall have the authority to request opinions or decisions from other town departments, agencies or authorities of the Commonwealth of Virginia or from other persons as may from time to time be consulted.
- (b) Complete sets of final site plans and other information shall be submitted on approved media for review. The zoning administrator shall establish the number of complete sets of plans and other information the applicant shall submit.
- (c) The zoning administrator shall review, and approve or disapprove, any complete final site plan submitted for its review within 60 days of the filing of the final site plan with him and his acceptance of the plan. If a plan must be reviewed by a state agency or other public authority, approval or denial shall occur within 45 days from the date of receipt of any agency response.

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(Supp. No. 17, Update 2)

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- (d) Approval of the final site plan pursuant to the provisions of this chapter shall expire five years from the date of approval in accordance with Code of Virginia, § 15.2-2261, unless building and/or zoning permits have been obtained for the development.
  - (e) No building or zoning permit shall be issued by any town official for any building, structure or use depicted on a required final site plan, until such time as the plan is approved by the zoning administrator.
  - (f) No change, revision, or erasure shall be made on any pending or approved final site plan, nor on any accompanying information where approval has been endorsed on the plan or sheets, unless authorization for such changes is granted in writing by the zoning administrator prior to approving the change.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-617. Minimum standards and improvements required.**

(a) Any improvement or dedication required by this chapter or any other ordinance of the town shall be made at the sole cost of the property owner unless other agreements have been reached between him, the town, and/or any other governmental agency. In the town's sole discretion, the town may require payment equivalent to the cost of required improvements rather than actual construction of said improvements. In such cases, the town shall provide the required improvements within a specified time period.

(b) Prior to the approval of a final site plan, the applicant shall execute a development agreement to construct required or proposed improvements located within public rights-of-way or easements, or any such improvement connected to any public facility.

(c) Proposed lot sizes, buildings or uses shall conform to the provisions of this chapter. Nonconforming lots of record, buildings or uses may be developed in accordance with article VII (non-conforming uses) of this chapter.

(d) All off-street parking areas, travel lanes and access driveways shall be designed, located and constructed in accordance with sections 86-561—86-566 of this chapter.

(e) Wastewater (sanitary) and water utilities shall be required and conform to chapter 78 of the Town Code and applicable town standards and specifications, as determined by the director of public works.

(f) Drainage and stormwater management facilities shall be required and conform to chapter 78 of the Town Code, and applicable town standards and specifications as determined by the director of public works.

(g) Proposed private, exterior site lighting shall be designed and implemented in accordance with section 86-591 of this chapter.

(h) Required buffer yards, screening and/or landscaping shall be designed and implemented in accordance with section 86-573 of this chapter.

(i) All private signage shall be designed and implemented in accordance with article V of this chapter.

(j) Fire protection facilities and emergency access provisions shall be required and conform to the applicable fire code and standards.

(k) Private bridges, retaining walls, handrails and other structures shall conform to the Uniform Statewide Building Code as determined by the building official.

(l) Police protection facilities and provisions shall conform to town safety codes and standards as determined by the police chief or his designee.

(m) Private wastewater and water systems shall conform to regulations promulgated by the Virginia Department of Health.

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(n) Transportation facilities shall be required and conform to applicable standards and specifications of the town as determined by the director of public works.

(o) Traffic control measures and devices shall be required and conform to applicable standards of the town as determined by the director of public works.

(p) Highway and street illumination shall be required and conform to applicable standards and specifications of the town as determined by the zoning administrator.

(q) Rights-of-way for roads, streets, alleys and other facilities for public use (e.g., utilities and park areas), and easements necessary for their construction and maintenance, shall be dedicated to the town, or proof thereof shall be required to develop or use property.

(r) Private solid waste and recycling facilities, HVAC equipment and other mechanical systems shall be screened in accordance with section 86-575 of this chapter and section 62-43 of the Town Code.

(s) Private receptacles or dumpsters for collection and disposal of solid waste and recycling shall be located on paved pads of sufficient size to accommodate loading and unloading.

(t) A phase I environmental site assessment shall be required when the development involves any land disturbance for any residential subdivision, assembly, day care, group home, recreation, school, library or similar use where exposure to contaminated soils or water would pose a threat to the public health, safety or welfare. The phase I environmental site assessment shall conform to ASTM E1527-05 and subsequent revisions. Where deemed necessary, the director of public works or his designee may require a phase II environmental site assessment in accordance with ASTM E1903-97(2002) and subsequent revisions. The phase I and phase II reports shall include recommendations to address any and all environmental conditions of the property adverse to the public health, safety and welfare, including contaminated soil, surface water or groundwater. If a phase I and/or phase II environmental site assessment has been previously submitted to the town for the same property, such environmental site assessment may suffice.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-618. Construction to be in accordance with approved final site plan.**

It shall be a violation of this zoning ordinance for any person to construct or structurally alter any building or structure or to develop or modify land for which a site plan is required, except in accordance with an approved final site plan.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-619. Supervision by developer and prosecution of work.**

(a) The developer shall provide adequate supervision on the site during the installation of all required improvements and shall have a responsible superintendent or foreman, together with one set of approved plans and specifications, available at the site at all times when work is being performed.

(b) Any excavation, grading or other disturbance within the town right-of-way will only be allowed as a part of a continuous, timely operation toward completion of the entire improvement shown on the approved final site plans.

(Ord. of 10-11-2011(3), § 2)

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**Sec. 86-620. Inspection by the town.**

- (a) Inspections may be made by the zoning administrator, or designee and other agencies, both on site and off site, to ensure general conformance of the construction with the requirements of the approved final site plan.
- (b) In the event that inspection reveals that the construction does not conform to the requirements of the approved final site plan or if inspections made find that unapproved materials or substandard workmanship are being used, or if the zoning administrator finds that a hazard to public safety exists, he shall stop the work from proceeding by providing verbal and written directions to stop work until any public safety hazard or noncompliance is remedied, such written notice shall be hand carried and mailed by certified letter to either the developer or his superintendent.
- (c) The developer shall request that a final inspection be made by the zoning administrator or his designee.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-621. Site plan approval required prior to issuance of building permit.**

Where a final site plan is required under this zoning ordinance for the construction or structural alteration of any building or structure, or the development or modification of any land, no building permit shall be issued for such activity until the required final site plan has been approved.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-622—86-630. Reserved.*****ARTICLE V. SIGNS<sup>7</sup>******DIVISION 1. GENERALLY*****Sec. 86-631. Purpose and intent of article.**

- (a) *Generally.* The purpose of this article is to regulate the size, location, height, and construction of all signs placed for public observance; protect the public health, safety, convenience, and general welfare; facilitate the creation of a convenient, attractive and harmonious community; promote the aesthetic values of the community; promote and enhance traffic safety; protect property values; and further the urban design; allow for adequate promotion for the business to which it pertains; and economic development objectives of the town's comprehensive plan. To these ends, the regulations of this article are intended to promote signs that are as follows:
  - (1) Compatible with the streetscape and architecture of surrounding buildings;
  - (2) Legible and appropriate to the activity to which they pertain;
  - (3) Not distracting to motorists and/or an interference with traffic visibility;

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<sup>7</sup>Cross reference(s)—Advertising, ch. 6Cross reference(s)—; planning, ch. 58Cross reference(s)—.

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(4) Constructed and maintained in a structurally sound and attractive condition.  
(Ord. of 10-11-2011(3), § 2)

**Sec. 86-632. Applicability of article provisions.**

The sign regulations of this article shall apply to all signs constructed or erected within the town following the effective date of the ordinance from which this chapter is derived.  
(Ord. of 10-11-2011(3), § 2)

**Sec. 86-633. Sign permit required.**

Except as provided in this article, no sign shall be constructed, erected, installed, used, altered, relocated, replaced, or reconstructed without a sign permit issued pursuant to division 3 of this article.  
(Ord. of 10-11-2011(3), § 2)

**Sec. 86-634. Signs considered accessory uses.**

For the purpose of this article, all signs are considered accessory uses and, unless specifically qualified, shall be located on the same lot as their principal use.  
(Ord. of 10-11-2011(3), § 2)

**Sec. 86-635. Definitions.**

Specific words, terms and phrases, used in this article, shall have the meanings ascribed to them in article II, section 86-23, definitions, signage.  
(Ord. of 10-11-2011(3), § 2)

**Sec. 86-636. Prohibited signs.**

- (a) The following signs are expressly prohibited unless specifically stated otherwise:
- (1) Off-premises signs, prohibited in all residential and commercial and industrial zones with the following exceptions:
    - a. Signs showing business name and address for businesses behind lots facing the right-of-way.
    - b. Signs in the public right-of-way or on public land in the C-1, C-2, and M zoning districts as provided in subsection (a)(11) of this section.
  - (2) Portable signs, except portable A-frame or T-frame signs described in subsection (a)(3) of this section, or any sign that is not permanently affixed to a building, structure or the ground, including signs displayed on a stationary vehicle, but excluding temporary signs as permitted in this article.
  - (3) Portable A-frame or T-frame signs, except in the C-1, C-2, and M zoning districts and subject to regulations contained in section 86-641.
  - (4) Simulated traffic signs or any sign which may be confused with or obstruct the view of any authorized traffic sign or signal.

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- (5) Flashing signs, except for time and temperature signs, and theater signs with special use permit. This shall not apply to a changeable copy sign as defined in section 86-555 and regulated in subsection 86-640(a)(6).
  - (6) Glaring signs, or signs with light sources of such brightness as to constitute a hazard to motorists or nuisance to adjacent property owners.
  - (7) Strings of lights outlining property lines, sales areas, or any portion of a structure, unless part of an approved sign or sign structure. This prohibition shall not apply to seasonal decorations.
  - (8) Roof signs.
  - (9) Signs affixed to a tree, or utility pole, other natural vegetation or rocks.
  - (10) Signs that obstruct the visibility at intersections and/or driveways or block any window, door, fire escape, stairway, or any opening intended for light, air or access to any building.
  - (11) Signs erected in a public right-of-way, or on public land with the following exceptions:
    - a. Private yard sale signs subject to subsection 86-637(a)(14).
    - b. Way-finding signs.
    - c. Directional signs for temporary religious assembly, church or civic organization activities and other similar temporary activities may be erected in the public right-of-way or on public land only by permission of the town manager or his or her designated agent pursuant to regulations established by the town manager. Where such signs are erected on poles owned by a utility company, the permission of such company shall also be obtained.
    - d. Off premise directional open house/temporary signs which are intended to provide information on the location of a real estate open house, auction, or temporary off site sale, and which is not located on the same premises as the dwelling unit, property or merchandise to which it refers. Such signs may be erected in the public right-of-way or on public land only by permission of the town manager or his or her designated agent pursuant to regulations established by the town manager.
    - e. Permanent signs erected by religious assembly or churches in the public right-of-way or on public land are prohibited, provided that any such sign, which was installed on or before December 12, 2000, may continue in place. Any such nonconforming religious assembly or church sign which may be removed for any reason shall not be re-erected, and any such nonconforming sign requiring repairs in the amount of 50 percent of its replacement value shall be removed and may not be re-erected.
    - f. All permanent signs for the purpose of advertising civic organizations must be placed on one or all of the signs provided by the town. Such signs shall be at the north and south sides of town on business Route 29. No such signs currently in existence shall be permitted to remain in place once this chapter is enacted and the town has erected such common sign holders.
    - g. Directional signs directing a person to real estate property that is for sale. Such signs must be generic and shall not contain any logo or wording representing a specific agent. Only one such sign per street intersection shall be permitted and the sign shall not exceed three square feet in size.
  - (12) Vehicles shall not be utilized as parked or stationary outdoor display signs as defined as a conspicuous vehicle sign in section 86-635.
  - (13) Billboards.
  - (14) Banners except as provided in subsection 86-638(a)(5) and section 86-641.



**Sec. 86-637. Exempt signs.**

- (a) Sign permits shall not be required for the following signs; however, all other applicable regulations of this chapter shall apply:
- (1) Address or identification signs. Signs indicating the address and/or names of occupants of premises, not exceeding three square feet in area.
  - (2) Changing the message content of a lawful directory, institutional bulletin board, theater marquee or other changeable letter sign.
  - (3) Commemorative plaques and historical markers erected by a recognized historical agency or governmental body.
  - (4) Flags, emblems and insignia of any governmental agency or religious, charitable, public or nonprofit organization; provided, however, that no single flag shall exceed 50 square feet in area, and no single zoning lot shall display more than three such flags. If the total area of such flags exceeds 72 square feet, the excess area shall be included in the sign area calculations for the zoning lot.
  - (5) Handicapped parking space sign.
  - (6) Directional signs, not exceeding three square feet in area or located closer than five feet to any lot line. Directional signs may be internally lit or illuminated by white light only.
  - (7) Security and warning signs. Signs posted on private property warning the public against trespassing, or similar messages, provided that any such sign does not exceed one and one-half square feet in area.
  - (8) Private drive signs, one per drive entrance, not exceeding two square feet in area, with the message content limited to the words "private drive" and the address of any residences utilizing the private roadway.
  - (9) Public signs. Any sign erected and maintained pursuant to and in discharge of any governmental function or required by any law, ordinance or governmental regulation including, but not limited to, traffic, utility and other regulatory signs.
  - (10) Seasonal or temporary displays of patriotic, religious, historic or civic character on private property, not advertising a product or service, displayed for a period not to exceed 30 days.
  - (11) Signs not visible beyond the boundaries of the lot or parcel upon which they are located, or from any public right-of-way.
  - (12) Streamers. Streamers are subject to the provisions of section 86-644.
  - (13) Temporary political campaign signs on private property not to exceed eight square feet in area and six feet in height. Signs shall be removed within 30 days after the date of the election.
  - (14) Temporary private yard sale signs, not exceeding three in number per yard sale and not placed on any utility or sign poles. All such signs are to be removed at the end of the last day of the advertised sale.
  - (15) Temporary real estate signs, located on the premises, not exceeding four square feet in area for all residential districts, or 32 square feet in area for other zoning districts. No real estate sign shall exceed a height of six feet. One real estate sign per agency shall be permitted per property, except for corner lots, which may have two such signs. Temporary real estate signs shall be removed within three days after the closing in the case of a sale of property or within three days after the execution of a lease of the property.

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- (16) Temporary window signs shall not be displayed above the first floor.
  - (17) Vehicle safety inspection signs not exceeding ten square feet in area. Such signs may be either a wall sign or attached to an existing authorized ground-mounted sign structure, one per business, not to exceed the height of the ground-mounted sign.
  - (18) Signs on licensed commercial vehicles, including trailers.
  - (19) Temporary off-premises subdivision directional signs.
  - (20) Portable A-frame, T-frame signs or banners meeting the development standards set forth in section 86-641.
  - (21) Murals that meet the standards as defined in section 86-23.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-638. Signs requiring temporary sign permit, other than banners.**

- (a) The following signs shall require the issuance of a temporary sign permit by the zoning administrator prior to their erection. The permit shall cite the length of time any such sign may be displayed. If after the expiration of the temporary sign permit such signs are not removed, the town may remove them and charge the costs of removal to the enterprise or proprietor responsible. Except where provided otherwise in subsection (a)(5) below and in section 86-641, banners shall not require a temporary sign permit.
  - (1) Special sales events signs announcing such events as grand openings, new management and going-out-of-business signs, and short term special sales. Such signs may be displayed on a given property subject to the following standards:
    - a. Such signs shall be either attached to an existing principal structure or sign pole and such sign shall not exceed 20 square feet in area.
    - b. One such sign, limited to two faces, may be located on the property occupied by a permitted use.
    - c. Such sign shall not be located on any required off-street parking space, driveway, alley or fire lane, or within any street right-of-way.
    - d. Such sign may be illuminated provided that it is not flashing or moveable and conforms to the National Electrical Code.
    - e. Permits issued by the zoning administrator for such signs shall be limited to a period not to exceed 30 days.
    - f. Such permits shall only be issued for properties in the C-1, C-2, and M zoning districts.
    - g. Such permits shall be issued for a given parcel no more than four times per year.
    - h. Such signs, including structure, existing at the effective date of the ordinance from which this section is derived will be considered as having been permitted for the first time and thereby remain in use for 30 days from the effective date of the ordinance from which this section is derived. Subsequent requirements for such signs will be governed by the provisions of this section.
  - (2) Temporary and seasonal produce stand signs. The total area of all such signs shall not exceed 20 square feet, nor shall any sign exceed six feet in height.
  - (3) Construction signs not to exceed one per street frontage, limited to a maximum height of eight feet. The total area of all signs shall not exceed 32 square feet. Such signs shall be removed within 14 days following completion of construction.

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- (4) Temporary residential subdivision and model home identification signs. One sign may be erected for not more than two years at each principal entrance to the development. Such signs shall not exceed eight feet in height or 16 square feet in area. In addition, one model home sign of not more than four square feet may be maintained at each model home.
  - (5) Temporary signs, including banners, announcing a civic, philanthropic, educational or religious event shall not require a temporary sign permit. Such signs shall not exceed 32 square feet in area or six feet in height. Such banners shall not exceed 120 inches in length and 48 inches in height. The location of the sign or banner shall be approved by the zoning administrator by permission prior to placement. Such signs shall not be erected more than 14 days prior to the event and shall be removed within five days after the event.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-639. General sign standards.**

- (a) *Determination of sign height.* The height of a sign shall be measured from the higher of the base of the sign, or the grade of the street to which the sign is oriented, to the top of the structure.
- (b) *Number of sign faces.* No sign shall have more than four sign faces.
- (c) *Determination of sign area.* The area of a sign shall be determined by measuring the surface area encompassing any regular geometric figure (square, circle, rectangle, triangle, etc.) enclosing all parts of the sign face. The supports or structure on which any sign is supported shall not be included in determining the sign area unless such supports or structure are designed in such a manner as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed.
- (d) *Area of signs with two or more sign faces.* The area of a sign with two or more sign faces shall be computed according to the following:
  - (1) Sign faces separated by an interior angle of 45 degrees or greater, both sign faces shall be included in the area.
  - (2) Sign faces separated by an interior angle of less than 45 degrees, one sign face shall be included; provided, however, that the area of the largest sign face shall be used when two faces are unequal in area.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-640. Development standards for permitted sign types.**

- (a) All new signs and all existing signs which are replaced, reconstructed, extended or changed structurally or in content shall comply with the following development standards:
  - (1) *Freestanding; development standards.*
    - a. *Road frontage requirements.* Permanent freestanding signs shall be permitted only on zoning lots with 100 feet or more of road frontage.
    - b. *Minimum separation distance.* No freestanding sign shall be permitted to be erected within 100 feet of an existing freestanding sign.

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- c. *Maximum height.* See height restrictions by zoning district as described in sections 86-651 and 86-652 in division 2 of this article.
  - d. *Setback.* With the exception of signs described in subsections 86-636(a)(11)a., b., c., and d., 86-637(a)(14), signs must be completely behind the right-of-way line of the street. Projections, if approved, will conform to subsection (a)(2) of this section.
- (2) *Projecting sign; development standards.*
- a. *Angle of projection:* Ninety degrees.
  - b. *Limit on projection:* Five feet or one-third the width of the sidewalk, whichever is less.
  - c. *Projection over right-of-way:* Permits for signs projecting over the right-of-way will be issued upon receipt from the sign owner satisfactory evidence that a public liability insurance policy with a minimum of \$1,000,000.00 single-limit coverage is in force during the term of the permit. Such insurance policy shall protect and save the town harmless from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor or agents, or by any reason of defects in the construction on or damages resulting from the collapse, failure or combustion of the parts thereof.
  - d. *Minimum clearance:* Ten feet.
  - e. *Maximum height:* Twenty feet, the bottom sill of any second story window, or the lowest point of the roof, whichever is highest.
- (3) *Wall sign; development standards.*
- a. *Placement; generally.* No wall sign shall cover, cross or otherwise hide columns or other decorative architectural features of the building, including balconies.
  - b. *Maximum height of wall signs.* Maximum height of wall signs shall be 20 feet, the height of the bottom sill of any second story window, or the lowest point of the roof, whichever is highest.
  - c. *Limit on projection.* Limit on projection shall be 12 inches.
  - d. *Permanent window signs; additional restrictions.* Permanent window signs shall be limited in area to 25 percent of the window area or 25 square feet, whichever is less, and shall be included in the sign area calculations.
- (4) *Awning, canopy and marquee signs; development standards.*
- a. *Location:* Parallel to the face and not projecting above the face of the awning, canopy or marquee. If projecting below the face of the awning, canopy or marquee there must be eight feet of ground clearance.
  - b. *Limit on projection:* Not beyond two feet of a vertical plane inside the vertical face of curbs, but shall in no way interfere or obstruct either pedestrian or vehicular traffic. Any sign which projects over the public right-of-way shall comply with subsection (2)c. of this section.
- (5) *Animated signs.* Animated signs shall meet the development standards set forth in this section for the applicable type of sign. No animated sign shall be permitted which is so constructed or placed that it diverts the attention of motorists to the detriment of safe travel on the streets of the town.
- (6) *Changeable copy sign (electronic).* Electronic changeable copy signs shall meet the development standards set forth in this section for the applicable type of sign. No changeable copy sign shall be permitted which is so constructed or placed that it diverts the attention of motorists to the detriment of safe travel on the streets of the town. All such signs shall conform to the following standards:
- a. The sign cannot flash but words or numbers may scroll in any direction.

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- b. There shall be no more than three lines of text on any sign face for an electronic changeable copy sign.
  - c. Text on the face of the sign shall remain in place for a minimum of four seconds.
  - d. Maximum size for electronic changeable copy sign is 45 square feet.
  - e. Electronic changeable copy signs shall comply with all Virginia Department of Transportation (VDOT) requirements.
  - f. Sign standards shall be as described in section 86-652.
- (7) *Brand name/product signs.* Brand name/product signs shall be placed within a single sign frame not to exceed 40 square feet. There will be no limit as to the number of brand name/product signs that may be contained within the frame. This shall count as one sign. Multiple brand name/product signs that are on a single pole or sign structure shall be considered one sign if the outside parameters do not exceed 40 square feet. Such signs may be freestanding, wall, or pole mounted.

(Ord. of 10-11-2011(3), § 2; Ord. of 8-12-2014, § 1)

### **Sec. 86-641. Standards for portable A-frame, T-frame signs and banners.**

- (a) Portable A-frame, T-frame signs or banners shall be permitted without a sign permit, subject to the following regulations:
- (1) Such signs may be placed only in the C-1, C-2, and M zoning districts, except that banners may be used in residential zones for announcing a civic, philanthropic, educational or religious event as described in subsection 86-638(a)(5). Banners used in residential zones for the above-described use shall require a temporary permit.
  - (2) One such sign or banner, but not both, shall be allowed per business, and such sign shall be allowed in addition to the maximum number of signs permitted under the provisions of section 86-652.
  - (3) A-frame signs may not exceed 30 inches in width and 48 inches in height. T-frame signs may not exceed 36 inches in width and 66 inches in height. Banners may not exceed 120 inches in length and 48 inches in height.
  - (4) Such signs must be secured by weights or other methods to keep the sign stationary. Banners may not be attached to telephone or electric poles or any type of street signs or be located on the roof of a building.
  - (5) Such signs or banners may be placed on the public sidewalk or public right-of-way only upon permission from the town manager or his or her designated agent. Permission to place such signs shall comply with the following conditions:
    - a. The applicant is not vested with any property right to place the sign, and such permission may be revoked at any time that the town manager or his or her designated agent determines that the public sidewalk or the public right-of-way is needed by the town or that the sign is obstructing pedestrian traffic or otherwise constitutes a detriment to public safety.
    - b. The use of the public sidewalk or public right-of-way is to be at the applicant's risk and the applicant shall hold the town harmless for such use.
    - c. When placed upon a sidewalk, such sign must not obstruct pedestrian traffic and must not obstruct vision of motorists at corners. When not placed upon a sidewalk, such sign must be placed not less than four feet from the edge of the street pavement. In no event shall such signs

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- be permitted within the triangle composed of two eight-foot legs at a street intersection or where a driveway intersects a street.
- d. When located on a sidewalk, such signs may be displayed only during business operating hours and must be removed at all times the business is closed.
  - e. Only A-frame signs shall be permitted on the public sidewalk.
  - f. Additional requirements considered necessary by the town manager to protect public safety may be included in the letter of agreement on a case-by-case basis.
- (6) Banners shall be maintained at all times in a safe, clean and attractive condition and shall be taken down or replaced before they become ragged and/or unsightly. Failure to so maintain such devices after written notice to do so from the zoning administrator shall constitute a willful violation of this section.
- (b) *Banners over the public right-of-way.* No banner shall be placed over the public rights-of-way in the town except in conformity with the following regulations:
- (1) *Purpose.* Banners may be erected over the public right-of-way only for the purpose of advertising of a town-wide charitable, civic or community event; the purpose of which is the betterment of the community as a whole and not for private gain.
  - (2) *Banner sites.* One site is designated as appropriate locations for placement of banners over the public right of way: the constructed poles on Main Street. No other location will be permitted.
  - (3) *Placement by town personnel only.* Placement and removal of all banners at the designated sites shall be performed by town personnel only and the town's cost (hereinafter referred to as "the service charge") in so doing shall be paid by the party wishing to place the banner. The town manager shall determine the amount of the service charge based on the town's cost of labor and materials. If at any time the banner becomes damaged or in need of repair and/or poses a threat to the safety of the general public, the town, in its discretion, may remove the banner.
  - (4) *Approval of town manager required.* Placement of banner over the public right-of-way in the town shall be subject to the approval of the town manager or his or her designee. Parties wishing to place a banner shall apply to the town manager or designee and pay the service charge not less than 30 days prior to the date that applicant desires the banner to be erected. The application for a permit shall include the name, address and telephone number of the person requesting the permit, the name and address of any organization or group the applicant is representing, the type of community, charitable, or civic event that is being promoted, the length of time the banner is to be displayed and the size and message of the banner. The applicant shall execute an agreement holding the town harmless against all claims for personal injury or property damage resulting from the use of the public right-of-way.
  - (5) *Period banner may be displayed; removal; no storage of banners by town.* Banners may not be displayed for a period exceeding 14 days. Banners may be placed no earlier than two weeks prior to the event and will be removed within two days following the event. Applicant shall pick up the banner from the town shop not later than ten days after the event. After ten days has elapsed, the town will not be responsible for storage of the banner and may discard the same at any time.
  - (6) *Sign standards.* Banners shall not exceed 120 square feet in area and shall have a minimum clearance of 21 feet over street grade. Banners shall have reinforced eyelets in each corner, and a continuous reinforced border around the perimeter of the banner. Air vents shall be provided in each banner to allow air to pass through the banner.

(Ord. of 10-11-2011(3), § 2)

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## **Sec. 86-642. Construction and maintenance standards.**

- (a) *Building code compliance.* All signs shall be constructed and maintained in compliance with the Virginia Uniform Statewide Building Code (Code of Virginia, § 36-97 et seq.).
- (b) *Condition of signs.* All signs and components shall be maintained in good repair and in a safe, clean and attractive condition. Failure to maintain signs in such state of repair shall constitute grounds for revocation of the sign permit by the administrator.
- (c) *Repair or removal of nuisance signs.* The zoning administrator may cause the immediate removal or repair of any sign and its supporting members which is declared to be an immediate or imminent hazard to life or property. All costs associated with the removal or repair shall be charged to the owner of the premises upon which the sign is located. Any such sign which must be removed by the zoning administrator shall constitute a public nuisance, and the removal costs shall constitute a lien upon the property of the owner of the premises upon which the sign is located which lien shall be docketed the same as other nuisance abatement charges.
- (d) *Removal of obsolete signs and supporting structures.* Any sign which is obsolete because of discontinuance of the advertised activity, or any other reason which would cause the sign to be obsolete shall be removed within 30 days after the discontinuance. Supporting structure not reused within one year from the time of removal of the sign will also be removed. The zoning administrator may cause the removal of any obsolete sign or supporting structure not removed by its owner in a timely manner. All costs associated with the removal or repair shall be charged to the owner of the premises upon which the sign is located. If such supporting structure constitutes a hazard to public safety, such removal charges shall constitute a lien pursuant to subsection (c) of this section.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-643. Nonconforming signs.**

- (a) *Generally.* Any sign which was lawfully in existence at the time of the effective date of the ordinance from which this section is derived which does not conform to the provisions in this article, and any sign which is accessory to a nonconforming use or structure shall be deemed a nonconforming sign and may remain except as qualified in subsection (b) of this section. No nonconforming sign shall be enlarged, extended, structurally reconstructed or altered in any manner; except a sign face may be changed so long as the new face is equal to or reduced in height, sign area, and/or projection.
- (b) *Removal.* Nonconforming signs may remain, provided that they are kept in good repair, except for the following:
  - (1) *Damage or destruction of nonconforming sign.* A nonconforming sign which is destroyed or damaged to the extent that the cost of repair exceeds 50 percent of its fair market value prior to the damage shall not be altered, replaced or reinstalled unless it is in conformance with these regulations. If the damage or destruction is 50 percent or less of the fair market value prior to damage, the sign may be restored within six months of the destruction, but shall not be enlarged in any manner.
  - (2) *Loss of legal status of nonconforming use or structure.* A sign the status of which is a nonconforming sign depends solely upon being accessory to a nonconforming use or structure shall be removed or brought into compliance with these sign regulations if the use or structure to which it is accessory loses its status as a legal nonconforming use or nonconforming structure under this chapter.

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- (3) *Change of use.* Whenever change of use occurs upon a zoning lot, which contains a nonconforming sign, such sign shall not be permitted without being modified in such a manner as to be in full compliance with the sign regulations of this article.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-644. Streamers/festoons.**

- (a) Streamers may be displayed on a property, subject to the following standards:
  - (1) Such devices shall be either attached to an existing principal structure or sign pole.
  - (2) Such devices shall not be located on any required off-street parking space, driveway, alley or fire lane, or within any street right-of-way.
  - (3) Such devices shall not obstruct or interfere with the vision of motorists nor shall they be placed or arranged so that they divert the attention of motorists to the detriment of safe travel on the streets of the town.
  - (4) No individual component of a streamer shall exceed 24 inches in length in the case of a flag or pennant or 24 inches in diameter in the case of a propeller or disc type device.
  - (5) Such devices may not be illuminated.
  - (6) Such devices may be used only on properties in the C-1 and C-2 zoning districts.
  - (7) Such devices shall be maintained at all times in a safe, clean and attractive condition and shall be taken down or replaced before they become ragged and/or unsightly. Failure to so maintain such devices after written notice to do so from the Zoning Administrator shall constitute a willful violation of this article.

(Ord. of 10-11-2011(3), § 2)

#### **Secs. 86-645—86-650. Reserved.**

### ***DIVISION 2. SIGNS PERMITTED BY ZONING DISTRICT***

#### **Sec. 86-651. Permitted signs; generally.**

The regulations of this division specify the types and sizes of signs, which are permitted within the various zoning districts within the town.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-652. Commercial/industrial zoning districts; permitted signs.**

- (a) *Signs in commercial/industrial districts; general regulations.*
  - (1) *Development and construction standards.* All signs requiring a permit shall comply with the requirements of sections 86-640 and 86-642.



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- (2) *Freestanding signs.* All ground-mounted signs, either monument type or pole type, erected within commercial and/or industrial districts shall be constructed according to the standards set forth in subsection 86-640(a)(1).
  - (3) *Signs facing residential uses.* Any sign installed within 25 feet of an existing residential use shall be internally illuminated.
  - (4) *Minimum setback of freestanding signs.* Measuring from the edge of the sign nearest such pavement or right-of-way, the minimum setback for freestanding signs shall be the greater of:
    - a. Ten feet from the edge of the pavement; or
    - b. One foot from the street right-of-way line.
- (b) *Signs for individual businesses on a single zoning lot.* A single business located on a single zoning lot may erect signs as follows:
- (1) *Types of signs permitted.* Types of signs permitted are wall, freestanding, projecting, awning, canopy, marquee, or electronic changeable copy; however, no zoning lot shall be permitted to have both a freestanding sign and a projecting sign.
  - (2) Maximum size and number of signs.
    - a. *Commercial C-1 (except as provided in subsection (b)(2)b. of this section).*
      - 1. Three signs maximum per business per street or opened alley facing. Where buildings only face one street, but signs can be seen from passing traffic, wall signs (only) may be used on side walls, but all sign sizes and numbers apply as if they were placed at the building front. Number and size of all signs will be limited to a maximum of three regardless of where they are placed.
      - 2. Thirty square feet maximum per sign, regardless of the number.
      - 3. Sixty square feet maximum aggregate.
      - 4. No sign shall exceed 15 feet in height measured from the base of the sign or the grade of the nearest street, whichever is higher.
    - b. *Commercial C-1 on U.S. Route 29.* On any property or portion thereof lying within the C-1 district which lies within a strip extending back a distance of 400 feet from the right-of-way of the northbound lane of the U.S. Route 29 Bypass, deviations from the provisions in subsections (b)(2)a.(1.—4.) of this section, of the provisions of sections 86-640 and 86-642 and of the provisions of subsections (c)(1), (c)(2), (c)(3), and (c)(4)a. of this section, may be allowed by a special use permit according to section 86-7.
    - c. *Commercial C-2 (except as provided in subsection (b)(2)d. of this section).*
      - 1. For buildings with 80 or more linear feet of frontage on the street:
        - i. Wall signs: One square foot per linear foot of wall facade, not to exceed 150 square feet.
        - ii. Freestanding sign: Eighty square feet maximum/per sign except for an electronic changeable copy sign which the maximum size shall be 45 square feet.
        - iii. Three signs maximum per business per street or opened alley facing regardless of type with a maximum aggregate per street or opened alley facing of 230 square feet.

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- iv. Where buildings only face one street, but signs can be seen from passing traffic, wall signs (only) may be used on side walls, but all sign sizes and numbers apply as if they were placed at the building front. Number and size of all signs will be limited to a maximum of three, regardless of where placed.
    - v. No sign shall exceed 20 feet in height measured from the base of the sign or the grade of the nearest street, whichever is higher.
  - 2. For buildings with less than 80 linear feet of frontage on the street facing:
    - i. Wall signs: Maximum 80 square feet per sign.
    - ii. Freestanding signs: Maximum 80 square feet per sign except for an electronic changeable copy sign which the maximum size shall be 45 square feet.
    - iii. Three signs maximum per business per street or opened alley facing regardless of type with a maximum aggregate per street or opened alley facing of 150 square feet.
    - iv. Where buildings only face one street, but signs can be seen from passing traffic, wall signs (only) may be used on side walls, but all sign sizes and numbers apply as if they were placed at the building front. Number and size of all signs will be limited to a maximum of three, regardless of where placed.
    - v. No sign shall exceed 20 feet in height measured from the base of the sign or the grade of the nearest street, whichever is higher.
  - d. *Commercial C-2 on U.S. Route 29.* The following provisions shall be applicable on any property or portion thereof lying within the C-2 district which lies within a strip extending a distance of 400 feet from the right-of-way of the U.S. Route 29 Bypass:
    - 1. Three signs per business per street or opened alley facing when no freestanding sign exceeds 20 feet in height. When any freestanding sign exceeds 20 feet in height two signs maximum per business per street or opened alley facing. Only one freestanding sign per zoning lot may exceed 20 feet in height. Where buildings only face one street, but the sign can be seen from passing traffic, wall signs (only) may be used on side walls, but all sign sizes and numbers apply as if they were placed at the building front.
    - 2. Two hundred fifty square feet maximum per sign, regardless of the number.
    - 3. Four hundred square feet maximum aggregate.
    - 4. No sign shall exceed 100 feet in height measured from the base of the sign or the grade of the nearest street, whichever is higher.
    - 5. Deviations from the provisions of sections 86-640 and 86-642 and of the provisions of subsections (c)(1), (c)(2), (c)(3), and (c)(4)a. of this section, may be allowed by a special use permit according to section 86-7.
  - e. *Industrial; M district.*
    - 1. Three signs maximum per site.
    - 2. One hundred square feet maximum per sign.
    - 3. Two hundred square feet maximum aggregate.
    - 4. No sign shall exceed 20 feet in height measured from the base of the sign or the grade of the nearest street, whichever is higher.

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5. The sign shall not extend into the right-of-way.
- (3) *Illumination of signs.*
- a. In the C-1, C-2, and M districts all signs shall be internally lighted or if externally lighted shielded to prevent blinding of approaching drivers.
  - b. Electronic changeable copy signs may be internally lighted but lighting shall not flash or scroll or be so bright as to distract motorists.
- (4) *Replacement or consolidation of existing signs.* When existing signs are replaced or consolidated, the maximum total sign surface area of the replacement or consolidated sign shall be as follows:
- a. Thirty percent less than the total sign surface area of the signs being replaced or consolidated; or
  - b. The area permitted by subsection (b)(2) of this section, whichever is greater.
- (c) *Signs for multiple businesses on a single zoning lot.* Multiple businesses located on a single zoning lot may erect signs as follows:
- (1) *Maximum number of signs per zoning lot.* No zoning lot shall be permitted to have erected both a projecting sign and a freestanding sign.
  - (2) *Maximum number of signs per business.* The maximum number of signs per business is two regardless of street frontage.
  - (3) *Types of signs permitted.* Types of signs permitted are wall, freestanding, projecting, awning, canopy, marquee.
  - (4) *Maximum size of signs per business.*
    - a. In the C-1 district:
      1. Thirty square feet maximum per sign, regardless of the number.
      2. Sixty square feet maximum aggregate.
    - b. In the C-2 district:
      1. Eighty square feet maximum per sign, except for an electronic changeable copy sign which the maximum size shall be 45 square feet, regardless of the number.
      2. One hundred fifty square feet maximum aggregate.
  - (5) *Directory sign.* One directory sign, up to 15 square feet in area and eight feet in height. A freestanding directory sign precludes the use of any other freestanding sign on that same street frontage.
- (d) *Signs for commercial, office and industrial centers.* Commercial, office or industrial centers or parks at least two acres in size and including two or more establishments planned as an integrated development shall be authorized to erect signs based on the following:
- (1) *Signs for individual establishments within center.* No freestanding sign shall be permitted for individual businesses located within or on the same zoning lot with a shopping center. One freestanding building identification sign may be erected for each detached principal building within an office or industrial center. Such sign shall identify only the name of the building and/or enterprise located therein, the address, trademark or symbol, or any combination thereof. No such sign shall exceed 20 square feet in area or eight feet in height.
  - (2) *Maximum number and size of signs on individual businesses in shopping center.*
    - a. Three signs maximum per establishment.

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- b. Eighty square feet maximum per sign.
  - c. One hundred fifty square feet maximum aggregate.
  - (3) *Shopping center identification sign.* One freestanding sign with an area of one square foot per five linear feet of lot frontage on which the sign is to be erected, up to a maximum of 40 square feet and a maximum height of 12 feet. Only the name and address of the center shall be displayed.
  - (4) *Office or industrial signs.* One freestanding center identification sign at each major entrance of an office or industrial center identifying the name of the center only. No such sign shall exceed 40 square feet in area or 12 feet in height.
  - (e) *Signs for gasoline stations.* Automobile service and gasoline stations shall comply with all applicable sign regulations within subsections (a), (b), and (c) of this section, as applicable; provided, however, that the following additional regulations shall apply:
    - (1) *Changeable fuel price signs.* Freestanding signs are permitted and may include changeable fuel price signs indicating the current price of fuel dispensed on the premises, provided that the fuel price sign is erected as an integral part of the monument sign. The area of the fuel price sign shall be included in determining the sign area for the business.
    - (2) *Gas pump signs.* Each gas pump shall be permitted a total of one square foot of sign area to identify the product dispensed.
  - (f) *Signs for theaters.* Theaters are authorized to erect one of the permitted wall or marquee signs with a changeable copy board displaying the names and times of the current motion picture or theatrical production.
  - (g) *Signs for other uses within commercial and industrial districts.* In cases where none of the regulations within this section specifically address a sign for a permissible use within a business or employment district, the zoning administrator shall make a written interpretation of this article, which shall be kept on file and used as a guide for future determinations.
  - (h) *Streamers/festoons.* Streamers/festoons, as provided for in section 86-644, shall be permitted in all commercial and industrial zones.
  - (i) *Portable A-frame or T-frame signs.* Notwithstanding any provision of this section to the contrary, one portable A-frame or T-frame sign shall be permitted per business in addition to the maximum number of signs permitted. Portable A-frame or T-frame signs meeting the standards set forth in section 86-641 shall not require a sign permit.
  - (j) *Banners.* Notwithstanding any provision of this section to the contrary, one banner or A-frame or T-frame shall be permitted per business in addition to the maximum number of signs permitted. Banners meeting the standards set forth in section 86-641 shall not require a sign permit.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-653. Residential zoning districts; permitted signs (R-1, R-2 and R-MHP).**

- (a) *General regulations.*
  - (1) *Minimum setback.* Minimum setback shall be five feet from all public rights-of-way unless further restricted by provisions of this article.
  - (2) *Illumination of signs.*
    - a. In the R-1 and R-2 districts: Illumination prohibited except for religious assembly or schools located in R-1 and R-2 zones may use lighting with the following conditions:

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1. Lighting may be internal or external. Internal lighting must not be so bright as to distract passing motorist or that the light will carry on to adjacent properties. External lighting must be contained entirely on the sign structure with no light beams shooting past the structure.
  2. All lighting must be on a timer but must be turned off by 9:00 p.m. each evening.
  3. All lighting must be approved by the town manager or zoning administrator prior to installation.
- b. In the R-MHP District: Illumination external, light source shielded. Lighting for religious assembly or schools located in the R-MHP zone must comply with the regulations in subsection (2)a. of this section.
- (3) *Maximum size of signs.*
- a. In the R-1, R-2, and R-MHP districts:
    1. For any authorized purpose: Two square feet maximum attached to the building.
    2. Institutional bulletin boards and identification signs (one of each type): 24 square feet maximum for each.
    3. Street and property identification signs: Three square feet maximum.
    4. Temporary banners shall not exceed 40 square feet.
- (4) *Maximum height.* Signs will be no higher than eight feet, as measured from the base of the sign or grade of the nearest road, whichever is higher.
- (b) *Signs allowed in zoning districts in connection with permitted uses.*
- (1) *Single-family and multiple-family dwellings:* No signs are permitted except for those signs exempt from permit requirements and temporary signs authorized in sections 86-637 and 86-638, respectively.
  - (2) *Residential developments:* Permanent subdivision or development identification signs indicating only the name and/or address of the premises. The identification sign shall be freestanding, and the maximum sign area shall be limited to one freestanding sign at each major entrance, not to exceed 16 square feet in area or eight feet in height.
  - (3) *General farming activities:* One freestanding farm sign per property up to eight feet in height, not to exceed 12 square feet.
- (c) *Signs for accessory management or rental offices.* Signs permitted for accessory management or rental offices are one wall or projecting sign up to four square feet in area.
- (d) *Signs for bed and breakfasts.* Signs for bed and breakfasts shall be permitted in all residential districts.
- (1) Signs shall not be illuminated.
  - (2) The maximum number of signs per residential lot is one.
  - (3) Sign shall not exceed three square feet.
  - (4) The location of the sign placement must be approved by the administrator prior to construction or placement.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-654—86-660. Reserved.**

### ***DIVISION 3. ADMINISTRATION<sup>8</sup>***

#### **Sec. 86-661. Sign permit procedures.**

- (a) *Applicability.* A sign permit shall be required for all signs erected after the effective date of this article, except for those signs which are specifically exempted from the sign permit requirements as provided in section 86-637.
- (b) *Filing of application; fees.* Applications for sign permits shall be filed by the applicant or his or her agent with the zoning administrator and shall contain information required in this section, accompanied by a fee as established by the town council.
- (c) *Information required.* All applications for sign permits shall contain or have attached the following information in either written or graphic form:
  - (1) Name, address and telephone number of the sign installer and the sign owner.
  - (2) Position of the sign in relation to adjacent lot lines, buildings, sidewalks, streets and intersections.
  - (3) Type of sign and general description of structural design and construction materials to be used.
  - (4) Purpose of the proposed sign.
  - (5) Drawings of the proposed sign which shall contain specifications indicating the height, perimeter and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign.
  - (6) Any other information requested by the zoning administrator in order to carry out the purpose and intent of this article.
- (d) *Recording of sign permit.* The zoning administrator shall maintain a record of all sign permits issued. All sign permits shall be numbered in the order of their issuance.
- (e) *Inspections.* A final inspection shall be completed after installation of approved signs. Any discrepancies between the approved sign and the sign as constructed shall be identified and may result in the halt of construction or sign removal, if so ordered by the zoning administrator.
- (f) *Revocations.* The zoning administrator may revoke a permit or approval if it is found that there has been concealment or misrepresentation of material facts in either the application or plans.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-662. Temporary sign permit procedures.**

All signs requiring the issuance of a temporary sign permit, as established in section 86-638, shall submit all information requested by the zoning administrator prior to the issuance of such permit. The approved permit shall include the expiration date of the temporary permit. The applicant may request extensions of such permit for good

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<sup>8</sup>Cross reference(s)—Administration, ch. 2Cross reference(s)—.

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cause. Temporary signs remaining after the expiration of the permit shall be considered an obsolete sign and treated as set forth in subsection 86-562(d).

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-663. Expiration of sign permits; signs not constructed.**

A sign permit shall expire and become null and void if the approved sign is not erected within a period of six months from the date the permit was originally issued. The zoning administrator may grant one extension of the sign permit for a period of six months, but in no case shall a permit be valid for more than a total of 12 months. Extensions may be granted only when the proposed sign is in compliance with all current applicable regulations.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-664. Removal of illegal signs.**

In addition to the remedies provided in article XI of this chapter, the zoning administrator may remove or order the removal of any illegal sign at the expense of the property owner. An illegal sign is any sign erected without a permit as described by section 86-661 or 86-662 or that does not comply with any provisions of this article, including signs for which the advertised business is no longer in operation and for signs which are not being properly maintained or any other prohibited sign.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-665—86-670. Reserved.**

## ***ARTICLE VI. TELECOMMUNICATIONS FACILITIES<sup>9</sup>***

### **Sec. 86-671. Findings.**

- (a) The town has the authority to regulate the placement, construction, and modification of towers, antenna support structures, and telecommunications facilities.
- (b) The Federal Communications Act of 1996 (referred to as "the Act"), grants the Federal Communications Commission exclusive jurisdiction over the following:
  - (1) The regulation of the environmental effects of radio frequency emissions from telecommunications facilities.
  - (2) The regulation of radio signal interference among users of the radio frequency spectrum.
  - (3) The town's regulation of towers and telecommunications facilities cannot have the effect of prohibiting any person from providing wireless telecommunications services in violation of the Act.

(Ord. of 10-11-2011(3), § 2)

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<sup>9</sup>Cross reference(s)—Businesses, ch. 22Cross reference(s)—.

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### **Sec. 86-672. Purposes of article.**

- (a) The general purpose of this article is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety and welfare of the public, and not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the town.
- (b) Specifically, the purposes of this article are to:
  - (1) Facilitate the provision of wireless telecommunications services to the residents and businesses of the town in an orderly fashion;
  - (2) Regulate the location of towers and telecommunications facilities in the town;
  - (3) Protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities;
  - (4) Minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
  - (5) Promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
  - (6) Avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound;
  - (7) Ensure that towers and telecommunications facilities are compatible with surrounding land uses;
  - (8) Promote the location of new telecommunications facilities in the following order:
    - a. Collocation on existing towers;
    - b. Location on new towers or antenna support structures in the U.S. Route 29 corridor described in section 86-674(b)(2);
    - c. The location on antenna support structures or towers using stealth techniques as described in section 86-674(b)(4).

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-673. Definitions.**

Specific words, terms and phrases, used in this article, shall have the meanings ascribed to them in article II, section 86-24, definitions, telecommunications facilities.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-674. Development and approval of towers.**

- (a) No tower or telecommunications facility shall be constructed, installed or operated within the town except as permitted pursuant to this article.
- (b) A tower and associated telecommunications facilities shall be a permitted use of land with a special use permit issued by the town council pursuant to the provisions of section 86-7 only in the following areas in the town:



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- (1) The M (industrial) zoning district.
  - (2) All land, regardless of the zoning district in which it lies, lying in a corridor 200 feet in width contiguous with the right-of-way of U.S. Route 29 By-Pass such 200-foot wide corridor being bounded on the south by the northern right-of-way of Lynch Mill Road (State Route 714) and on the north by the northern corporate limits of the town.
  - (3) Land owned by the town adjacent to the water tank on Melinda Drive. (Collocation on existing towers only.)
  - (4) Land owned by any local governing body and the antennae support structure owned and used by the local governing body regardless of the zoning district.
  - (5) Except as provided in subsection (b)(2) of this section, antenna support structures or towers employing stealth techniques to camouflage the same so that the presence of telecommunications facilities are not apparent to common observation shall be a permitted use with a special use permit in any zoning district as a telecommunications facility, including small equipment cabinets located in or on the antenna support structure or on the ground immediately adjacent to a telecommunications facility, provided that they do not exceed 72 cubic feet above ground, and six feet in height.
- (c) Existing towers are exempt from the maximum height restrictions of the districts where located. New towers shall not exceed a maximum height of 100 feet in any district unless the town council approves a special use permit authorizing a maximum height in excess of such limits. If such a special use permit is granted, the town council may increase the fall zone, setbacks and buffers accordingly.
  - (d) The town may authorize the use of town property in accordance with the procedures of the town charter and Code. The town shall have no obligation whatsoever to use town property for such purposes.
  - (e) No new tower shall be constructed in the town unless such tower, including the ground area for associated telecommunications facilities, is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the applicant's telecommunications facilities. For purposes of this section, the "applicant's telecommunications facilities" shall mean those installed within six months of completion of tower construction. These provisions are encouraged for, but need not apply to, towers no greater than 50 feet in height.
  - (f) An application to construct a tower and/or install telecommunications facilities in the town shall include the following information:
    - (1) The name, address, and telephone number of the applicant. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent and the name, address, telephone number of the owner, shall be evidenced in the application. The application shall also contain an affirmative statement indicating that both the owner and applicant are aware of and agree to comply with the provisions in section 86-670 regarding abandonment.
    - (2) The legal description, valuation map number, and address of the parcel of land upon which the tower is to be situated.
    - (3) The names, addresses, and telephone numbers of all tower owners with existing towers or usable antenna support structures or persons holding a special use permit to construct a tower or antenna support structure within the corporate limits of the town, including town-owned property.
    - (4) Written documentation that the applicant made diligent, but unsuccessful, efforts for permission to install or collocate the applicant's telecommunications facilities on existing towers or usable antenna support structures located or to be located pursuant to pending construction within the corporate limits of the town.

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- (5) Written documentation that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on existing or proposed towers, and their ground area, or usable antenna support structures owned by other persons located within the corporate limits of the town.
  - (6) Written, technical evidence from a radio frequency engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structure located within the corporate limits of the town and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.
  - (7) Written, technical evidence from a structural engineer that the proposed structure meets the standards set forth in this article, including but not limited to the requirements set forth in subsection (e) of this section.
  - (8) Written, technical evidence from an electrical engineer that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
  - (9) A map of the town and the first one-half mile of all bordering communities showing the design of the applicant's entire existing or proposed wireless telecommunications network. Such map shall, at minimum, indicate the general location of all proposed or existing tower and antenna sites, their dimensions, specifications, and signal area coverage.
  - (10) Color photo simulations showing the proposed site of the tower with a photorealistic representation of the proposed tower as it would appear viewed from the closest residential property or properties and from adjacent roadways.
  - (11) An application fee that represents the site development plan fee and special use fee otherwise required. The town reserves the right to employ an outside consultant to review any application. The applicant shall reimburse the town for the reasonable expenses related to such review as an additional application fee.
  - (12) A site plan, including a description of the lot lines, setbacks, location of adjacent structures, proposed location of the tower, separation distances, proposed tower height, landscaping, screening, access, parking, and security.
  - (13) An acknowledgment that the applicant currently complies and will continue to comply with all FCC standards, including reporting requirements regarding radio frequency emissions.
  - (14) When seeking approval of a telecommunication tower or facility, the applicant shall furnish written documentation that:
    - a. The proposed tower is reasonably necessary to serve an adjacent residential area or areas.
    - b. Any variance sought is the minimum necessary to address the need for the variance, subsequent to exploring all reasonable siting alternatives.
    - c. The location of the tower in relation to the existing structures, trees and other visual buffers shall minimize, to the greatest extent reasonably practicable under the circumstances, any impact on affected residentially zoned property.
    - d. The location of the tower will not have a significant detrimental impact on adjacent property values.
    - e. Any other factors that the applicant deems to be relevant to the town's consideration of a tower or facility site.

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- (g) All information submitted with an application that is trade secret information or is for other reasons proprietary shall be clearly marked as such when submitted with an application. The town shall not disclose publicly, or to any third party, proprietary information unless compelled to do so by federal, state, or local law.

(Ord. of 10-11-2011(3), § 2; Ord. of 5-9-2017(9), § 1)

#### **Sec. 86-675. Availability of suitable existing towers or other structures.**

- (a) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the town council that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
  - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding the cost of new tower development are presumed to be unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-676. Interference with public safety radio services.**

In order to ensure that the town's public safety radio services will be free from harmful or destructive interference, all applicants requesting a permit to site a tower or telecommunications facilities must:

- (1) Demonstrate compliance with good engineering practices;
- (2) Provide the town a copy of all intermodulation studies submitted to the FCC;
- (3) Not induce harmful or destructive interference to the town's public safety radio services;
- (4) Comply with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference; and
- (5) In the case of collocation of telecommunications facilities either in the same location or on the same tower as the town's, comply with FCC emissions requirements and not radiate any RFI or any electromagnetic interference that may interfere with the town's public safety radio services.

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-677. Setbacks and fall zones.**

(a) *Setbacks.*

- (1) All towers and any telecommunications facilities shall be set back on all sides a distance equal to the underlying building setback requirement in the applicable zoning district, except that all towers in residential zoning districts shall be set back from all adjacent property lines a distance equal to the tower height. When a tower is located in a commercial district or industrial district, the tower shall be located a distance at least equal to twice the height of the tower from any residential district.
- (2) Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel on which it is located.

(b) *Fall zones.*

- (1) Every tower shall be designed to fall within the boundaries of the parcel on which the tower is located. The applicant shall submit written certification and supporting documentation from a structural engineer that a tower proposed for a residential area will fall within the specified fall zone. In the case of towers located in industrial areas that are specified and certified by a structural engineer to be collapsible or incapable of failure, the building commissioner may reduce the fall zone accordingly.
- (2) In those instances in which there is a conflict between the required setback and the required fall zone, the greater distance shall apply.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-678. Separation or buffer requirements.**

- (a) Towers shall be separated from all residences irrespective of zoning classification by a minimum distance equal to the height of the proposed tower.
- (b) Tower separation distances for the purpose of compliance with this article shall be measured from the base of a tower to the closest point of a designated area. The minimum tower separation distance shall be calculated and applied irrespective of town and county jurisdictional boundaries.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-679. Method of determining tower height.**

Measurement of tower height for the purpose of determining compliance with all requirements of this article shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend over the top of the tower structure itself. Tower height shall be measured from grade.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-680. Illumination.**

Towers shall not be artificially lighted except as required by the Federal Aviation Administration. Upon construction of a tower, in cases where there are residential uses located within a distance equal to the height of the tower from the tower, and when required by federal law, dual mode lighting shall be required from the FAA.

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(Ord. of 10-11-2011(3), § 2)

**Sec. 86-681. Exterior finish.**

Towers not requiring FAA painting or marking shall be painted a neutral color. (A galvanized finish is considered a neutral color.)

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-682. Landscaping.**

All landscaping on parcels containing towers, antenna support structures, or telecommunications facilities shall be designed to screen the tower, antenna support structure, and telecommunications facilities to a height of at least six feet from grade. This requirement may be waived at the discretion of the zoning administrator if the base of the tower and facilities to be screened are not located in and not visible from any business or residential districts or visible from public streets. All landscaping must be continually maintained in a healthy and attractive manner.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-683. Security.**

All towers must be reasonably posted and secured to protect against trespassers.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-684. Access.**

All parcels upon which towers are located must provide access during normal business hours to at least one paved vehicular parking space on site.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-685. Certifications and inspection of new and existing towers.**

- (a) All new towers shall be designed by a structural engineer and shall be certified by such engineer to be structurally sound and in conformance with the requirements of all applicable building codes and all other applicable construction standards, local, state and federal. For new monopole towers, such certification shall be submitted with an application pursuant to section 86-674(f) and every five years thereafter; for existing monopole towers, such certification shall be submitted within 60 days of the effective date of the ordinance from which this chapter is derived, and then every five years thereafter; for new lattice or guyed towers, such certification shall be submitted with an application pursuant to section 86-674(f) and every two years thereafter; and for existing lattice or guyed towers, such certification shall be submitted within 60 days of the effective date of the ordinance from which this chapter is derived, and then every two years thereafter. The tower owner may be required by the town to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.
- (b) The town and its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required in this section, to inspect the tower for the purpose of

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determining whether it complies with the statewide building code and all other construction standards, local, state and federal.

- (c) The town reserves the right to conduct such reasonable and necessary inspections, upon reasonable notice to the tower owner. All expenses by the town related to such inspections shall be borne by the owner if any unresolved defects exist.
- (d) The tower or telecommunication facilities owner shall certify to the town on an annual basis that it is in compliance with all of the requirements of this article, including the requirements set forth in section 86-686.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-686. Maintenance.**

- (a) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (b) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electrical Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- (c) All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that such towers, facilities, and structures shall not menace or endanger the life or property of any person.
- (d) All telecommunications facilities shall maintain compliance with current radio frequency emission standards of the FCC.
- (e) If the use of a tower is discontinued by the tower owner, or if a tower owner files notice of the FCC of its intent to cease operating, the tower owner shall provide a written notice to the town of its intent to discontinue use and the date when the use shall be discontinued.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-687. Stealth.**

All towers and telecommunications facilities except as provided in subsection 86-674(b)(4) in commercial and residential districts shall be of stealth design.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-688. Telecommunications facilities on antenna support structures.**

- (a) Any telecommunications facilities which are not attached to a tower may be permitted as an accessory use to any antenna support structure at least 30 feet tall, and if stealth techniques are applied, as provided in subsection 86-674(b)(4), such telecommunications facilities may be installed regardless of the zoning district where the antenna support structure is located. Such permitted use also may include the placement of additional buildings or other supporting equipment used in connection with such antenna so long as such building or equipment is placed within the existing structure or property and is necessary for such use. Telecommunications facilities are prohibited on all other structures.

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- (b) The owner of such antenna support structure and/or telecommunications facilities shall, by written certification, graphic representation, and detailed plans to the technical review committee, verify that:
- (1) The antenna support structure and telecommunications facilities comply with the statewide building code;
  - (2) Any telecommunications facilities and their appurtenances, located upon the roof of an antenna support structure, are set back a distance at least equal to the height of the telecommunications facilities. However, this setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the roof of an antenna support structure, if such facilities are appropriately screened from view through the use of screening techniques that are compatible with the surrounding built environment and approved by the town. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the roof, but which do not protrude more than 24 inches from the side of such an antenna support structure; and
  - (3) All applicable standards of this article are being met.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-689. Collocation; existing towers.**

- (a) An existing tower may be modified or demolished and rebuilt to accommodate collocation of additional telecommunications facilities as follows:
- (1) Application for a permit shall be made to the zoning administrator who shall have the authority to issue a permit without further approval by the town council.
  - (2) The total height of the modified tower and telecommunications facilities attached thereto shall not exceed the lesser of the height of the existing tower or the maximum height for towers allowed under this article.
  - (3) A tower which is being rebuilt to accommodate the collocation of additional telecommunications facilities may be relocated on the same parcel subject to the setback requirements of this article. However, if it is impossible for the tower to be rebuilt in compliance with the setback requirements of this article, such setback requirements shall require approval of a variance from the board of zoning appeals to allow the tower to be rebuilt in its exact previous location.
  - (4) Notwithstanding any provision of this section to the contrary, telecommunications facilities meeting all building codes and required engineering standards may be collocated on existing towers without a special use permit.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-690. Abandonment.**

- (a) If the town receives notice pursuant to section 86-686, or if any tower shall cease to be used for a period of 365 consecutive days, the zoning administrator shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the zoning administrator that such site has been abandoned. The owner shall have 30 days from receipt of such notice to provide evidence that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the zoning administrator shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within 75 days, dismantle and remove the tower. If an owner fails to remove an abandoned tower within 75 days of the final determination of abandonment, the town may dismantle and remove the tower and recover the costs of the tower from

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the owner or by accessing the bond set forth in subsection (b) of this section. For the purposes of this section, removal includes all physical improvements associated with towers, including foundation and tower grounding.

- (b) To secure the obligation set forth in subsection (a) of this section, the owner shall post a bond or provide a letter of credit in an amount to be determined by the town manager, based on the anticipated cost of removal of the tower.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-691. Local government access.**

Owners of towers shall provide to the town collocation opportunities without compensation as a community benefit to improve radio communication for town departments and emergency services, provided that such collocation does not conflict with other provisions of this article.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-692. Reservation of rights.**

The town reserves the right to impose any other reasonable conditions it determines are necessary for the proper placement, construction, or modification of towers or facilities, and/or to impose any other reasonable conditions on the issuance of a special use permit for placement, construction, or modification of a tower or facilities.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-693—86-700. Reserved.**

## ***ARTICLE VII. NONCONFORMING USES AND OTHER VESTED RIGHTS***

### **Sec. 86-701. Vested rights not impaired; general policy as to nonconforming uses.**

- (a) Nothing in this chapter shall impair any vested right. Pursuant to Code of Virginia, § 15.2-2307, a landowner's rights shall be deemed vested and shall not be affected by the subsequent amendment of this chapter if all of the following occur:
- (1) The landowner obtains or is the beneficiary of a significant affirmative governmental act;
  - (2) The landowner relies in good faith on a significant affirmative governmental act; and
  - (3) The landowner incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.
- (b) Uses of land, buildings, structures and lots which do not conform to the regulations and restrictions prescribed by this article as of the effective date of the ordinance from which this section is derived may be continued only in conformity with the terms of this article.
- (c) This article recognizes that the elimination of existing lots, buildings and structures or uses that are not in conformity with the provisions of this article is as much a subject of health, safety, and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this article. It is the intent of this article to permit these nonconformities to continue, but not to encourage their survival or



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permit their uses as grounds for adding other structures or uses prohibited elsewhere within the same district.

- (d) Therefore, any structure or use of land existing at the time of the enactment of the ordinance from which this section is derived, and any subsequent amendments not in conformity with the regulations and provisions of this section, may be continued only subject to the provisions of section 86-702.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-702. General provisions as to nonconforming lots of record, structures, uses of land, and uses of structures.**

- (a) *Lots of record.* Where a lot or lots of record at the time of enactment of the ordinance from which this section is derived does not contain land of sufficient area or width to permit conformity with the dimensional requirements of this chapter, the following provisions shall apply: Any lot or lots of record, in any district, at the time of enactment or amendment of this article which is less in area, or width or both than the minimum required by this article may be used for a permitted use in that district, provided that setback, side yard and requirements other than those applying to area and/or width of the lot shall conform to the regulations for the district in which such lot is located. However, when more than 50 percent of the lots in the block in which such nonconforming lots are located have dwellings constructed on them which are nonconforming as to either front, side or rear yards, the owner may apply for a special use permit. The required area for permitted uses utilizing individual water supply and/or sewage disposal systems shall be approved by the health department and additional area shall be required if considered necessary for conditions encountered.
- (b) *Nonconforming structure.* Where a lawful structure exists at the time of enactment or amendment of this article that could not be built in the district in which it is located by reason of restrictions on area, lot coverage, height, yard dimensions or other requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming building but no such building that is declared by any authorized town official to be unsafe or unlawful by reason of physical condition shall be restored, repaired or rebuilt except as set forth in subsections (b)(3)a. and (b)(3)b. of this section.
  - (2) In accordance with Code of Virginia, § 15.2-2307, the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God may repair, rebuild, or replace such building, and in so doing, eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance. If such building cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so.
  - (3) Furthermore, a nonconforming building that is destroyed or damaged by any casualty to an extent not exceeding 50 percent of its current fair market value according to the records of the county treasurer, exclusive of foundations, may be restored within two years after such destruction or damage but shall not be enlarged except as provided in this section. If any such building is so destroyed or damaged to an extent exceeding 50 percent of its value, it shall not be reconstructed except:
    - a. In conformity with the regulations for the district in which it is located.
    - b. If the nonconforming building is a single-family detached dwelling, in which event it may be reconstructed within two years after such destruction or damage so as to occupy the same space that it occupied prior to such destruction or damage of any part.

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- (4) A nonconforming structure may be enlarged or altered, provided that such enlargement or alteration does not create a nonconformity which did not previously exist. Any structure or portion thereof may be altered to decrease its nonconformity.
  - (5) Should a nonconforming structure be moved, it shall thereafter conform to the yard requirements of the district in which it is located after it is moved.
  - (6) Any manufactured home or mobile home existing in a district as a nonconforming use may be replaced once with a later model manufactured home, provided that the later model manufactured home is located on the site of the replaced home.
- (c) *Nonconforming uses of land.* Where a lawful use of land exists at the time of enactment of the ordinance from which this section is derived or any subsequent amendment thereto that would not be permitted by the regulations imposed in this section, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:
- (1) After obtaining a special use permit pursuant to section 86-7, a nonconforming use may be enlarged or increased or extended to occupy a cumulative area not exceeding 25 percent of the area that was occupied at the time of enactment of the ordinance from which this section is derived.
  - (2) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the time of enactment of the ordinance from which this article is derived.
  - (3) No additional structure not conforming to the requirements of this article shall be constructed in connection with such nonconforming use.
- (d) *Nonconforming uses of structures.* Where a lawful use of an individual structure, or of structures and premises in combination, exists at the time of enactment of the ordinance from which this section is derived, or from any subsequent amendment that would not be permitted in the district in which it is located under the requirements of this article, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:
- (1) With the exception of pre-existing class B manufactured homes or class C mobile homes which may not be enlarged, the enlargement, extension or alteration of a structure devoted to a nonconforming use existing at the time of enactment of or amendment to the ordinance from which this section is derived is permitted after obtaining a special use permit pursuant to section 86-7, provided that such enlargement shall not exceed 25 percent in the aggregate of the floor area of the original structure devoted to the nonconforming use, and provided that all yard and other appropriate requirements of this article are met. The provision shall not apply to the changing of the use of a structure to a conforming use.
  - (2) Any nonconforming use may be extended to occupy any part of a building that was manifestly arranged or designated for such use at the time of the effective date of the ordinance from which this section is derived, but no such use shall be extended to occupy any land outside such building.
  - (3) A building in which a nonconforming use is conducted that is destroyed or damaged by any casualty to an extent not exceeding 50 percent of its current fair market value according to the records of the county treasurer, exclusive of foundations, may be restored within two years after such destruction or damage but shall not be enlarged except as provided in this subsection (d)(3)a. or (d)(3)b. If any such building is so destroyed or damaged to an extent exceeding 50 percent of its value, it shall not be reconstructed except:
    - a. For a conforming use.

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- b. If the nonconforming use of the building is a single-family detached dwelling, it may be reconstructed within two years after such destruction or damage so as to occupy the same space that it occupied prior to such destruction or damage of any part.
  - (4) If a building in which a nonconforming use is conducted is moved for any distance, for any reason, the future use of such building shall be in conformity with the regulations specified for the zoning district in which such building is located.
  - (5) If any building in which any nonconforming use is conducted is removed, the subsequent use of land on which such building was located and the subsequent location and use of any building thereon shall be in conformity with the regulations specified for the zoning district in which such land is located.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-703. General rules as to nonconforming uses.**

- (a) If any nonconformity of any type ceases for any reason for a continuous period of two years or more or is changed to or replaced by a conforming use, the land and building that occupied such nonconforming use shall be subject to all the regulations as to use for the zoning district in which such land and building are located as if such nonconforming use had never existed.
- (b) No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.
- (c) The rights of a nonconforming use or building shall pertain to the use or building itself, regardless of the ownership of the land or building on or in which such nonconforming use or building is conducted or the nature and tenure of the occupancy.
- (d) All of the provisions of this section relating to nonconforming uses and buildings shall apply to all nonconforming uses and buildings existing on the effective date of the ordinance from which this chapter is derived. The provisions shall not apply, however, to any use established or building constructed in violation of law, regardless of the time of establishment.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-704. Permits previously issued.**

Nothing contained in this article shall require any change in the plans, construction, size, or designated use of any building, structure, or part thereof for which a building permit has been granted before this article, or a subsequent zoning change, becomes effective, provided that such building is started within one year, or such use of land established within 30 days after the effective date of the ordinance from which this chapter is derived.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-705. Changes in district.**

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

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-706—86-730. Reserved.**

## **ARTICLE VIII. BOARD OF ZONING APPEALS<sup>10</sup>**

### **Sec. 86-731. Created; membership; organization.**

- (a) A board of zoning appeals of the town is hereby established.
- (b) The board of zoning appeals shall consist of five residents of the town appointed by the Campbell County Circuit Court. Their terms of office shall be for five years each, and the term of one member shall expire each year. The secretary of the board shall notify the court at least 30 days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the town except that one may be a member of the planning commission. A member whose term expires shall continue to serve until his or her successor is appointed and qualified.
- (c) With the exception of the secretary, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or special, for the conduct of any hearing a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under Code of Virginia, § 15.2-2314, and the staff of the town. Except for matters governed by Code of Virginia, § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter, and rescind rules and forms for its procedures, consistent with ordinances of the town and general laws of the commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the town council at least once a year.
- (d) Within the limits of funds appropriated by the town council, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the town council. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him or her after a hearing held after at least 15 days notice.

(Ord. of 10-11-2011(3), § 2; Ord. of 5-9-2017(10), § 1)

### **Sec. 86-731.1. Board of zoning appeals, ex parte communications; proceedings.**

- (a) The non-legal staff of the town may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of

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<sup>10</sup>Cross reference(s)—Boards and commissions, § 2-131Cross reference(s)— et seq.

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whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

- (b) Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under Virginia Code, § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under Virginia Code, § 15.2-2314 requests additional documents or materials be provided by the town other than those materials provided to the board, such request shall be made pursuant to the Virginia Freedom of Information Act (Virginia Code, § 2.2-3704). Any such materials furnished to a member of the board shall also be made available for public inspection pursuant Virginia Code, § 2.2-3707(F).
- (c) For the purposes of this section, "non-legal staff of the town" means any staff who is not in the office of the town attorney or any attorney representing the board, or who is appointed by special law or pursuant to Virginia Code, § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.
- (d) This section shall not apply to cases where an application for a special exception has been filed pursuant to Virginia Code, § 15.2-2309, subdivision 6.

(Ord. of 5-9-2017(12), § 1)

## **Sec. 86-732. Board of zoning appeals—Powers and duties.**

(a) The board of zoning appeals shall have the following powers and duties:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter of the Altavista Town Code or of Code of Virginia, § 15.2-2280. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.
- (2) Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in Code of Virginia, § 15.2-2201; provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in Code of Virginia, § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows 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 at the time of the effective date of the ordinance, and

- a. 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;

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- b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
  - c. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
  - d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in zoning classification of the property; and
  - e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to Code of Virginia, § 15.2-2309, subdivision 6 or the process for modification of a zoning ordinance pursuant to Code of Virginia, § 15.2-2286, subdivision A.4, at the time of the filing of the variance application.

No variance shall be considered except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

- (3) To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.
- (4) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.
- (5) No provision of Code of Virginia, § 15.2-2309 or of this section shall be construed as granting the board the power to rezone property or to base board decisions on the merits of the purpose and intent of ordinances duly adopted by the town council.
- (6) The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as

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possible. All hearings and other matters previously advertised for such meeting in accordance with Code of Virginia, § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

(Ord. of 10-11-2011(3), § 2; Ord. of 5-9-2017(11), § 1)

Editor's note(s)—An ordinance adopted May 9, 2017(11), changed the title of § 86-732 Editor's note(s)— from "Powers and duties" to read as herein set out.

### **Sec. 86-733. Applications for variances.**

Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Applications shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. No variances shall be authorized except after notice and hearing as required by Code of Virginia, § 15.2-2204. The zoning administrator shall also transmit a copy of the application to the planning commission which may send a recommendation to the board or appear as a party at the hearing. If an application for a variance is denied, the board shall not consider substantially the same application for a period of one year.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-734. Appeals.**

- (a) An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter. Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator shall include a statement informing the recipient that he or she may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall then transmit to the board all the papers constituting the record upon which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs.
- (b) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.
- (c) In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his or her position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation shall not apply in any

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case where, with the concurrence of the town attorney, modification is required to correct clerical or other nondiscretionary errors.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-735. Procedure on appeal.**

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within 90 days of the filing of the application or appeal. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairperson of the board, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-736. Reserved.**

Editor's note(s)—An ordinance adopted May 9, 2017(14), repealed § 86-736Editor's note(s)—, which pertained to requirements for granting of variance; powers regarding variances, and derived from an ordinance adopted Oct. 11, 2011(3), § 2Editor's note(s)—.

### **Secs. 86-737—86-760. Reserved.**

## ***ARTICLE IX. AMENDMENTS; CONDITIONS; NOTICES***

### ***DIVISION 1. AMENDMENTS; CHANGES IN ZONING***

### **Sec. 86-781. Amendments to chapter; requests for changes in zoning.**

- (a) Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the council may by ordinance amend, supplement, or change the text of this chapter including the regulations, district boundaries, or classifications of real property. Any such amendment may be initiated by resolution of the council, by motion of the planning commission, or by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property which is the subject to the proposed zoning action, addressed to the town council or the planning commission, who shall forward such petition to the town council. Petitions under this subsection shall be addressed to the council or the planning commission, who shall forward such petition to the council; provided, however, that substantially the same petition will not be reconsidered within a period of one year. Any resolution or motion by the council or planning commission proposing the rezoning shall state the public purposes for such.
- (b) At the direction of the town council, the planning commission shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by Code of Virginia, § 15.2-2204, and



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may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate materials.

- (c) Petitions brought by property owners, contract purchasers or their agents shall be sworn under oath before a notary public or other official before whom oaths may be taken, stating whether or not any member of the commission or council has any interest in such property, individually, by ownership of stock in a corporation owning such land, or partnership, or whether a member of the immediate household of any member of the commission or council has any such interest.
- (d) No provision in this chapter shall be amended or reenacted unless the council has referred the proposed amendment or reenactment to the commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the council, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.
- (e) Before approving and adopting any zoning ordinance or amendment thereof, the town council shall hold at least one public hearing thereon, pursuant to public notice as required by Code of Virginia, § 15.2-2204, after which the town council may make appropriate changes or corrections in this chapter or proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by Code of Virginia, § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.
- (f) Every action contesting a decision of the council adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special use permit shall be filed within 30 days of such decision with the Campbell County Circuit Court. However, nothing in this subsection shall be construed to create any new right to contest the action of the town council.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-782. Advertisement of plans and ordinances; joint public hearings; written notice of certain amendments.**

- (a) Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by Code of Virginia, §§ 15.2-2200—15.2-2327 need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the places within the town where copies of the proposed plans, ordinances or amendments may be examined. The planning commission shall not recommend nor the town council adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the town; however, the notice for both the planning commission and the town council may be published concurrently. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The planning commission and town council may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth need be given only by the town council. The term "two successive weeks," as used in this subsection, shall mean that such notice shall

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be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication shall not be required.

- (b) When a proposed amendment of this chapter involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required in subsection (a) of this section, written notice shall be given by the planning commission, or its representative, at least five days before the hearing to the owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under Code of Virginia, §§ 15.2-2200—15.2-2327 shall be taxed to the applicant.
- (c) When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as above required, written notice shall be given by the planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Code of Virginia, § 15.2-2240, where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.
- (d) Whenever the notices required hereby are sent by an agency, department or division of the town council, or its representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.
- (e) When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special use permit for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special use permits, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the commonwealth, then, in addition to the advertising and written notification as required in this section, written notice shall also be given by the commission, or its representative, at least ten days before the hearing to the chief administrative officer, or his or her designee, of such adjoining locality.
- (f) When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special use permit for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding

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armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as above required, written notice shall also be given by the local commission, or its representative, at least ten days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

- (g) The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by Code of Virginia, §§ 15.2-2200—15.2-2327, provided that a public hearing was conducted by the town council prior to such adoption or amendment. Every action contesting a decision of the town based on a failure to advertise or give notice as may be required by such statutes shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.
- (h) At the time an application is filed with the town, a sign shall be posted on the property by the applicant notifying interested persons that a zoning action involving the property is pending. Where the zoning action has been initiated by the planning commission or by the town council, the sign shall be posted on the property by the town. Such sign shall be located along the edge of the right-of-way of a public street or road, upon which such business or proposed use fronts. The sign shall be placed on the property at 500-foot intervals. If the property in question has a 500-foot or less frontage, one sign shall suffice. Where property does not front on an existing right-of-way, such sign shall be placed within the right-of-way of the nearest street or road.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-783—86-790. Reserved.**

***DIVISION 2. CONDITIONAL ZONING***

**Sec. 86-791. Declaration of legislative policy and findings; purpose.**

It is the general policy of the town, in accordance with the provisions of Code of Virginia, § 15.2-2283, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and the same time to recognize effects of change. It is the purpose of this division to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The exercise of authority granted pursuant to this division shall not be construed to limit or restrict powers otherwise granted to the town, nor to affect the validity of any ordinance adopted by the town which would be valid without regard to this section. The provisions of this division shall not be used for the purpose of discrimination in housing.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-792. Conditions as part of a rezoning or amendment to zoning map.**

- (a) An applicant may, as a part of an application for a rezoning, provided that the applicant is the owner of the property to be rezoned, voluntarily proffer, in writing, reasonable conditions, prior to a public hearing before

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the town council, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map; provided, however, that:

- (1) The rezoning itself must give rise for the need for the conditions.
  - (2) The conditions shall have a reasonable relation to the rezoning.
  - (3) The conditions shall not include a cash contribution to the town.
  - (4) The conditions shall 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.
  - (5) The conditions shall not include a requirement that the applicant create a property owners' association under Code of Virginia, § 55-508 et seq., which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in Code of Virginia, § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation.
  - (6) The conditions shall not include payment for or construction of off-site improvements except those provided for in Code of Virginia, § 15.2-2241.
  - (7) No condition shall be proffered that is not related to the physical development or physical operation of the property.
  - (8) All such conditions shall be in conformity with the comprehensive plan as defined in Code of Virginia, § 15.2-2223.
- (b) Once proffered and accepted as part of an amendment to this chapter, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions. However, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-793. Enforcement and guarantees.**

- (a) The zoning administrator is vested with all necessary authority on behalf of the town council to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:
- (1) The ordering in writing of the remedy of any noncompliance with the conditions;
  - (2) The bringing of legal action to ensure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding; and
  - (3) Requiring a guarantee, satisfactory to the town council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the town council, or agent thereof, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part.

Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

(Ord. of 10-11-2011(3), § 2)

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**Sec. 86-794. Records.**

The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his or her office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-795. Petition for review of decision.**

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of section 86-793 may petition the town council for review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the town council within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-796. Amendments and variations of conditions.**

There shall be no amendment or variation of conditions created pursuant to the provisions of Code of Virginia, § 15.2-2297, until after a public hearing before the Town Council advertised pursuant to the provisions of Code of Virginia, § 15.2-2204.

(Ord. of 10-11-2011(3), § 2)

**Secs. 86-797—86-820. Reserved.*****ARTICLE X. FLOOD CONTROL******DIVISION 1. GENERALLY*****Sec. 86-821. Definitions.**

Specific words, terms and phrases, used in this article, shall have the meanings ascribed to them in article II, section 86-22, definitions, general terms.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-822. Applicability of article provisions.**

This article shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Emergency Management Agency.

(Ord. of 10-11-2011(3), § 2)

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**Sec. 86-823. Purpose of article.**

- (a) *Generally.* The purpose of this article is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:
- (1) Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.
  - (2) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
  - (3) Requiring all those uses, activities and developments that do occur in floodprone areas to be protected and/or floodproofed against flooding and flood damage.
  - (4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-824. Compliance with article provisions.**

- (a) No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this article and any other applicable articles and regulations which apply to uses within the jurisdiction of this article.
- (b) This article shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-825. Abrogation and greater restrictions.**

This article supersedes any other provisions of this Code in effect in floodprone areas. However, any other provisions of this Code shall remain in full force and effect to the extent that those provisions are more restrictive than those contained in this article.

(Ord. of 10-11-2011(3), § 2)

**Sec. 86-826. Special use permits and variances; additional factors considered.**

- (a) In reviewing applications for special use permits and variances, the town council and the board of zoning appeals, as applicable, shall consider all relevant factors and procedures specified in other sections of this chapter and the following factors:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No special use permit or variance shall be granted for any proposed use, development, or activity within the floodway district that will cause any increase in flood levels during the 100-year flood which increase would violate the intent of this article as stated in section 86-823.
  - (2) The danger that materials may be swept onto other lands or downstream to the injury of others.

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- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed use to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - (10) The safety of access to the property in time of flood of ordinary and emergency vehicles.
  - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  - (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) Such other factors which are relevant to the purposes of this article:
    - a. The town council or board of zoning appeals, as applicable, may refer any application and accompanying documents pertaining to any request for a special use permit or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.
    - b. Special use permits and/or variances shall only be issued after the town council or board of zoning appeals, as applicable, has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense, and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.
    - c. Special use permits and/or variances shall only be issued after the town council or board of zoning appeals, as applicable, has determined that the special use permit and/or variance will be the minimum relief from hardship.
    - d. The town council or board of zoning appeals, as applicable, shall notify the applicant for a special use permit and/or variance, in writing, that the issuance of a special use permit and/or variance to construct a structure below the 100-year flood elevation increases risks to life and property, and will result in increased premium rates for flood insurance.
    - e. A record of the notification described in subsection (d) of this section, as well as all variance actions, including justification for their issuance, shall be maintained and any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency.

(Ord. of 10-11-2011(3), § 2)

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## **Sec. 86-827. Existing structures in floodplain districts.**

- (a) *Generally.* A structure or use of a structure or premises which lawfully existed before the enactment of the provisions of this article, but which is not in conformity with the provisions of this article may be continued, subject to the following conditions:
- (1) Existing structures and/or uses located in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the 100-year flood elevation.
  - (2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than 50 percent of its market value shall be elevated and/or floodproofed to the greatest extent possible.
  - (3) The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use regardless of its location in a floodplain district to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
  - (4) Uses of adjuncts which are, or become, nuisances shall not be permitted to continue.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-828. Municipal liability.**

The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodplain districts, or that land uses permitted within such districts will be free from flooding or flood damages.

(Ord. of 10-11-2011(3), § 2)

## **Secs. 86-829—86-850. Reserved.**

# ***DIVISION 2. ESTABLISHMENT OF FLOODPLAIN DISTRICTS***

## **Sec. 86-851. Description of districts.**

- (a) *Basis of districts.* The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the flood insurance study for the town, prepared by the Federal Emergency Management Agency, dated August 2008, as amended.
- (1) The floodway district is delineated for purposes of this article using the criteria that a certain area within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. These areas included in this district are specifically defined in table 3 of the flood insurance study referenced in this subsection and shown on the accompanying flood boundary and floodway map or flood insurance rate map.



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- (2) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the flood insurance study referenced in this subsection, and as shown on the accompanying flood boundary and floodway map or flood insurance rate map.

(b) *Overlay concept.*

- (1) The floodplain districts described in subsection (a) above shall be overlays to the existing underlying districts shown on the zoning map and the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- (2) Where there happens to be any conflict between the provisions or requirements of any of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- (3) If any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provisions shall remain applicable.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-852. Official floodway map.**

The boundaries of the floodplain districts are established as shown on the flood boundary and floodway map and/or flood insurance rate map which is declared to be a part of this article and which shall be kept on file at the town offices. The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the flood insurance study (FIS) and the flood insurance rate maps for the town prepared by the Federal Emergency Management Agency, dated August 28, 2008, as amended.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-853. District boundary changes.**

The delineation of any of the floodplain districts may be revised by the town council where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or individual documents the notification for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-854. Interpretation of district boundaries.**

Initial interpretations of the boundaries of the floodplain districts shall be made by the zoning administrator. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the board and to submit his or her own technical evidence if he or she so desires.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-855—86-880. Reserved.**

### ***DIVISION 3. DISTRICT PROVISIONS***

#### **Sec. 86-881. Generally.**

- (a) *Permit requirement.* All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances such as the Virginia Uniform Statewide Building Code and the subdivision provisions of chapter 66 of this Code. Prior to the issuance of any such permit, the zoning administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- (b) *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, streams, etc., within this jurisdiction, the applicant shall obtain all necessary permits from the U.S. Army Corps of Engineers and the Virginia Marine Resources Commission, and certification from the State Water Control Board as necessary (a joint permit application is available from any one of these organizations). Further, notification of the proposal shall be given to all affected adjacent municipalities, the Division of Soil and Water Conservation at the Virginia Department of Conservation and Recreation, and the Federal Emergency Management Agency.
- (c) *Site plans and permit applications.* All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:
  - (1) For structures that have been elevated, the elevation of the lowest floor, including the basement.
  - (2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.
  - (3) The elevation of the 100-year flood.
  - (4) Topographic information showing existing and proposed elevations.
- (d) *Manufactured homes.*
  - (1) Manufactured homes that are placed or substantially improved onsite:
    - a. Outside of a manufactured home park or subdivision;
    - b. In a new manufactured home park or subdivision;
    - c. In an expansion to an existing manufactured home park or subdivision; or
    - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.
  - (2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (d)(1) of this section shall be elevated so that either:

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- a. The lowest floor of the manufactured home is at or above the base flood elevation; or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.
- (e) *Recreational vehicles.* Recreational vehicles placed on sites shall either:
- (1) Be on the site for fewer than 180 consecutive days; and
  - (2) Be fully licensed and ready for highway use; or
  - (3) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in subsection (d) of this section.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-882. Floodway district.**

- (a) *Generally.* In the floodway district, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the 100-year flood elevation.
- (b) *Permitted uses.* In the floodway district, the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance, and provided that they do not require structures, fill, or storage of materials and equipment:
  - (1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
  - (2) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking, and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
  - (3) Accessory residential uses such as yard areas, gardens, play areas, and pervious loading areas.
  - (4) Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips, etc.
- (c) *Uses permitted by special use permit.* The following uses and activities may be permitted by special use permit, provided that they are in compliance with provisions of the underlying district and are not prohibited by this article or any other ordinance:
  - (1) Structures except for manufactured homes accessory to the uses and activities in subsection (b) of this section.
  - (2) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses.
  - (3) Water-related uses and activities such as marinas, docks, wharves, piers, etc.
  - (4) Extraction of sand, gravel, and other materials (where no increase in level of flooding or velocity is caused thereby).
  - (5) Temporary uses such as circuses, carnivals, and similar activities.

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- (6) Storage of materials and equipment, provided that they are not buoyant, flammable or explosive, and are not subject to damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, and/or can be readily removed from the area within the time available after flood warning.
  - (7) Other similar uses and activities provided that they cause no increase in flood heights and/or velocities. All uses, activities, and structural developments shall be conducted in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances.

(Ord. of 10-11-2011(3), § 2)

### **Sec. 86-883. Flood fringe district.**

In the flood fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district, provided that all such uses, activities and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

(Ord. of 10-11-2011(3), § 2)

### **Secs. 86-884—86-910. Reserved.**

## ***ARTICLE XI. ENFORCEMENT; PENALTIES; ADMINISTRATOR'S APPLICATION OF DISTRICT REGULATIONS; AUTHORITY TO COLLECT FEES***

### **Sec. 86-911. Application of district regulations.**

- (a) *Generally.* The regulations set by this chapter, or future amendment, within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, throughout each district with the exceptions provided in this chapter.
  - (1) No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, placed or structurally altered except in conformity with all of the regulations specified in this chapter for the district in which it is located.
  - (2) No building or other structure shall be erected or altered to:
    - a. Exceed the height or bulk;
    - b. Accommodate or house a greater number of families;
    - c. Occupy a greater percentage of lot area;
    - d. Have narrower or smaller rear yards, front yards, side yards or other open space than required herein; or in any other manner contrary to the provisions of this chapter.
  - (3) No part of a yard, or other open space, or, off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
  - (4) No yard or lot existing on the effective date of the ordinance from which this chapter is derived, shall be reduced in dimension or area below the minimum requirements set forth in this chapter. Yards or

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lots created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established by this chapter.

- (5) No use shall be permitted in any district which creates a nuisance by reason of excessive smoke, dust, noxious or nauseous fumes, noise or vibration.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-912. Enforcement of chapter by injunction and otherwise.**

- (a) *Generally.* For the administration and enforcement of this chapter, the zoning administrator shall have all necessary authority on behalf of the town specifically including the authority to:
- (1) Order in writing that any condition found in violation of this chapter be remedied forthwith and to prescribe a timetable or deadline for such compliance.
  - (2) Bring all legal actions necessary to ensure compliance with this chapter including injunction, abatement or other proceeding.

(Ord. of 10-11-2011(3), § 2)

#### **Sec. 86-913. Unlawful conduct and penalties.**

It shall be unlawful for the owner of any land, building, structure or premises or the agent thereof having possession or control of such property or for any lessee, tenant, architect, engineer, builder, contractor or any other person to willfully violate any section of this chapter or of any ordinance authorizing the issuance of a zoning permit, a special use permit or planned unit development plan or the conditions attached thereto or to willfully fail, refuse or neglect to perform any duty imposed by this chapter. It shall be unlawful for any such owner, agent, lessee, tenant, architect, engineer, builder, contractor or other person to take part in or to assist in any such willful violation, failure, refusal or neglect or to maintain any land, building or structure in connection with which such violation, failure, refusal or neglect exists. Failure by any person to cease and desist from, or to correct, a violation within the time limits prescribed by the zoning administrator in a written notice served upon such person shall constitute prima facie evidence of a willful intent to violate this chapter.

Any such violation shall be a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$50.00 nor more than \$1,000.00, and any such failure during a succeeding ten-day period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$100.00 nor more than \$1,500.00 and any such failures during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$200.00 nor more than \$2,000.00. The town shall also impose an administrative fee as set forth in the town's master list of fees, rates and charges on any violator to cover the costs arising out of an enforcement action.

(Ord. of 10-11-2011(3), § 2; Ord. of 12-8-2020(5) )

Editor's note(s)—An ordinance dated Dec. 8, 2020(5) Editor's note(s)—, changed the title of § 86-913Editor's note(s)— from penalties to unlawful conduct and penalties.

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## **Sec. 86-914. Authority of zoning administrator to collect fees.**

*Generally.* In carrying out the provisions of this chapter, the zoning administrator is hereby authorized to set and collect such fees as he or she may deem necessary to cover the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter.

(Ord. of 10-11-2011(3), § 2)

## **Sec. 86-915. Inspection warrants.**

- (a) As provided by Code of Virginia, § 15.2-2286 A.16., and for the purpose of enforcing the provisions of this chapter in instances directly related to apparent violations of this chapter.
- (b) The zoning administrator, or his/her duly authorized agent, shall have the authority to apply for the issuance of inspection warrants, as provided by Code of Virginia Code, § 15.2-2286 A.16., for the purpose of enforcing the provisions of this section by inspection of property to determine whether violations of this section exist.
- (c) The zoning administrator or his/her agent shall make an affidavit under oath before a magistrate or court of competent jurisdiction and, if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court grant the zoning administrator or his/her agent an inspection warrant to enable the zoning administrator or his/her agent to enter the subject dwelling for the purpose of determining whether violations of the zoning ordinance exist. After issuing a warrant under this section, the magistrate or judge shall file the affidavit in the manner prescribed by Code of Virginia, § 19.2-54. After executing the warrant, the zoning administrator or his agents shall return the warrant to the clerk of the circuit court of the city or county wherein the inspection was made.
- (d) The zoning administrator or his/her agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.
- (e) The zoning administrator or his/her agent shall only enter the subject dwelling during daylight business hours and only for the purpose of determining whether violations of the zoning ordinance exist.
- (f) If such inspection warrant is issued, the zoning administrator or his/her agent shall make a reasonable effort to notify the owner or tenant of the premises that an inspection will be conducted. That notice must include the date and time period of the inspection. The notices required herein shall include but are not necessarily limited to:
  - (1) Mailing that notice to the last known postal address of the owner(s); and
  - (2) Posting it at the front door of the premises no less than five business days prior to the court hearing and five business days before the day of the inspection as the case may be.

The zoning administrator or his/her agent shall make any and all other reasonable efforts to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

- (g) It shall be a violation of the zoning ordinance for any owner, managing agent, tenant, occupant or other person, to deny the zoning administrator, or his/her duly authorized agent, access to any dwelling after the zoning administrator, or his duly authorized agent have obtained an inspections warrant from a court of competent jurisdiction and the foregoing notice requirements have been satisfied.

(Ord. of 12-8-2020(6) , § 1)