City of Portsmouth Virginia

ZONING ORDINANCE

EFFECTIVE DATE: MAY 1, 2010
REVISED DECEMBER 9, 2014

CLARION

WRT

The City of Portsmouth Zoning Ordinance was adopted on February 9, 2010 by City Council, effective May 1, 2010. Included in this revision are all of the amendments that have been made to the Zoning Ordinance since May 1, 2010. Below is a listing of all of the amendments including their date of adoption by City Council.

December 14, 2010	Ordinance No. 2010 - 97
July 24. 2012	Ordinance No. 2012 – 41
July 24, 2012	Ordinance No. 2012 – 42
June 11, 2013	Ordinance No. 2013 – 33
June 24, 2014	Ordinance No. 2014 – 55
December 9, 2014	Ordinance No. 2014 - 103

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(A) The City Council for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of the Code of Virginia (1950), as amended, states this Ordinance is adopted with the following purposes and intent: ... 1-1

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ARTICLE 40.1-1: GENERAL PROVISIONS

40.1-1.1 TITLE

This chapter of the Portsmouth City Code shall be officially known as "The City of Portsmouth, Virginia, Zoning Ordinance" and may be referred to as "the Zoning Ordinance" or "this Ordinance."

40.1-1.2 AUTHORITY

(A) General Authority

This Ordinance establishes the city's zoning regulatory authority as authorized by the Code of Virginia (1950), as amended, and is adopted in accordance with:

(1) The enabling authority contained in Title 15.2, Chapter 22 of the Code of Virginia (1950), as amended, granted to the City of Portsmouth by the General Assembly of the Commonwealth of Virginia;

(2) The Code of the City of Portsmouth, Virginia; and

(3) All other relevant laws of the Commonwealth of Virginia.

(B) References to Code of Virginia

Whenever any provision of this Ordinance refers to or cites a section of the Code of Virginia (1950), as amended, and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

40.1-1.3 GENERAL PURPOSE AND INTENT

(A) The City Council for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of the Code of Virginia (1950), as amended, states this Ordinance is adopted with the following purposes and intent:

(1) To provide for adequate light, air, convenience of access, and safety from fire, flood, crime, and other dangers;

(2) To reduce or prevent congestion in the public streets;

(3) To facilitate the creation of a convenient, attractive, and harmonious community;

(4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements;

(5) To protect against destruction of or encroachment upon historic areas;

(6) To protect against overcrowding of land, undue density of population in relation to community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers;

(7) To encourage economic development activities that provide desirable employment, high wage jobs, and enlarge the tax base;

(8) To provide for the preservation and protection of the natural environment, including surface water and groundwater;

(9) To promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the city;

(10) To implement the comprehensive plan;

(11) To promote a healthy economy through a high quality of life;

(12) To develop a sense of place that reflects the city's history, downtown, and waterfront;

(13) To maintain quality neighborhoods with diverse housing choices and access to services;

(14) To strengthen stable neighborhoods, prevent further decline in transitional neighborhoods, and encourage redevelopment in targeted neighborhoods;

(15) To encourage the development of activity centers;

(16) To encourage redevelopment that is compatible with its context;

(17) To encourage mixed-use, pedestrian-friendly land use patterns, at appropriate locations;

(18) To encourage and target land uses for their highest and best use;

(19) To target obsolescent uses for redevelopment;

(20) To improve the visual character of the gateway corridors;

(21) To improve development quality generally; and

(22) To focus and strengthen the city's urban form.

40.1-1.4 APPLICABILITY AND JURISDICTION

(A) General Applicability

The provisions of this Ordinance shall apply to the development of all land within the corporate limits of the City of Portsmouth except for streets and public rights-of way, and unless it is expressly exempted by a specific section or subsection of this Ordinance.

(B) Application to Governmental Units

Except as stated herein, the provisions of this Ordinance do not apply to:

(1) Development by the city or its agencies or departments during a declared local emergency. The City Council shall ratify such exemption after the fact at its next regularly scheduled meeting, and shall base its ratification on specified findings of fact related to the emergency involved.

(2) Development of lands owned by the Commonwealth of Virginia.

(3) Development owned and held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the extent required by law.

(C) No Development until Compliance with This Ordinance

(1) No land shall be developed without full compliance with the provisions of this Ordinance and all other applicable city, county, state, and federal regulations, and no application, permit, or approval shall be considered on property where there is a known outstanding violation of this ordinance, unless the application, permit, and/or approval is to remedy the violation.

(2) All departments, officials, and public employees of the city who are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this Ordinance. Any such permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

(3) No development or land-disturbing activities subject to the standards of this ordinance may take place until the appropriate approval(s) are granted by the city in accordance with this Ordinance.

(4) Land or buildings may be used or occupied only after a Certificate of Occupancy is approved by the Zoning Administrator. The Zoning Administrator shall not issue a temporary Certificate of Occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public streets, public water and public sewer facilities, or the completion of required landscape areas and plantings shown on the approved site plan or other approved plan by providing a surety in a form approved by the City Attorney.

40.1-1.5 CONFORMANCE WITH ADOPTED PLANS

This Ordinance is intended to ensure that all development within the city's jurisdiction is consistent with the goals, objectives, policies, strategies, and actions of the *Destination 2025 Comprehensive Plan* and any other adopted plans addressing the city's growth and development. To the extent this Ordinance is or becomes inconsistent with these adopted plans, it should be amended to become or remain consistent with the adopted plans. Additionally, all amendments to this Ordinance's text or official zoning map should maintain and enhance consistency between this Ordinance and the adopted plans.

40.1-1.6 RELATIONSHIP WITH OTHER LAWS, COVENANTS, OR DEED RESTRICTIONS

(A) Conflicts with Other City Codes or Laws

If a provision of this Ordinance is inconsistent with a provision found in other adopted codes or ordinances of the city, the more restrictive provision shall govern unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

(B) Conflicts with Private Agreements

The city shall not be responsible for monitoring or enforcing private easements, covenants, and restrictions, although the city may inquire as to whether land is subject to easements, covenants, and restrictions during the review of development applications.

(C) Conflicts with State or Federal Law

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

(D) Existing Agreements or Vested Rights

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or vested rights recognized in accordance with all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

40.1-1.7 OFFICIAL ZONING MAP

(A) General

The official zoning map designates the location and boundaries of the various base zoning and overlay zoning districts established in this Ordinance. The official zoning map shall be kept on file in the Planning Department and is available for public inspection during normal business hours. The original official version of the map shall be certified by the Planning Director. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the city, and shall only be amended in accordance with this Ordinance.

(B) Incorporated by Reference

The official zoning map and all the notations thereon is incorporated herein by reference and made part of this Ordinance.

(C) Damaged, Destroyed, or Lost

In the event the official zoning map is damaged, destroyed, lost, or becomes difficult to read and interpret due to the number of changes, the City Council may, by resolution, adopt a new official zoning map to replace the damaged, destroyed, or lost map. The new official zoning map shall not make any substantive changes (amendments), but may correct drafting and other clerical errors and omissions on the previous official zoning map.

(D) Interpretation of Official Zoning Map Boundaries

The Zoning Administrator shall be responsible for interpretations of the official zoning map in accordance with the standards in Section 40.1-2.3.L, Interpretation, and the following standards:

(1) Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.

(2) Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a single subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving 10 feet or less, the zoning boundary shall be interpreted as moving with the property line.

(3) Where areas under water are not shown within the same district as the adjacent land areas, the boundaries of the zoning districts shown for such adjacent land areas shall extend to the mean low-water line along the property lines of the owners of such adjacent land areas.

(4) Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as following the corporate limits or boundaries.

(5) Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.

(6) If the specific location of a depicted boundary cannot be determined from notations on the official zoning map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.

(7) Where the actual locations of existing physical or natural features vary from that shown on the official zoning map, or in other circumstances not covered by this subsection, the Zoning Administrator shall have the authority to interpret the district boundaries (See

Section 40.1-2.3.L, Interpretation). Appeals of the Zoning Administrator's decision shall be reviewed by the Board of Zoning Appeals (BZA) in accordance with Section 40.1-2.3.M, Appeal.

(8) In every case where property has not been specifically included within a zoning district, the land shall automatically be designated as Preservation/Government (PG) until such classification is changed by an amendment to this Ordinance in accordance with Section 40.1-2.3.A, Zoning Map Amendment (Rezoning) or Text Amendment.

(E) Amendments to the Official Zoning Map

Changes made in zoning district boundaries or other matters portrayed on the official zoning map shall be made in accordance with the provisions of this Ordinance (Section 40.1-2.3.A, Zoning Map Amendment (Rezoning) or Text Amendment). Changes shall be entered on the official zoning map by the Planning Director promptly after the amendment is approved by the City Council. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Planning Director may enter on the official zoning map notations reflecting the ordinance wording. The Planning Director shall maintain copies of superseded versions of the official zoning map for historical reference.

(F) Uses Generally

This Ordinance shall be deemed exclusive in nature and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this Ordinance.

(G) Bifurcation Discouraged

Applications seeking to amend the official zoning map (rezoning) to establish or maintain two or more different base zoning district designations on a single lot are discouraged.

(H) Transition to New Zoning Districts

On May 1, 2010, land zoned with a zoning district classification from the previous zoning ordinance shall be translated or reclassified to one of the zoning district classifications in this Ordinance as set forth in Article 40.1-3: Zoning Districts. Table 40.1-1.7(H), Transition to New Zoning Districts, summarizes the translation or reclassification of the zoning districts used in the previous zoning ordinance to the zoning districts used in this Ordinance. (For example, Table 40.1-1.7(H) shows that all lands classified Residential RS-300 in the previous zoning ordinance are classified Neighborhood Residential (NR) in this Ordinance.)

TABLE 40.1-1.7(H): TRANSITION TO NEW ZONING DISTRICTS	
FORMER ZONING DISTRICTS	**NEW ZONING DISTRICTS**
RESIDENTIAL DISTRICTS [1]	
Residential RS-400	Neighborhood Residential (NR)
Residential RS-300	
Residential RS-150	General Residential (GR)
Residential RS-125	
Residential RS-100	
Residential RS-85	
Residential RS-75	Urban Residential (UR)
Residential RS-60	
Residential RS-50	
Residential RT-75	High-Density Urban Residential (UR-H)
Residential RM-75	
Office Residential OR-75	
Residential RM-60	
BUSINESS DISTRICTS	
Neighborhood Commercial (C-1)	Neighborhood Mixed-Use (NMU)
General Commercial (C-2)	General Mixed-Use (GMU)
Planned Office Park (POP)	
Business Park (BP)	[DELETED]
	High Intensity Mixed-Use (MU-H) [NEW]
Industrial (M-1)	Light Industrial (IL)
Industrial (M-1-R)	
Commerce Park (CP)	
Industrial (M-2)	Industrial (IN)
ACTIVITY CENTER DISTRICTS [2]	
	Neighborhood Activity Center (NAC) [NEW]
	Community Activity Center (CAC) [NEW]
Mixed-Use/Employment Center (MX/EC)	Regional Activity Center (RAC)
Planned Unit Development (PUD)	[DELETED]
SPECIAL DISTRICTS	
Waterfront (W-1)	Waterfront (WF)
Downtown (D-1)	Downtown (D1)
Downtown (D-2)	Downtown (D2)
Historic Residential (HR)	Historic Residential (HR)
Historic Limited Office (HLO)	Historic Limited Office (HLO)
Historic Limited Business (HLB)	Historic Limited Business (HLB)
Preservation (P1)	Preservation/Government (PG)
United States Government (USG)	

TABLE 40.1-1.7(H): TRANSITION TO NEW ZONING DISTRICTS	
FORMER ZONING DISTRICTS	NEW ZONING DISTRICTS
NOTES: [1] The Residential Mobile Home (RMH) district standards are located within Appendix C of this Ordinance. Map amendments to establish or enlarge the RMH district are prohibited. [2] If land is located within a designated activity center (as depicted on the city's future land use map), the lot may be re-designated to the appropriate activity center district designation in accordance with the procedures and standards of Section 40.1-2.3.A, Zoning Map Amendment (Rezoning) or Text Amendment.	

40.1-1.8 TRANSITIONAL RULES

(A) Effective Date

This Ordinance shall become effective on May 1, 2010, and repeals and replaces the current City of Portsmouth Zoning Ordinance, as originally adopted on February 12, 1991, as subsequently amended.

(B) Violations Continue

Any violation of the previous zoning ordinance shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes. Violations of this Ordinance shall be subject to the penalties set forth in Article 40.1-7: Enforcement, and any other applicable ordinances, laws, or statutes, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

(C) Complete Applications

(1) Any application submitted and accepted as complete before May 1, 2010, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 40.1-6: Nonconformities.

(2) Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.

(3) An applicant with a pending application accepted before May 1, 2010 may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

(D) Approved Permits and Development Approvals

Any applications approved before May 1, 2010 shall remain valid until their expiration date. Development with valid permits or development approvals may be carried out in accordance with the terms and conditions of its approval and the development standards in effect at the time of approval, provided the permit or development approval is valid and has not expired. If the prior approval expires or is revoked (i.e., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 40.1-6: Nonconformities.

(E) Approved Zoning Subject to Proffers

Lands subject to a zoning classification approved subject to proffers before May 1, 2010 shall continue to be subject to the approved rezoning and proffers until or unless the City Council amends the zoning classification of the lands in accordance with the procedures and standards of this Ordinance and the Code of Virginia (1950), as amended.

(F) Nonconformities

If any use, structure, lot, or sign legally existed on May 1, 2010, but does not fully comply with the standards of this Ordinance, then that use, structure, lot, or sign shall be considered nonconforming under this Ordinance and shall be controlled by the provisions of Article 40.1-6: Nonconformities.

40.1-1.9 SEVERABILITY

It is the legislative intent of the City Council, in adopting this Ordinance, that all provisions shall regulate development in accordance with the existing and future needs of the city as established in this Ordinance and promote the public health, safety, and general welfare of the landowners and residents of the city. If any section, subsection, sentence, boundary, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases be declared invalid.

ARTICLE 40.1-2:
ADMINISTRATION

ARTICLE 40.1-2 TABLE OF CONTENTS

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ARTICLE 40.1-2: ADMINISTRATION

40.1-2.1 ADMINISTRATIVE AND DECISION MAKING BODIES

(A) Development Review Structure

(1) Table 40.1-2.1(A), Development Review Structure, summarizes the advisory and decision-making bodies that have specific review responsibilities under this Ordinance for permits or development approvals, and their responsibilities. Common procedures for the permits and development approvals are found in Section 40.1-2.2, Common Review Procedures. Provisions specific to each type of development permit or approval are found in Section 40.1-2.3, Standards and Requirements for Applications.

TABLE 40.1-2.1(A): SUMMARY TABLE OF DEVELOPMENT REVIEW STRUCTURE
S = STAFF REVIEW R = REVIEW AND ADVISE D = DECISION A = APPEAL <> = PUBLIC HEARING

PERMIT OR DEVELOPMENT APPROVAL	SEE SECTION	CITY COUNCIL	PLANNING COMMISSION	BZA	HPC	PLANNING DIRECTOR	ZONING ADMINISTRATOR
AMENDMENTS AND USE PERMITS							
Zoning Map or Zoning Text Amendment	40.1-2.3(A)	<D>	<R>		R [1]	S	
Use Permit	40.1-2.3(B)	<D>	<R>			S	
DEVELOPMENT PLANS							
Type I Development Plan	40.1-2.3(C)		A			D	
Type II Development Plan	40.1-2.3(D)		D [2]			S	
SUBDIVISIONS							
See Chapter 33.1 of the City Code of Ordinances							
PERMITS							
Temporary Use Permit	40.1-2.3(E)			<A>			D
Zoning Compliance Permit [3]	40.1-2.3(F)			<A>		D [4]	D
Certificate of Appropriateness	40.1-2.3(I)				D [5] [6]	S/D [7]	
VARIANCES, ADJUSTMENTS, AND EXCEPTIONS							
Variance Permit	40.1-2.3(G)			<D>			S
Administrative Adjustment	40.1-2.3(H)			<A>		D	
INTERPRETATIONS AND APPEALS							
Interpretations	40.1-2.3(J)			<A>		D [8]	D
Appeals	40.1-2.3(K)			<D> [2]			

NOTES:
BZA = Board of Zoning Appeals
HPC = Historic Preservation Commission
[1] The Historic Preservation Commission (HPC) shall review and advise the Planning Commission and City Council on any applications to amend the boundaries of an historic district or modify the Ordinance text related to the historic district provisions.
[2] Appeals are to the circuit court of the City of Portsmouth.
[3] The zoning compliance permit serves as the certification of compliance for development in the Downtown D2 district, as described in Appendix B of this Ordinance.
[4] The Planning Director shall review and decide zoning compliance permits in the Downtown D2 district.
[5] Appeals are made to the city's Appeals Review Committee.

TABLE 40.1-2.1(A): SUMMARY TABLE OF DEVELOPMENT REVIEW STRUCTURE
S = STAFF REVIEW R = REVIEW AND ADVISE D = DECISION A = APPEAL <> = PUBLIC HEARING

PERMIT OR DEVELOPMENT APPROVAL	SEE SECTION	CITY COUNCIL	PLANNING COMMISSION	BZA	HPC	PLANNING DIRECTOR	ZONING ADMINISTRATOR
[6] The Downtown Design Committee shall review and decide applications for Certificates of Appropriateness in the D1 Downtown district. [7] Administrative decisions are made on minor requests for Certificates of Appropriateness are made by the Planning Director in accordance with Section 40.1-2.3(I), Certificates of Appropriateness. [8] The Zoning Administrator provides interpretations of the zoning ordinance related to the boundaries of the official zoning map, the dimensional standards in Article 40.1-3, the use classifications in Section 40.1-4.2, and the use table in Section 40.1-4.1; The Planning Director provides interpretations of all other aspects of the Ordinance (e.g., intent, design, and appearance issues, etc.).							

(2) All departments, officials, and public employees of the city who are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this Ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this Ordinance. Any such permit, if issued in conflict with the provisions of this Ordinance, shall be null and void.

(B) City Council

In addition to any other authority granted to City Council by the City Code or the Code of Virginia, (1950) as amended, the City Council shall have the following powers and duties under this Ordinance:

(1) To hear and decide applications for amendment of the zoning map or zoning text; and

(2) To hear and decide development applications for use permits.

(C) Planning Commission

(1) Establishment, Membership, and Procedures

The establishment, membership, and procedures for the Planning Commission are established in Chapter 2, Article X of the City Code.

(2) Powers and Duties

In addition to any other authority granted to the Planning Commission by City Council, the City Code, or the Code of Virginia (1950), as amended, the Planning Commission shall have the following powers and duties under this Ordinance:

(a) To hear and make recommendations to City Council on the following:

(i) Amendments to the zoning map or zoning text; and

(ii) Use permits.

(b) To hear and decide type II development plans.

(c) To hear appeals of the Planning Director's decision on type I development plans,

(d) To carry out any other powers and duties delegated to it by the City Council, consistent with the Code of Virginia (1950), as amended.

(D) Board of Zoning Appeals (BZA)

(1) Establishment

The Board of Zoning Appeals (BZA) is hereby established in accordance with the Code of Virginia (1950), as amended.

(2) Membership

(a) Number of Members

(i) The BZA shall consist of five regular members and three alternate members. The regular members and alternate members shall be appointed by the circuit court of the City of Portsmouth, and serve without compensation.

(ii) Each member shall be a resident of the city.

(iii) Alternate members shall be required to attend all regular meetings and training of the BZA, but shall not participate in the voting or decisions of the BZA unless asked by the chairperson to fill a position when a regular member is absent or unavailable to vote on a matter. When seated, alternate members shall have the same powers and duties as the member they replace.

(iv) Each member of the BZA shall attend at least one informational or educational meeting each year pertaining to the work and functions of the BZA or to how this Ordinance functions.

(b) Terms of Office, Appointment, and Qualifications

The terms of office and the qualifications of the members of the BZA, the manner of their appointment and the organization of the board shall be as provided in the Code of Virginia (1950), as amended.

(c) Vacancies

(i) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only.

(ii) In filling vacancies, the circuit court of the City of Portsmouth shall give first priority to alternate members.

(d) Officers

(i) The BZA may elect from its members one chairperson and one vice-chairperson. The chairperson shall preside at all meetings of the BZA. The vice-chairperson shall preside in the absence of the chairperson.

(ii) The Planning Director shall serve as a non-voting member and Secretary of the BZA.

(3) Meetings

(a) BZA meetings shall be held at the call of the chairperson and at such other times as the BZA may determine.

(b) The chairperson, or the acting chairperson, may administer oaths and compel the attendance of witnesses.

(c) All BZA hearings shall be open to the public.

(d) The BZA shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact. The BZA shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Planning Department and shall be a public record.

(e) The office of the BZA shall be maintained in the space assigned to it by the City Manager.

(f) The BZA shall submit a report of its activities to City Council at least once each year.

(4) Quorum

(a) Three members of the BZA shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

(b) Alternate members may be seated as necessary to establish a quorum.

(5) Powers and Duties

In addition to any other authority granted to the BZA by City Council, the City Code, or the Code of Virginia (1950), as amended, the BZA shall have the following powers and duties under this Ordinance:

(a) To hear and decide applications for variance permits; and

(b) To hear and decide appeals taken from any interpretation or final decision made by the Planning Director or Zoning Administrator under this Ordinance (except for those heard and decided by the Planning Commission).

(E) Historic Preservation Commission (HPC)

(1) Establishment

For the general purposes of this Ordinance, and specifically to preserve and protect historic places and areas in Portsmouth through the control of demolition and regulation of architectural design and uses of structures in historic districts, a Historic Preservation Commission (HPC) is hereby established in accordance with the Code of Virginia (1950), as amended.

(2) Membership

(a) Number of Members and Qualifications

(i) The HPC shall consist of seven members, appointed by the City Council, who serve without compensation.

(ii) Each member shall be a resident of the city.

(iii) All members must demonstrate an interest, competence, or knowledge in historic preservation with:

a. One member who is an architect or architectural historian; and

b. Two members with professional training or equivalent experience in architecture, history, architectural history, archaeology, or planning.

(iv) City Council shall consider, secondary to the above listed qualifications, adequate representation from residents of each historic district.

(b) Non-Voting Members

In additional to the seven voting members, City Council shall appoint a liaison to the HPC from its own body as well as a liaison from the City Attorney's office.

(c) Terms of Office and Appointment

(i) Members shall be appointed by the City Council for terms of three years from the date of appointment. Members may be reappointed for consecutive terms.

(ii) In order to achieve staggered terms, initial appointments shall be: one member for one year, three members for two years, and three members for three years.

(iii) No individual may serve more than six years total as an HPC member without a three-year vacancy from the HPC.

(d) Alternates

(i) The City Council may appoint three qualified alternate members to the HPC. The terms of the alternates shall be for three years.

(ii) Alternate members shall be required to attend all regular meetings and training of the HPC, but shall not participate in the voting or decisions of the HPC unless asked by the chairperson to fill a position to maintain a quorum.

(e) Removal

Any member may be removed from office by City Council for inefficiency, neglect of duty, malfeasance, or continued absence from regular or called meetings of the HPC. Continued absence shall mean absence from three consecutive meetings or a total of four meetings in a 12-month period.

(f) Vacancy

(i) If a member representing a designated organization or profession ceases to be a member of that organization or profession, or if a vacancy occurs for some other reason, a new appointment shall be made by City Council within 60 days, for the remainder of the unexpired term.

(ii) In filling vacancies, City Council shall give first priority to alternate members.

(g) Conflicts of Interest

No member shall participate in the selection, award, or administration of a contract, vote, participate, or otherwise engage in any other conduct or action that would violate the terms of the applicable provisions of the Virginia State and Local Conflict of Interests Act of the Code of Virginia (1950), as amended.

(h) Training

Each member of the HPC shall attend at least one informational or educational meeting each year, as approved by the Virginia Department of Historic Resources, pertaining to the work and functions of the HPC or to historic preservation.

(3) Powers and Duties

The HPC shall have the following powers and duties under this Ordinance:

(a) To hear and decide applications for certificates of appropriateness except for development in the Downtown D1 district.

(b) To advise the Planning Commission on the following:

(i) Creation of historic districts; and

(ii) Amendments to the text of this Ordinance related to historic district provisions.

(c) To periodically conduct, or cause to be conducted, a survey of structures, buildings, sites, and areas in the city having historical, architectural, archaeological, or cultural significance, interest or value for the purpose of compiling appropriate descriptions, facts, lists and an inventory map of historic properties.

(d) To conduct educational programs and disseminate information on historic properties and districts located within the city and general historic preservation

issues and concerns and coordinate local preservation efforts with those of local historic and preservation organizations, the Virginia Department of Historic Resources, and other parties, both public and private.

(e) To review all proposed Virginia Landmarks Register and National Register of Historic Places nominations within the city for the purpose of providing local comment to the State Review Board and the Virginia Department of Historic Resources.

(4) Records of Commission Meeting and Annual Report

A public record shall be kept of the HPC's resolutions, proceedings, and actions. The HPC shall make an annual report with recommendations to the Planning Commission and the City Council concerning the operation of the HPC and the status of historic preservation within the city. The Planning Director shall serve as the administrative staff to the HPC and maintain all resolutions, proceedings, and actions of the HPC.

(5) Standards and Guidelines

The HPC shall submit to the City Council standards and guidelines for each historic district that shall govern the decisions for the HPC. Once City Council has approved the initial standards and guidelines, modifications may be proposed by the HPC, Planning Director, Planning Commission, or City Council. Amendments to these standards shall be approved by the City Council's Appeal Review Committee (ARC).

(F) Downtown Development Committee (DDC)

(1) Establishment and Membership

See Appendix A for more information on the DDC.

(2) Powers and Duties

The DDC shall hear and decide applications for certificates of appropriateness in the Downtown D1 district (see Appendix A of this Ordinance).

(G) City Staff

(1) Planning Director

(a) Designation

The Planning Director is designated by the City Manager to administer this Ordinance. The Planning Director may delegate any administrative, review, or decision-making authorities under this Ordinance to any professional-level staff in the Planning Department.

(b) Powers and Duties

The Planning Director shall have the following powers and duties under this Ordinance:

(i) To review and decide applications for:

a. Administrative adjustments;

b. Type I development plans;

c. Zoning compliance permits in the Downtown D2 district (See Appendix B of this Ordinance); and

(ii) Serve on and coordinate the functions of the city's Appeal Review Committee related to review and revision of the city's historic protection provisions.

(iii) Establish a committee to be called the Zoning Design Review Committee (ZDRC) to review and make recommendations to the Zoning Administrator on issues of design, building materials, and any other matter deemed appropriate for review by this committee by the Planning Director or matters specifically to be referred to the committee by this Ordinance. The ZDRC shall consist of five (5) members including the Planning Director, the Director of Neighborhood Advancement, the Building Official or his designee, the City Engineer or his designee, and one additional member of the Department of Planning selected by the Planning Director.

(iv) Establish application, content requirements, and a submission schedule for review of applications and appeals, except those associated with Board of Zoning Appeals.

(v) Process, review, advise, and prepare a staff report with a recommendation on applications for zoning map or text amendments, use permits, type II development plans, and certificates of appropriateness.

(vi) Provide public notice in accordance with Table 40.1-2.2(J), Required Public Notice.

(vii) Provide expertise and technical assistance to the City Council, Planning Commission, BZA, HPC, DDC, and other city officials, departments, and agencies, upon request.

(2) Zoning Administrator

(a) Designation

The Zoning Administrator is designated by the City Manager to enforce and assist the Planning Director in administering this Ordinance in accordance with the City Code and this Ordinance. The Zoning Administrator may delegate any administrative, review, or decision-making authorities under this Ordinance to any staff in the Planning Department or Department of Permits and Inspections.

(b) Powers and Duties

The Zoning Administrator shall have the following powers and duties under this Ordinance:

(i) To review and decide on applications for:

a. Zoning compliance permits except within the Downtown D2 district; and

b. Interpretations of the boundaries on the official zoning map, zoning text related to the base zoning district dimensional standards in Article 40.1-3, Zoning Districts, the use classifications in Section 40.1-4.2, and the summary use table (See Table 40.1-4.1(A));

c. Temporary Use Permits;

d. Interpretations of all parts of this Ordinance.

(ii) Process, review, and advise the BZA on applications for variance permits;

(iii) Enforce the provisions of this Ordinance in accordance with Article 40.1-7: Enforcement;

(iv) Review and make recommendations to the City Council, Planning Commission, BZA, HPC, and other city officials on applications for permits and development approvals, as appropriate;

(v) Provide public notice in accordance with Table 40.1-2.2(J), Required Public Notice;

(vi) Maintain the zoning map and other such records and official materials as relate to the adoption, amendment, or administration of this Ordinance.

(vii) Provide expertise and technical assistance to the City Council, Planning Commission, BZA, HPC, and other city officials, departments, and agencies, upon request; and

(viii) To carry out all additional powers and duties authorized by Section 15.2-2286 A.4., Code of Virginia (1950), as amended, not delegated to other city staff.

(3) Summary of Staff Responsibility

The city staff responsible for receiving and processing applications (as well as preparing a staff report, if appropriate) is outlined in Table 40.1-2.1(G), Staff Responsibilities for Application Processing.

TABLE 40.1-2.1(G): STAFF RESPONSIBILITIES FOR APPLICATION PROCESSING

APPLICATION TYPE	RESPONSIBLE CITY STAFF MEMBER
Zoning Map or Zoning Text Amendment	Planning Director
Use Permit	
Type I and II Development Plan	
Temporary Use Permit	Zoning Administrator
Zoning Compliance Permit	Zoning Administrator [1]
Certificate of Appropriateness	Planning Director
Variance Permit	Zoning Administrator
Administrative Adjustment	Planning Director
Interpretations	Zoning Administrator
Appeals	Zoning Administrator
NOTES [1] The Planning Director shall be responsible for zoning compliance permit applications within the Downtown D2 district.	

40.1-2.2 COMMON REVIEW PROCEDURES

The provisions of this section shall apply to all application requests under this Ordinance, unless otherwise stated in this section or in Section 40.1-2.3, Standards and Requirements for Applications for Permits and Development Approval.

(A) Authority to File Applications

(1) Applications for permits or development approvals for a specific parcel of land shall be submitted by:

(a) The owner of the land on which the development is proposed; or

(b) The contract purchaser of the land, with the owner's written consent; or

(c) A person authorized to submit the application on behalf of the owner or the contract purchaser, with the owner's consent, which consent must be evidenced by a power of attorney signed by such owner.

(2) If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application, or a power of attorney authorizing either the contract purchaser or other agent to sign the application.

(B) Application Contents

The Planning Director is authorized to and shall establish, and amend as appropriate, the requirements for application contents and forms, which shall be located in the Procedures Manual. All applications shall include a document disclosing whether any member of the Planning Commission or City Council has any interest in the property that is subject to the application in accordance with Section 15.2-2287, Code of Virginia (1950), as amended.

(C) Fees

The City Council shall establish application fees, and may amend and update those fees as determined necessary. Fees established by the City Council shall be included in the administrative manual.

(D) Submission Schedule

The Planning Director is authorized and shall establish the submission and review schedule for review of applications under this Ordinance. The Planning Director may amend and update these requirements as determined necessary. The submission schedule established by the Planning Director shall be included in the administrative manual.

(E) Pre-Application Conference

(1) Purpose

The purpose of a pre-application conference is to familiarize the applicant and the city staff with the applicable provisions of this Ordinance relevant to the proposed development, inform the applicant about the preparation of the application, and discuss the application and review process.

(2) Pre-Application Conference Mandatory

Except for development applications initiated by city staff, the Planning Commission, HPC, or the City Council, pre-application conferences between the applicant and the city staff shall be mandatory before submission of the following types of applications:

(a) Zoning map amendments (rezonings), with or without proffers;

(b) Use permits;

(c) Variance permits; and

(d) Type II development plan.

(3) Pre-Application Conference Optional

A pre-application conference is optional before submission of any other application for permit or development approval.

(4) Sketch Plans Required

Applicants seeking approval of a zoning map amendment with proffers (See Section 40.1-2.3(A)), a use permit (See Section 40.1-2.3(B)), or type II development plan (See Section 40.1-2.3(B)) shall submit a sketch plan for review during the pre-application conference.

(5) Effect

The pre-application conference is intended as a means of facilitating the application process. Discussions held in accordance with this section are not binding on the city. Processing times for review of development applications do not begin until a formal, complete application is submitted and determined to be complete.

(F) Application Submission

Applications shall be submitted to the Planning Director or Zoning Administrator (as appropriate) in the form established by the Planning Director in Section 40.1-2.2(B), Application Contents, along with a fee established in accordance with Section 40.1-2.2(C), Fees. Applications not meeting the requirements of Section 40.1-2.2(G), Determination of Application Completeness, shall be considered incomplete.

(G) Determination of Application Completeness

(1) Completeness Review

Upon receipt of an application, the Planning Director or Zoning Administrator (as appropriate) shall determine if the application is complete. A complete application is one that:

(a) Contains all information and materials required for submittal of the particular type of application (See Section 40.1-2.2.(B), Application Contents);

(b) Is in the form required for submittal of the particular type of application;

(c) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate standards of this Ordinance; and

(d) Is accompanied by the fee established for the particular type of application.

(2) Application Incomplete

(a) Notwithstanding Section 40.1-2.2(G)(1) above, applications for development approvals or permits on land with unpaid real estate taxes shall be considered incomplete.

(b) If the application is determined incomplete, city staff shall notify the applicant of the deficiencies within ten business days of submittal, and the application shall not be processed. The applicant may correct the deficiencies and resubmit the application for completeness determination.

(c) If the applicant fails to resubmit an application within 30 business days after being first notified of deficiencies, the application shall be considered withdrawn.

(d) Notwithstanding the other provisions of this subsection, after an application is determined to be incomplete three times, the applicant may request in writing,

and the city staff shall undertake processing and review of the application even though it is not considered a complete application.

(3) Application Complete

If the application is determined to be complete, or the applicant has requested that the application be processed in accordance with Section 40.1-2.2(G)(2)(d) above, the city shall refer the application to the appropriate staff, review agencies, and review bodies for review in accordance with the procedures and standards of this Ordinance. The time frame and cycle for review of the application shall be based on the date the application is determined to be complete or the date the city receives the written request to process it in accordance with Section 40.1-2.2(G)(2)(d).

(H) Preparation of Staff Report

(1) If the application is subject to staff review and a subsequent hearing or consideration by an advisory or decision-making body (See Table 40.1-2.1(A), Summary Table of Development Review Structure), the Planning Director or Zoning Administrator (as appropriate) shall review the application, relevant support material, and any comments from other staff and review agencies, and prepare a written staff report.

(2) The staff report shall be addressed to the advisory or decision-making body (as appropriate), and shall state whether the application complies with all appropriate standards of this Ordinance. The staff report shall include a recommendation, and may identify ways in which areas of noncompliance might be eliminated, adverse effects of the development proposal might be mitigated, or consistency with the purpose and intent of this Ordinance may be improved.

(3) The staff report shall be transmitted to the applicant and made available to the advisory or decision-making body and to the public a reasonable period of time before the first scheduled review body meeting or public hearing on the application.

(I) Scheduling of Public Hearings

A public hearing shall be conducted by the appropriate advisory or decision-making body in accordance with Table 40.1-2.2(I), Required Public Hearings.

TABLE 40.1-2.2(I): REQUIRED PUBLIC HEARINGS
X= ADVISORY OR DECISION-MAKING BODY REQUIRED TO CONDUCT PUBLIC HEARING

APPLICATION TYPE	SEE SECTION	ADVISORY OR DECISION-MAKING BODY [1]		
		CITY COUNCIL	PLANNING COMMISSION	BZA
Zoning Map or Text Amendment	40.1-2.3(A)	X	X	
Use Permit	40.1-2.3(B)	X	X	
Variance Permit	40.1-2.3(G)			X
Appeal	40.1-2.3(K)			X

NOTES:
[1] An "X" in more than one column means that the application type requires more than one public hearing. Second readings are not considered as public hearings.

(J) Public Notification

All applications requiring a public hearing shall comply with the requirements in the Code of Virginia (1950), as amended, Table 40.1-2.2(J), Required Public Notice, and the other provisions of this section with regard to public notification.

(1) Type of Notice Provided

Unless otherwise expressly provided in the Code of Virginia (1950), as amended, or this Ordinance, notice shall be provided in accordance with Table 40.1-2.2(J), Required Public Notice.

TABLE 40.1-2.2(J): REQUIRED PUBLIC NOTICE
X= TYPE OF NOTICE REQUIRED

APPLICATION TYPE	NOTICE REQUIRED	
	WRITTEN (MAILED) [1]	PUBLISHED
Zoning Map Amendment	When an amendment affects 25 or fewer lots, written notice shall be mailed to owners, their agents, or the occupants of all abutting land (including land immediately across the street or in other jurisdictions). When a proposed application affects more than 25 lots, or the amendment decreases allowable residential density, written notice shall be mailed to owners, their agents, or the occupants of all abutting land that is 11,500 square feet in size or larger (including land immediately across the street and lots in other jurisdictions).	Once a week for 2 successive weeks, with the second notice not less than 6 nor more than 21 days prior to first public hearing.
Text Amendment	None except when a proposed application affects more than 25 lots, or the amendment decreases allowable residential density, then written notice shall be mailed to owners, their agents, or the occupants of all abutting land that is 11,500 square feet in size or larger (including land immediately across the street and lots in other jurisdictions).	
Use Permit Variance Appeal	Written notice shall be mailed to owners, their agents, or the occupants of all abutting land (including land immediately across the street or in other jurisdictions).	Once a week for 2 successive weeks, with the second notice not less than 6 nor more than 21 days prior to first public hearing
Administrative Adjustment	Written notice shall be mailed to owners, their agents, or the occupants of all abutting land (including land immediately across the street or in other jurisdictions) at least 21 days prior to consideration by the Planning Director.	None required

NOTES:
[1] Written (mailed) notice shall be provided at least five days prior to the first public hearing (or consideration by the Planning Director in the case of Administrative Adjustments).

(2) Written Notice

(a) The content and form of the written notice shall be consistent with the requirements of Sections 15.2-2204 and 15.2-2286 of Code of Virginia (1950), as amended, (if applicable).

(b) If any portion of the land subject to an application requiring written notice is within a planned unit development, then written notice shall be provided to all applicable property owners' associations having members who own land within 2,000 feet of the land subject to the application.

(c) In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of providing written notice to each individual unit owner.

(d) In cases where an amendment to the official zoning map or use permit would result in an increase in the height or bulk of an existing or previously-approved structure by more than 50 percent, the Chief Administrative Officer of any adjacent jurisdiction within one-half (½) mile of the land subject to an application shall receive written notice.

(e) In cases where an amendment to the official zoning map or use permit is proposed on land within 3,000 feet of a military base, military installation, military airport (excluding armories operated by the Virginia National Guard), including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs, or licensed public-use airport, written notice shall be provided at least 30 days in advance of a public hearing to the commander of the military installation or owner of the public-use airport. The notice shall indicate the opportunity to submit comments or recommendations.

(f) In cases where written notice required in accordance with Table 40.1-2.2(J), Required Public Notice, is provided by a public agency or city staff member via first class mail, an affidavit attesting that notice has been provided in accordance with this Ordinance and the Code of Virginia (1950), as amended, shall be signed by the person or agency providing notice and shall be included with the application materials.

(3) Published Notice

(a) The Planning Director or Zoning Administrator (as appropriate) shall be responsible for preparing the content of the published notice and publishing the notice in a newspaper of general circulation in the city.

(b) The content and form of the published notice shall be consistent with the requirements of Sections 15.2-2204 and 15.2-2286 of Code of Virginia (1950), as amended, (if applicable).

(c) For the purposes of this Ordinance, the date of public notification shall be considered as the date the city provides information to be published to the newspaper of general circulation.

(d) Published notice for applications requiring two public hearings (one before the Planning Commission, and one before the City Council) may be published concurrently in a newspaper of general circulation.

(e) For the purposes of this section "two successive weeks" shall be construed to mean notice shall be published at least twice with at least six days elapsing between the first and second publication.

(4) Notice Not Required

If a particular permit type is not listed in Table 40.1-2.2(J), Required Public Notice, then public notification of a meeting or hearing to consider the application is not required under state law. Public notification for these types of applications may be provided by the city as a courtesy only.

(5) Effect of Notice

A person's actual written notice of, or active participation in, a required public hearing shall waive the right of that person to challenge the validity of the proceeding due to failure to receive written notification as required by this Ordinance.

(6) Other Notices

Applicants shall be responsible for compliance with any additional notice requirements in this Ordinance, other city ordinances, or state law.

(7) Registration to Receive Notice by Mail

Any person, neighborhood organization, or other organization in the city may register with the Planning Director biennially to receive written notice of all applications for permits and development approvals in accordance with this subsection. To be eligible for registration, the person or organization shall provide the Planning Director information in a form established by the Planning Director, along with a fee to defray registration and mailing costs. To continue to receive such notice, a person or organization shall re-register every two years.

(K) Hearing Procedures

All hearings for applications held in accordance with this Ordinance shall comply with the following procedures.

(1) Conduct of Hearing

(a) Burden of Proof or Persuasion

The burden of demonstrating that an application complies with the relevant standards of this Ordinance is on the applicant. The burden is not on the city or other parties to show that the standards are met by the applicant.

(b) Rights of All Persons

Any person may appear at a hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

(c) Continuance of Hearing

(i) General

a. The body conducting the hearing may, on its own motion or at the request of any person, continue the hearing to a fixed date, time, and place only upon good cause shown.

b. A request for deferral of a hearing from the applicant received by the city staff following public notification of the hearing (where appropriate) in accordance with Section 40.1-2.2 (J), Public Notification, shall be considered as a request for a continuance, and

may only be granted by the advisory or decision-making body considering the application.

c. In cases where a request for continuance results in the need for additional public notification, the applicant may be responsible for the costs associated with providing the additional public notification.

(ii) When Additional Notice Not Required

A hearing for which proper public notification is given or where public notification is not required, may be continued to the next regularly scheduled meeting without additional public notice, provided:

a. The continuance is set for a date within 45 days of the originally-advertised public hearing;

b. The date and time of the continued hearing is announced at the time of the continuance; and

c. The public hearing is left open.

In the event that additional public notification is required, the applicant may be responsible for the costs associated with providing the additional public notification. In cases where the applicant provides written (mailed) notice, such notice shall be sent via certified mail.

(iii) When Additional Notice Required

If the advisory or decision-making body considering an application for which public notification is provided in accordance with this section has not made a decision on the application by the next regularly scheduled meeting, the application shall be re-noticed consistent with the procedures and standards for its original notification. The applicant shall be responsible for the costs associated with providing the additional public notification.

(2) General Procedures and Findings at Public Hearing

The body conducting the public hearing shall act in accord with any time limits established in this Ordinance and Code of Virginia (1950), as amended. Action shall include a statement of recommendation or decision of approval, approval with conditions, referral to another body, or denial (whichever is appropriate).

(L) Review by City Staff

If an application is subject to review and decision by the Planning Director or Zoning Administrator, it shall be reviewed and decided in accordance with the following procedures:

(1) Review

The Planning Director or Zoning Administrator, as appropriate, shall review the application, relevant support material, and any comments from other staff and review agencies, and approve the application, approve the application with conditions (if appropriate), or deny the application, based on the appropriate review standards for the particular permit or approval.

(2) Staff Report

Preparation of a staff report is optional, at the discretion of the Planning Director or Zoning Administrator, as appropriate. If a staff report is determined to be necessary, it shall be prepared in accordance with Section 40.1-2.2(H), Preparation of Staff Report, except that it shall be addressed and provided to the applicant.

(3) Revisions to Staff Reports

In the event additional information is needed by the Planning Director or Zoning Administrator, as appropriate, to complete a staff report, or revisions to a proposed application to maintain consistency with this Ordinance are required, the Planning Director or Zoning Administrator, as appropriate, shall provide the applicant with all deficiencies or other recommended changes. The applicant shall have 30 days to revise the application and resubmit all required materials.

(M) Conditions of Approval

(1) In General

(a) Where the express terms of this Ordinance authorize a decision-making body to approve an application with conditions, (i.e., use permits and variance permits), the body may impose reasonable and appropriate conditions on the approval. The conditions may, as appropriate, ensure compliance with particular standards of this Ordinance, and prevent or minimize adverse effects from the proposed development on surrounding lands.

(b) The restrictions and conditions imposed must be related in both type and amount to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the permit or development approval.

(2) Conditions Proposed by the Applicant

When conditions are proposed by the applicant as part of the application for an amendment to the zoning map (rezoning), the application shall include a voluntary proffer statement, which shall include the following:

(a) A list of legally permissible conditions related to the physical development or physical operation of the development;

(b) A signed statement from the current land owner or applicant (with a power of attorney granted by the land owner allowing the applicant to submit proffers) that includes the following language:

"I HEREBY VOLUNTARILY PROFFER THAT THE DEVELOPMENT OF THE SUBJECT PROPERTY OF THE APPLICATION SHALL BE IN STRICT ACCORDANCE WITH THE CONDITIONS SET FORTH IN THIS SUBMISSION, UNLESS AMENDMENT THERETO IS MUTUALLY AGREED UPON BY THE CITY COUNCIL AND THE UNDERSIGNED."

(c) The current land owner may voluntarily proffer conditions that will supplement the specific zoning district regulations only to the extent that:

(i) The amendment to the official zoning map application necessitates the conditions;

(ii) Such conditions have a reasonable relation to the request;

(iii) All proffered conditions are in conformity with the comprehensive plan; and

(iv) If no conditions are proffered by an applicant for an amendment to the official zoning map, then a statement indicating that no conditions are being proffered shall accompany the application.

(N) Notification of Decision

(1) Within a reasonable period of time after the decision, the Planning Director or Zoning Administrator, as appropriate, shall notify the applicant of the decision. If the applicant has a right to appeal the decision to the BZA under this Ordinance, the notice shall also

notify the applicant of this right to appeal the decision to the BZA within 30 days of the date of receipt of the notification by the applicant, and that the decision shall be final and unappealable if not appealed within this period of time.

(2) A copy of the notification of decision and the right to appeal shall be public record and shall be available for public inspection at the office of the Planning Director, during normal business hours.

(O) Request for Deferral of Application

(1) An applicant may request that an advisory or decision-making bodies' consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Planning Director or Zoning Administrator, as appropriate, prior to the publication of notice for the public hearing (See Section 40.1-2.2(J), Public Notification). The Planning Director or Zoning Administrator, as appropriate, may grant such requests for good cause. The date of the public hearing at which the deferred application will be heard shall be set at the time the deferral is granted.

(2) Written requests for deferral of an application by an advisory or decision-making body received after publication of notice for the public hearing has occurred shall be forwarded to the advisory or decision-making body and shall be treated as a request for a continuance of the public hearing.

(P) Request for Withdrawal of Application

(1) Method

Any withdrawal of an application shall be either submitted in writing to the appropriate city staff prior to any public hearing, or be made through a verbal request on the record by the applicant or the applicant's agent during a public hearing. If public notification has occurred prior to the request for withdrawal, application fees shall not be returned to the applicant.

(2) Prior to Notice of Public Hearing

The Planning Director or Zoning Administrator, as appropriate, shall forward notice of a withdrawn application to the appropriate advisory or decision-making body prior to the public hearing on the application (See Section 40.1-2.2(J), Public Notification).

(Q) Waiver of Time Limit

(1) General

Whenever any application for a permit or development approval requiring a public hearing is denied, an application for all or a part of the same land shall not be considered for a period of one year after the date of denial unless a waiver of time limit is subsequently approved by the decision-making body in accordance with the requirements of this section. Only one request for waiver of time limit may be submitted by the applicant during the one-year period.

(2) Waiver of Time Limit

(a) Owner or Authorized Agent

Only the owner of land or the owner's authorized agent may submit a request for waiver of time limit.

(b) Initiation

A request may be initiated by the owner or the owner's authorized agent by submitting a request for waiver of time limit to the appropriate city staff, along with a fee to defray the cost of processing the request.

(3) Action

At the meeting for which the request for waiver of time limit is scheduled, the decision-making body shall consider the request, other relevant support materials, statements made by the applicant or the applicant's representative, and the public, and approve or deny the request based on the standards in Section 40.1-2.2(Q)(4), Waiver of Time Limit Standards.

(4) Waiver of Time Limits Standards

The waiver of time limit shall be approved only upon a finding by two-thirds (2/3) or more of the membership of the decision-making body that substantial evidence is presented that demonstrates:

(a) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application; or

(b) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or

(c) A new application is proposed to be submitted that is materially different from the prior application; or

(d) The final decision on the application was based on a material mistake of fact.

(R) Lapse of Approval

Lapse of approval shall occur as provided by this Ordinance for the various types of permits and development approvals. Except for general or proffered amendments to the official zoning map (rezoning), if no provision for lapse is given by this Ordinance for a particular type of permit or development approval, and if no lapse period is imposed as part of an approval in the permit or development approval, lapse shall occur if development is not commenced or a subsequent permit is not obtained within two years.

40.1-2.3 STANDARDS AND REQUIREMENTS FOR APPLICATIONS FOR PERMITS AND DEVELOPMENT APPROVALS

This section includes the individual review procedures, standards, and related information for each of the applications for permits and development approvals, as summarized in Table 40.1-2.1(A), Summary Table of Development Review Structure.

(A) Zoning Map Amendment (Rezoning) or Text Amendment

(1) Purpose and Intent

The purpose and intent of this section is to provide procedures and standards for amending the zoning map or text of this Ordinance.

(2) Authority

The City Council may adopt an ordinance amending the zoning map or text of this Ordinance in accordance with the procedures and standards of this section.

(3) Initiation

(a) An application to amend the zoning map (rezoning) may be initiated by the City Council, the Planning Commission, the HPC (for an historic district), the Planning Director, or a person who may submit applications in accordance with Section 40.1-2.2(A), Authority to File Applications.

(b) An application to amend the text of this Ordinance may be initiated by the City Council, the Planning Commission, the Planning Director, or a person who may submit applications in accordance with Section 40.1-2.2(A), Authority to File Applications.

(c) If the City Council, Planning Commission, HPC, Planning Director, or a person who may submit applications in accordance with Section 40.1-2.2(A), Authority to File Applications, initiates an amendment to the zoning map (Rezoning) or the text of this Ordinance, the application shall include the statutory public purpose for the proposed amendment in accordance with Code of Virginia (1950), as amended.

(4) Proffers Distinguished

(a) City Council shall not apply conditions to applications to amend the zoning map (rezonings).

(b) Applications to amend the zoning map (rezonings) either may be general applications, or may be subject to voluntary proffers proposed by the applicant requesting the amendment.

(5) Procedures

(a) Basic Procedures

(i) For Zoning Map Amendments Without Proffers

The procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on applications for the zoning map or text amendments are as established in Section 40.1-2.2, Common Review Procedures, except applications for a zoning map amendment to an historic district, may be made by the City Council, the Planning Commission, the HPC, private preservation organizations, neighborhood associations or civic leagues, groups of property owners, or individual property owners.

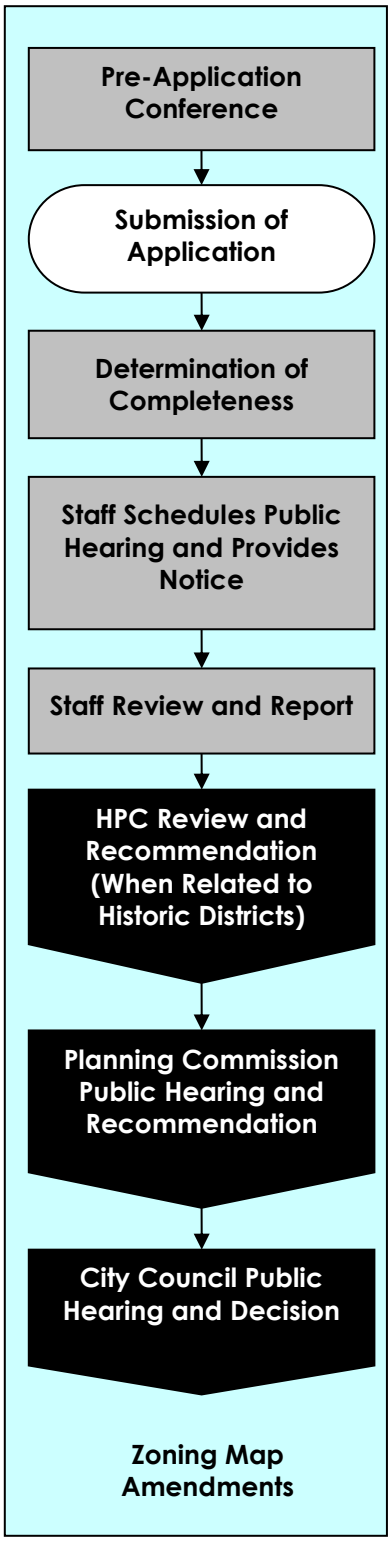
(ii) For Zoning Map Amendments with Proffers

If the applicant proposes to offer proffers as part of an application to amend the zoning map (rezoning), the application shall also comply with the following requirements:

a. A voluntary proffer statement may be accepted prior to required public notification of the application for which proffers are offered by an applicant.

b. Once public notification of the first public hearing occurs, a proffer to an application shall not be made that is considered a substantial amendment, unless the application is modified, reconsidered and re-reviewed by city staff (as appropriate), re-noticed in accordance with Section 40.1-2.2(J), Public Notification, and re-reviewed by the Planning Commission and City Council (if appropriate). This shall not apply if:

1. The amended voluntary proffer is not a substantial amendment that materially changes the original voluntary proffer submitted by the applicant; or



2. The substantial amendment is the result of Planning Commission, public, or city staff action or comments made about the application after a public hearing is conducted before the Planning Commission.

c. For the purposes of this section, a "substantial amendment" includes a modification of proffer(s) that materially changes the uses, layout, and character of external impacts of the development proposed as part of the amendment in a way that is less restrictive than the proffer(s) originally proposed and considered.

(b) Public Hearing, Review, and Recommendation by HPC

(i) Creation of Historic Districts and Designation of Historic Properties

a. Initiation

Prior to the HPC's recommendation on an application to amend the zoning map to establish an historic district or amendment to the boundaries of an historic district, the HPC shall prepare a report for nomination consisting of a completed National Register of Historic Places nomination/amendment or:

1. A physical description;

2. A statement of the historical, cultural, architectural and/or aesthetic significance;

3. A map showing historic district boundaries and classification (i.e., contributing, noncontributing) of individual properties therein, or showing boundaries of individual historic properties;

4. A statement justifying district or individual property boundaries; and

5. Representative photographs.

b. Designation of an Historic District

An historic district is a geographically definable area, which contains buildings, structures, sites, objects, and landscape features or a combination thereof, that:

1. Have special character or special historic/architectural value or interest;

2. Represent one or more periods, styles, or types of architecture typical of one or more eras in the history of the city, state, or region; and

3. Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.

c. Designation of Historic Property

An historic property is an individual building, structure, site, or object, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the city, state, or region, for one of the following reasons:

1. It is an outstanding example of a structure representative of its era;

2. It is one of the few remaining examples of a past architectural style;

3. It is a place or structure associated with an event or persons of historic or cultural significance to the city, state, or the region; or
4. It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, state, or region.

d. Boundaries

The boundaries of an historic district or an historic property shall be included in the separate ordinances designating such districts and properties and shall be shown on the official zoning map.

e. Adoption Ordinance Requirements

The following are required for the adoption of an ordinance designating an historic district or property:

1. A designation proposed by the City Council, the Planning Commission, the HPC, private preservation organization, neighborhood association or civic league, group of land owners.
2. An ordinance designating any property or district as historic shall:
   - **A.** List each property in a proposed historic district or describe the proposed individual historic property;
   - **B.** Set forth the name(s) of the owner(s) of the designated property or properties; and
   - **C.** Require that the property or district be shown on the official zoning map, and be kept as a public record to provide notice of such designation.
3. Upon the designation, modification, or designation removal of each historic district or property, the Planning Director shall file with the Clerk of Circuit Court a copy of the resolution containing such action, and a boundary description of such district.
4. Within 30 days following the adoption of the ordinance designating the historic district or property, the owners of each designated historic property, and the owners and occupants of each building, structure, site, or object located within a designated historic district, shall be given written notification of such designation by the city. The notice shall apprise said owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated.

(c) Public Hearing, Review, and Recommendation by Planning Commission

(i) After HPC review and recommendation on an application for a zoning map amendment to an historic district, and in all other instances, following staff review, there shall be public notification in accordance with Section 40.1-2.2(J), Public Notification, after which the Planning Commission shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the public hearing, the Planning Commission shall consider the application, relevant support materials, the staff report, and any comments given by the public at the hearing, and by a majority vote of a quorum present, adopt a written recommendation for one of the following

actions, based on the standards in Section 40.1-2.3(A)(6), Zoning Map Amendment Standards, Section 40.1-2.3(A)(7), Proffer Standards (Offered as Part of a Zoning Map Amendment (Rezoning)), or Section 40.1-2.3(A)(8), Zoning Text Amendment Standards (as appropriate):

a. Approval of the application as submitted;

b. Approval of the application with proffers proposed by the applicant; or

c. Denial of the application.

(iii) Following its recommendation on a proposed amendment, the Planning Commission shall forward the recommendation to the City Council and submit a report with the recommendations along with an explanation of how the application either complies with or fails to comply with the requirements of this Ordinance.

(d) Public Hearing, Review, and Action by City Council

(i) Upon certification of the Planning Commission's report and recommendation, and public notification on the application in accordance with Section 40.1-2.2(J), Public Notification, the City Council shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the hearing, the City Council shall consider the application, relevant support materials, the staff report, the Planning Commission's report and recommendation, and any comments given by the public at the hearing, and by a majority vote of a quorum present, take one of the following actions based on the standards in Section 40.1-2.3(A)(6), Zoning Map Amendment Standards, Section 40.1-2.3(A)(7), Proffer Standards (Offered as Part of a Zoning Map Amendment (Rezoning)), or Section 40.1-2.3(A)(8), Zoning Text Amendment Standards (as appropriate):

a. Approval of the application as submitted;

b. Approval of the application with proffers proposed by the applicant;

c. Denial of the application; or

d. Remand of the application back to the Planning Commission for further consideration.

(6) Zoning Map Amendment (Rezoning) Standards

Amending the zoning map is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed amendment, or, where appropriate, to accept proffered conditions, the City Council's consideration may include, but not be limited to, the following factors:

(a) Whether and the extent to which the proposed amendment is consistent with the comprehensive plan, or other applicable and adopted long-range planning documents;

(b) Whether and the extent to which there are changed conditions that require an amendment;

(c) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(d) Whether and the extent to which the proposed amendment will have a positive effect on the city's desired balance between residential and nonresidential uses;

(e) Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the land subject to the amendment, and is the appropriate zoning district for the land and the existing use(s);

(f) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns;

(g) Whether and the extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts;

(h) Whether and the extent to which the proposed amendment will result in significant adverse impacts on the property values of surrounding lands;

(i) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, floodplains, wetlands, and the natural functioning of the environment;

(j) Whether and the extent to which the proposed amendment would result in development that is adequately served by transportation facilities, including whether a substantial deterioration of the level of service on the city's transportation network would occur;

(k) Whether and the extent to which the proposed amendment would result in development that has an adverse impact on the city's economic vitality; and/or

(l) Whether or not delinquent real estate taxes are owed to the city.

(7) Proffer Standards (Offered as Part of Zoning Map Amendment (Rezoning))

Proffers offered by an applicant as part of a zoning map amendment (rezoning) shall be subject to the following requirements:

(a) When Proposed

All proffers shall be proposed in writing as part of the rezoning application prior to the first public notification of the required public hearings, in accordance with Section 40.1-2.2(J), Public Notification. Proffers may be amended only in accordance with Section, 40.1-2.3(A)(5), Basic Procedures.

(b) General

Voluntary proffers made by an applicant may be accepted by the City Council provided they comply with the Code of Virginia (1950), as amended, and the following:

(i) Necessary and Reasonable

a. The proposal to amend the zoning map necessitates the proposed proffers, and they are reasonably related to the amendment request.

b. The proposed proffers are not generally applicable to lands with similar zoning district classifications.

(ii) Conformance with the Comprehensive Plan

The proposed proffers are in conformity with the comprehensive plan.

(iii) Supplement the District Standards

The proposed proffers are in addition to and are no less stringent than the standards and requirements of the proposed zoning district.

(iv) Dedication or Payments

a. In the event proposed proffers include land dedication or cash payments for public facilities to serve the land subject to the zoning map amendment, such land dedication or cash payment shall not be made until the public facilities are included in the city's capital improvement program; provided nothing shall prevent the city from accepting proffers which are not normally included in the capital improvement program.

b. If proffers include land dedication or cash payments, the proffers shall provide for the disposition of such land dedication or cash payment in the event the land or cash payment is not used for the purpose for which it is proffered.

(c) Enforcement and Guarantee of Performance and Conditions

(i) The Planning Director may require an applicant proposing proffers to guarantee performance of the proffers accepted by the City Council. The guarantee(s) shall be in an amount and in a manner satisfactory to the City Engineer. Such guarantee(s) shall be reduced or released by the City Engineer or a designee upon the submission of satisfactory evidence that performance of such proffers are completed as required by approval of the amendment.

(ii) Failure to comply with the proffers accepted by the City Council, including the guarantee(s), shall constitute cause to deny requests to approve any subsequent permits and development approvals required under this Ordinance for the land subject to the amendment with proffers.

(iii) The Zoning Administrator, in an effort to enforce the conditions approved by the City Council, may:

a. Bring necessary legal action to ensure compliance, including injunction, abatement, or other appropriate legal relief; or

b. Order in writing the remedy for any noncompliance of conditions.

(8) Zoning Text Amendment Review Standards

Amending the text of this Ordinance is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the City Council's consideration may include, but not be limited to, the following factors:

(a) Whether and the extent to which the proposed amendment is consistent with the comprehensive plan and any other applicable and adopted long range planning documents;

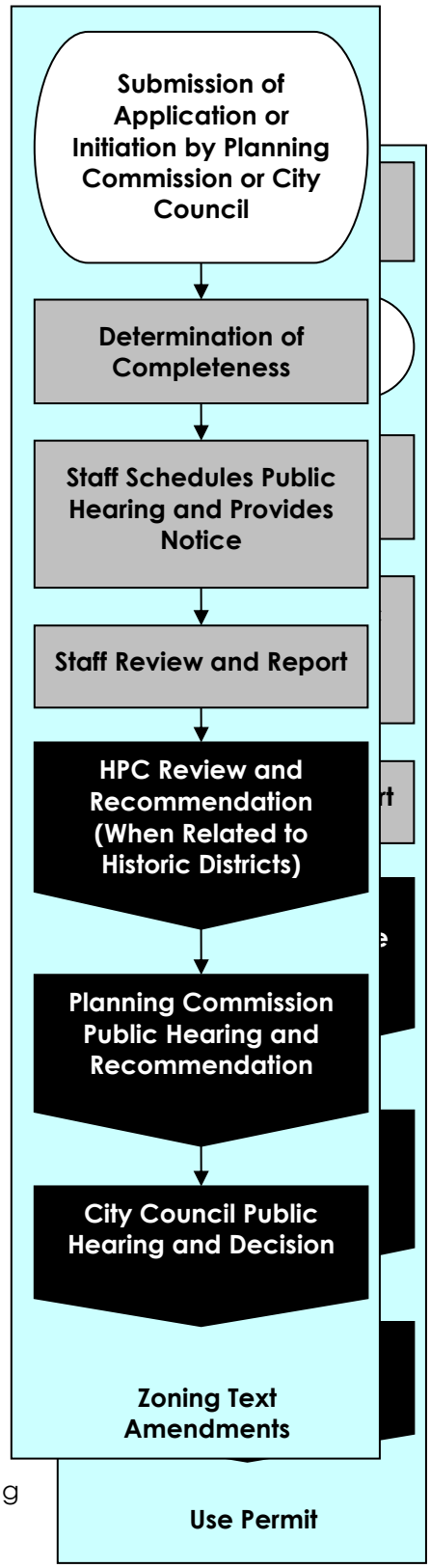
(b) Whether the proposed amendment is in conflict with any provision of this Ordinance and any other regulations contained in the City Code or other applicable regulations;

(c) Whether and the extent to which there are changed conditions that require an amendment;

(d) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(e) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern; and

(f) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, floodplains, wetlands, and the natural functioning of the environment.



(9) Effect of Proffers Accepted as Part of Zoning Map Amendment (Rezoning)

(a) Proffers accepted by the City Council as part of an approved amendment to the zoning map shall continue in effect until a subsequent amendment of the zoning map modifies the zoning district of the land or the content of previously approved proffers.

(b) In cases where proffers are accepted as part of an amendment to the zoning map, the zoning map shall include a notation reflecting the specific proffers that were accepted by the City Council and apply to the land. The accepted proffers shall be indexed and recorded in the office of the Planning Director.

(c) Any subsequent applications for permits or development approvals on land subject to accepted proffers shall only be

approved if they are in substantial conformity with the accepted proffers. For the purposes of this section, "substantial conformity" shall mean the degree of conformity that leaves a reasonable margin for adjustment due to final engineering data, but conforms with the general nature of the zoning district, the uses approved, and the specific terms and conditions of the proffer(s).

(10) Recording Requirement for Historic Districts or Historic Properties

(a) Following the adoption by ordinance of an historic district, a copy of the ordinance creating the district and a boundary description of such district shall be filed by the Planning Director with the Clerk of Circuit Court for the City of Portsmouth.

(b) Within 30 days following the adoption of the ordinance creating an historic district, the owners and occupants of each building, structure, site, or object located within the designated historic district shall be given written notification of such designation by the HPC which notice shall notify said owners and occupants of the necessity of obtaining a Certificate of Appropriateness in accordance with the requirements of this Ordinance prior to undertaking any material change in appearance of the historic property designated.

(c) Following the adoption by ordinance of an historic district, the HPC shall notify all necessary agencies within the city of the establishment of the new historic district.

(B) Use Permit

(1) Purpose and Intent

A use requiring a use permit is a use that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish procedures and standards for review and approval of use permits that provide for such special consideration.

(2) Applicability

(a) A use permit is required for development of any use designated in Table 40.1-4.1(A), Use Table, as a use requiring a use permit in accordance with this section.

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

(i) There is a twenty (20) percent or greater net increase in the square footage of the use or structure proposed for expansion or enlargement; or,

(ii) The expansion or enlargement will substantially alter the site design and layout as it relates to circulation, parking or other site characteristics so as to adversely affect surrounding properties

(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on an application for a use permit is as established in Section 40.1-2.2, Common Review Procedures.

(b) Public Hearing, Review, and Recommendation by the Planning Commission

(i) Following staff review and public notification in accordance with Section 40.1-2.2(J), Public Notification, the Planning Commission shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the public hearing, the Planning Commission shall consider the application, relevant support materials, the staff report, and any comments given by the public at the hearing, and by a majority vote of a quorum present prepare a written recommendation for one of the following actions, based on the standards in Section 40.1-2.3(B)(4), Use Permit Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

c. Denial of the application.

(iii) Following its recommendation, the Planning Commission shall forward the recommendation to the City Council for review.

(c) Public Hearing, Review, and Action by the City Council

(i) Upon receipt of the Planning Commission's recommendation and public notification in accordance with Section 40.1-2.2(J), Public Notification, the City Council shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) After close of the hearing, the City Council shall consider the application, the relevant support materials, the staff report, the Planning Commission's recommendation, and any comments given by the public, and by a majority vote of a quorum present, take one of the following actions based on the standards in Section 40.1-2.3 (B) (4), Use Permit Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

c. Denial of the application.

(4) Use Permit Standards

An application for a Use Permit shall be approved only upon a finding the applicant demonstrates all of the following standards are met:

(a) The proposed use complies with the applicable standards of this Ordinance;

(b) The proposed use is consistent with the comprehensive plan;

(c) The proposed use is compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands;

(d) The proposed use is configured to minimize adverse effects, including the visual impacts of the proposed use on adjacent lands;

(e) The proposed use avoids significant deterioration of water and air resources, and other natural resources;

(f) The proposed use maintains safe and adequate egress and ingress onto the site, and safe road conditions around the site;

(g) The proposed use allows for the protection of property values and the ability of neighboring lands to develop the uses permitted in the zoning districts; and

(h) The use complies with all other city, state, and federal laws and regulations.

(5) Conditions of Approval

In authorizing a use permit, the City Council may impose such conditions regarding the location, character, and other features of the proposed use permit as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed use approved. Conditions, where imposed, shall be included as part of the approval.

(6) Effect of Decision

(a) A use permit authorizes only the particular use(s) and associated development that is approved. A use permit, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership unless specifically conditioned as part of the approval.

(b) No business license shall be issued unless the use meets all conditions of approval.

(7) Expiration

(a) Unless otherwise specified in the use permit, an application for a building permit or business license (whichever is appropriate) shall be applied for and approved within two years of the date of the approval of the use permit; otherwise, the use permit shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the use permit by the applicant, and upon a showing of good cause, the Planning Commission may grant one extension not to exceed one year. The approval shall be deemed extended until the Planning Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the use permit null and void, and the development approval shall automatically expire.

(c) In addition, a use permit upon which the approved use is developed in accordance with the permit, automatically expires and is immediately null and void when there is a change in use, or when the use approved in the use permit is inactive for a period greater than two years.

(8) Revocation of Use Permits

A use permit may be revoked or modified by the City Council after noticing a public hearing in the same manner as a zoning map amendment pursuant to Section 40.1-2.2(J), Public Notification, [1] and conducting a public hearing in accordance with Section 40.1-2.2(K), Hearing Procedures. The permit shall be revoked only if there is a finding:

(a) The use permit was obtained or extended by fraud or deception;

(b) The applicant has failed to comply with one or more of the conditions of approval;

(c) There is a change in conditions affecting the public health, safety, and welfare, since adoption of the use permit; or

[1] Public notification is required to comply with the same requirements as an amendment to the zoning map.

(d) There are repeated violations of this Ordinance by the holder of the use permit, related to the development approved by the use permit.

In addition, and in the discretion of the Chief of Police, if there is a significant risk to public safety or peace and good order on land subject to a use permit that creates the risk of blight, then proceedings to revoke a use permit may be initiated by the Planning Director by sending a letter to the permittee to correct the situation that creates the risk of blight. If within six months of the date the letter is sent out the Planning Director determines the situation is continuing, the Planning Director may initiate proceedings to revoke the use permit. However, if at any time during the course of this process, the Chief of Police determines there is a significant risk to public safety or peace and good order as to create a risk of blight that must be corrected immediately, the Planning Director may initiate proceedings to revoke the use permit immediately, without waiting six months for the permittee to correct the problem.

(9) Amendments

A use permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(C) Type I Development Plan

(1) Purpose and Intent

The purpose of a type I development plan is to allow for the review of development proposed for a site prior to construction, to ensure its layout and general configuration complies with all applicable standards and requirements of this Ordinance and all other applicable city regulations. The purpose of this section is to establish the procedures and standards for the review of a type I development plan.

(2) Applicability

A type I development plan shall be reviewed in accordance with the procedures and standards of this section prior to issuance of a building permit, unless exempted in accordance with Section 40.1-2.3(C)(3), Exemptions.

(3) Exemptions

The following development shall be exempted from the requirements of this section:

(a) One-family or two-family detached dwellings, unless such review is required by the Chesapeake Bay Preservation Act and any regulations or ordinances adopted under their authority;

(b) A proposed nonresidential development in a mixed-use or activity center base zoning district of less than 2,500 square feet in area; and

(c) Internal construction that does not increase gross floor area or building height, increase the density or intensity of use, and increase off-street parking requirements.

(4) Initiation

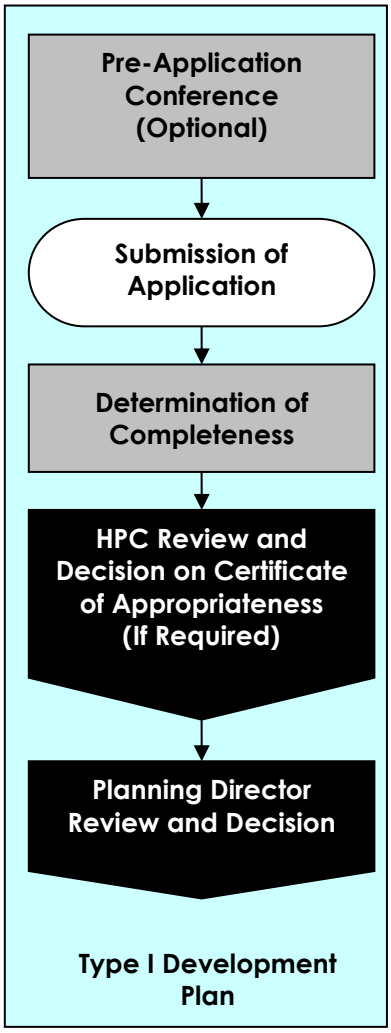
An application for a type I development plan may be initiated by any person who may submit applications in accordance with Section 40.1-2.2 (A), Authority to File Applications.

(5) Procedure

(a) Basic Procedures

(i) Except as modified in this subsection, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for type I development plan are as established in Section 40.1-2.2, Common Review Procedures.

(ii) The application for a type I development plan shall be reviewed within 60 days from the date the application is determined complete. The application review time is extended to 90 days or as authorized by Section 15.2-2222.1 of the Code of Virginia (1950), as amended, if a portion of the application is required to be reviewed and approved by a state department or agency. In all instances, review of the application shall occur within 45 days after receiving notification from all state agencies required to review and approve the plan that it is approved by the respective state agencies. [2]



(b) Review and Action by the Planning Director

Upon receipt of a complete application, the Planning Director shall review the application in accordance with Section 40.1-2.2(L), Review by Planning Director or Zoning Administrator, and take one of the following actions based on the standards in Section 40.1-2.3(C)(6), Type I Development Plan Standards:

(i) Approval of the application; or

(ii) Approval of the application, with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.

(6) Type I Development Plan Standards

An application for a type I development plan shall be approved upon a finding that all of the following standards are met:

(a) The development complies with the applicable district and use-specific standards;

(b) The development complies with all other applicable standards of this Ordinance;

(c) The development complies with all requirements or conditions of any applicable permit or development approvals (e.g., zoning map amendments with proffers, variance permits, use permits, etc.);

(d) The development is consistent with the comprehensive plan; and

(e) The development complies with all other applicable city regulations.

[2] In the event that the Planning Director fails to take action on the type I development plan within the time provided in this section, the applicant may, after 10 days written notice to the Planning Director, petition the circuit court in accordance with the Code of Virginia, 1950 (as amended), and request the court require the Planning Director to take action on the application.

(7) Conditions of Approval

In authorizing a type I development plan, the Planning Director may impose such conditions regarding the location, character, and other features of the proposed type I development plan as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed type I development plan. Conditions, where imposed, shall be included as part of the approval.

(8) Expiration

(a) Unless otherwise specified in the type I development plan approval, an application for a building permit or business license (whichever is appropriate) shall be applied for and approved within five years of the date of the approval of the type I development plan; otherwise, the type I development plan shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the type I development plan by the applicant, and upon a showing of good cause, the Planning Director may grant one extension not to exceed six months. The approval shall be deemed extended until the Planning Director has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the type I development plan null and void, and the development approval shall automatically expire.

(9) Amendments

A type I development plan may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(10) Appeals

An applicant may appeal a decision of the Planning Director on an application for a type I development plan to the Planning Commission in accordance with Section 15.2-2259 of Code of Virginia (1950), as amended.

(D) Type II Development Plan

(1) Purpose and Intent

The purpose of the type II development plan review is to allow for the review of certain developments, in a public hearing setting, to ensure that the layout and general design of proposed development is compatible with surrounding uses, complies with all other applicable city regulations, and provides compensating public benefits when certain standards in this Ordinance are varied.

(2) Authority

The Planning Commission shall review and make a decision on an application for a type II development plan in accordance with the procedures and standards of this section.

(3) Qualification as a Type II Development Plan

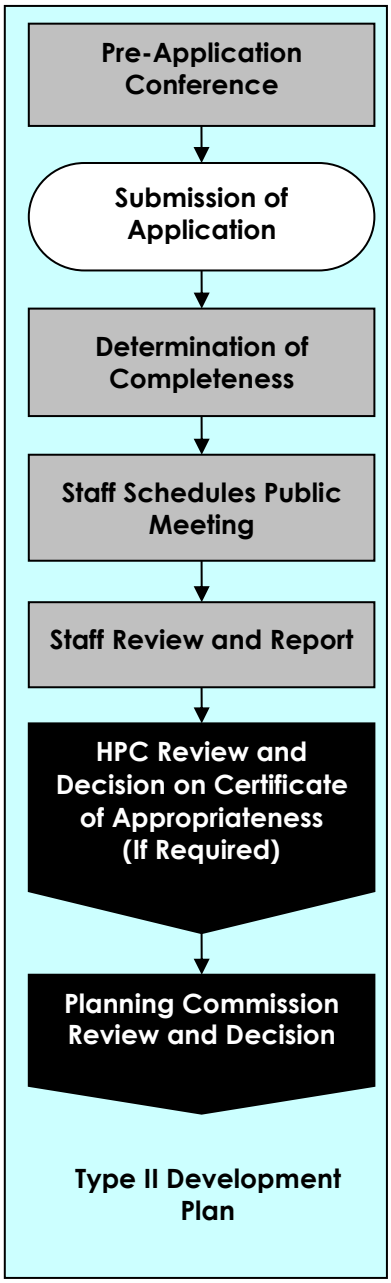
Unless otherwise specified, development plan applications seeking to modify any of the following standards of this Ordinance may request to do so as a type II development plan:

(a) Increases in residential unit density beyond the maximum allowed for a base or overlay zoning district;

(b) Increases in nonresidential intensity beyond the maximum allowed for a base or overlay zoning district;

(c) Decreases in required minimum lot area, required yards, use separations, or other bulk standards beyond what would be available through an Administrative Adjustment; or

(d) Increases in impervious lot coverage, floor area ratios, building heights or build-to-lines beyond what would be available through an Administrative Adjustment or applications seeking to deviate from the standards found in Section 40.1-5.1.



(4) Procedure

(a) Basic Procedures

(i) Except as modified in this subsection, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for a type II development plan are as established in Section 40.1-2.2, Common Review Procedures.

(ii) The application for type II development plan shall be reviewed within 60 days from the date the application is determined complete. The application review time is extended to 90 days, or as authorized by Section 15.2-2222.1 of the Code of Virginia (1950), as amended, if a portion of the application is required to be reviewed and approved by a state department or agency. In all instances, review of the application shall occur within 45 days after receiving notification from all state agencies required to review and approve the plan that it is approved by the respective state agencies.

(b) Hearing, Review, and Decision by the Planning Commission

(i) Following staff review, the Planning Commission, at a regularly scheduled meeting, shall conduct a hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) At the hearing, the Planning Commission shall consider the application, relevant support materials, the staff report, and any comments given by the public about the application. At the conclusion of the hearing, the Planning Commission, by a majority vote of a quorum present, shall take one of the following actions, based on the standards in Section 40.1-2.3(D)(5), Type II Development Plan Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

c. Denial of the application.

(5) Type II Development Plan Standards

A type II development plan shall be approved only upon a finding that all of the following standards are met:

(a) The applicant has submitted a plan that depicts the proposed development in a manner sufficient to allow the Planning Commission to make a determination regarding its compatibility with surrounding uses;

(b) The proposed development is consistent with the comprehensive plan;

(c) The uses proposed in the type II development plan are allowed in the base and overlay districts where located;

(d) The type II development plan includes an appropriate range of compensating public benefits in accordance with Section 40.1-2.3(D)(6), Compensating Public Benefits;

(e) Any deviations from the standards of this Ordinance are the absolute minimum necessary to accommodate the development proposal; and

(f) The proposed development complies with all applicable proffers and conditions applicable to the land.

(6) Compensating Public Benefits

(a) Purpose

Compensating public benefits are elements of a development application that may be proposed by an applicant as a means of ensuring a proposed type II development plan has the maximum possible consistency with city goals and local conditions. The city shall review type II development plans in accordance with this section in order to encourage the provision of certain community benefits or amenities, such as parks, open space, workforce housing, public active and passive recreational opportunities, and other physical, social, or cultural benefits or amenities that are in compliance with the comprehensive plan.

(b) Menu of Compensating Benefits

One or more of the following benefits may be offered either on or off the site of the subject application:

(i) Architectural design that exceeds any minimum standards established in this Ordinance, or any other city ordinances and the Code of Ordinances;

(ii) Site design incorporating principles of new urbanism and traditional neighborhood development;

(iii) Provision of environmentally-sustainable and energy-efficient building design;

(iv) Provision of one or more green building incentives (See Section 40.1-5.8);

(v) Provision of passive or active open space and related improvements, beyond the open space set-aside standards of this Ordinance (See Section 40.1-5.4);

(vi) Permanent protection of scenic views or access to waterfront areas;

(vii) Public parks and recreational facilities;

(viii) Public trails and trail linkages;

(ix) Cultural or historic facilities deeded to the city or qualified not-for-profit agencies; or

(x) Other public benefits found to be appropriate by the Planning Commission.

(c) Review of Proposed Compensating Public Benefits

To evaluate the adequacy of the proposed benefit(s) to be accepted as part of a proposed type II development plan, the following information shall be provided by the applicant with the subject application:

(i) A description of the proposed amenity or amenities outlining the benefits that will accrue to the community, and a description of the relationship between the proposed amenity or amenities and the proposed type II development plan;

(ii) The economic value of the proposed amenity or amenities to the city as compared with the economic value of the proposed development to the applicant;

(iii) A preliminary demonstration that there is adequate public facilities serving or proximate to the proposed development to handle the additional demands the proposed development and any related amenities may place on such facilities beyond the demand that would otherwise occur with conventional development; and

(iv) An explanation as to the way in which the amenity or amenities will implement physical, social, or cultural policies of the comprehensive plan and this Ordinance.

Applicants for a type II development plan may seek non-binding input from the Planning Director regarding proposed benefits and incentives at a pre-application conference prior to submission of the application or at any stage of the application process prior to the formal decision.

(7) Conditions of Approval

In authorizing a type II development plan, the Planning Commission may impose such conditions regarding the location, character, and other features of the proposed type II development plan as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed type II development plan. Conditions, where imposed, shall be included as part of the approval.

(8) Expiration

(a) Unless otherwise specified in the type II development plan approval, an application for a building permit shall be applied for and approved within five years of the date of the approval of the type II development plan; otherwise, the type II development plan shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the type II development plan by the applicant, and upon a showing of good cause, the Planning Commission may grant one extension not to exceed six months. The approval shall be deemed extended until the Planning Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the type II development plan null and void, and the development approval shall automatically expire.

(9) Amendments

A type II development plan may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(10) Appeal

An applicant may appeal a decision of the Planning Commission on an application for a type II development plan to the circuit court of the City of Portsmouth in accordance with Section 15.2-2259 of Code of Virginia (1950), as amended.

(E) Temporary Use Permit

(1) Purpose and Intent

The purpose of this section is to establish a procedure for the review of temporary uses in accordance with Section40.1-4.5, Temporary Use Standards.

(2) Applicability

The provisions of this section shall apply to all proposed temporary uses as set forth in Section 40.1-4.5, Temporary Use Standards.

(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for temporary use permits are as established in Section 40.1-2.2, Common Review Procedures.

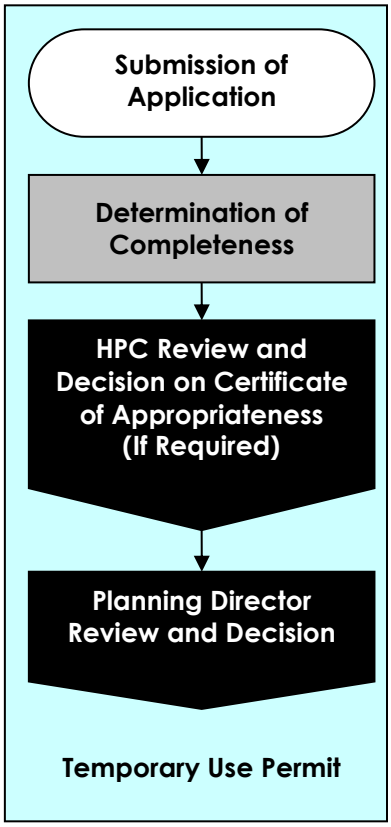
(b) Review and Action by Planning Director

Upon receipt of a complete application, the Planning Director shall review the application in accordance with Section 40.1-2.2(L), Review by City Staff, and take one of the following actions based on the standards in Section 40.1-2.3(E)(4), Temporary Use Permit Standards:

(i) Approval of the application as submitted;

(ii) Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.



(4) Temporary Use Permit Standards

An application for a temporary use permit shall be approved upon a finding the applicant demonstrates the proposed temporary use complies with the relevant standards in Section 40.1-4.5, Temporary Use Standards.

(5) Expiration

A temporary use permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.

(6) Amendment

A temporary use permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(7) Appeal

An appeal from the Planning Director's decision on a temporary use permit application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(F) Zoning Compliance Permit

(1) Purpose and Intent

The purpose of this section is to establish a procedure for the review of proposed development to ensure its compliance with the requirements of this Ordinance.

(2) Applicability

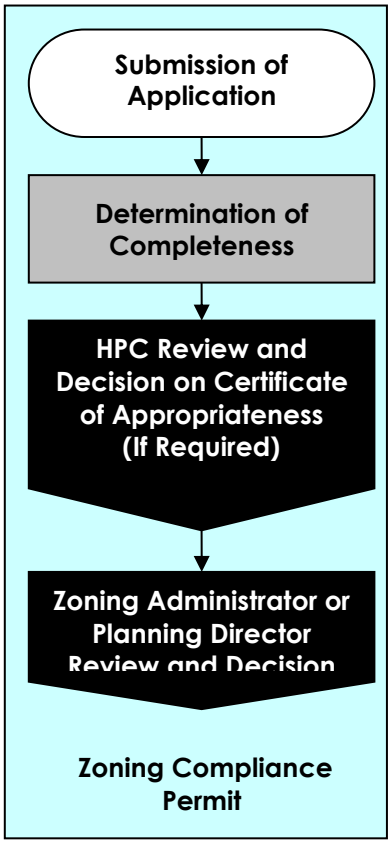
The following development shall receive Zoning Compliance Permit approval prior to submission of an application for a Building Permit or Business License, whichever is appropriate:

(a) A change in use;

(b) Signs subject to the standards in Section 40.1-5.11, Signage;

(c) Development in a historic district that requires a COA; and

(d) The construction or expansion of any new building or structure that requires a building permit but that is not subject to review in accordance with Section 40.1-2.3(C), Type I Development Plan, or Section 40.1-2.3 (D), Type II Development Plan.



(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for a zoning compliance permit are as established in Section 40.1-2.2, Common Review Procedures.

(b) Lots in the Downtown D2 District

Zoning compliance permit applications in the Downtown (D2) district shall be reviewed by the Planning Director in accordance with the standards in Appendix B of this Ordinance.

(c) Review and Action by the Zoning Administrator or Planning Director

Upon receipt of a complete application, the Zoning Administrator, or Planning Director, as appropriate, shall review the application in accordance with Section 40.1-2.2(L), Review by City Staff, and take one of the following actions based on the standards in Section 40.1-2.3(F)(4), Zoning Compliance Permit Standards:

(i) Approval of the application as submitted;

(ii) Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.

(4) Zoning Compliance Permit Standards

An application for a zoning compliance permit shall be approved upon a finding the applicant demonstrates the proposed development complies with all relevant standards of this Ordinance.

(5) Effect of Decision

A building permit or business license, whichever is appropriate, shall not be issued until the development subject to this section receives a zoning compliance permit and complies with all its conditions of approval.

(6) Appeal

An appeal from the Zoning Administrator or Planning Director's (as appropriate), decision on a zoning compliance permit application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(G) Variance Permit

(1) Purpose

(a) The purpose of a variance permit is to allow certain deviations from the standards of this Ordinance (such as size of area of a lot or parcel of land, or the size, area, bulk, or location of a building or structure), when the land owner demonstrates that, owing to special circumstances or conditions beyond the land owner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards of this Ordinance would result in unnecessary or unreasonable hardship to the land owner and the need for the variance is not shared generally by other lands, and the deviation is not contrary to the public interest or goals and purposes of this Ordinance.

(b) A variance shall not include a change in use, which shall be accomplished through an amendment to the official zoning map (Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment).

(2) Authority

The BZA is authorized to review and approve, approve with conditions, or deny an application for a variance permit in accordance with the procedures and standards of this section.

(3) Procedure

(a) Basic Procedures

The procedures and requirements for the initiation, submission, completeness determination, review, and decision on an application for a variance permit are as established in Section 40.1-2.2, Common Review Procedures.

(b) Public Hearing, Review, and Decision by the BZA

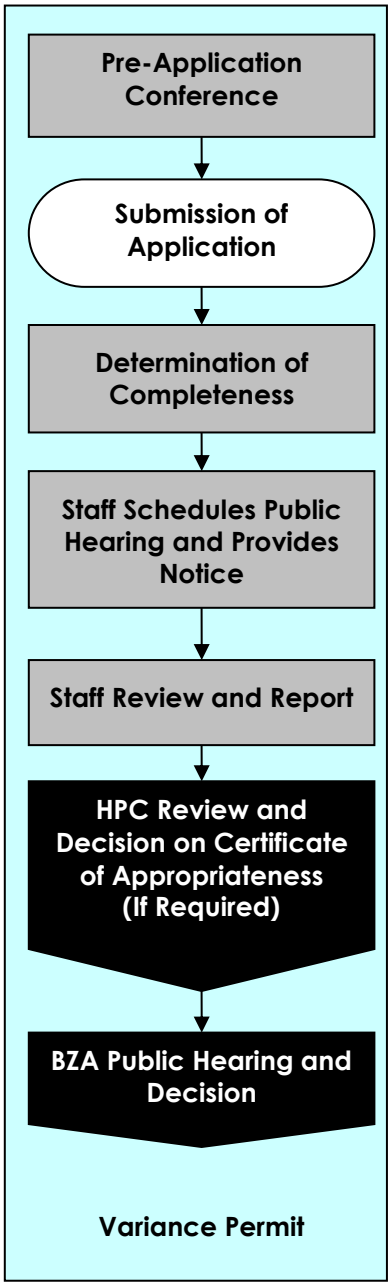
(i) Following staff review of the application and public notification in accordance with Section 40.1-2.2(J), Public Notification, the BZA shall conduct a public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(ii) At the hearing, the BZA shall consider the application, relevant support materials, the staff report, and any comments given by the public, and after close of the hearing, by a majority vote of a quorum present, take one of the following actions, based on the standards in Section 40.1-2.3(G)(4), Variance Standards:

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval.); or

c. Denial of the application.



(4) Variance Standards

(a) Findings

An application for a variance permit shall be approved upon a finding that all of the following standards are met:

(i) The land for which the variance is requested is acquired in good faith;

(ii) The land is subject to:

a. Exceptional narrowness, shallowness, size, or shape;

b. Exceptional topographic conditions or other extraordinary situation or condition; or

(iii) The situation is not self-created;

(iv) Because of one or several conditions identified in Section 40.1-2.3(G)(4), Variance Standards, the strict application of this Ordinance would produce undue hardship, and effectively prohibit or unreasonably restrict the use of the land;

(v) The hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(vi) The authorization of the variance alleviates this clearly demonstrated hardship (as distinguished from a special privilege or convenience sought by the applicant);

(vii) The authorization of the variance will not be of substantial detriment to adjacent properties;

(viii) The character of the zoning district in which the land is located will not be changed by the granting of the variance;

(ix) The condition or situation of the land is not of so general or recurring a nature as to warrant the formulation of a regulation or standard to address the condition or situation;

(x) Any delinquent real estate taxes owed to the city on the lands for which the variance is requested have been paid; and

(xi) The variance authorized by the BZA is the least possible deviation from the standards necessary to afford relief.

(b) Prohibitions

(i) No provision of this Ordinance shall be construed as granting the BZA the power to rezone property.

(ii) No variance shall be granted to allow a use or development condition not permitted by right or proffer.

(iii) No variance shall be granted to any standard or requirement in any other part of the City Code of Ordinances.

(iv) No variance shall be granted that allows a principal or accessory building to exceed any applicable maximum size standards set out in Article 40.1-3: Zoning Districts or Article 40.1-4: Use Standards.

(v) No variance shall be granted to any standard or requirement in Section 40.1-5.1, Off-Street Parking, Loading, and Circulation.

(5) Conditions of Approval

(a) In authorizing a variance, the BZA may impose such conditions regarding the location, character, and other features of the proposed structure granted the variance as it may deem necessary in the public interest to ensure compliance with the requirements of this section and to prevent or minimize adverse effects from the proposed variance. Conditions, where imposed, shall be included as part of the approval.

(b) The BZA may require a guarantee or bond to insure compliance with the conditions imposed.

(6) Effect of Decision

(a) Issuance of a variance permit shall authorize only the particular variance that is approved. A variance permit, including any conditions, shall run with the land and not be affected by a change in ownership.

(b) Development authorized by the variance permit shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable ordinances and regulations of the city. A variance permit, in itself, shall not ensure that the development approved through a variance permit shall receive subsequent approval for any other necessary applications for permit or development approval.

(7) Expiration

(a) The BZA may prescribe, as part of a variance permit, a time within which development activity shall begin, be completed, or both. Failure to begin or complete such development within the time specified shall render the variance permit void, and the permit shall automatically expire.

(b) Upon written application submitted at least 30 days prior to the expiration of the variance permit by the applicant, and upon a showing of good cause, the BZA may grant one extension not to exceed one year. The approval shall be deemed extended until the BZA has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the variance permit void, and the permit shall automatically expire.

(8) Amendment

A variance permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(9) Appeal

Any person jointly or severally aggrieved by any decision of the BZA, or any aggrieved taxpayer or any officer, department, commission, or the city, within 30 days of the date of the decision, may appeal the decision of the BZA on the variance permit to the circuit court of the City of Portsmouth in accordance with Code of Virginia (1950), as amended.

(H) Administrative Adjustment

(1) Purpose and Intent

This purpose and intent of this section is to provide an administrative mechanism for allowing minor variations, or adjustments, to the building setback standards of this Ordinance based on specific standards, with the intent of providing relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by this Ordinance and is compatible with surrounding lands.

(2) Authority

The Planning Director is authorized to review and approve, approve with conditions, or deny administrative adjustments in accordance with the procedures and standards of this section.

(3) Applicability

Administrative adjustments may be requested and granted for reductions in a building setback by up to 15 percent and other adjustments where expressly authorized in this Ordinance.

(4) Procedure

(a) Basic Procedures

(i) Except as modified below in subsection ii, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for administrative adjustments are as established in Section 40.1-2.2, Common Review Procedures.

(ii) Prior to consideration of an Administrative Adjustment, the Planning Director shall provide public notification in accordance with the standards in Section 40.1-2.2(J), Public Notification.

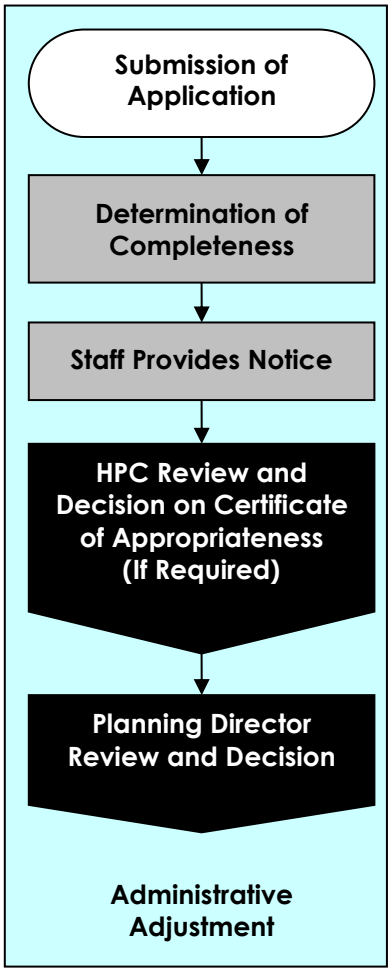
(b) Review and Action by the Planning Director

Upon receipt of a complete application, the Planning Director shall review the application in accordance with Section 40.1-2.2(L), Review by City Staff, and take one of the following actions based on the standards in Section 40.1-2.3(H)(5), Administrative Adjustment Standards:

(i) Approval of the application as submitted; or

(ii) Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval); or

(iii) Denial of the application.



(5) Administrative Adjustment Standards

An application for an administrative adjustment shall be approved upon a finding the applicant demonstrates all of the following standards are met:

(a) The requested administrative adjustment shall not exceed 15 percent of a building setback standard;

(b) The requested administrative adjustment is consistent with the character of development in the surrounding area, and will not result in incompatible uses;

(c) Any adverse impacts from the requested administrative adjustment will be mitigated to the maximum extent practicable;

(d) The requested administrative adjustment is either:

(i) Required to compensate for some unusual aspect of the site; or,

(ii) The proposed development that is not shared by landowners in general; or,

(iii) Supporting an objective or goal from the purpose and intent statements of the zoning district where located; or

(iv) Proposed to save healthy existing trees; and

(e) The requested administrative adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.

(6) Conditions of Approval

In authorizing an administrative adjustment, the Planning Director may impose such conditions regarding the location, character, and other features of the proposed administrative adjustment as may be deemed necessary to ensure compliance with the general intent and purposes of this Ordinance and to prevent or minimize adverse effects from the proposed administrative adjustment. Conditions, where imposed, shall be included as part of the approval.

(7) Subsequent Development

Development authorized by the administrative adjustment shall not be carried out until the applicant secures all other permits or development approvals required by this Ordinance or any other applicable provisions of the city. An administrative adjustment, in itself, shall not ensure that the development approved as an administrative adjustment shall receive subsequent approval for any other necessary applications for permit or development approval.

(8) Effect

Issuance of an administrative adjustment shall authorize only the particular administrative adjustment that is approved in accordance with this section. The administrative adjustment shall run with the land and not be affected by a change in ownership.

(9) Expiration

(a) Unless otherwise specified in the administrative adjustment approval, an application for a building permit shall be applied for and approved within one year of the date of the approval of the administrative adjustment; otherwise, the administrative adjustment shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

(b) Upon written application submitted at least 30 days prior to the expiration of the administrative adjustment by the applicant, and upon a showing of good cause, the Planning Director may grant one extension not to exceed six months. The approval shall be deemed extended until the Planning Director has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the administrative adjustment null and void, and the development approval shall automatically expire.

(10) Amendment

An administrative adjustment may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(11) Appeal

An appeal from the Planning Director's decision on an administrative adjustment application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(I) Certificate of Appropriateness (COA)

(1) Purpose and Intent

The purpose and intent of this section is to establish procedures and standards for the review of certificates of appropriateness (COAs) for development in the city's historic districts.

(2) Authority

(a) The Planning Director shall review and decide administrative COA applications, which include certain minor actions as established in the approval matrix in the standards and guideline documents for each historic district, as adopted by City Council.

(b) The Downtown Design Commission shall review and decide applications for COAs within the Downtown D1 district.

(c) The HPC shall review and decide all other COA applications.

(3) Applicability

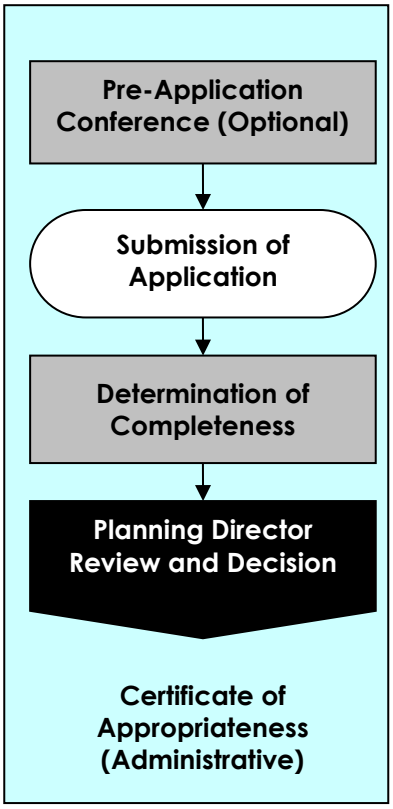
(a) In General

Unless exempted in accordance with Section 40.1-2.3(I)(4) Exemptions, a COA is required prior to any material change in the appearance of a building, structure, or site located in an historic district (See Section 40.1-3.6(F), Historic Districts). For purposes of this section, a "material change in appearance" shall include construction, reconstruction, exterior alteration, demolition, or relocation that affects the appearance of the building, structure, or site, or that of a contributing or noncontributing building, structure, or site.

(b) Action on Publicly Owned Historic Structures

(i) The Planning Director or other appropriate city official shall file an application for a certificate of appropriateness for the proposed construction, alteration, renovation, or razing of any historic city-owned building or structure, and shall adhere to all other requirements of this Ordinance.

(ii) For buildings and structures owned by other governmental entities or public utilities companies, the City Manager shall request that such owners submit an application for a COA and adhere to all requirements of this section.



(4) Exemptions

The following development shall be exempted from the requirements of this section:

(a) Repairs, maintenance, painting, or alteration of any feature the Building Official certifies is required due to an unsafe or dangerous condition.

(b) The normal repair and maintenance of any exterior architectural feature;

(c) Ordinary yard maintenance in the historic districts to correct deterioration, decay or damage, or to sustain the existing form that does not involve a material change in design, material, color or outer appearance;

(d) Repainting resulting in the same color, except that the original painting of masonry surfaces is not exempted from review.

(e) Replacing broken windowpanes, missing roof shingles, or missing features with matching in-kind materials;

(f) Addition or deletion of television or radio antennas, skylights, or solar collectors in locations not visible from a public street;

(g) Planting of grass, trees and shrubs, but not landscape treatment that substantially alters the contour of a site or involves landscaping or construction of parking areas, fences, walls, walkways, pools, fountains, and the like which materially affect the appearance of a site and that is visible from a public street;

(h) Any changes to a structure that is not visible from a public street.

(5) Order of Approvals

A COA shall be approved prior to an applicant receiving approvals for any other permits or development approvals required by this Ordinance.

(6) Procedure for Administrative Review of Certificates of Appropriateness

(a) Basic Procedures

Except as modified in this section, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications are as established in Section 40.1-2.2., Common Review Procedures.

(b) Review and Action by the Planning Director

(i) Upon receipt of a complete application, the Planning Director shall review the application and take one of the following actions based on the standards in Section 40.1-2.3(I)(8), Certificate of Appropriateness Review Standards:

a. Approval of the application as submitted; or

b. Denial of the application.

(ii) The Planning Director shall be guided in decisions by the standards and guidelines established for the HPC and shall have the authority to request modifications of the applicant of a specific proposal in order that such proposal may comply with said standards and guidelines.

(iii) In any case where the Planning Director is uncertain of authority to act on a particular application, or in any case where the Planning Director and the applicant cannot agree on changes in the proposal, or if the Planning Director otherwise fails to issue such COA within 30 days, the application shall be referred to the HPC for action in accordance with to Section 40.1-2.3(I)(9), HPC Review of Certificates of Appropriateness. A written report/agenda shall accompany any application forwarded to the HPC.

(iv) The Planning Director shall report, in writing, to the HPC at each regular meeting on all COAs issued through this administrative review process.

(v) Copies of a COA shall be clearly posted in a location visible to the public during the construction or repair process.

(7) Procedure for Review by the Downtown Design Committee

The DDC shall review and decide applications for a COA in accordance with the standards in this subsection and Appendix A of this Ordinance.

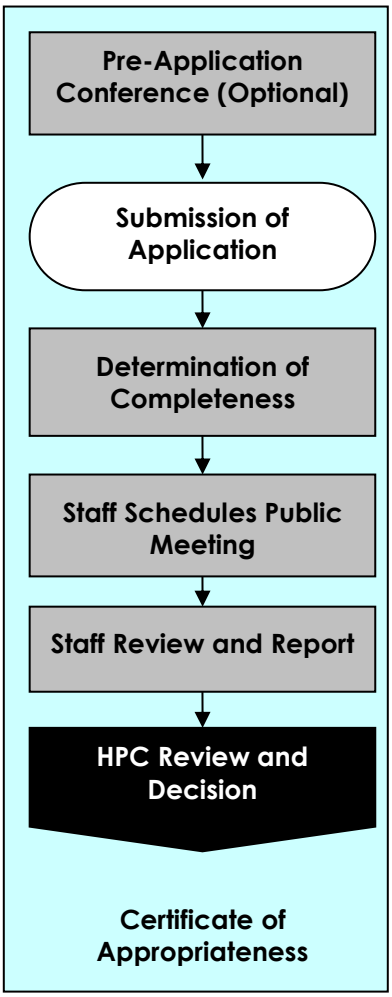
(8) Procedure for HPC Review of Certificates of Appropriateness

(a) Applicability

All development that requires a COA that is not subject to administrative review, or review by the DDC, shall be subject to HPC review in accordance with this subsection.

(b) Basic Procedures

Except as modified in this section, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications are as established in Section 40.1-2.2, Common Review Procedures.



(c) Public Hearing, Review, and Decision by the HPC

Following staff review and public notification conducted in accordance with Section 40.1-2.2(J), Public Notification, the HPC shall conduct at least one standard public hearing on the application in accordance with Section 40.1-2.2(K), Hearing Procedures.

(i) After close of the hearing, the HPC shall consider the application, relevant support materials, the staff report, and any comments given by the public; and

(ii) The HPC, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions, based on the standards in Section 40.1-2.3(I)(9), Certificate of Appropriateness Review Standards, or Section 40.1-2.3(I)(9), Certificate of Appropriateness for Relocation, or Section 40.1-2.3(I)(10), Certificate of Appropriateness for Demolition (as applicable):

a. Approval of the application as submitted;

b. Approval of the application with conditions (See Section 40.1-2.2(M), Conditions of Approval);

c. Denial of the application.

(iii) Unless the applicant agrees to an extension of time in writing, the failure of the HPC to take action on a COA application within 60 days from the date of application shall be deemed to constitute approval of the plans and specifications as submitted, and the Building Official shall issue any required permit, subject to the separate requirements for such permit.

(9) Certificate of Appropriateness Standards

(a) The standards of this section shall apply to all COA applications except for a COA application for relocation that is subject to Section 40.1-2.3(I)(9), Certificate of Appropriateness for Relocation, or an application for demolition that is subject to Section 40.1-2.3(I)(10), Certificates of Appropriateness for Demolition.

(b) The Planning Director, HPC, or DDC (as appropriate), shall approve the application and issue a COA upon a finding the proposed material change(s) in appearance would not have a substantial adverse effect on the aesthetic, cultural, historic, or architectural significance and value of the historic structure or the historic district in accordance with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, including the following:

(i) The property is used as it was historically or is given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

(ii) The historic character of the property is retained and preserved.

(iii) The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.

(iv) Each property is recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, are not undertaken.

(v) Changes to a property that have acquired historic significance in their own right are retained and preserved.

(vi) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property are preserved.

(vii) Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials. Replacement of missing features is substantiated by documentary and physical evidence.

(viii) Chemical or physical treatments, if appropriate, are undertaken using the gentlest means possible. Treatments that cause damage to historic materials are not used.

(ix) Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.

(x) New additions, exterior alterations, or related new construction does not destroy historic materials, features, and spatial relationships that characterize the property. The new work is differentiated from the old and is compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(xi) New additions and adjacent or related new construction is undertaken in a manner that, if removed in the future, the essential form and integrity of the historic property and its environment is unimpaired.

(c) It is not the intent of the city or this Ordinance to discourage contemporary architectural expression, or to require the emulation of existing structures of historic or architectural interest in specific detail. Harmony or incompatibility shall be evaluated in terms of the appropriateness of the architectural features, materials, scale, size, height, and placement of a new structure in relationship to existing structures and to the setting.

(d) In making this determination, the HPC or DDC (as appropriate), shall further consider compatibility with the standards and guidelines as adopted by City Council, with accompanying additions and amendments, in addition to any other pertinent factors.

(10) Certificate of Appropriateness for Relocation

(a) Procedure

All COA applications for relocation shall be reviewed by the HPC or DDC (as appropriate), pursuant to Section 40.1-2.3(I)(7), Procedure for HPC Review of Certificates of Appropriateness.

(b) Relocation Criteria

A decision by the HPC or DDC (as appropriate), approving, approving with conditions, or denying a COA for the relocation of an historic structure, building, site, or object shall be based on:

(i) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object;

(ii) The importance of the historic structure, site, or object to the ambiance of a district;

(iii) Whether there are definite plans for the property to be vacated and what the effect of those plans on the character of the surrounding area will be;

(iv) Whether the historic structure, building, site, or object can be moved without significant damage to its physical integrity; and

(v) Whether the proposed relocation area is compatible with the scenic, cultural, aesthetic, historical, and architectural character of the building, structure, site, or object.

(11) Certificate of Appropriateness for Demolition

(a) Procedure

All COA applications for demolition shall be reviewed by the HPC or DDC (as appropriate), pursuant to Section 40.1-2.3(I)(7), Procedure for HPC Review of Certificates of Appropriateness.

(b) Findings and Decision

(i) If preservation of a historic structure is found by the HPC or DDC (as appropriate), to be physically or economically unfeasible according Section 40.1-2.3(I)(10)(c), Demolition Criteria, the HPC or DDC (as appropriate), shall issue the COA.

(ii) If preservation is found to be both physically and economically feasible, the HPC or DDC (as appropriate), shall take or promote the taking of whatever public or private action that seems likely to lead to such preservation, either on the site on which the historic structure is located or on another site to which it might appropriately be moved.

(iii) Where preservation is feasible but the applicant still seeks demolition, the following provisions of Section 40.1-2.3(I)(10)(d), Right to Demolish, from the Code of Virginia may be undertaken while alternatives for preservation are sought.

(c) Demolition Criteria

A decision by the HPC or DDC (as appropriate), approving or denying a COA for the demolition of an historic structures, buildings, site, or objects shall be based on:

(i) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object;

(ii) The importance of the historic structure, building, site, or object to the ambiance of a district;

(iii) The difficulty or the impossibility of reproducing such a structure, building, site, or object because of its design, texture, material, detail, or unique location;

(iv) Whether the historic structure, building, site, or object is one of the last remaining examples of its kind in the neighborhood or the city;

(v) Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be;

(vi) Whether reasonable measures can be taken to save the historic structure, building, site, or object from collapse; and

(vii) Whether the historic structure, building, site, or object is capable of earning reasonable economic return on its value.

(d) Right to Demolish

The owner of an historic property or the owner of a building, structure, site, or object in any historic district, shall, as a matter of right, be entitled to raze or demolish such structure, building, site, or object provided, that:

(i) The land owner has applied to the HPC for such right. If the demolition request is denied by the HPC, the owner may appeal this decision in accordance with Section 40.1-2.3(K), Appeals;

(ii) The land owner has made a bona fide offer to sell the structure, building, site, or object, and the land pertaining therein for the time period established in Table 40.1-2.3(I), Time Schedule for Selling Property, and at a price reasonably related to its fair market value. Such offer must be made to the city or to any other person, government, or agency, which gives reasonable assurance that it is willing to preserve and restore the structure, building, site, or object and the land pertaining thereto;

(iii) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building, structure, site, or object and the land pertaining thereto, prior to the expiration of the applicable time period set forth in Table 40.1-2.3(I), Time Schedule for Selling Property. Any appeal which may be taken to the court from the decision of the City Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above;

(iv) No offer to sell shall be made more than one year after a final decision by the City Council, but thereafter the owner may renew his request to the HPC or DDC (as appropriate), to approve the demolition of the historic landmark, building, or structure.

TABLE 40.1-2.3(I): TIME SCHEDULE FOR SELLING PROPERTY

OFFER PRICE	TIME PERIOD PROPERTY HAS BEEN FOR SALE AT OFFER PRICE
Less than $25,000	3 months
$25,000 to $40,000	4 months
$40,000 to $55,000	5 months
$55,000 to $75,000	6 months
$75,000 to $90,000	7 months
$90,000 or more	12 months

(12) Demolition by Neglect

(a) Allowing a historic structure within a historic district to deteriorate due to neglect is a violation of this Ordinance. Deterioration due to neglect shall constitute demolition by neglect when:

(i) Deterioration of the exterior of a building occurs to the extent that it creates, or permits, a hazardous or unsafe condition; or

(ii) Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar occurs to the extent that it adversely affects the character of the district or could reasonably lead to irreversible damage to the structure or lead to a hazardous condition.

(b) The HPC or DDC, as appropriate, shall monitor the condition of historic properties for demolition by neglect. In the event that the HPC or DDC receives a complaint or determines that a structure is being demolished by neglect, it shall notify the Planning Director, and describe the actions needed to address the violation.

(13) Undue Hardship

(a) The HPC or DDC (as appropriate), shall have the power to reduce or suspend any of the requirements of this section, if the historic structure presents special circumstances whereby the strict compliance of this section will produce an undue hardship or if the spirit of the section has been met and deviation has been deemed to be in the best interest of the city.

(b) In granting a hardship the HPC or DDC (as appropriate), shall make the following findings of fact in writing:

(i) Strict compliance with the regulation provides the property owner no reasonable use of the property;

(ii) The hardship results from application of the regulation to the property;

(iii) The hardship is one that affects the property directly;

(iv) The hardship is not the result of the property owner's own actions - that is, special circumstances or conditions causing the hardship exist through no fault of the property owner;

(v) The hardship is peculiar to the property;

(vi) Financial considerations, unless they greatly decrease or destroy the property's value, do not constitute a legal hardship; and

(vii) That 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 this Ordinance.

(14) Conditions of Approval

(a) The HPC or DDC (as appropriate), may approve a COA with conditions where it deems the conditions necessary to meet the applicable standards and guidelines as well as the requirements of this Ordinance.

(b) If the application does not meet the city's adopted standards and guidelines or the applicant does not agree to the proposed conditions, the HPC or DDC (as appropriate), shall deny the request. Under no circumstance shall the HPC or DDC (as appropriate), approve a set of conditions without the applicant's approval.

(15) Effect of Decision

Where the exterior appearance of any historic structure is involved:

(a) No building permit shall be issued for erection, alteration or improvement, unless a COA has first been issued;

(b) No certificate of occupancy shall be issued unless the project is constructed in compliance with the COA;

(c) Exterior alterations that do not require a building permit but which can change the exterior appearance of the building or structure such as replacement of doors and windows shall not be constructed or installed unless a COA has first been obtained;

(d) During construction or installation, the COA shall be posted on the property in a location where it is visible from the public right-of-way and a complete set of the approved plans shall be retained on the premises and shall be made available to designated staff;

(e) In cases of denial where the proposed change would require the issuance of a building permit, the rejection of the application for a COA by the HPC shall be binding upon the designated staff charged with issuing building permits and, in such a case, no building permit shall be issued.

(16) Transfer

A COA shall be transferable to subsequent owners of the property for which the certificate is issued.

(17) Expiration

(a) An approved COA shall be valid for a period of one year from date of issuance. All work approved and initiated under a COA shall be completed within one year of issuance.

(b) Without an approved extension, after one year from issuance of a COA, an owner shall obtain a new certificate in order to commence any previously approved work or to complete any work. Once begun, no project or work shall be left partially-completed.

(c) On written request from the applicant, the HPC or DDC (as appropriate), may grant a single extension of its approval for a period of up to one additional year if, based upon submissions from the applicant, the HPC or DDC (as appropriate), finds that conditions on the site and in the area of the proposed project are essentially the same as when approval was originally granted.

(d) Any COA shall also expire and become null and void if such authorized work is suspended or abandoned for a period of one year after being commenced. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this chapter shall be excluded from the computation of the 12 months.

(18) Amendment

A COA may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(19) Appeals

(a) General

Appeals from any action or decision of the HPC or DDC (as appropriate), in granting or refusing to grant a COA a permit pursuant to the provisions of this article may be taken to the City Council for review, by setting forth in writing the alleged error of the action or decision of the HPC or DDC (as appropriate),, provided such petition is:

(i) Filed within 30 days after the HPC or DDC (as appropriate), final decision; and

(ii) Further provided that the basis for such appeal shall be limited to an alleged error by the HPC in finding that the proposed erection, alteration, reconstruction, or restoration of a structure would not be architecturally compatible with the historic properties, buildings, or structures within the historic district.

(b) Procedure for Appeals of HPC or DDC Decisions

(i) An Appeal Review Committee (ARC) shall be created consisting of the Planning Director and **,** the Building Official and a Deputy City Manager designated by the City Manager to determine whether there are legitimate grounds for such an appeal before placing the appeal on the City Council agenda.

(ii) Upon the filing of an appeal, the ARC shall review the request to determine if there are grounds for appeal based on Sections 40.1-2.3(I)(9), (10), and (11).

(iii) If the ARC finds that there are no grounds for appeal, they shall notify the applicant in writing of their decision. An appeal of the ARC's decision may be taken by the applicant to the circuit court of the City of Portsmouth for review by filing a petition at law which sets forth the alleged error of the action or decision provided that such petition is filed within 30 days after the final decision is rendered by the ARC.

(iv) If the ARC finds that there are grounds for appeal, they shall forward the request to the City Clerk so the matter may be placed on the City Council agenda. When a matter is forwarded to the City Council, a written conclusion from the ARC shall accompany the appeal.

(v) City Council shall hear the appeal and either reverse or affirm the decision of the HPC based on an error in findings.

(vi) If City Council fails to reverse the HPC's findings and upholds the HPC decision, an appeal may be taken by the applicant to the circuit court of the City of Portsmouth for review by filing a petition at law which sets forth

the alleged error of the action or decision provided that such petition is filed within 30 days after the final decision is rendered by the City Council.

(c) Procedure for Appeals of Planning Director Decisions

An appeal from the Planning Director's decision on a COA application shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeal.

(d) Stay

Filing of an appeal, whether an appeal of the HPC, DDC, ARC, or City Council's decision, shall stay the appealed decision pending outcome of the appeal except that such filing will not stay the decision if such decision denies the right to raze or demolish a building or structure.

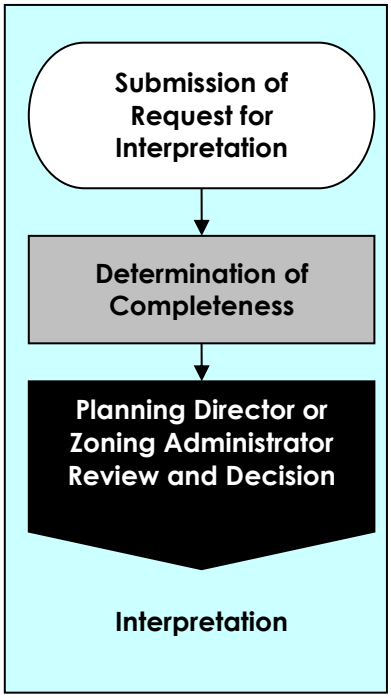
(20) Violations

Failure to obtain a COA or performance of work that surpasses or is in conflict with an approved COA is a violation of this Ordinance, and is subject to the applicable remedies in Article 40-1.7: Enforcement.

(J) Interpretation

(1) Purpose and Intent

The purpose of this section is to outline a procedure for the interpretation of this Ordinance.



(2) Authority

(a) Interpretations of the text of this Ordinance and the official zoning map shall be made by either the Planning Director or the Zoning Administrator, in consultation with the City Attorney, in accordance with subsections (b) and (c) below.

(b) The Zoning Administrator shall be responsible for making the following interpretations:

(i) The dimensional standards in Article 40.1-3: Zoning Districts;

(ii) The use table and use classifications in Article 40.1-4: Use Standards; and

(iii) The official zoning map boundaries (Section 40.1-1.7(D), Interpretation of Official Zoning Map Boundaries), and 40.1-3: Zoning Districts.

(c) The Planning Director shall be responsible for interpretations of all other matters related to this Ordinance, including conditions of approval and for all permits and development approvals.

(3) Procedure

(a) Initiation

A written interpretation may be requested by the City Council, Planning Commission, BZA, HPC, any resident or landowner in the city, or any person having a contractual interest in land in the city.

(b) Basic Procedures

The procedures and requirements for the submission, completeness determination, review, and decision on a Request for Interpretation are as established in Section 40.1-2.2, Common Review Procedures.

(c) Review and Action by the Planning Director or Zoning Administrator

Within a reasonable period after the Request for Interpretation is determined complete, the Planning Director or Zoning Administrator, as appropriate, shall review the request and render an interpretation, based on the standards in Section 40.1-2.3(J)(4), Standards for Interpretation.

(4) Standards for Interpretations

(a) Interpretation of Official Zoning Map

When the request is for an Interpretation of zoning district boundaries on the official zoning map, the Zoning Administrator shall apply the standards in Section 40.1-1.7(D), Interpretation of Official Zoning Map Boundaries, and consider the request in light of the comprehensive plan, this Ordinance, the official zoning map, the City Code, Code of Virginia (1950), as amended, and other relevant codes and statutes.

(b) Unspecified Uses

When the request is for an interpretation of whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district, the Zoning Administrator shall apply the standards of Section 40.1-4.2, Use Classifications, Use Categories, and Use Types, in making the interpretation.

(c) Other Interpretations, Including Proffers and Conditions of Approval

For other written interpretations, the Planning Director shall evaluate the request in light of the comprehensive plan, this Ordinance, the official zoning map, the City Code, the Code of Virginia (1950), as amended, other relevant codes and statutes, and any previously approved permits or development approvals (if applicable).

(d) All Interpretations

When making written interpretations, the Planning Director or Zoning Administrator, as appropriate, shall consult with the City Attorney and other affected city officials before rendering the interpretation.

(5) Form and Notification of Interpretation

The interpretation shall be in writing, approved as to form by the City Attorney, and sent to the applicant by mail within a reasonable period of time after the Request for Interpretation is made.

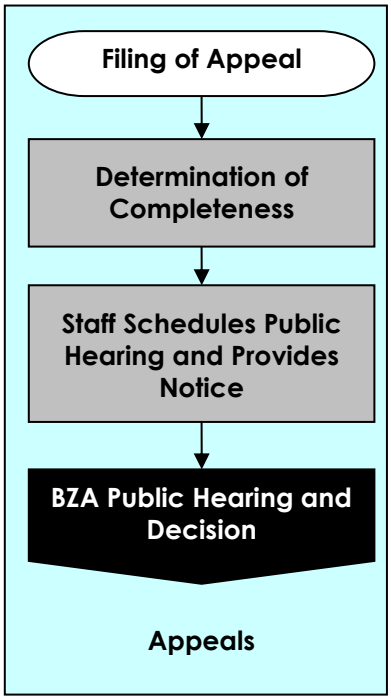
(6) Official Record

The Planning Director shall maintain a record of written interpretations that shall be available for public inspection in the office of the Planning Director, upon reasonable request, during normal business hours.

(7) Appeal

An appeal from a written interpretation shall be reviewed and decided by the BZA in accordance with Section 40.1-2.3(K), Appeals.

(K) Appeal



(1) Purpose and Intent

The purpose of this section is to establish a procedure and standards for any person aggrieved by any decision or interpretation related to this Ordinance made by the Zoning Administrator or Planning Director (except for the Planning Director's decisions on type I development plans, minor subdivision plats, and final subdivision plats), to appeal the decision or interpretation to the Board of Zoning Appeals (BZA).

(2) Initiation

An appeal on a decision or interpretation may be initiated by any person aggrieved by any decision or interpretation related to this Ordinance made by the Zoning Administrator or Planning Director (except for the Planning Director's decisions on type I development plans, minor subdivision plats, and final subdivision plats). The appeal shall be initiated by filing a written Notice of Appeal, with the Planning Director, along with the appropriate fee, within 30 days of the date of the decision or interpretation.

(3) Procedure

(a) Contents of Appeal

The written Notice of Appeal shall include a statement of the error or improper decision or interpretation, the date of that decision, the grounds for the appeal, and all related support materials.

(b) Forwarding the Record

Upon receiving the written Notice of Appeal, the Planning Director shall transmit it and all papers, documents and other materials relating to the decision or interpretation that is being appealed, to the BZA. This material shall constitute the record on the appeal.

(c) Public Hearing, Review, and Decision by the BZA

(i) Following staff review and public notification in accordance with Section 40.1-2.2(J), Public Notification, the BZA shall conduct a public hearing on the appeal.

(ii) At the hearing on the appeal, the BZA shall consider the application, relevant support materials, the staff report, and any comments given by the public. The appellant or the appellant's agent shall state the grounds for the appeal and identify any materials or evidence from the record to support the appeal. The Planning Director or Zoning Administrator, as appropriate, shall be given an opportunity to respond, as shall any other city administrative official or person(s) the BZA deems necessary and appropriate.

(iii) After the conclusion of the hearing, the BZA, by majority vote of a quorum present, shall either affirm, partly affirm, modify, reverse, or partly reverse the decision or interpretation, based on the standards in Section 40.1-2.3 (K)

(4), Appeal Standards. The decision shall be made on the appeal within 60 days of the date of the filing of the written Notice of Appeal.

(4) Appeal Standards

A decision or interpretation of the Zoning Administrator or Planning Director, whichever is appropriate, shall be presumed correct, and may not be reversed or modified unless there is evidence in the record that the decision is not correct, based on the relevant procedures and review standards of this Ordinance. The BZA shall consider the purpose and intent of any applicable provisions of this Ordinance and other relevant ordinances, laws, and regulations in making its decision.

(5) Stay

An appeal shall stay all administrative proceedings by the city in furtherance of the action appealed from, unless the Zoning Administrator or Planning Director certifies to the BZA that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the circuit court.

(6) Appeal

Any person jointly or severally aggrieved by any decision of the BZA, or any aggrieved taxpayer or any officer, department, commission, or the city, within 30 days of the date of the decision of the BZA, may appeal the decision of the BZA on the decision to the circuit court of the City of Portsmouth in accordance with Code of Virginia (1950), as amended.

ARTICLE 40.1-3:
Zoning Districts

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ARTICLE 40.1-3: ZONING DISTRICTS

40.1-3.1 GENERAL PROVISIONS

(A) Types of Zoning Districts

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

(B) Compliance with District Standards

No land within the city shall be developed except in accordance with the zoning district regulations of this article and all other regulations of this Ordinance, including but not limited to, Article 40.1-4: Use Standards, and Article 40.1-5: Development Standards.

40.1-3.2 BASE ZONING DISTRICTS ESTABLISHED

Table 40.1-3.2, Base Zoning Districts Established, sets out the base zoning districts and overlay zoning districts established by this Ordinance. Base zoning districts are grouped into Residential, Business, Activity Center, and Special districts.

TABLE 40.1-3.2: BASE ZONING DISTRICTS ESTABLISHED

DISTRICT ABBREVIATION	DISTRICT NAME
RESIDENTIAL DISTRICTS	
NR	Neighborhood Residential
GR	General Residential
UR	Urban Residential
UR-H	High Density Urban Residential
BUSINESS DISTRICTS	
NMU	Neighborhood Mixed-Use
GMU	General Mixed-Use
MU-H	High Intensity Mixed-Use
IL	Light Industrial
IN	Industrial
ACTIVITY CENTER DISTRICTS	
NAC	Neighborhood Activity Center
CAC	Community Activity Center
RAC	Regional Activity Center
SPECIAL DISTRICTS	
WF	Waterfront
D1	Downtown D1
D2	Downtown D2
HR	Historic Residential
HLO	Historic Limited Office
HLB	Historic Limited Business

TABLE 40.1-3.2: BASE ZONING DISTRICTS ESTABLISHED	
DISTRICT ABBREVIATION	DISTRICT NAME
PG	Preservation/Government

(A) Classification of Base Zoning Districts

Land shall be classified or reclassified into a base zoning district only in accordance with the procedures and requirements set forth in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment.

(B) Relationship to Overlay Zoning Districts

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise in this Ordinance. If the standards governing a base zoning district expressly conflict with those governing an overlay zoning district, the standards governing the overlay zoning district shall control, unless expressly stated otherwise in this Ordinance.

(C) Organization of Base Zoning District Regulations

Sections 40.1-3.3 through 40.1-3.6 set out the general purposes of each group of base zoning districts and contain subsections that set out the purpose and bulk and dimensional standards for each individual base zoning district. These subsections have a common structure consisting of a purpose statement, applicable dimensional standards, photographs showing a hypothetical set of building forms for the district, graphic depictions of hypothetical street layout and lot patterns, and a hypothetical graphic depiction of the district's bulk and dimensional standards as applied to typical lot patterns and building forms. Article 40.1-4: Use Standards, includes Table 40.1-4.1(A), Use Table, a summary use table specifying permitted, special uses, and allowable uses for each of the base zoning districts and references any standards specific to individual uses.

(D) Diagrams for Illustrative Purposes Only

The building form photographs, lot pattern diagrams, and typical building configuration graphics are for illustrative purposes only, and may not be consistent with all the dimensional requirements. In these cases, the text of this Ordinance shall control.

(E) Retention of Original Dimensional Provisions

One copy of each of the base district tables containing dimensional requirements shall be kept on file without alteration in the office of the Planning Director. These copies shall be called the "Original Tables of Dimensional Requirements." When amendments to the text of this Ordinance alter the provisions contained within the Original Tables of Dimensional Requirements, each such alteration shall be identified by ordinance number and shall be filed with the Original Tables of Dimensional Requirements. In case of any dispute as to the contents of the dimensional standards in this Ordinance, the Original Tables of Dimensional Requirements, and any subsequent alterations, shall control.

40.1-3.3 RESIDENTIAL BASE ZONING DISTRICTS

(A) General Purposes

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

(1) Provide appropriately located lands for residential development that are consistent with the comprehensive plan;

(2) Ensure adequate light, air, privacy, and recreational and open space areas for each dwelling, and protect residents from the negative effects of noise, excessive population density, traffic congestion, flooding, and other significant adverse environmental impacts;

(3) Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;

(4) Provide for a diverse range of residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units;

(5) Provide for safe and efficient vehicular access and circulation and promote bicycle-, pedestrian-, and transit-friendly neighborhoods;

(6) Provide for public services and facilities needed to serve residential areas and accommodate public and semi-public land uses that complement residential development or require a residential environment while protecting residential areas from incompatible nonresidential development;

(7) Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the city's goals and objectives; and

(8) Preserve the unique character and resources of the traditional neighborhoods and the community.

(B) Residential Mobile Home (RMH) District

The RMH district standards are included in Appendix C of this Ordinance.

(C) Neighborhood Residential (NR) District

PURPOSE AND INTENT

The Neighborhood Residential (NR) district is established to accommodate single-family detached residential dwellings at low densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family detached dwellings or that is detrimental to the quiet residential nature of the district. The district also accommodates accessory dwelling units and complementary uses usually found in residential zoning districts such as parks, open space, community gardens, religious institutions and minor utilities. , Elementary schools, family care homes, small day care facilities, golf courses, country clubs, and major utilities are allowed subject to a use permit (See Section 40.1-2.3(B), Use Permit).

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

Standard		Residential Uses	Institutional Uses
Density	Density, Maximum (DU/AC)	1.5; (not applicable if contextual lot size standards are used)	N/A
Lot Area	Lot Size, Minimum	The lesser of: 30,000 sf, or the average lot size of lots within 300 feet along the same block face, provided there are 3 or more lots within the 300-foot area	30,000 sf
	Lot Width, Minimum	The lesser of: 150 feet, or the average lot width of lots within 300 feet along the same block face, provided there are 3 or more lots within the 300-foot area	150 ft
	Building Coverage, Maximum (%)	45	
Required Yards	Front, Minimum	The lesser of: 40 ft, or the average front yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area	40 ft
	Side, Minimum	The lesser of: 10 ft, or the average side yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area - except no side yard shall be less than 5 feet unless part of a zero side lot line development	10 ft
	Rear, Minimum	The lesser of: 40 ft, or the average rear yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area	40 ft
	Corner, Side Minimum	15 ft	

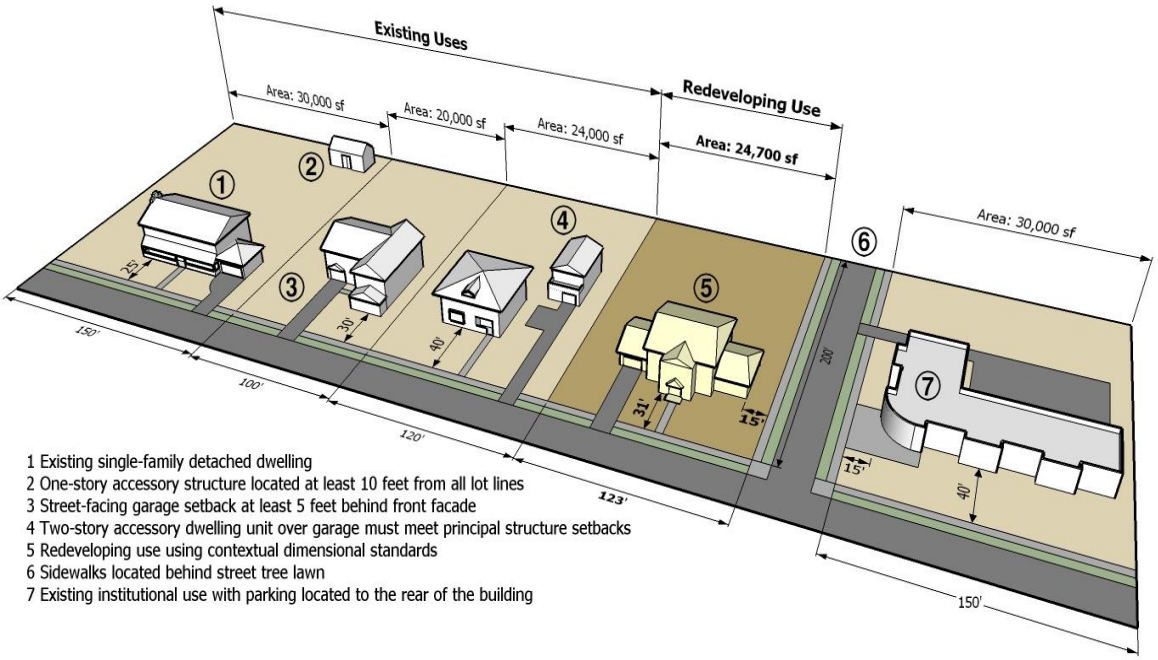
	STANDARD	RESIDENTIAL USES	INSTITUTIONAL USES
	Accessory Structure, Minimum (ft)	10 if 600 sf in size or smaller; otherwise same as principal use [1] [2]	
	Garage Setback, Minimum	Even with or behind front façade	
BLDG. FORM	Height, Maximum (ft/stories) [3][5]	36/4	36/3
	Accessory Structure Size, Maximum	800 square feet [4]	

TYPICAL LOT PATTERN

NOTES

"sf" = square feet; "ft" = feet'; "DU" = dwelling units; "AC" = acre
[1] No accessory structure/building may be located between the principal building and any front or side street.
[2] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[3] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[4] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.
[5]No accessory structure excepting Amateur Ham Radio and Television Antennas may exceed the height of the existing principal structure.

TYPICAL DEVELOPMENT CONFIGURATION



(D) General Residential (GR) District

PURPOSE AND INTENT

The General Residential (GR) district is established to accommodate primarily single-family detached, attached residential, and two-to four-family dwellings, subject to design standards to ensure their compatibility with the single-family character of the district, at moderate densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family or two-to-four family dwellings, or that is detrimental to the quiet residential nature of the district. The district also accommodates accessory dwelling units and complementary uses usually found in residential zoning districts such as parks, open space, public golf courses, community centers, elementary and middle schools, home child care uses, religious institutions, and minor utilities. High schools, , country clubs, adult and child care centers, hospitals, and major utilities are allowed subject to a use permit (See Section 40.1-2.3(B), Use Permit).

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

STANDARD		RESIDENTIAL USES	ALL OTHER USES
DENSITY	Density, Maximum (DU/AC)	5.0 (not applicable if contextual lot size standards are used)	N/A
	Intensity, Maximum (FAR)	N/A	0.6
LOT AREA	Lot Size, Minimum	The lesser of: 7,500 sf, or the average lot size of lots within 300 feet along the same block face, provided there are 5 or more lots within 300-foot area	10,000 sf
	Lot Width, Minimum	The lesser of: 50 feet, or the average lot width of lots within 300 feet along the same block face, provided there are 5 or more lots within the 300-foot area	70 ft
	Building Coverage, Maximum (%)	45	
REQUIRED YARDS	Front, Minimum	The lesser of: 25 ft, or the average front yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures on them within the 300-foot area	25 ft
	Side, Minimum	Attached & two-to-four family dwelling: 10 ft; For all other residential uses, the lesser of: 7 ft, or the average side yard on lots within 300 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area; No side yard shall be less than 5 feet unless part of a zero side lot line development[1]	10 ft
	Rear, Minimum	The lesser of: 25 ft, or the average rear yard on lots within 300 feet along on the same block face, provided there are 3 or more lots with existing residential structures within the 300-foot area [2] [3]	25 ft
	STANDARD	RESIDENTIAL USES	ALL OTHER USES

"sf" = square feet; "ft" = feet'; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

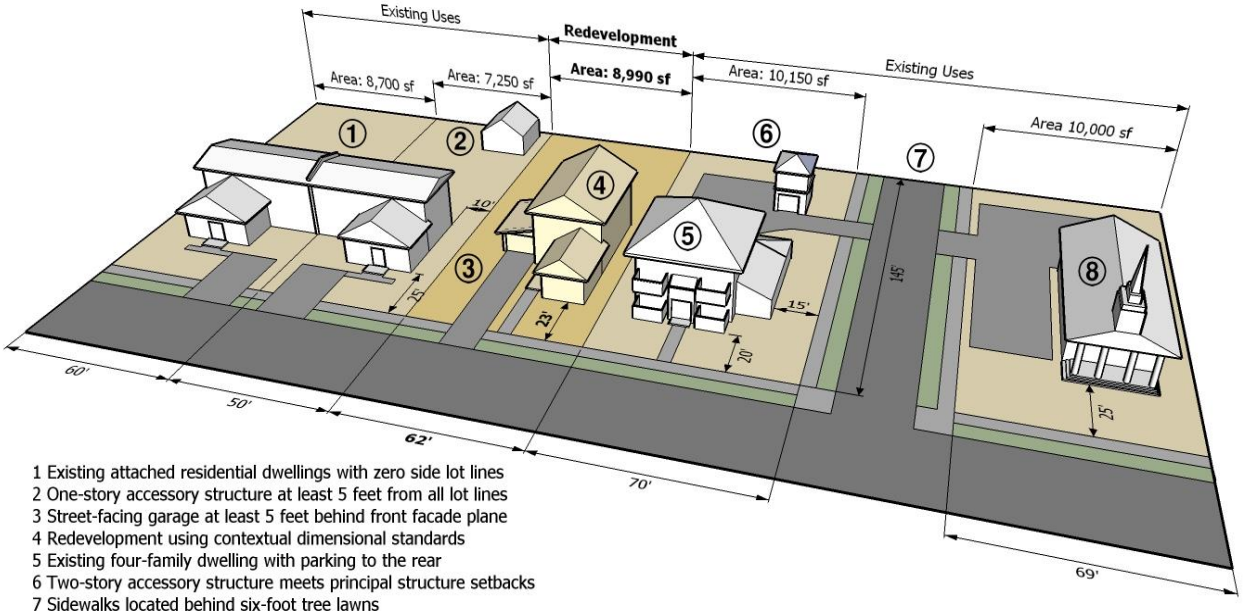
TYPICAL LOT PATTERNS

	Corner, Side Minimum	15 ft	
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise, same as principal use[4] [5]	
	Garage Setback, Minimum	Even with or behind the front façade	
BLDG. FORM	Height, Maximum (ft/stories) [6][8]	36/4	36/3
	Accessory Structure Size, Max.	800 square feet[7]	

NOTES

[1] An additional setback of five feet per floor over two floors shall be required.
[2] Rear yard setback may be reduced to 15 feet when there is a 25-foot corner side yard or there are no accessory structures or parking spaces in the rear yard.
[3] The minimum shall be 15 feet for lots platted before March 22, 1994.
[4] No accessory structure/building may be located between the principal building and any front or side street.
[5] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[6]Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[7] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.
[8]No accessory structure excepting Amateur Ham Radio and Television Antennas may exceed the height of the existing principal structure.

TYPICAL DEVELOPMENT CONFIGURATION



1 Existing attached residential dwellings with zero side lot lines
2 One-story accessory structure at least 5 feet from all lot lines
3 Street-facing garage at least 5 feet behind front facade plane
4 Redevelopment using contextual dimensional standards
5 Existing four-family dwelling with parking to the rear
6 Two-story accessory structure meets principal structure setbacks
7 Sidewalks located behind six-foot tree lawns
8 Existing institutional use with parking to the side and rear

(E) Urban Residential (UR) District

PURPOSE AND INTENT

The Urban Residential (UR) district is established to accommodate a diverse range of residential development as a principal use, along with mixed-use and neighborhood-serving commercial development. The district accommodates all forms of residential development, including single-family detached and attached dwellings, two-to-four family dwellings, townhomes, live/work units, multi-family dwellings, and residential dwellings above the first floor of commercial development. Also allowed are complimentary uses such as parks, open space, libraries, religious institutions, community centers, schools (elementary, middle, and high), child care centers, and minor utilities. Low-intensity, neighborhood-serving commercial and service uses are allowed to encourage diverse, functioning neighborhoods. Police and fire stations, assisted living facilities, nursing homes, marinas, professional services offices, financial institutions, and drug stores without drive-throughs are allowed subject to a use permit (See Section 40.1-2.3 (B), Use Permit.).

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

Standard		Residential Uses: Single-Family Detached Uses	Residential Uses: All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	8.0	18 (not applicable if contextual lot size standards are used) [1]	N/A
Density	Intensity, Maximum (FAR)	N/A		0.6
Lot Area	Lot Size, Minimum	The lesser of: 5,000 sf, or the average lot size of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	7,500 sf [1][2]	7,500 sf
Lot Area	Lot Width, Minimum	The lesser of: 35 feet, or the average lot width of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	24 feet, plus 5 feet for each end unit beyond 4 units	50 ft
Lot Area	Building Coverage, Maximum (%)	55		
Required Yards	Front, Minimum	The lesser of: 15 ft, or the average front yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area	15 ft	25 ft
Required Yards	Side, Minimum	The lesser of: 7 ft, or the average side yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area; No side yard shall be less than 5 ft unless part of a zero side lot line development	When abutting the end unit of a building: 10 ft; All others: 10 percent of the lot width, up to 15 ft; No side yard shall be less than 5 ft unless part of a zero side lot line development[3]	10 ft
	Standard	**Single-Family Detached Uses**	**All Other Residential Uses**	**All Other Uses**

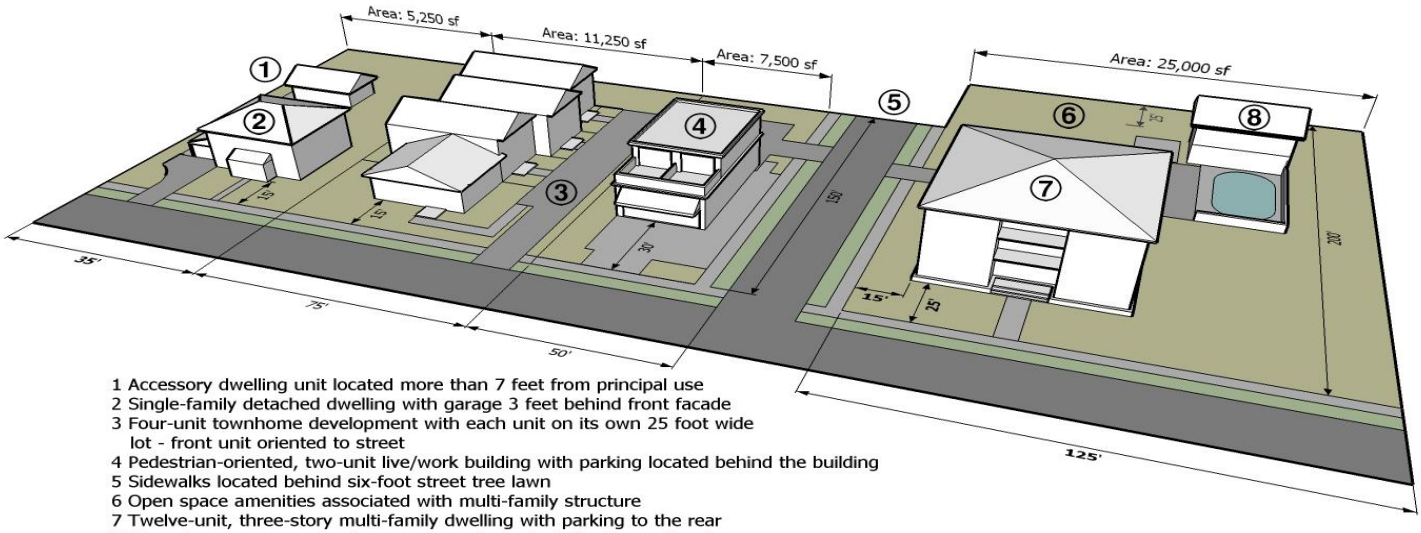
TYPICAL LOT PATTERN

	Rear, Minimum	The lesser of: 25 ft, or the average rear yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential within the 300-foot area [4][5]	25 ft [5]	25 ft	
	Corner Side, Minimum (ft)	10 ft.	15 ft.	10 ft.	
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise, same as principal use [6] [7]			
	Garage Setback, Minimum	Even with or behind front façade for all residential dwellings.			
BLDG. FORM	Height, Maximum (ft/stories) [7][8][9]	36/4		36/3 [8]	
	Accessory Structure Size, Maximum	800 square feet [9][10]			sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

NOTES

[1] Single-family attached, townhome, and two-to-four-family dwellings may develop without complying with the minimum lot size standard, provided the development does not exceed 8 units an acre and it complies with all other dimensional standards.
[2] Minimum lot size is applied to the entire development site for multi-family, attached, townhome, and two-to four-family dwellings.
[3] An additional setback of five feet per floor over two floors shall be required.
[4] Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard.
[5] The minimum shall be 15 feet for lots platted before March 22, 1994.
[6] No accessory structure/building may be located between the principal building and any front or side street.
[7] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[8] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[9] t. No accessory structure excepting Amateur Ham Radio and Television Antennas may exceed the height of the existing principal structure.
[10] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



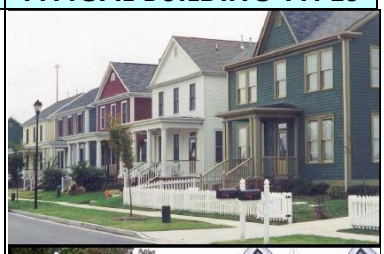
1 Accessory dwelling unit located more than 7 feet from principal use
2 Single-family detached dwelling with garage 3 feet behind front facade
3 Four-unit townhome development with each unit on its own 25 foot wide lot - front unit oriented to street
4 Pedestrian-oriented, two-unit live/work building with parking located behind the building
5 Sidewalks located behind six-foot street tree lawn
6 Open space amenities associated with multi-family structure
7 Twelve-unit, three-story multi-family dwelling with parking to the rear
8 Two-story accessory structure must meet principal structure setbacks

(F) High Density Urban Residential (UR-H) District

PURPOSE AND INTENT

The High Density Urban Residential (UR-H) district is established to accommodate a diverse range of residential development as a principal use, along with mixed-use and neighborhood-serving commercial development. The district accommodates most forms of residential development, including single-family attached dwellings, two-to-four-family dwellings, townhomes, live/work units, multi-family dwellings, and residential dwellings above the first floor of commercial development. Also allowed are complimentary uses such as parks, open space, libraries, religious institutions, community centers, schools (elementary, middle, and high), child care centers, and minor utilities. Neighborhood-serving commercial and service uses are allowed to encourage diverse, functioning neighborhoods. Police and fire stations, assisted living facilities, nursing homes, marinas, professional services offices, and financial institutions and drug stores with drive-throughs are allowed subject to a use permit (See Section 40.1-2.3(B), Use Permit.).

TYPICAL BUILDING TYPES



DIMENSIONAL STANDARDS

	Standard	Residential Uses: Single-Family Detached Uses	Residential Uses: Multi-Family Uses	Residential Uses: All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	N/A	25	20 (not applicable if contextual lot size standards are used) [1]	N/A
Density	Intensity, Maximum (FAR)	N/A			0.7
Lot Area	Lot Size, Minimum	The lesser of: 5,000 sf, or the average lot size of lots within 200 feet along the same block face, provided there are 5 or more lots within the 200-foot area	6,000 sf [2][3]	6,000 sf [1][2] [3]	6,000 sf
Lot Area	Lot Width, Minimum	25	25 feet, + 4 feet for each addt'l unit beyond 4 [3]	50 feet, + 4 feet for each additional unit beyond 3 [3]	25 ft
Lot Area	Building Coverage, Maximum (%)	65			
Required Yards	Front, Minimum	The lesser of: 10 ft, or the average front yard on lots within 200 feet along the same block face, provided there are 5 or more lots with existing single-family residential structures within the 200-foot area	10 ft	10 ft	10 ft
Required Yards	Side, Minimum	The lesser of: 7 ft, or the average side yard on lots within 200 feet along the same block face, provided there are 5 or more lots with existing residential structures on them within the 200-foot area; No side yard shall be less than 5 ft unless part of a zero side lot line development	When abutting an end unit of a building: 10 ft; All others: 10 percent of the lot width, up to 15 ft; No side yard shall be less than 5 ft unless part of a zero side lot line development [4]		10 ft
	Standard	**Residential Uses**			**All**

"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

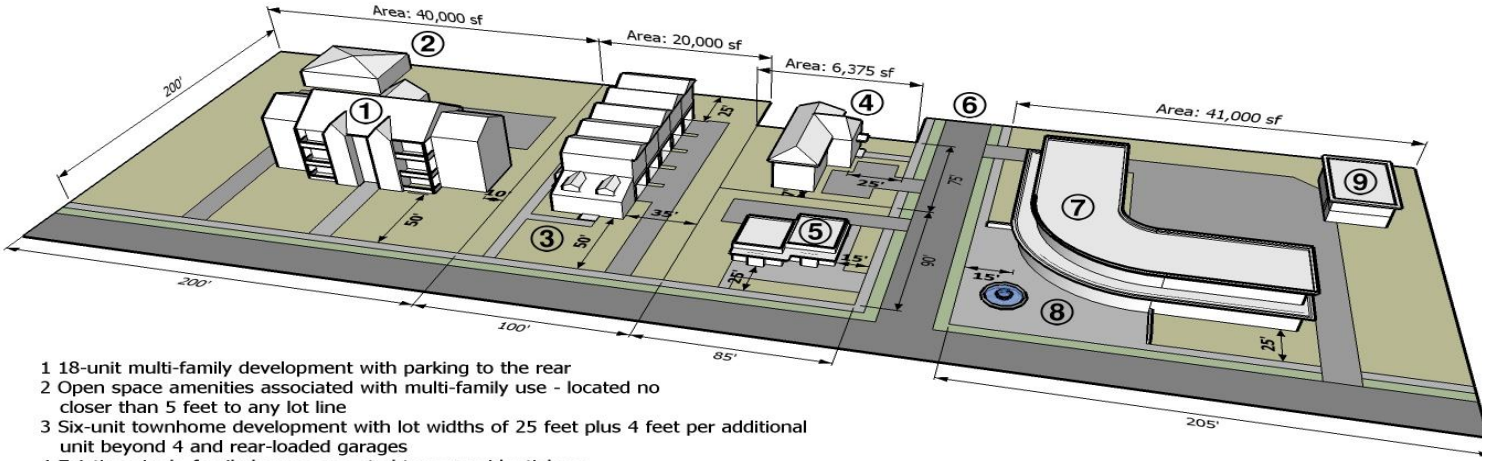
TYPICAL LOT PATTERN

		Single-Family Detached Uses	Multi-Family Uses	All Other Residential Uses	**OTHER USES**
	Corner, Side Minimum	10 ft	15 ft.		10 ft.
	Rear, Minimum	The lesser of: 25 ft, or the average rear yard on lots within 200 feet along the same block face, provided there are 5 or more lots with existing residential structures within the 200-foot area [4]	25 ft [4]	25 ft [4]	25 ft [5]
	Accessory Structure, Min. (ft)	5 in 600 sf in size or smaller; otherwise same as principal use [6] [7]			
	Garage Setback, Min.	Even with or behind front façade for all residential uses			
BLDG FORM	Height, Maximum (ft/stories) [8][10]	36/3 for single-family detached	45/5 for all other residential uses	45/5	
	Accessory Structure Size, Max.	800 square feet[9]			

NOTES

[1] Single-family attached, townhome, and two-to-four-family dwellings may develop without complying with the minimum lot size standard, provided the development does not exceed 16 units an acre and it complies with all other dimensional standards in this Ordinance.
[2] Minimum lot size shall be applied to the entire development site for multi-family, single-family attached, townhome, and two-to-four-family dwellings.
[3] Minimum lot requirements are applied to the entire development, not individual lots
[4] An additional setback of 5 feet per floor over three floors shall be required.
[5]Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard.
[6] No accessory structure/building may be located between the principal building and any front or side street.
[7] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[8] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[9]See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.
[10] No accessory structure excepting Amateur Ham Radio and Television Antennas may exceed the height of the existing principal structure.

TYPICAL DEVELOPMENT CONFIGURATION



1 18-unit multi-family development with parking to the rear
2 Open space amenities associated with multi-family use - located no closer than 5 feet to any lot line
3 Six-unit townhome development with lot widths of 25 feet plus 4 feet per additional unit beyond 4 and rear-loaded garages
4 Existing single-family home converted to nonresidential use
5 Neighborhood-serving, low-intensity retail development with parking and service functions to the rear of the building
6 Sidewalk located behind six-foot street tree lawn
7 Two-story, vertically-integrated mixed-use development with parking in the rear
8 Pedestrian-oriented open space features
9 Two-story accessory structure must meet principal building setbacks

40.1-3.4 BUSINESS BASE ZONING DISTRICTS

(A) General Purposes

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

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

(2) Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city;

(3) Provide employment opportunities for residents of surrounding communities;

(4) Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses;

(5) Create suitable environments for various types of mixed use development, where business, office, retail, and residential uses are designed and integrated in compatible ways;

(6) Establish a sense of place along the city's commercial corridors, with attractive shop fronts streetscapes, and multi-modal accessibility; and

(7) Minimize the impact of business development on residential districts and uses.

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(B) Neighborhood Mixed-Use (NMU) District

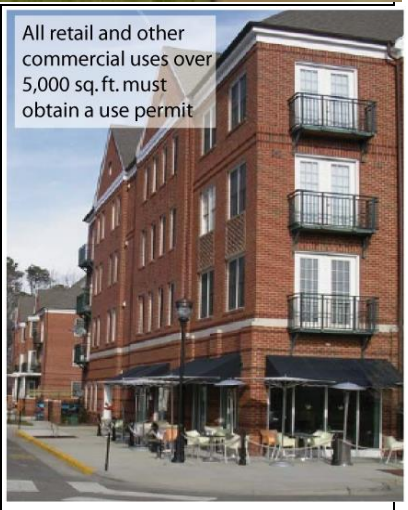
PURPOSE AND INTENT

The Neighborhood Mixed Use (NMU) district is established to accommodate a mix of residential and small-scale, low-intensity, and "convenience" retail and service uses that provide goods and services serving the residents of the immediately surrounding neighborhood (e.g., personal service uses, restaurants, and limited retail). Development in the district should not include uses of a size that is out of scale with a residential neighborhood, or that attracts traffic from outside the surrounding neighborhood. Individual retail and other commercial uses shall not exceed 5,000 square feet without obtaining a use permit (See Section 40.1-2.3.(B), Use Permit). Residential uses are encouraged on the upper floors of nonresidential establishments. The district is subject to standards intended to ensure development is consistent with the neighborhood scale and compatible with surrounding uses.

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

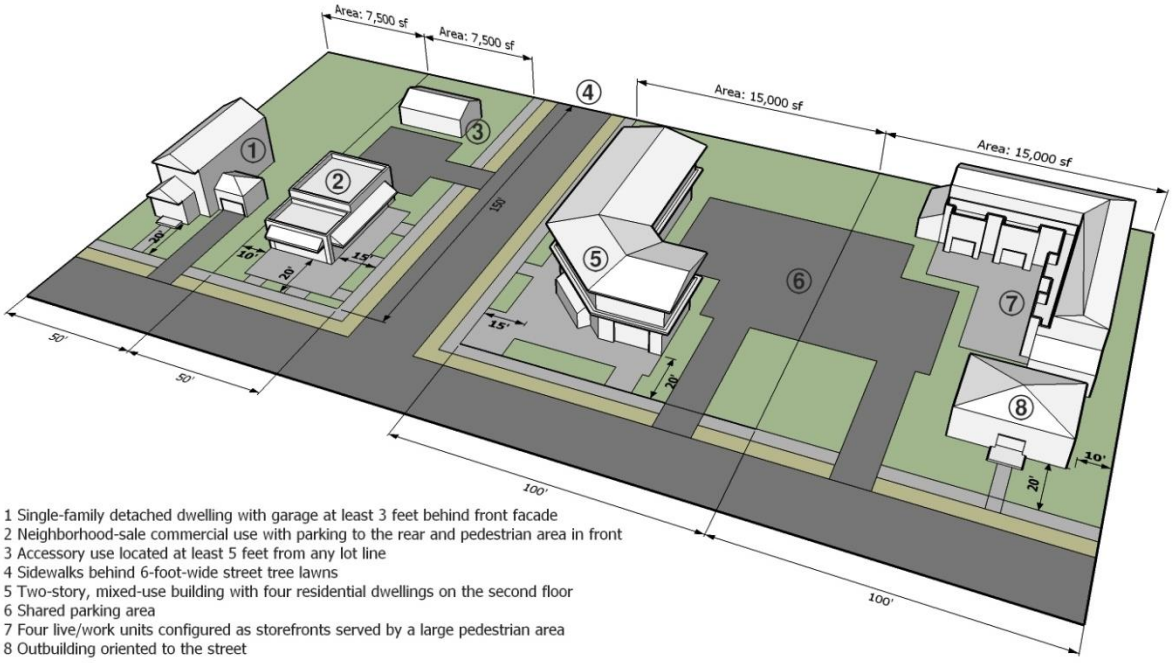
	Standard	Single-Family Uses	All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	N/A	12	N/A
Density	Intensity, Maximum (FAR)	N/A		0.7[9]
Lot Area	Lot Size, Minimum	The lesser of: 7,500 sf, or the average lot size of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	7,500 sf [1]	5,000 sf
Lot Area	Lot Width, Minimum	The lesser of: 50 feet, or the average lot width of lots within 300 feet along the same block face, provided there are 7 or more lots within the 300-foot area	75 feet, plus 5 feet for each additional unit beyond 2 units	50 ft
Lot Area	Building Coverage, Maximum (%)	60		70[9]
Required Yards	Front, Minimum (ft) [2]	The lesser of: 15 ft, or the average front yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area	15	
Required Yards	Side, Minimum [2]	The lesser of: 7 ft, or the average side yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential structures within the 300-foot area; No side yard shall be less than 5 ft unless it is part of a zero side lot line development	When abutting the end unit of a building: 10 ft; All others: 20 percent of the lot width, up to 20 ft; No side yard shall be less than 5 ft unless it is part of a zero side lot line development [3]	20, 10 if parcel is less than 100 ft in width



TYPICAL LOT PATTERN

	STANDARD	SINGLE-FAMILY USES	ALL OTHER RESIDENTIAL USES	ALL OTHER USES	NOTES
	Rear, Minimum (ft) [2]	The lesser of: 15 ft, or the average rear yard on lots within 300 feet along the same block face, provided there are 7 or more lots with existing residential within the 300-foot area [4]	15		"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre [1] Minimum lot size shall be applied to the entire development site for multi-family, single-family attached, townhome, and two-to four family dwellings. [2] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building. [3] An additional setback of 5 feet per floor over 2 floors shall be required. [4] Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard. [5] No accessory structure/building may be located between the principal building and any front or side street. [6] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses. [7] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height. [8] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements [9]All retail and other commercial uses over 5,000 square feet shall be required to obtain a use permit.
	Corner, Side Minimum (ft)	10 ft.	20 ft.; If parcel is less than 100 ft. in width: 10 ft.		
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise same as principal use [5] [6]			
	Garage Setback, Minimum	Even with or behind front façade for single family attached and detached dwellings.	N/A		
BLDG. FORM	Height, Maximum (ft/stories) [7]	36/3	36/4, unless part of mixed use development that includes a minimum of 2 floors of residential units, then 50/5		
	Accessory Structure. Size, Maximum	33% of principal use [8]	N/A		

TYPICAL DEVELOPMENT CONFIGURATION



(C) General Mixed-Use (GMU) District

PURPOSE AND INTENT

The General Mixed-Use (GMU) district is established to provide a wide variety of professional offices, institutions, and a broad range of light- and moderate intensity commercial uses proximate to residential and more intense business districts so as to satisfy the city's demand for services. These regulations are designed to encourage the formation and continuance of a quiet, compatible, and uncongested mixed-use environment intermingled with residential and institutional uses. Live/work, multi-family, upper-story residential, attached residential, and numerous institutional use types are allowed. Offices, community facilities, religious institutions, retail uses and personal services intended to serve the workers and residents in the district are also allowed.

TYPICAL BUILDING TYPES

DIMENSIONAL STANDARDS

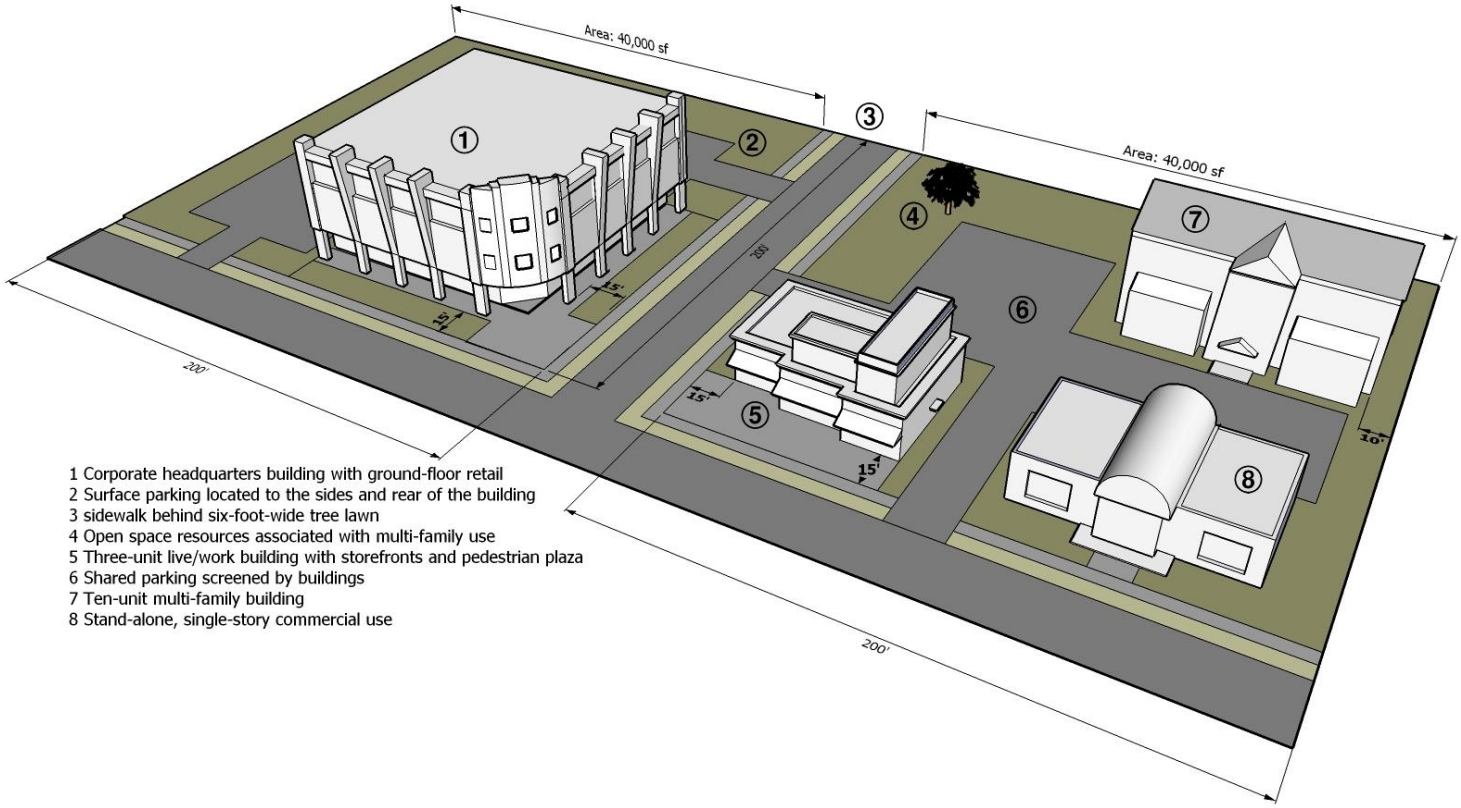
Standard		Attached Residential Uses	All Other Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	N/A	16	N/A
	Intensity, Maximum (FAR)	N/A		0.65
Lot Area	Lot Size, Minimum (sf)	6,000	10,000 [1]	
	Lot Width, Minimum (ft)	50	100 [1]	100
	Building Coverage, Maximum (%)	55		
Required Yards	Front, Minimum (ft)[2]	20	15	
	Side, Minimum [2]	10 ft	5 ft + 5 feet for each building story beyond 3	
	Rear, Minimum [2]	30 ft		
	Corner, Side Minimum (ft) [2]	20	15	
	Accessory Structure, Minimum (ft)	10 if 600 sf in size or smaller; otherwise same as principal use [3] [4]		
	Garage Setback, Minimum (ft)	Even with or behind front façade		N/A
Bldg. Form	Height, Maximum (ft/stories) [5]	36/3	60/6	75/7
	Accessory Structure Size, Maximum	33% of principal use [6]		

NOTES

"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

[1] Minimum lot size or lot width shall be applied to the entire development site for multi-family, single-family attached, townhome, and two-to four family dwellings.
[2] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building.
[3] No accessory structure/building may be located between the principal building and any front or side street.
[4] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses.
[5] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height.
[6] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



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

PURPOSE AND INTENT

The High-Intensity Mixed Use (MU-H) district is established to accommodate a mix and residential and a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the community at large (e.g., large shopping centers, large convenience stores, large retail sales establishments, and heavier commercial uses). The district is typically located along major arterials, at the intersection of arterials. Higher-density residential uses are encouraged on the upper floors of nonresidential establishments, and may exist as stand-alone uses. The district is subject to standards intended to ensure development is compatible with surrounding uses.

TYPICAL BUILDING TYPES

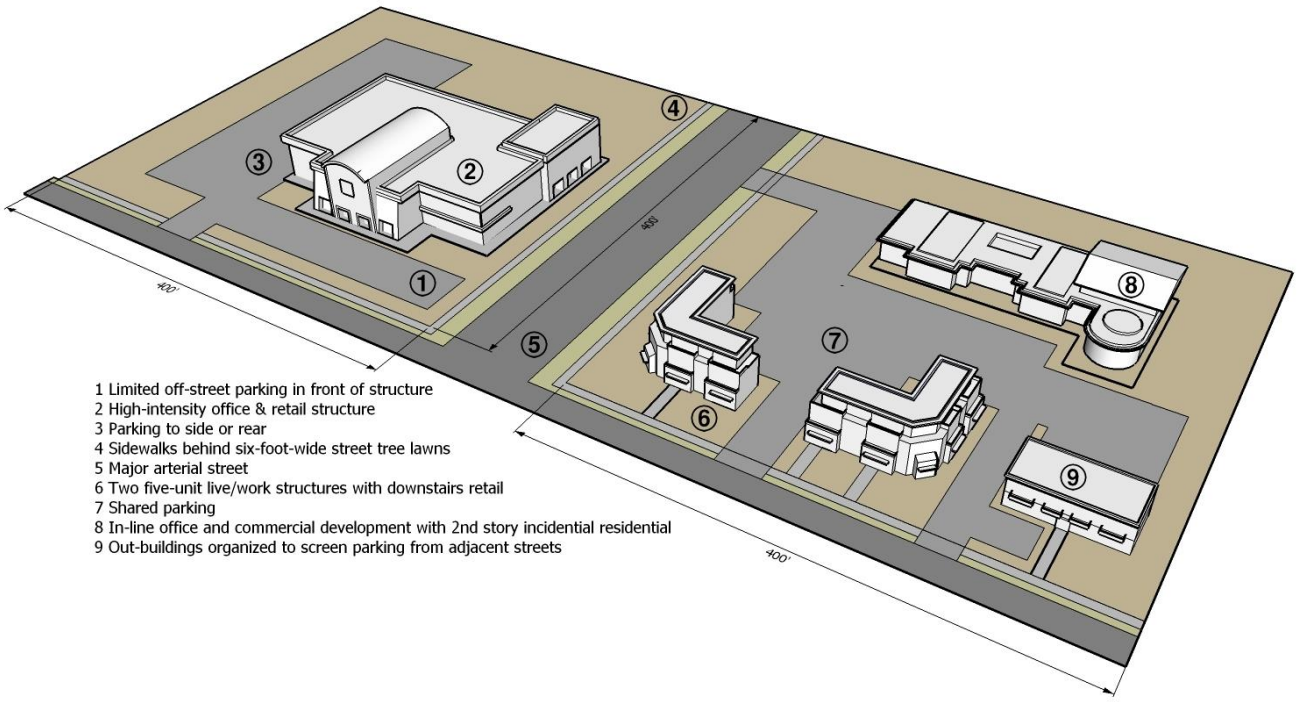
DIMENSIONAL STANDARDS

	Standard	All Residential Uses	All Other Uses
Density	Density, Maximum (DU/AC)	18	N/A
	Intensity, Maximum (FAR)	N/A	0.7
Lot Area	Lot Size, Minimum (sf)	7,500 [1]	5,000
	Lot Width, Minimum	80 ft, + 5 feet for each additional unit beyond 2 units	50 ft
	Building Coverage, Maximum (%)	70	
Required Yards	Front, Minimum (ft)	20	20
	Side, Minimum (ft)	When abutting the end unit of a building: 20 ft; All others: 10 percent of the lot width, up to 20 ft; No side yard shall be less than 5 ft unless part of a zero side lot line development [2]	20, 10 if parcel is less than 100 ft in width
	Rear, Minimum (ft)	20 ft [3]	15
	Corner Side, Minimum (ft)	20, 10 if parcel is less than 100 ft. in width	
	Accessory Structure, Minimum (ft)	5 if 600 sf in size or smaller; otherwise same as principal use [4] [5]	
Bldg. Form	Height, Maximum (ft/stories) [6]	75/7	
	Accessory Structure Size, Maximum	33% of principal use [7]	

"sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre

NOTES	[1] Minimum lot size shall be construed as the entire development site for multi-family, single-family attached, townhome, and two-to four family dwellings. [2] An additional setback of 5 feet per floor over 2 floors shall be required. [3] Rear yards may be reduced to 15 feet when there are no accessory structures or parking spaces in the rear yard. [4] No accessory structure/building may be located between the principal building and any front or side street. [5] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses. [6] Accessory structures of 600 sf in size or smaller may not exceed one story (12 ft) in height. [7] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

TYPICAL DEVELOPMENT CONFIGURATION



(E) Light Industrial (IL) District

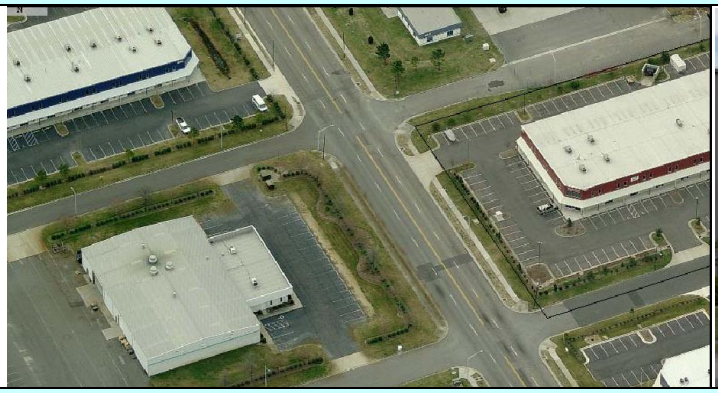
PURPOSE AND INTENT

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

DIMENSIONAL STANDARDS

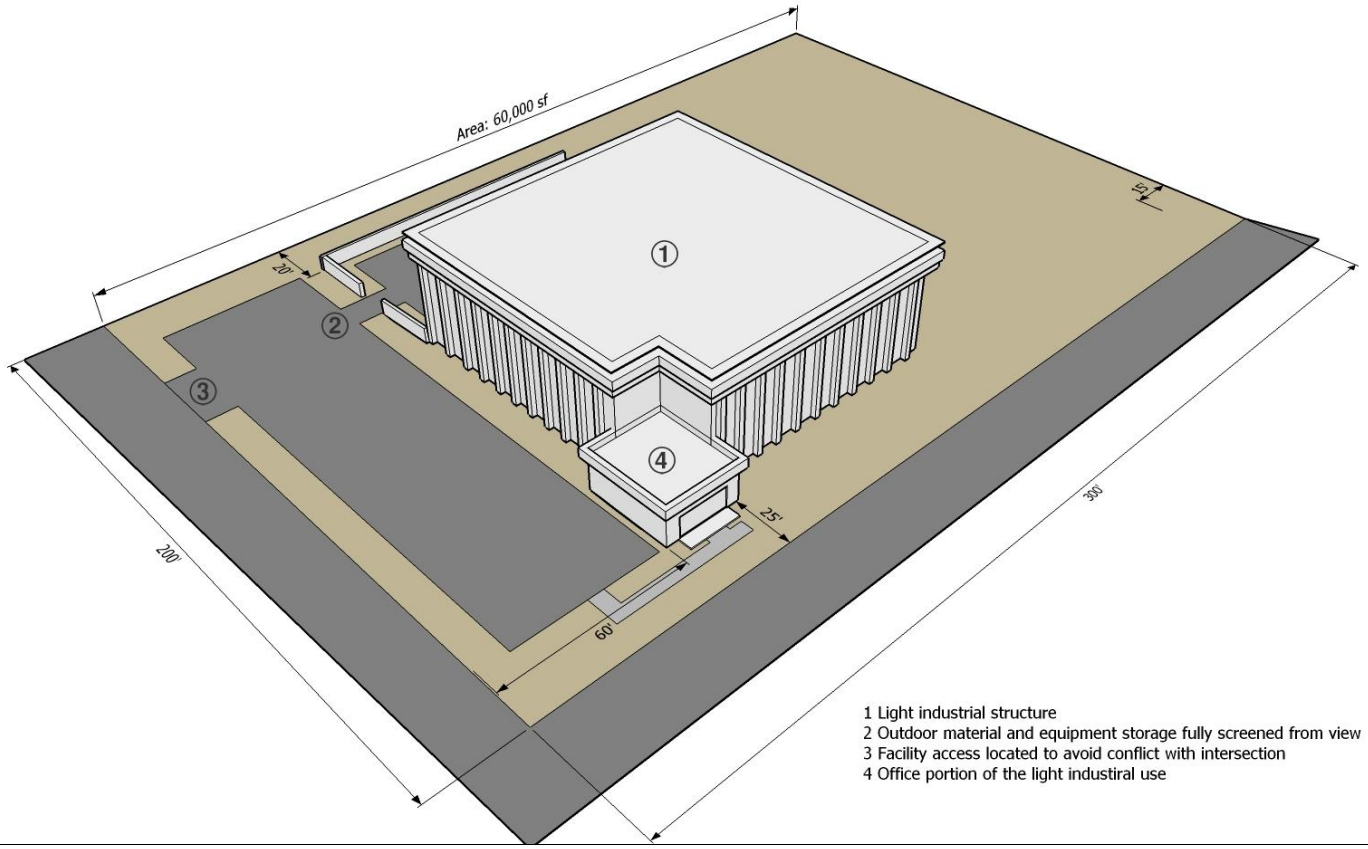
	Standard	All Permitted Uses
Density	Density, Maximum (DU/AC)	N/A
	Intensity, Maximum (FAR)	0.75
Lot Area	Lot Size, Minimum (sf)	7,000
	Lot Width, Minimum (ft)	50
	Building Coverage, Maximum (%)	70
Required Yards	Front, Minimum (ft) [1]	25
	Side, Minimum [1]	20 ft, 10 ft if parcel is less than 100 feet wide
	Rear, Minimum (ft) [1]	15
	Corner, Side Minimum (ft) [1]	20
	Accessory Structure, Minimum (ft)	N/A
	Overhead/Vehicular Access Door Setback, Minimum (ft)	To side or behind building
Bldg. Form	Height, Maximum (ft/stories)	N/A
	Accessory Structure Size, Maximum	N/A
Notes	"sf" = square feet; "ft" = feet'; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre [1] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building.	

TYPICAL BUILDING TYPES



TYPICAL LOT PATTERNS

TYPICAL DEVELOPMENT CONFIGURATION



(F) Industrial (IN) District

PURPOSE AND INTENT

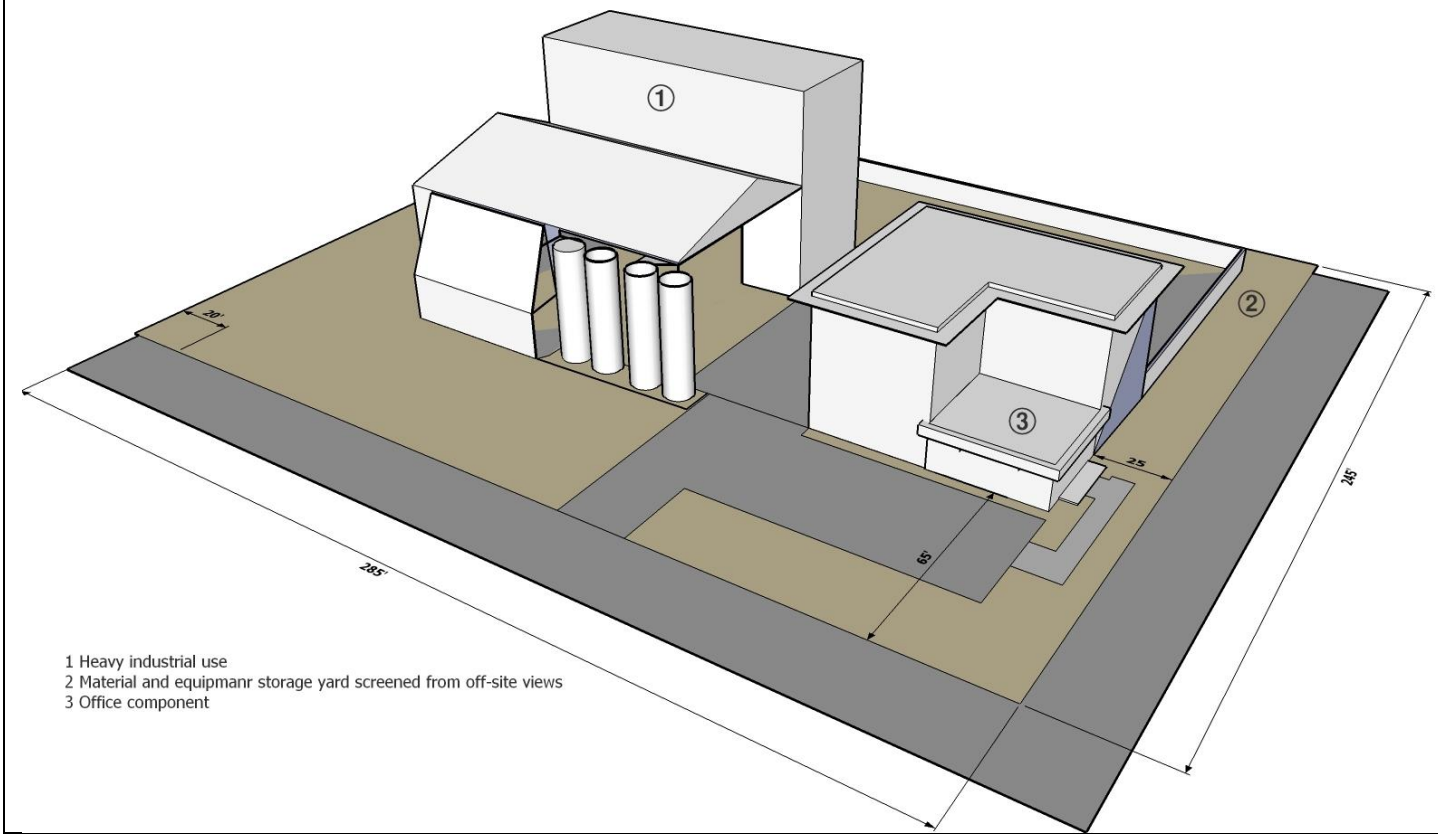
The Industrial (IN) district is established and intended to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that may be large-scale or otherwise have extensive exterior movement of vehicle, materials, and goods,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

DIMENSIONAL STANDARDS

	Standard	All Permitted Uses
Density	Density, Maximum (DU/AC)	N/A
	Intensity, Maximum (FAR)	0.75
Lot Area	Lot Size, Minimum (sf)	7,000 [1]
	Lot Width, Minimum (ft)	50
	Building Coverage, Maximum (%)	70
Required Yards	Front, Minimum (ft) [1]	25
	Side, Minimum [1]	20 ft, 10 ft if parcel is less than 100 feet wide
	Rear, Minimum (ft) [1]	15
	Corner, Side Minimum (ft)[1]	20
	Accessory Structure, Minimum (ft)	N/A
	Overhead/vehicular Access Door Setback, Minimum (ft)	To side or behind building
Bldg. Form	Height, Maximum (ft/stories)	N/A
	Accessory Structure Size, Maximum	N/A
Notes	"sf" = square feet; "ft" = feet'; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre [1] Yards abutting streets shall be configured to maintain at least 40 linear feet between the centerline of the street and any adjacent building.	

TYPICAL BUILDING TYPES

TYPICAL DEVELOPMENT CONFIGURATION



40.1-3.5 ACTIVITY CENTER (AC) ZONING DISTRICTS

(A) General Purposes

The Activity Center (AC) base zoning districts are established and intended to encourage high-quality land planning and site design concepts that:

(1) Implement the comprehensive plan and the future land use map by establishing a series of activity centers in designated locations around the city;

(2) Promote mixed-use, pedestrian-friendly land use patterns within designated activity centers;

(3) Allow greater freedom in providing a well-integrated mix of residential and nonresidential land uses in the same development, including a mix of housing types, lot sizes, and densities;

(4) Establish inter-connected developments that provide greater pedestrian orientation, vehicular connectivity, and support for alternative methods of transportation;

(5) Provide for efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs; and

(6) Promote environmentally-sensitive and sustainable development that respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, streams, hillsides, floodplains, and historic features.

(B) Classification of Activity Center Zoning Districts

Land shall be classified into an AC district only in accordance with the comprehensive plan, the procedures and requirements set forth in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, and the standards in this section.

(C) Relationship to MX/EMP Districts

Lands designated as Mixed-Use/Employment Center (MX/EMP) on April 30, 2010 are subject to the regulations, standards and conditions included within the previously adopted zoning ordinance, master plans and other requirements related to their approval. These developments may proceed subject to their original approvals in accordance with Section 40.1-1.8, Transitional Rules. In the event a modification to development within these districts is proposed, the provisions of Section 40.1-3.5(E)(5) shall apply. In the event the development approval associated with a MX/EMP district expires, the provisions of Section 40.1-3.5(E)(5) shall apply.

(D) Organization of Activity Center District Regulations

Section 40.1-3.5(E), Procedure for Establishing an AC District, describes the review process and application elements. Section 40.1-3.5(F), General Standards for All Activity Center Districts, sets out general standards applicable to all activity center districts. Sections 40.1-3.5(G) to 40.1-3.5(I) set out the individual district-specific standards for each of the three types of AC districts. These sections have a common structure consisting of a purpose statement, applicable district standards, and example development configurations.

(E) Procedure

Applications for establishment of an AC district shall be reviewed as an amendment to the Official Zoning Map in accordance with Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, and the following standards:

(1) Master Plan Required

Applications for AC districts shall include a master plan reviewed by the City Council as part of the amendment to the Official Zoning Map. The master plan shall illustrate the conceptual layout of proposed uses, streets, buildings, lots, and other elements of the proposed development when fully developed. Required elements of the master plan shall include:

(a) Location and mix of proposed land uses;

(b) Number (density and intensity), type, and mix of land uses for the district as a whole as well as for each sub-area within the district;

(c) Proposed block and lot standards, including: block length, lot size, lot width, and lot coverage;

(d) Building dimensional standards, including: building footprints, yard setbacks, proposed heights, and lot coverage;

(e) Pedestrian and vehicular circulation systems;

(f) Parking and loading locations and quantity;

(g) Location of public facilities;

(h) Location, type, amount, and ownership of open space;

(i) Stormwater management areas; and

(j) A conceptual landscaping plan, including: street trees, appropriate buffers and screens, signage and public art.

Development within an AC district shall conform to the requirements of the approved master plan.

(2) Statement of Design Standards Required

In addition to a master plan, applications for an AC district shall also provide a statement of design standards in the form of graphics and explanatory text illustrating how buildings, circulation systems, landscaping, and other elements of the master plan will meet the general and district-specific standards of the AC district and other relevant requirements in this Ordinance. The statement of design standards shall, at a minimum, address all of the following:

(a) Architectural form, materials, and other guidelines for proposed buildings;

(b) Off-street parking design;

(c) Fence and wall standards;

(d) Exterior lighting standards;

(e) Signage descriptions, sizes, and examples;

(f) Street hierarchy (collector streets, local streets, alleys, etc.);

(g) Street tree planting, landscaping, and drainage;

(h) Provision of bicycle lanes, sidewalks, and crosswalks;

(i) A traffic impact analysis prepared in accordance with Section 40.1-5.12, Transportation Analysis;

(j) A scheduling/phasing plan, if applicable; and

(k) Property owners' association documents specifying maintenance, membership, and member responsibilities.

(3) Conversion Schedule

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

(4) Development Phasing Plan

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

(5) Amendment to Master Plan or Statement of Design Standards

(a) Amendments

(i) General

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

(ii) Amendments Defined

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

a. Changes in use designations;

b. Density/intensity increases;

c. Decreases in open space;

d. Change in the location of any public easement;

e. Change in the proportion of housing types by more than 10 percent;

f. Substantial changes to the design or materials of structures; or

g. Violation of any specific condition of the master plan or statement of design standards.

(b) Minor Deviations

Subsequent plans and permits for development within an approved AC district may include minor deviations from the master plan or statement of design standards, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved activity center district or any of its requirements. The following shall constitute minor deviations:

(i) Driveway locations;

(ii) Structure floor plan revisions;

(iii) Minor shifts in building size or location; and

(iv) Facility design modifications for amenities and the like.

(v) Changes in the location of streets internal to the District, up to 150 feet in any direction as long as the overall street connectivity is maintained within the entire district. On the master plan, where a street separates one use type from another and the location of the street is adjusted in accordance with this subsection, the corresponding use designation shall be adjusted as well to correspond to the new street location.

(vi) Changes in the location of street internal to the District, greater than 150 feet in any direction, or the deletion of a street otherwise shown on the Master Plan, or the creation of a new street that connects to the public right-of-way external to the district, shall be reviewed as a Type II site plan. Applications for these types of changes shall include a Traffic Impact Analysis. Streets that have been created in accordance with a recorded subdivision plat must also be vacated in accordance with Section 15.2-2270 of the Code of Virginia.

Changes that materially affect the basic concept of the master plan or basic parameters set by the statement of design standards are not minor deviations, and shall only be changed as amendments to the AC district.

(F) General Standards for All Activity Center Districts

(1) Consistency with City Plans

The AC zoning district designation, the master plan, and the statement of design standards shall be consistent with the city's comprehensive plan and any other applicable plans adopted by the city.

(2) Compatibility with Surrounding Areas

Development along the perimeter of an AC district shall be compatible with adjacent existing or proposed development. Where there are issues of compatibility, the master plan shall provide for transition areas at the edges of the AC district that provide appropriate buffering or ensure a complementary character of uses and development patterns. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, and siting of service areas.

(3) Use Regulations

(a) Article 40.1-4, Use Standards, includes a summary use table specifying the allowable uses for each of the AC districts (See Table 40.1-4.1(A), Use Table) subject to an approved master plan. Uses with an "A" under a particular AC district column are allowed subject to an approved master plan and statement of design standards.

(b) Uses that do not include an "A" under a particular AC district column in Table 40.1-4.1(A) are prohibited within that AC district.

(c) Any applicable use-specific standard shall also apply within an AC district unless the approved master plan and statement of design standards indicate otherwise.

(4) Street Standards

In approving an AC district master plan, the City Council may approve modifications or reductions of city street design standards, but all AC districts shall comply with the following requirements:

(a) The street network shall consist of a hierarchy of streets designed as a modified grid to promote sustainable, multi-modal, pedestrian-friendly, and interconnected development patterns;

(b) Principal vehicular access points shall be designed to provide for smooth traffic flow and to minimize hazards to vehicular, pedestrian, or bicycle traffic;

(c) The street network shall provide safe and convenient access to all areas of the proposed development;

(d) The internal street network shall make logical connections to the public street system outside the AC district; and

(e) Dead end streets shall only be utilized in areas containing environmentally-sensitive features, topographical constraints, or where existing development makes a street connection impossible.

(5) Mobility

(a) AC districts shall include internal pedestrian pathways that provide a logical, safe, and convenient system for pedestrian access to buildings and common areas, with appropriate linkages off-site;

(b) Sidewalks shall be included on both sides of streets;

(c) Bicycle racks shall be provided at a rate of one bike rack (accommodating at least four bicycles) for every 100 off-street parking spaces; and

(d) Bus shelters and other site features supportive of transit service shall be included in the master plan, as appropriate.

(6) On-Street Parking

Except where waived by the Planning Director due to safety considerations, on street parking shall be provided on at least one side of all streets except alleys.

(7) Off-Street Parking

(a) Neighborhood Activity Centers

Buildings within a NAC district may have up to one single loaded bay of required off-street surface parking located between the primary façade and the street, provided the width of the bay does not exceed the building's width.

(b) Community Activity Centers

Up to 25 percent of the total amount of required parking provided in a CAC district may be located between the primary facades of buildings and the adjacent street, provided:

(i) Surface parking shall be limited to one single-loaded bay; and

(ii) Each single-loaded bay shall have a maximum width less than the width of the building it serves.

(c) Regional Activity Centers

No off-street surface parking shall be located between a building's primary façade and the street.

(8) Street Trees

(a) Except where topographic or other conditions make it impractical, street trees shall be located:

(i) Along both sides of all streets;

(ii) Between the curb and the sidewalk;

(iii) Within appropriately-sized tree lawns or tree pits; and

(iv) With a maximum on-center spacing of 40 feet.

(b) Except beneath overhead utilities, street trees shall be canopy trees.

(9) Exterior Lighting

Exterior lighting shall comply with the standards in Section 40.1-5.9, Exterior Lighting, except that it shall not exceed 20 feet in height from the adjacent finished grade to the top of the fixture.

(10) Utilities

Development within an activity center district shall place all utilities underground. Existing overhead utilities shall be placed underground or relocated into easements located behind buildings and away from street rights-of-way to the maximum extent practicable.

(11) Building Design

(a) Buildings shall include a main or primary entrance that is oriented to the street from which the building derives its street address.

(b) In order to maintain human-scaled design, the primary façade of buildings over 40 feet in length shall include at least three of the following features:

(i) At least 60 percent of the ground floor primary façade wall is occupied by windows or doors;

(ii) A prominent exterior horizontal expression line denoting the building's ground floor;

(iii) Awnings, an arcade, or similar overhang spanning at least 75 percent of the façade to provide shelter to pedestrians;

(iv) Changes in wall plane of at least 24 inches relative to the primary façade that indicate storefront bays, entrance features, or other projections or recesses;

(v) Changes in material or texture; or

(vi) Comparable features like pilasters or columns with regular on-center spacing, entryways recessed at least three feet from the façade plane, or alcoves with statuary, plantings, or fountains.

(12) Natural Resources

Natural resources like stands of existing trees, wetlands, riparian areas, or significant animal habitat shall be incorporated into an AC district as amenities, wherever possible.

(13) Stormwater Management Facilities

Stormwater management facilities shall be designed as landscape amenities, including the following requirements:

(a) The design of these facilities shall incorporate a curvilinear shape to resemble a naturally-occurring water feature, including indentations and peninsulas; or be configured in an intentional geometric form with a hardened border so as to resemble a pool or fountain;

(b) Chain-link fencing shall be avoided; and

(c) Rip-rap or other hard armoring techniques are discouraged for facilities designed to appear as naturally-occurring water features.

(14) Waste Disposal

Private trash collection shall be required unless the Planning Director approves an alternative arrangement. Fencing or landscaping shall be used to screen trash dumpsters and containers from public view.

(15) Compliance with District-Specific Standards

In addition to the general standards for all AC districts, new AC districts shall also comply with the district specific standards for the particular type of AC district proposed (See Section 40.1-3.5(G) through 40.1-3.5(I)).

(16) Waiver of Requirements

With the exception of the master plan and the design statement, the Planning Director may waive any of the general standards for all AC districts, when in the opinion of the Planning Director, compliance with such requirements is not applicable or necessary. The waiver shall be in writing, and shall become a part of the AC master plan.

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(G) Neighborhood Activity Center (NAC) District

PURPOSE AND INTENT

The NAC district is established primarily to accommodate mixed, pedestrian-scaled, neighborhood-serving nonresidential and high-density residential uses in the same structure or in close proximity. Nonresidential uses may include small-scale retail, service, and professional offices that provide goods and services to the residents of the surrounding neighborhood. Nonresidential uses should typically be located at the intersection of two collector streets or a collector street and arterial street. Residential uses are encouraged on the upper floors of nonresidential establishments. There are no minimum lot sizes, but residential densities are limited to a maximum of 18 units per gross acre. Establishment of single-tenant nonresidential buildings exceeding 5,000 square feet and multiple-tenant nonresidential buildings exceeding 10,000 square feet shall require a use permit (See Section 40.1-2.3(B), Use Permit.). Mass transit facilities and pedestrian-friendly elements are important components of development in these centers, in order to reduce demand for auto travel as well as increase visual interest. All development in the district is subject to an approved master plan and statement of design standards.

DIMENSIONAL STANDARDS

District Size, Minimum	2 contiguous acres [1]
Locational Requirements	Must be consistent with future land use map in comprehensive plan
Density, Maximum (DU/AC)	18
Average Block Length (ft)	300
LOT AREA	
Lot Size, Minimum (sf)	None
Lot Area, Minimum (sf)	None
Building Coverage, Maximum (%)	65
REQUIRED YARDS [2]	
Front Yard, Maximum (ft)	5
Side Yard, Minimum (ft)	3 [9]
Rear Yard, Minimum (ft)	10; 20 from street ROW
Corner Side, Minimum (ft)	10
Development Perimeter, Minimum (ft)	10 [3]
BUILDING FORM	
Building Height, Minimum (# of stories)	None[4]
Building Height, Maximum (ft/# of stories)	36/3
Building Size, Maximum (sf)	10,000 [5]
Accessory Structure Size, Maximum	33% of the closest principal structure [8]

USE MIX

Residential Floor Area, Maximum [6]	85% of total floor area
Nonresidential Floor Area, Minimum	15% of total floor area
Open Space, Minimum [7]	15% of district size, subject to standards in Section 40.1-5.4

DEVELOPMENT STANDARDS

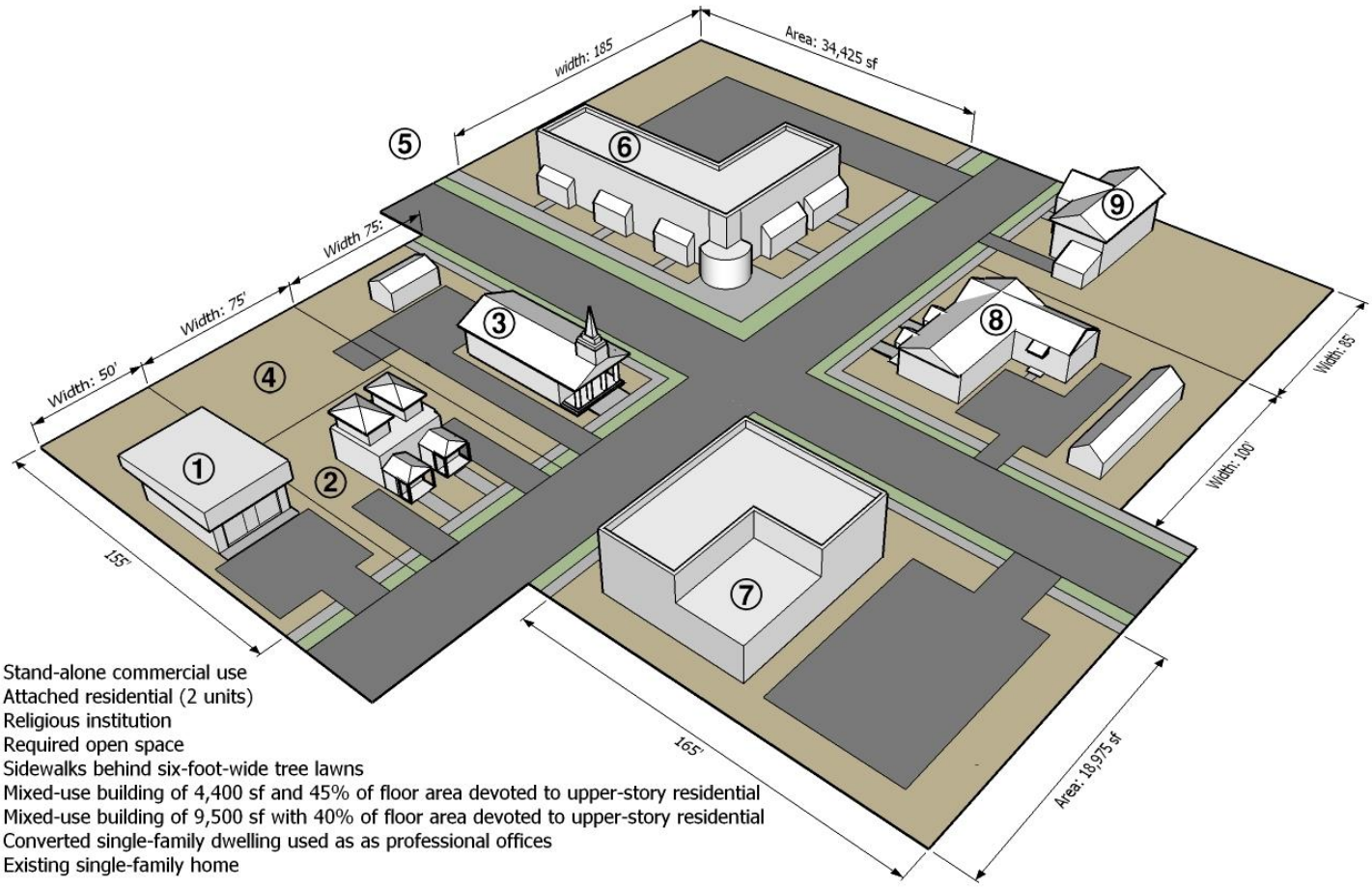
The standards in Article 40.1-5, Development Standards, shall apply to all development in an NAC district, but some of these standards may be modified as part of a master plan if consistent with the general purposes of the district and the procedures noted below:

DEVELOPMENT STANDARD	MEANS OF MODIFYING
Off-Street Parking & Loading	Specify in master plan
Landscaping	Specify in alternative landscaping plan (See Section 40.1-5.2)
Tree Protection	
Open Space Set-Aside	Modifications prohibited
Exterior Lighting	Specify in master plan
Multi-family design standards	Modifications prohibited
Commercial design standards	
Transitional standards	
Signage	Specify in master plan

"sf" = square feet; "ft" = feet; "DU" = dwelling units; "AC" = acres; "ROW" = right-of-way

NOTES:
[1] Contiguous lands smaller than two acres may be added following initial designation of the NAC district.
[2] Accessory structures are prohibited within front, corner side, and development perimeter yards, and shall comply with minimum side and rear yard standards.
[3] Development perimeter yard is not required where NAC borders a ROW or open space.
[4] Buildings on corner lots abutting four-way street intersections shall be at least two stories in height.
[5] Retail uses may exceed 10,000 square feet with a use permit.
[6] The footprint of buildings devoted solely to residential uses shall be limited to a maximum of 25 percent of the collective footprints in the NAC district.
[7] Central open spaces such as greens or squares shall be provided as focal points in the development.
[8] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.
[9] The side yard does not apply to the common wall of attached single family or interior townhouse units.

TYPICAL DEVELOPMENT CONFIGURATION



(H) Community Activity Center (CAC) District

PURPOSE AND INTENT

The CAC district is intended to encourage and facilitate the development of a mix of concentrated community-serving land uses in close proximity to each other and residential development that are well-connected. These centers should include economic generators, including shopping, employment, educational facilities, personal service, restaurants, theaters, hotels, and office development. The district should also contain a broad mix of complementary uses, including high-density multi-family housing, major civic and public facilities, parks, and open space. Mass transit facilities and pedestrian-friendly elements are important components of CAC districts, in order to reduce demand for auto travel as well as increase visual interest. All development in the district is subject to an approved master plan and statement of design standards.

DIMENSIONAL STANDARDS	
District Size, Minimum	5 contiguous acres [1]
Locational Requirements	Must be consistent with comprehensive plan's future land use map and bounded by at least one 4-way street intersection
Density, Maximum (DU/AC)	30
Average Block Length (ft)	450
LOT AREA	
Lot Size, Minimum (sf)	None
Lot Area, Minimum (sf)	None
Building Coverage, Maximum (%)	75
REQUIRED YARDS [2]	
Front Yard, Maximum (ft)	5
Side Yard, Minimum (ft)	3 [9]
Rear Yard, Minimum (ft)	10; 20 from street ROW
Corner Side, Minimum (ft)	10
Development Perimeter, Minimum (ft)	20 [3]
BUILDING FORM	
Building Height, Minimum (# of stories)	None [4]
Building Height, Maximum (ft/# of stories)	50/4
Building Size, Maximum (sf)	30,000 [5]
Accessory Structure Size, Maximum	33% of the closest principal structure [8]

USE MIX	
Residential Floor Area, Maximum [6]	60% of total floor area
Residential Floor Area, Minimum	10% of total floor area
Nonresidential Floor Area, Minimum	40% of total floor area
Open Space, Minimum [7]	15% of district size, subject to standards in Section 40.1-5.4

DEVELOPMENT STANDARDS

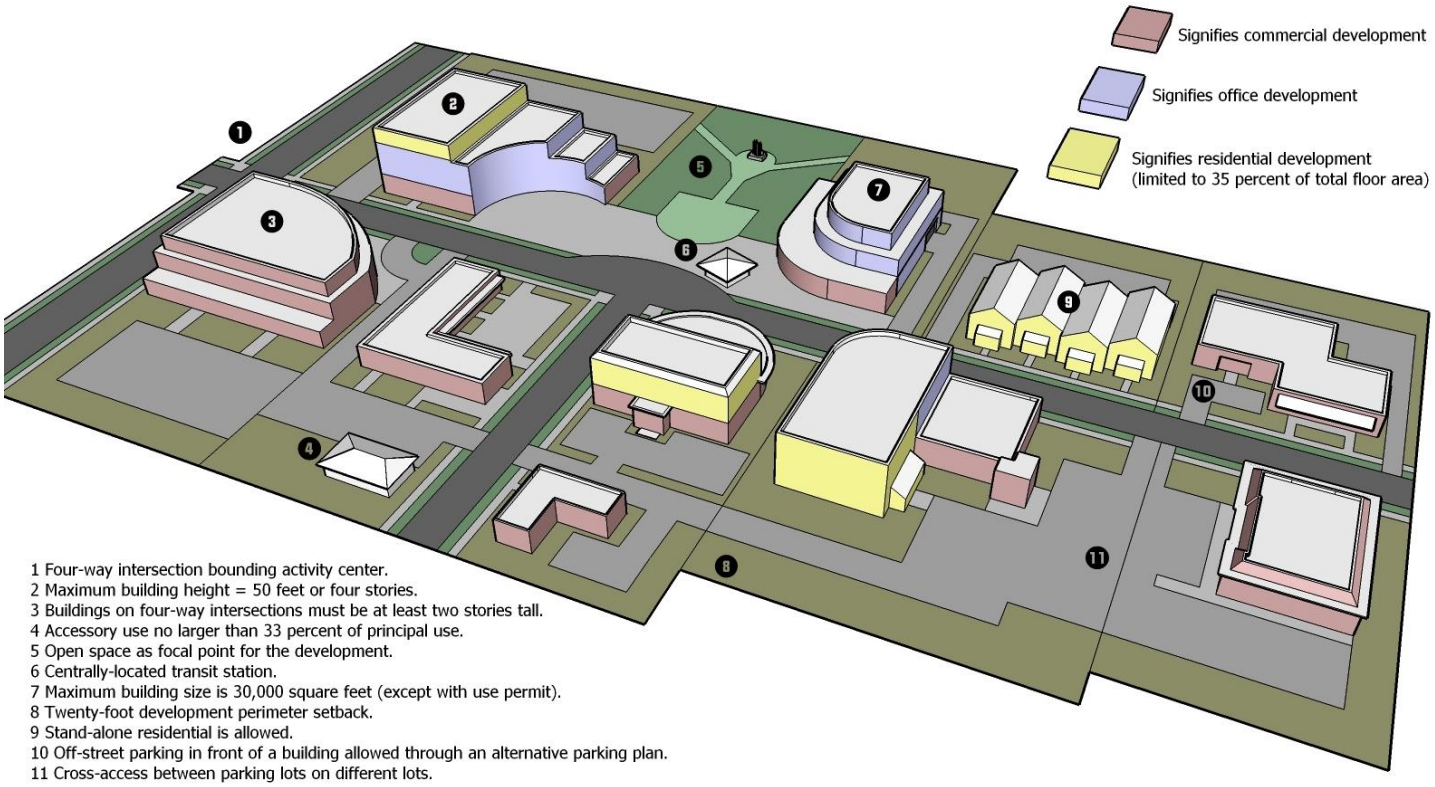
The standards in Article 40.1-5, Development Standards, shall apply to all development in an CAC district, but some of these standards may be modified as part of a master plan if consistent with the general purposes of the district and the procedures noted below:

DEVELOPMENT STANDARD	MEANS OF MODIFYING
Off-Street Parking & Loading	Specify in master plan
Landscaping	Specify in alternative landscaping plan (See Section 40.1-5.2)
Tree Protection	
Open Space Set-Aside	Modifications prohibited
Exterior Lighting	Specify in master plan
Multi-family design standards	Modifications prohibited
Commercial design standards	
Transitional standards	
Signage	Specify in master plan

"sf" = square feet; "ft" = feet; "DU" = dwelling units; "AC" = acres; "ROW" = right-of-way

NOTES:
[1] Contiguous lands smaller than 10 acres may be added following initial designation of the CAC district.
[2] Accessory structures are prohibited within front, corner side, and development perimeter yards, and shall comply with minimum side and rear yard standards.
[3] Development perimeter yard is not required where CAC borders a ROW or open space.
[4] Buildings on corner lots abutting four-way street intersections shall be at least two stories in height.
[5] Retail uses may exceed 30,000 square feet with a use permit.
[6] The footprint of buildings devoted solely to residential uses shall be limited to a maximum of 25 percent of the collective footprints in the CAC district.
[7] Central open spaces such as greens or squares shall be provided as focal points in the development.
[8] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.
[9] The side yard does not apply to the common wall of attached single family or interior townhouse units.

TYPICAL DEVELOPMENT CONFIGURATION



(I) Regional Activity Center (RAC) District

PURPOSE AND INTENT

The RAC district is intended to encourage and facilitate the development of distinctive, attractive regional centers containing a mix of concentrated land uses. These high-quality and highly visible regional activity centers are intended to serve as Portsmouth's "image-makers." The centers should include major economic generators, most with a regional market draw, such as regional shopping, major employers, large educational facilities, restaurants, theaters, hotels, and relatively dense office development. The area should contain a broad mix of complementary uses, including high-density multi-family housing, major civic and public facilities, parks, and open space. Mass transit facilities and pedestrian-friendly elements are important components of development in these centers, in order to reduce demand for auto travel as well as increase visual interest. All development in the district is subject to an approved master plan and statement of design standards.

DIMENSIONAL STANDARDS	
District Size, Minimum	20 contiguous acres [1]
Locational Requirements	Must be consistent with comprehensive plan's future land use map and bounded by a major arterial street on at least one side
Density, Maximum (DU/AC)	40; over 31 requires a use permit
Average Block Length (ft)	600
LOT AREA	
Lot Size, Minimum (sf)	None
Lot Area, Minimum (sf)	None
Building Coverage, Maximum (%)	85
REQUIRED YARDS [2]	
Front Yard, Maximum (ft)	5
Side Yard, Minimum (ft)	3 [8]
Rear Yard, Minimum (ft)	10; 20 from street ROW
Corner Side, Minimum (ft)	10
Development Perimeter, Minimum (ft)	20 [3]
BUILDING FORM	
Building Height, Minimum (# of stories) [4]	2+ – 50% of all buildings; 3+ – 25% of all buildings
Building Height, Maximum (ft/# of stories)	75/6
Building Size, Maximum (sf)	60,000 [5]
Accessory Structure Size, Maximum	33% of the closest principal structure [7]

USE MIX	
Residential Floor Area, Maximum	35% of total floor area
Residential Floor Area, Minimum	15% of total floor area
Nonresidential Floor Area, Minimum	65% of total floor area
Open Space, Minimum [6]	20% of district size, subject to standards in Section 40.1-5.4

DEVELOPMENT STANDARDS

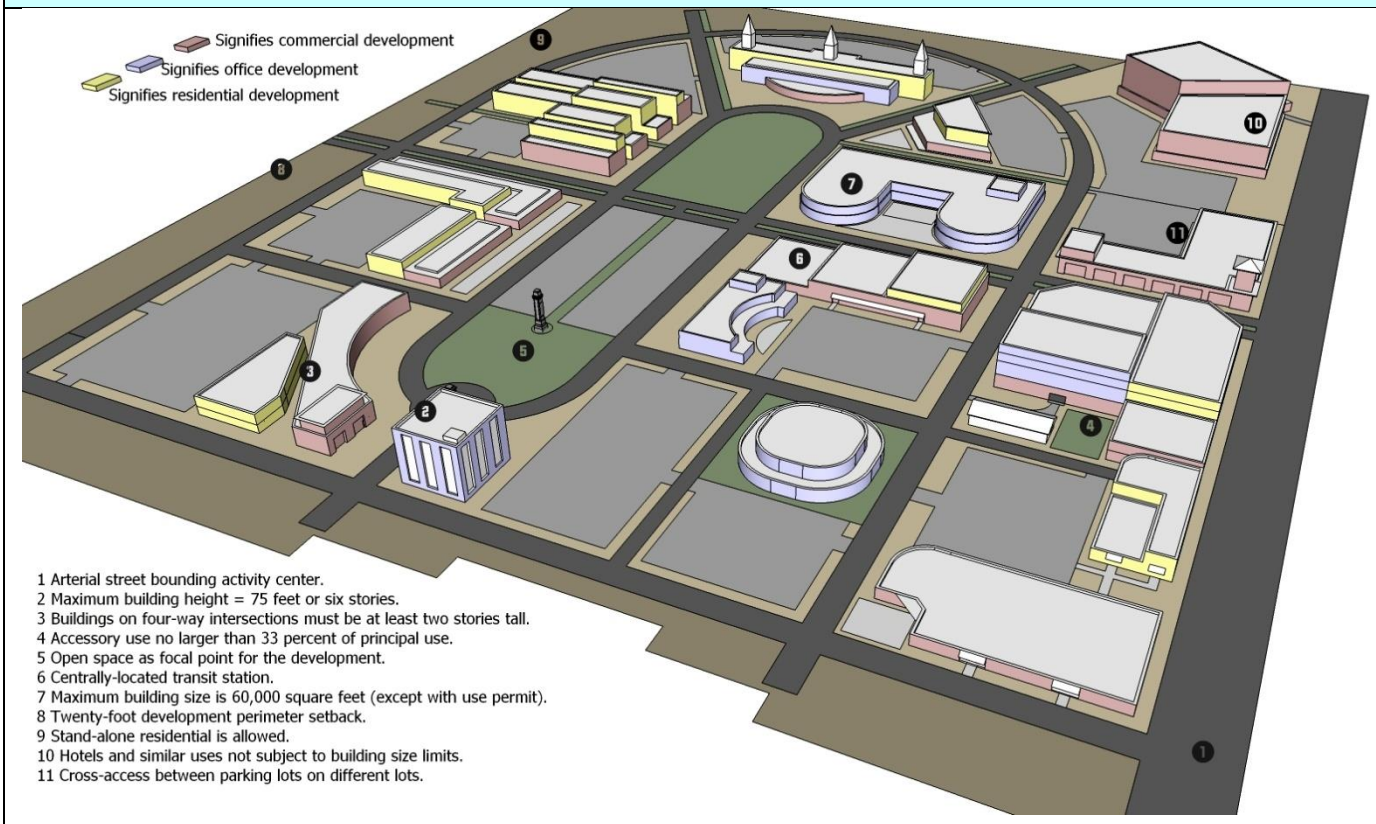
The standards in Article 40.1-5, Development Standards, shall apply to all development in an RAC district, but some of these standards may be modified as part of a master plan if consistent with the general purposes of the district and the procedures noted below:

DEVELOPMENT STANDARD	MEANS OF MODIFYING
Off-Street Parking & Loading	Specify in master plan
Landscaping	Specify in alternative landscaping plan (See Section 40.1-5.2)
Tree Protection	
Open Space Set-Aside	Modifications prohibited
Exterior Lighting	Specify in master plan
Multi-family design standards	Modifications prohibited
Commercial design standards	
Transitional standards	
Signage	Specify in master plan

"sf" = square feet; "ft" = feet; "DU" = dwelling units; "AC" = acres; "ROW" = right-of-way

NOTES:
[1] Contiguous lands smaller than 20 acres may be added following initial designation of the RAC district.
[2] Accessory structures are prohibited within front, corner side, and development perimeter yards, and shall comply with minimum side and rear yard standards.
[3] Development perimeter yard is not required where RAC borders a ROW or open space.
[4] Buildings on corner lots abutting four-way street intersections shall be at least two stories in height.
[5] Office buildings, educational facilities, research and development, structured parking, hotels, grocery stores, or conference/training centers are exempted from the maximum building size standards. Retail uses may exceed 60,000 square feet with a use permit.
[6] Central open spaces such as greens or squares shall be provided as focal points in the development.
[7] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.
[8] The side yard does not apply to the common wall of attached single family or interior townhouse units.

TYPICAL DEVELOPMENT CONFIGURATION



40.1-3.6 SPECIAL BASE ZONING DISTRICTS

(A) General Purposes

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

(B) Waterfront (WF) District

(1) Purpose and Intent

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

(a) Encourage development of high quality, mixed-use residential, retail, office, or hotel development that is enhanced by its close proximity to the Elizabeth River waterfront;

(b) Facilitate economic development in the city through enhanced commercial and residential development and increased tourism generated by riverfront development;

(c) Promote a concentration of uses that result in a high degree of pedestrian attraction and activity along the waterfront, while protecting the area at the shore of the river from building development;

(d) Integrate commercial and residential uses horizontally at the street level and vertically within buildings, while preserving the views of the Elizabeth River;

(e) Ensure new development complies with and promotes the city's vision and plans for intensive downtown waterfront development, encouraging pedestrian-oriented streetscapes, connectivity of existing street and pedestrian systems, multi-modal transportation access, high quality architectural design and building materials, compatibility with adjacent development, and protection of existing views; and

(f) Establish development requirements that are adaptable to changing market conditions, while encouraging creativity in the design of new mixed development centers.

(2) Applicability

(a) Development in the Waterfront (WF) district, as depicted on the official zoning map, is subject to the standards of this section.

(b) In addition to the land designated as WF on the official zoning map, only lands located along the banks of Scotts Creek and Owens Creek north of the southern line of Spratley Street, and its westward prolongation may be designated WF district on the official zoning map.

(c) Conflict with other Code Provisions

In case of conflicts between this section and other sections of this Ordinance, this section shall control unless the conflicting section contains specific language to the contrary.

(3) Review Procedures

(a) Modifications to the WF District Location

Applications to amend the official zoning map boundaries to a WF district consistent with the terms of this section shall be reviewed in accordance with the procedure and standards in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, the Comprehensive Plan, and Section 40.1-3.6(B)(3)(c), Application Requirements.

(b) Application Requirements

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

(i) Master Plan

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

a. Location and mix of proposed uses.

b. Number (density and intensity), type, and mix of uses for the development as a whole as well as for each sub-area within the development.

c. Block and lot standards, including: block length, lot size, lot width, and lot coverage.

d. Building dimensional standards, including: building footprints, yard setbacks, proposed heights, and lot coverage.

e. Pedestrian and vehicular circulation systems, both on-site and located on adjacent lands.

f. Parking and loading locations and quantity.

g. Location of public facilities.

h. Location, type, amount, and ownership of open space, as defined below.

i. A stormwater management plan.

j. Views of the Elizabeth River and downtown areas of Norfolk and Portsmouth from the site of proposed development.

k. Conceptual landscaping plans that include street trees, appropriate buffers and screens, signage and public art. Special attention shall be paid to providing space for outdoor dining and other outdoor spaces and the interface of the building exterior and these spaces.

(ii) Design Standards Statement

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

a. Architectural form, materials, and other guidelines for proposed buildings, especially the interface of the proposed building exterior facade and the proposed open spaces.

b. Parking design.

c. Fence and wall standards.

d. Exterior lighting standards.

e. Signage descriptions, sizes, and examples.

f. Street hierarchy (collector streets, local streets, alleys, etc.).

g. A traffic impact analysis prepared in accordance with Section 40.1-5.12, Transportation Analysis.

h. Development scheduling/phasing.

i. Assurance the property and building design will be properly managed (through provision of property owners' association documents that specify maintenance, membership, and member responsibilities of the association, if applicable).

(c) The development of the buildings and sites contained in an approved master plan must conform to the requirements of the development plan process in Sections 40.1-2.3(C) and (D), as appropriate. As each portion of the development is implemented, the applicant shall submit, in phases, development plans that are consistent with the approved master plan and design standards statement.

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

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

(a) Major Changes

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

(i) Changes in uses.

(ii) Decreases in open space.

(iii) Substantial changes in the location of streets.

(iv) Substantial changes to the design and/or materials of structures.

(v) Change in the location of any public easement.

(vi) Change in the proportion of housing types by more than ten percent.

(vii) Changes in the phasing schedule.

(viii) Violation of any condition of approval.

(ix) Significant changes in the appearance of building(s).

(b) Minor Deviations

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

(i) Driveway relocations.

(ii) Structure floor plan revisions.

(iii) Minor alterations to the architecture of structures and similar replacement of building materials.

(iv) Facility design modifications for amenities.

(v) Modifications to any dimensional standard by ten percent or less.

(vi) Substitutions of landscaping materials within the same genus or minor modifications to landscape plans determined during the construction process to be necessary.

(5) Development Standards

Development in the WF district shall be subject to the development standards in Article 40.1-5: Development Standards, and the following standards. In the event the standards in this section conflict with the standards in Article 40.1-5: Development Standards, the standards in this section shall control.

(a) Minimum Land Area

The proposed district shall contain at least one contiguous acre, including roadways. Additional land may be designated as WF district in accordance with the procedure and standards in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, provided:

(i) The land designated is contiguous to an existing WF district; and

(ii) The land is adjacent to the southern branch of the Elizabeth River.

(b) Building Orientation

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

(c) Minimum Building Height

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

(d) Building Fenestration

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

(i) Street-level Story

a. Nonresidential Uses

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

b. Residential and Mixed Uses

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

(ii) Upper Stories

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

(e) Streetscapes

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

(f) Street Trees

Street trees shall be located in tree pits or tree lawns established between the curb and the sidewalk along all streets except alleys. The distance between street trees shall be determined by the design of the development, as needed to provide an integrated landscaped theme. Spacing and tree selection shall reflect the district's urban character and enhance views of the waterfront and downtown areas.

(g) Open Space Set-Asides

(i) Each development in the WF district shall provide at least 20 percent of the total lot area in open space set-aside in the form of roof gardens, landscaped grounds, or atriums.

(ii) Each such open space set aside shall contain landscaping, public art elements, or pedestrian elements, and shall be configured to blend with the architecture of the development.

(iii) The City Council may accept developments with no more than 15 percent of the total land area in open space set-aside in cases where lots are small, or where existing open space resources are already provided in sufficient amounts by existing development.

(h) Residential Density

(i) Development with a net residential density of more than 80 units per acre shall require approval of a use permit in accordance with the standards and procedure in Section 40.1-2.3(B), Use Permits.

(ii) In no instance shall development exceed 100 units per acre.

(i) Maximum Floor Area

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

(ii) Retail uses exceeding 30,000 square feet shall require approval of a use permit in accordance with the procedure and standards in Section 40.1-2.3(B), Use Permit.

(j) Prohibited Uses and Development Features

Notwithstanding the standards in Table 40.1-4.1(A), Use Table, the following uses or development features are prohibited within the WF district:

(i) Check-cashing establishments;

(ii) Pay day loan establishments;

(iii) Nail salons;

(iv) Tanning establishments; and

(v) Drive-throughs.

(C) Downtown Districts

The Downtown D1 district standards are included in Appendix A of this Ordinance.

(D) Downtown (D2) District

The Downtown D2 district standards are included in Appendix B of this Ordinance.

(E) Historic Districts

(1) Purpose

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

(a) The preservation and protection of historic buildings, structures, places, and areas of historic interest;

(b) The preservation, protection and maintenance of buildings, structures, places and areas that mark the history of the colony, the Commonwealth of Virginia, and the City of Portsmouth;

(c) Appropriate redevelopment and maintenance of historic buildings, structures, places, and areas;

(d) The regulation and control of new development to preserve and protect areas of historical interest and the historical context of the area; and

(e) The promotion, development, and preservation of the economy, commerce and industry of the Commonwealth of Virginia and the City of Portsmouth, specifically with regard to property values and tourist trade, through the preservation and protection of historic buildings, structures, places and areas.

(2) Historic Districts Established

The following historic districts are hereby established as shown on the official map of historic districts, which is hereby incorporated by reference into this Ordinance:

(a) The Truxtun Historic District;

(b) The Cradock Historic District;

(c) The Port Norfolk Historic District;

(d) The Olde Towne Historic District; and

(e) The Park View Historic District.

(3) Certificate of Appropriateness Required

New development or redevelopment within a historic district requires approval of a certificate of appropriateness in (addition to any other required permits) in accordance with the procedures and requirements in Section 40.1-2.3(I), Certificate of Appropriateness.

(4) Dimensional Standards

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

(a) General Dimensional Requirements

Table 40.1-3.6(A), Dimensional Requirements within the Historic Districts, sets out the dimensional standards required for each of the five historic districts.

TABLE 40.1-3.6.A: DIMENSIONAL REQUIREMENTS WITHIN THE HISTORIC DISTRICTS

Historic District	Use Type	Minimum Lot Size (sf) [1]	Maximum Building Coverage (%)	Max. Height for New Construction (# of stories)
Truxtun	Single-family Detached or Two-family Dwelling	2,500	70	2
	Three-Family Dwelling	2,500		
	Four-Family Dwelling	4,500		
	Nonresidential Use	2,500 [2]		
Cradock	Single-family Detached	4,500	70	2
	Two-family Dwelling	4,500		
	Three-Family Dwelling	13,500	35	
	Four-Family Dwelling	16,500		
	Nonresidential Use	2,500 [2]	70	
Port Norfolk	Single-family Detached or Two-family Dwelling	5,600	70	3
	Three-Family Dwelling	8,400		
	Four-Family Dwelling	11,200 [3]		
	Nonresidential Use	2,500 [2]		
Olde Towne and Park View	Single-family Detached or Two-family Dwelling	3,045	70	3
	Three-Family Dwelling	4,570		
	Four-Family Dwelling	6,090 [4]		
	Nonresidential Use	2,500 [2]		

NOTES:
[1] New construction, additions, or other improvements shall not create more than two square feet of floor area per each square foot of lot size.
[2] Establishment of a new building or conversion of a dwelling unit to an office shall require a minimum lot size of at least 4,500 square feet.
[3] One additional unit may be permitted for each additional 5,600 square feet of lot area and over 11,200 for an additional 4 unit building.
[4] One additional unit may be permitted for each additional 3,045 square feet of lot area.
[5] New construction shall not exceed two square feet of floor area per square foot of zone lot area, nor shall new improvements or additions increase existing floor area above this maximum.
[6] Accessory buildings must observe a five-foot rear yard setback. Side yard setbacks shall be as established 40.1-3.6(E)(4)(c). No accessory building shall be taller that the principal building and shall be no larger than 600 square feet.

(b) Front Yard Requirements

(i) Front yards shall be at least three feet in depth, but shall maintain consistency with the front yard depth of adjacent structures to the maximum extent practicable.

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

(c) Side Yard Requirements

(i) Lots less than 30 feet in width shall maintain at least three-foot-wide side yards.

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

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

(d) Rear Yard Requirements

Rear yards shall be at least 20 feet deep.

(e) Minimum Distance from Lot Lines

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

(f) Landscaped Area

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

(5) Design Guidelines

Each of the city's five historic districts has a unique set of design guidelines applied to new development or redevelopment within the district. The following sets of design guidelines are hereby incorporated into this Ordinance by reference:

(a) Truxtun Historic District Design Guidelines;

(b) Cradock Historic District Design Guidelines;

(c) Port Norfolk Historic District Design Guidelines;

(d) Olde Towne Historic District Design Guidelines; and

(e) Park View Historic District Design Guidelines.

Review for compliance with these guidelines shall take place as part of certificate of appropriateness review.

(6) Permitted Uses

(a) In General

The range of permitted uses on a lot located within a particular historic district is subject to the lot's historic sub-district designation depicted on the official zoning map and Table 40.1-4.1(A), Use Table.

(b) Historic Sub-districts

Each historic district is comprised of one or more sub-districts as depicted on the official zoning map. The range of allowable uses on a lot within a historic district is controlled by its sub-district designation, Table 40.1-4.1(A), Use Table, and the following standards:

(i) Historic Residential (HR) Sub-district

The HR sub-district is intended for residential uses, but also allows some public and institutional uses, all subject to the use-specific standards in Section 40.1-4.3, Use-Specific Standards.

(ii) Historic Limited Office (HLO) Sub-district

a. The HLO sub-district is intended for professional office uses as well as limited residential and institutional uses, subject to the use-specific standards in Section 40.1-4.3, Use-Specific Standards, and the following:

b. Residential and office uses may be mixed within a single structure, provided the residential portion occupies less than 50 percent of the building's total floor area.

(iii) Historic Limited Business (HLB)

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

a. Buildings with one bedroom include at least 400 square feet of useable floor area solely for residential purposes;

b. Buildings with two bedrooms include at least 700 square feet of useable floor area solely for residential purposes; and

c. Buildings with three bedrooms include at least 800 square feet of useable floor area solely for residential purposes.

(7) District-Specific Standards

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

(a) Off-Street Parking

(i) Off-street parking spaces shall be provided in accordance with Section 40.1-5.1, Off-Street Parking, Loading, and Circulation.

(ii) Parking requirements for two or more uses may be provided in a common parking area, provided that all uses being served by the common parking area are under the common ownership.

(iii) Parking lots of four or more spaces shall be paved with cobblestone or other approved material which enhances the aesthetic quality of the historic area.

(b) Exterior Lighting

Lighting shall be provided in accordance with the standards in Section 40.1-5.9, Exterior Lighting, and no exterior lighting shall exceed a height of nine feet from the adjacent grade.

(c) Signage

(i) New signage and changes to existing signage require approval of a certificate of appropriateness (See Section 40.1-2.3(I), Certificate of Appropriateness).

(ii) Any authorized changes shall be made within six months of approval.

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

(d) Required Landscaping

All private areas not covered with building or surface treatment shall be landscaped with plantings, grass, pedestrian walks or similar features, in accordance with Section 40.1-5.2, Landscaping and Screening, and shall be maintained in good condition.

(e) Separation Requirements

Any nonresidential use in a historic district adjoining a residential use shall comply with the following requirements along all lot lines adjoining the residential uses:

(i) The width of each required yard adjacent to a residential use shall be increased by one foot for each foot in height of the nonresidential structure exceeding 35 feet;

(ii) Applications to reduce the minimum required yard width shall be prohibited;

(iii) Parking and loading areas serving the nonresidential use shall not be located within the required yard; and

(iv) A landscaped buffer meeting the requirements of Section 40.1-5.2, Landscaping and Screening, shall be established and maintained in the required yard.

(f) Historic Markers

(i) Historic markers shall be made available to the owner of any building designated as a historic structure.

(ii) The markers shall show the date of construction and the historic significance of the structure and shall be placed on the structure or adjacent to it.

(iii) It shall be unlawful for anyone to display an unauthorized marker or to remove an authorized marker without the prior consent of the structure owner and the city.

(8) Conversion of Single-Family Dwellings

The conversion of existing single-family dwellings into two-to-four-family homes or multi-family buildings is permitted within the Olde Towne, Port Norfolk, and Park View historic districts subject to a use permit (See Section 40.1-2.3(B), Use Permit), and compliance with the following standards:

(a) Construction Date

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

(i) October 24, 1967 in the Olde Towne Historic District;

(ii) April 26, 1983 in the Port Norfolk Historic District; and

(iii) April 1, 1984 in the Park View Historic District.

(b) Exterior Alterations Prohibited

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

(c) Minimum Floor Area

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

(d) Maximum Number of Units

The number of dwelling units permitted within a single structure shall be in accordance with Table 40.1-3.6(B), Maximum Number of Dwelling Units.

TABLE 40.1-3.6.B: MAXIMUM NUMBER OF DWELLING UNITS	
MINIMUM LOT SIZE (SQUARE FEET)	MAXIMUM DWELLING UNITS, INCLUDING ALL EXISTING UNITS (#)
PORT NORFOLK	
5,600 – 11,199	2
11,200 or more	4
OLDE TOWNE AND PARK VIEW [1]	
3,480 – 6,959	2
6,960 or more	3
CRADOCK	
NOTES: [1] In the Olde Towne Historic District, any building larger than 5,000 square feet may be converted into additional dwelling units, provided each dwelling unit contains at least 2,500 square feet.	

(e) Provision of Sewer Service

(i) Prior to the issuance of a building permit for conversion in accordance with these standards, approval for sewage disposal shall be obtained from the Department of Environmental Services and the Department of Public Utilities, in accordance with Section 38-37 of the City Code.

(ii) Where feasible, separate utility meters for each dwelling unit shall be required.

(f) Off-Street Parking Standards

(i) Amount

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

(ii) Location

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

(F) Preservation/Government (PG) District

(1) Purpose and Intent

(a) The Preservation/Government (PG) district is established and intends to preserve and protect identifiable natural resources from urban encroachment—i.e., to preserve watercourses and protect them from erosion and sedimentation; retain open spaces and greenways and protect their environmentally-sensitive character; preserve wildlife and plant life habitats and protect them from the intrusions of urbanization; provide air and noise buffers to ameliorate the effects of development; and preserve and maintain the aesthetic qualities and appearance of the community.

(b) The district discourages development that creates risks for loss of life or property from normal natural processes and events in natural hazard areas (e.g., floodplains) for preservation: preservation of city's critical and environmental areas, including parklands, open space, archeological sites, cemetery grounds, wetland ecology, and land for recreation use.

(c) The district is also established to identify those lands within the city containing military installations under exclusive federal authority.

(2) Federal Government Exemption

Uses owned or operated by the Federal government shall be exempted from the standards of this district.

(3) Dimensional Standards

Development within the PG district shall comply with the following standards:

(a) Minimum Lot Size

Except for lots containing public utilities, the minimum lot size within in the PG district shall be at least three acres.

(b) Minimum Lot Width

Except for lots containing public utilities, the minimum lot width within the PG district shall be at least 200 feet.

(c) Minimum Required Yards

Except where reduced by the City Council as part of a special exception or use permit, all front, side, and rear yards shall be at least 50 feet.

(d) Maximum Building Coverage

Maximum building coverage shall be five percent of the lot area.

(e) Maximum Building Height

No building shall be more than 36 feet in height.

(f) Sign Regulations

(i) Up to one sign, not exceeding 18 square feet in area, may be permitted.

(ii) No sign shall be:

a. Directly illuminated;

b. Mounted closer than seven feet to a lot line fronting a street; or

c. Higher than six feet above the ground.

40.1-3.7 OVERLAY ZONING DISTRICTS

(A) General

(1) Purpose

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

(2) Establishment of Overlay Zoning Districts

Table 40.1-3.8, Overlay Zoning Districts Established, sets out the overlay zoning districts established by this Ordinance. Except where specifically provided in this article, variances from the overlay zoning district standards shall not be granted.

TABLE 40.1-3.8: OVERLAY ZONING DISTRICTS ESTABLISHED

DISTRICT ABBREVIATION	DISTRICT NAME
MPO	Master-Planned Overlay
NCO	Neighborhood Conservation Overlay

(3) Classification of Overlay Zoning Districts

Land shall be classified or reclassified into an overlay zoning district only in accordance with the procedures and requirements set forth in Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment.

(4) Relationship to Other Zoning Districts

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

(B) Master-Planned Overlay (MPO) District

(1) Purpose

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

(2) Applicability

The MPO district is available for application to lands of two acres in size or greater located outside of an existing Activity Center district or location where an activity center district designation is anticipated by the comprehensive plan.

(3) Procedure

The MPO district is established in accordance with the procedure and requirements for an amendment to the Official Zoning Map in accordance with Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, and the standards in this section.

(4) Standards

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

(a) MPO Master Plan

The MPO Master Plan shall:

(i) Include a statement of planning objectives for the district;

(ii) Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;

(iii) Identify for the entire MPO district and each development area the acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity;

(iv) Identify the general location, amount, and type (whether designated for active or passive recreation) of open space;

(v) Identify the location of environmentally sensitive lands, wildlife habitat, and stream corridors;

(vi) Identify the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit corridors, and pedestrian and bicycle pathways, and how they will connect with existing and planned city systems;

(vii) Identify the general location of on-site potable water and wastewater facilities, and how they will connect to city systems;

(viii) Identify the general location of on-site stormwater management facilities, and how they will connect to city systems; and

(ix) Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, and facilities for fire protection, police protection, EMS, stormwater management, and solid waste management.

(b) Terms and Conditions Statement

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

(i) Conditions related to approval of the application for the MPO zoning district classification;

(ii) The MPO master plan, including any density/intensity standards, dimensional standards, and development standards established in the MPO master plan;

(iii) Conditions related to the approval of the MPO master plan, including any conditions related to the form and design of development shown in the MPO master plan;

(iv) Provisions addressing how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;

(v) Provisions related to environmental protection and monitoring; and

(vi) Any other provisions the City Council determines are relevant and necessary to the development of the MPO in accordance with applicable standards and regulations.

(c) Consistency with City Plans

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

(d) Minimum District Size

The MPO Overlay district shall be at least two acres in size.

(e) Compatibility with Surrounding Areas

Development along the perimeter of a MPO district shall be compatible with adjacent existing or proposed development. Where there are issues of compatibility, the MPO master plan shall provide for transition areas at the edges of the MPO district that provide for appropriate buffering and/or ensure a complementary character of uses. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, and siting of service areas.

(f) Development Phasing Plan

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

(g) Conversion Schedule

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

(h) On-Site Public Facilities

(i) Design and Construction

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

(ii) Dedication

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

(iii) Modifications to Street Standards

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

a. The MPO master plan provides for separation of vehicular, pedestrian, and bicycle traffic;

b. Access for emergency service vehicles is not substantially impaired;

c. Adequate off-street parking is provided for the uses proposed; and

d. Adequate space for public utilities is provided within the street right-of-way.

(i) Allowable Uses

The range of allowable uses within a MPO district shall be the same range of uses allowed within the NAC district as identified in Table40.1-4.1(A), Use Table. The MPO master plan shall provide additional detail about how impacts from uses not allowed within the base zoning district will be addressed by the MPO district. All applicable use-specific standards shall continue to apply within the MPO district.

(j) Densities/Intensities

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

(k) Dimensional Standards

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

(i) Minimum lot area;

(ii) Minimum lot width;

(iii) Minimum and maximum setbacks;

(iv) Maximum lot coverage;

(v) Maximum building height;

(vi) Maximum individual building size;

(vii) Floor area ratio; and

(viii) Minimum setbacks from adjoining residential development or residential zoning districts.

(l) Development Standards

All development in a MPO district shall comply with the development standards of Article 40.1-5: Development Standards, or any modifications of those standards shall be established in the MPO Master Plan, and shall be consistent with the comprehensive plan and the intent of MPO district.

(m) Amendments to an Approved MPO Master Plan

(i) General

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

(ii) Amendments Defined

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

a. Changes in use designations;

b. Density/intensity increases;

c. Decreases in open space;

d. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);

e. Change in the location of any public easement;

f. Change in the proportion of housing types by more than10 percent;

g. Substantial changes to the design or materials of structures; or

h. Violation of any specific condition of the master plan or terms and conditions.

(n) Minor Deviations

Subsequent plans and permits for development within an approved MPO district may include minor deviations from the master plan or terms and conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the zoning classification process or any other change that has no material effect on the character of the approved activity center district or any of its requirements. The following shall constitute minor deviations:

(i) Driveway locations;

(ii) Structure floor plan revisions;

(iii) Minor shifts in building size or location; and

(iv) Facility design modifications for amenities and the like.

Changes that materially affect the basic concept of the master plan or basic parameters set by the terms and conditions are not considered minor deviations, and shall only be changed as amendments to the MPO district.

(C) Neighborhood Conservation Overlay District

(1) Purpose

The Neighborhood Conservation Overlay (NCO) District is established and intended to protect and preserve the unique design features and character of established neighborhoods throughout the city, and to promote new construction that is compatible with the existing neighborhood character. The NCO district is a flexible tool that may be applied to multiple neighborhoods, each of which will have its own unique architectural, natural, cultural, and historic attributes.

(2) Establishment of Individual Neighborhood Conservation Districts

The City Council may establish individual Neighborhood Conservation Overlay Districts in accordance with this section and Section 40.1-2.3(A), Zoning Map Amendment (Rezoning) or Text Amendment, after approving an area plan for the neighborhood specifying the development context in the district. Each district shall comply with the standards in Section 40.1-3.7(C)(4) General Development Standards for All NCO Districts. In establishing a new NCO District, the City Council may also establish a unique set of development standards applicable to all development in the particular district (see Section 40.1-3.7(C)(5), District-Specific Development Standards).

(3) Minimum Standards for Designation of an NCO District

The City Council may approve an application for designation of a NCO District only if:

(a) At least 65 percent of the land area within the proposed NCO district, not including street and other rights-of-way, is developed;

(b) Development patterns in the district demonstrate an on-going effort to maintain or rehabilitate the character and physical features of existing buildings in the district;

(c) There is existing or potential pressure for new development or redevelopment and new infill development within the district;

(d) The area must possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association:

- **(i)** Scale, size, type of construction, or distinctive building materials;
- **(ii)** Lot layouts, setbacks, street layouts, alleys or sidewalks;
- **(iii)** Special natural or streetscape characteristics, such as creek beds, parks, gardens or street landscaping;
- **(iv)** Land use patterns, including mixed or unique uses or activities; or
- **(v)** Abuts or links designated historic districts and/or landmarks.

(e) The development standards proposed to be applied to the district will encourage the retention of the general character and appearance of existing development in the district.

(4) General Development Standards for All NCO Districts

(a) Compliance with Underlying Zoning District Standards

These standards supplement the applicable development and district-specific standards found in the underlying base zoning district and do not affect the use regulations applicable in the underlying zoning district.

(b) Compliance with Approved Design and Development Standards

No permit for any new construction or expansion of an existing structure resulting in an increase in building footprint area of 25 percent or more may be issued until the Planning Director determines that the proposal complies with all design standards established for the NCO district where the land is located. All new development in a NCO district shall comply with the development standards for the underlying zoning district.

(c) Conflict with Other Standards

In the case of conflict between the NCO district standards and any other standards of this Ordinance, the NCO district development standards shall control.

(5) District-Specific Development Standards

Each area designated as a Neighborhood Conservation Overlay District shall identify, with specificity, the design standards to be applied to all new construction and expansion of existing structures. Aspects of development that these design standards may include, but are not be limited to, the following:

(a) Lot size;

(b) Location of proposed buildings or additions;

(c) Setbacks or required yards;

(d) Building height;

(e) Building size (for principal and accessory structures);

(f) Building orientation;

(g) Exterior building materials and colors;

(h) Building roof line and pitch;

(i) Building foundation treatment;

(j) Landscaping and screening;

(k) Impervious surface coverage;

(l) Paving requirements or limitations;

(m) Exterior lighting;

(n) Required features on a front façade;

(o) Neighborhood character and compatibility;

(p) Views of or from specific locations;

(q) Riparian areas, wetland areas, or drainage patterns; and

(r) Demolition of structures.

The City Council may approve additional design standards addressing aspects of development not listed above. The City Council may also prohibit use types within a NCO district.

(6) Specific Neighborhood Conservation Overlay Districts

[Placeholder]

ARTICLE 40.1-4:

USE STANDARDS

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ARTICLE 40.1-4: USE STANDARDS

40.1-4.1 USE TABLE

(A) Explanation of Use Table Structure

(1) General

Table 40.1-4.1(A), Use Table, lists land uses and indicates whether they are allowed by right or with a use permit in a base zoning district, allowed in an activity center zoning district, or prohibited in a base zoning district and activity center zoning district. The use table also includes references to any additional requirements or regulations applicable to the specific use type.

(2) Organization of Uses

The use table organizes allowable uses by use classifications, use categories, and use types. The use table and Section 40.1-4.2, Use Classifications, Categories, and Use Types, together provide a systematic basis for identifying and consolidating or distinguishing unidentified land uses to determine whether a particular land use is allowable in a particular zoning district and in addressing future land uses.

(a) Use Classifications

The use classifications identify broad general classifications of land use and include residential uses, public and institutional uses, commercial uses, and industrial uses. Use classifications are further broken down into a series of general "use categories" and specific "use types."

(b) Use Categories

The use categories describe the major sub-groups of the respective use classifications, and are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. For example, the Residential Use Classification is divided into the Household Living and Group Living use categories. Use categories are further broken down into a series of individual use types.

(c) Use Types

The specific use types are included in the respective use category. They identify the specific principal uses that are considered to fall within characteristics identified in the use category. For example, live/work dwellings, single-family detached dwellings, single-family attached dwellings, two- to four-family dwellings, townhouse dwellings, and multi-family dwellings are use types in the Household Living Use Category.

(3) Permitted Uses

A "P" in a cell of the use table indicates that the corresponding use category or use type is allowed by right in the corresponding base zoning district, subject to compliance with any use-specific standards referenced in the final column of the use table. An "A" is used in the columns for the activity center districts, and specifies the allowable use types in a particular activity center district provided the use type is set out in an approved activity center master plan. Permitted uses are subject to all other applicable requirements of this Ordinance, including those set forth in Article 40.1-5: Development Standards.

(4) Uses Allowed Only with a Use Permit

A "U" in a cell of the use table indicates that the corresponding use category or use type is allowed in the corresponding base zoning district only upon approval of a use permit in accordance with Section 40.1-2.3(B), Use Permit, and any use-specific standards referenced in the final column of the use table. Uses subject to a use permit are subject to all other applicable requirements of this Ordinance, including those set forth in Article 40.1-5: Development Standards.

(5) Allowed Uses Subject to a Activity Center District Classification

An "A" in a cell indicates that a use category or use type is allowed by right in an activity center district, subject to compliance with the use-specific regulations set forth in the final column of the table and provided the use is set out as a possible use type in an approved activity center master plan. Allowed uses are subject to other applicable regulations in this Ordinance, including those set forth in Section 40.1-3.5, Activity Center Zoning Districts. Use types that are blank are not allowable in a particular activity center district, and shall not be included in a master plan.

(6) Prohibited Uses

A blank cell or a slash in the use table indicates that the use type is prohibited in the corresponding zoning district.

(7) Use-Specific Standards

When a particular use category or use type is permitted in a zoning district, there may be additional regulations that are applicable to a specific use. The existence of these use-specific standards is noted through a section reference in the last column of the use table titled "Additional Requirements." References refer to Section 40.1-4.3, Use-Specific Standards. These standards shall apply to a particular use regardless of the base zoning district where it is proposed unless otherwise specified.

(8) Use Restricted or Prohibited by Overlay Zoning District

Regardless of whether the use table identifies a particular use type as a permitted use, allowed use, or use requiring a use permit in a zoning district, or references additional requirements for the use type, the use type may be restricted or prohibited, or subject to more restrictive additional requirements, in accordance with applicable overlay district provisions in Section 40.1-3.5, Overlay Zoning Districts.

(9) Unlisted Uses

The Planning Director shall determine whether or not an unlisted use is part of an existing use category or use type defined in Section 40.1-4.2, Use Classifications, Categories, and Types, or is substantially similar to an already defined use type, using the standards in Section 40.1-4.2(A)(4), Interpretation of Unlisted Uses.

(10) Uses in the Downtown D1 and D2 Districts

The use standards related to the Downtown D1 and D2 districts are included with the district-specific standards for each district in Appendix A and B, respectively, of this Ordinance.

(11) Uses in the Residential Mobile Home (RMH) District

The RMH district is included as Appendix C of this Ordinance, and the range of allowable uses shall be limited to mobile or manufactured homes and existing supporting accessory uses.

TABLE 40.1-4.1(A): USE TABLE

P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL OR SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
RESIDENTIAL USE CLASSIFICATION																			
Household Living	Dwelling, live/work	/	/	P	P	P	P	P	/	/	A	A	A	/	P	P	/	P	40.1-4.3(A)(1)(b)
	Dwelling, multi-family	/	/	U	P	P	P	P	/	/	A	A	A	U	U	U	/	P/U	40.1-4.3(A)(1)(a)
	Dwelling, single-family attached	/	/	U	P	P	P	P	/	/	A	A	A	U	P	P	/	/	40.1-4.3(A)(1)(a)
	Dwelling, single-family detached	P	P	P	P	P	/	/	/	/	A	A	A	P	P	P	/	/	40.1-4.3(A)(1)(a)
	Dwelling, townhouse	/	/	U	P	P	P	P	/	/	A	A	A	U	U	P	/	P	40.1-4.3(A)(1)(a)
	Dwelling, two- to four-family	/	U	U	P	P	P	P	/	/	A	A	/	U	U	P	/	/	40.1-4.3(A)(1)(c)
	Dwelling, upper story	/	/	P	P	P	P	P	/	/	A	A	A	/	P	P	/	P	40.1-4.3(A)(1)(a)
Group Living	Dormitory	/	/	U	U	P	U	P	/	/	/	A	A	/	/	/	/	/	40.1-4.3(A)(2)(a)
	Family care home	P	P	P	P	P	P	/	/	/	A	/	/	P	P	P	/	U	40.1-4.3(A)(2)(b)
	Fraternity or sorority house	/	/	/	/	P	P	/	/	/	/	/	/	/	/	/	/	/	
	Group home	/	/	U	U	U	U	U	/	/	/	A	/	/	/	/	/	U	40.1-4.3(A)(2)(c)
	Rooming or boarding house	/	P	P	P	P	P	P	/	/	A	A	/	/	/	P	/	/	40.1-4.3(A)(2)(d)
	Single room occupancy (SRO) facility	/	/	/	U	U	U	/	/	/	/	/	/	/	/	/	/	/	40.1-4.3(A)(2)(e)
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION																			
Community Services	Community center	/	P	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Cultural facility	/	/	/	/	P	P	P	/	/	/	A	A	/	/	P	/	P	
	Library	/	P	P	P	P	P	P	/	/	A	A	A	/	/	U	/	P	
	Museum	/	/	/	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Senior center	/	/	U	P	P	P	P	/	/	A	A	A	/	/	P	/	U	
	Youth club facility	/	/	U	P	P	P	P	/	/	A	A	A	/	/	P	/	U	
Day Care	Adult day care center	/	U	U	P	P	P	P	/	/	A	A	A	U	U	P	/	U	

TABLE 40.1-4.1(A): USE TABLE

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Child day care center	/	U	P	P	P	P	P	P	P	A	A	A	U	U	P	/	U	40.1-4.3(B)(1)(a)
	Family child day care home (6 to 12 children)	U*	U*	U*	P	P	P	P	/	/	A	A	A	/	/	P	/	U*	40.1-4.3(B)(1)(b) *See additional requirements for administrative approval.
	Home child day care for 5 or fewer children	P	P	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
Educational Facilities	College or university	/	U	U	U	P	P	P	/	/	/	/	A	/	/	/	/	U	40.1-4.3(B)(2)
	School, elementary	U	P	P	P	P	P	P	/	/	A	A	A	U	U	P	/	U	
	School, middle	/	P	P	P	P	P	P	/	/	A	A	A	U	U	P	/	U	
	School, high	/	U	P	P	P	P	P	/	/	A	A	A	U	U	P	/	/	
	Vocational or trade school	/	U	U	P	P	P	P	P	/	A	A	A	/	/	/	/	U	
Government Facilities	Government maintenance, storage, or distribution facility	/	/	/	/	P	P	P	P	P	/	A	A	/	/	/	P	P	
	Government offices	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	P	P	
	Other Government Facilities	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	
	Post office	/	/	U	U	P	P	P	P	P	A	A	A	/	/	P	P	P	
Health Care Facilities	Blood/tissue collection facility	/	/	/	/	U	U	U	U	U	/	A	A	/	/	/	/	/	
	Drug or alcohol treatment facility	/	/	/	/	U	U	P	U	U	/	A	A	/	/	/	/	/	
	Hospital	/	U	U	U	U	U	P	U	U	/	A	A	/	/	/	/	/	40.1-4.3(B)(3)(a)
	Medical or dental clinic	/	/	/	U	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Medical or dental lab	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Medical treatment facility	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(B)(3)(b)
	Outpatient facility	/	/	/	P	P	P	P	/	/	A	A	A	/	/	P	/	U	
Institutions	Assisted living facility	/	/	U	U	P	P	U	/	/	A	A	A	/	/	U	/	/	
	Auditorium	/	/	/	/	U	U	P	/	/		A	A	/	/	/	/	U	40.1-4.3(B)(4)(a)
	Convention center	/	/	/	/	U	P	P	/	/		A	A	/	/	/	/	U	

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Halfway house	/	/	U	U	U	U	U	/	/	A	A	A	/	/	U	/	/	40.1-4.3(B)(4)(b)
	Nursing home	/	U	U	U	P	U	P	U	U	A	A	A	/	/	U	/	/	
	Psychiatric treatment facility	/	/	/	/	U	P	U	U	U	/	A	A	/	/	/	/	/	
	Religious institution	P	P	P	P	P	P	P	P	P	A	A	A	U	U	P	/	U	40.1-4.3(B)(4)(c)
	Civic, social or fraternal clubs or lodges	/	U	U	U	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Shelter	/	/	/	/	U	U	U	U	U	A	A	A	/	/	U	/	/	
Parks and Open Areas	Arboretum or botanical garden	P	P	P	P	P	P	P	/	/	A	A	A	/	/	P	P	P	
	Cemetery, columbaria, mausoleum	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	/	40.1-4.3(B)(5)(a)
	Community garden	P	P	P	P	P	P	P	/	/	A	A	A	/	/	P	P	P	
	Golf course, public	P	P	P	P	P	P	P	P	P	/	A	A	/	/	P	P	/	
	Park, public	U	P	P	P	P	P	P	P	P	A	A	A	/	/	P	P	P	
	Park, private	P	P	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Public square or plaza	/	P	P	P	P	P	P	/	/	A	A	A	/	/	P	P	P	
Public Safety	Correctional facility	/	/	/	/	U	/	U	U	U	/	/	A	/	/	U	/	/	40.1-4.3(B)(6)(a)
	Fire or EMS facility	/	/	/	U	P	P	P	P	P	A	A	A	/	/	P	/	/	
	Fire or police substation	/	U	U	U	P	P	P	P	P	A	A	A	/	/	P	/	/	
	Police station	/	/	U	U	P	P	P	P	P	A	A	A	/	/	P	/	/	
Transportation	Airport	/	/	/	/	/	U	U	U	/	/	/	A	/	/	/	/	/	
	Helicopter landing facility	/	/	/	/	U	U	P	U	U	/	A	A	/	/	/	/	U	40.1-4.3(B)(7)(a)
	Passenger terminal, surface transportation	/	/	/	/	P	P	P	/	/	/	A	A	/	/	/	/	U	
Utilities	Telecommunications antenna, collocation on existing tower	/	P	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	40.1-4.3(B)(8)(a)
	Telecommunications antenna, placement on existing building	/	P	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	40.1-4.3(B)(8)(a)

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Telecommunications tower, freestanding	/	U	U	U	U	U	U	U	U	A	A	A	/	/	U	/	U	40.1-4.3(B)(8)(b)
	Utility, major	U	U	U	U	U	U	U	P	P	/	A	A	/	/	U	P	U	40.1-4.3(B)(8)(c)
	Utility, minor	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	P	
COMMERCIAL USE CLASSIFICATION																			
Adult Uses	Adult bookstore	/	/	/	/	U	U	U	U	U	/	/	/	/	/	/	/	/	40.1-4.3(C)(2)
	Adult entertainment establishment	/	/	/	/	U	U	U	U	U	/	/	/	/	/	/	/	/	
	Adult motion picture theater	/	/	/	/	U	U	U	U	U	/	/	/	/	/	/	/	/	
Animal Care	Animal grooming	/	/	/	/	P	P	P	P	P	A	A	A	/	/	/	/	/	40.1-4.3(C)(3)
	Animal shelter	/	/	/	/	U	U	P	P	P	/	A	A	/	/	/	/	/	
	Kennel, indoor	/	/	U	U	P	P	P	P	P	A	A	A	/	/	/	/	/	
	Kennel, outdoor	/	/	/	/	U	U	U	P	P	/	A	A	/	/	/	/	/	
	Veterinary clinic	/	/	U	U	P	P	P	P	P	A	A	A	/	/	/	/	/	
Conference and Training Centers	Conference or training center	/	/	/	/	/	P	P	P	/	/	A	A	/	/	P	/	U	40.1-4.3(C)(4)
Eating Establishments	Dinner theater	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	U	
	Restaurant, with indoor or outdoor seating	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(C)(5)(a)
	Restaurant, with drive-through service	/	/	/	/	/	U	P	P	P	A	A	A	/	/	P	/	/	40.1-4.3(C)(5)(b)
	Restaurant, without drive-through service	/	/	U	P	P	P	P	P	P	A	A	A	/	/	/	/	U	
	Restaurant, Brew-pub	/	/	/	/	U	P	P	P	P	A	A	A	/	/	U	/	P	40.1-4.3(C)(5)(a)
	Specialty eating establishment	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	U	
Entertainment Establishment	All	/	/	/	/	/	U	U	U	U	/	A	A	/	/	/	/	U	40.1-4.3(C)(6)
Offices	Offices, business services	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Offices, financial services	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Offices, professional services	/	/	U	U	P	P	P	P	P	A	A	A	/	P	P	/	P	

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Offices, sales (including real estate)	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Radio and television broadcasting studio	/	/	/	/	P	P	P	/	P	/	A	A	/	/	P	/	P	
Parking, Commercial	Parking lot	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	U	40.1-4.3(C)(7)(a)
	Parking structure	/	/	/	P	P	P	P	P	P	A	A	A	/	/	P	/	P	40.1-4.3(C)(7)(b)
Recreation/ Entertainment, Indoor	Commercial recreation, indoor	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Theater	/	/	P	P	P	P	P	/	P	A	A	A	/	/	P	/	P	
Recreation/ Entertainment, Outdoor	Arena, amphitheater, or stadium	/	/	/	/	P	P	P	U	U	/	A	A	/	/	/	/	U	40.1-4.3(C)(8)(a)
	Commercial recreation, outdoor	/	/	U	U	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Country club	U	U	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Golf course, public	U	P	P	P	P	P	P	P	P	/	A	A	/	/	P	P	/	
	Golf driving range	/	/	/	/	P	P	U	P	P	/	A	A	/	/	P	/	/	
	Marina	/	/	U	U	U	U	U	P	P	/	/	A	/	/	U	/	P	40.1-4.3(C)(8)(b)
	Marina, pleasure boats only	/	U	P	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Membership sports or recreation club (e.g., swimming pools, tennis courts)	U	U	P	P	P	P	P	/	/	A	A	A	/	/	P	/	P	40.1-4.3(C)(8)(c)
Retail Sales & Services	Gasoline sales	/	/	U	U	U	P	P	P	P	A	A	A	/	/	P	/	/	40.1-4.3(C)(9)(c)
	Crematory	/	/	/	/	P	P	P	P	P	/	A	A	/	/	P	/	/	
	Dry cleaning and laundry drop-off establishment	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	P	40.1-4.3(C)(9)(d)
	Financial institution, without drive-through service	/	/	U	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
	Financial institution, with drive-through service	/	/	/	U	U	P	U	P	P	A	A	A	/	/	P	/	/	40.1-4.3(C)(9)(d)
	Funeral home	/	/	/	/	P	P	U	/	/		A	A	/	/	P	/	P	40.1-4.3(C)(9)(d)
	Laundry, self-service	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Liquor Store					U	U	U											

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Massage Therapy	/	/	/	/	P	P	P	/	/		A	A	/	/	/	/	/	40.1-4.3(C)(9)(d)
	Microbrewery/Micro-Distillery/Micro-Winery/Micro-Cidery	/	/	/	/	U	P	P	P	P	A	A	A	/	/	U	/	P	
	Personal services establishment	/	/	P	P	P	P	/	P	P	A	A	A	/	/	P	/	P	40.1-4.3(C)(9)(d
	Special events house	/	/	/	/	P	P	P	/	/	A	A	A	/	U	/	/	/	
	Tattoo parlor/body piercing establishment	/	/	/	/	P	P	/	P	P	/	/	/	/	/	/	/	U	
	Repair establishment	/	/	/	/	U	P	P	P	P	A	A	A	/	/	P	/	P	
	Convenience store, without gas sales	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Convenience store, with gas sales	/	/	U	U	U	U	P	P	P	A	A	A	/	/	/	/	/	40.1-4.3(C)(9)(e)(i)
	Drug store or pharmacy, without drive-through service	/	/	U	P	P	P	P	P	P	A	A	A	/	/	P	/	P	
	Drug store or pharmacy, with drive-through service	/	/	/	U	U	U	P	P	P	A	A	A	/	/	P	/	/	40.1-4.3(C)(9)(e)(ii)
	Flea market	/	/	/	/	U	U	P	P	P		A	A	/	/	P	/	/	
	Grocery store	/	/	U	P	P	P	P	U	U	A	A	A	/	/	P	/	P	
	Liquor store	/	/	/	/	U	U	U	U	U	A	A	A	/	/	U	/	U	
	Retail sales establishment, large	/	/	/	/	U	U	P	P	P	/	A	A	/	/	P	/	U	40.1-4.3(C)(9)(e)(iii)
	Other retail sales establishments	/	/	U	P	P	P	P	/	/	A	A	A	/	/	P	/	P	
Self–Service Storage	Mini-warehouse	/	/	/	/	/	/	U	P	P	/	A	A	/	/	/	/	/	40.1-4.3(C)(10)
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance	/	/	/	/	/	/	/	P	P	/	/	/		/	/	/	/	
	Automotive painting/body shop	/	/	/	/	/	/	P	P	P	/	A	A	/	/	/	/	/	40.1-4.3(C)(11)(a)
	Automotive wrecker service	/	/	/	/	/	/	P	P	P	/	A	A	/	/	/	/	/	
	Transmission shop	/	/	/	/	/	/	P	P	P	/	A	A	/	/	/	/	/	
	Boat and marine rental and sales	/	/	/	/	P	P	P	P	P	/	A	A	/	/	P	/	U	

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL OR SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Truck stop	/	/	/	/		/	U	P	P	/	A	A	/	/	/	/	/	
Vehicle Sales and Services, Light	Automotive parts and installation	/	/	/	/	U	P	P	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(11)(b)
	Automobile repair and servicing (without painting/bodywork)	/	/	/	/	U	U	P	P	P	/	A	A	/	/	/	/	/	40.1-4.3(C)(11)(c)
	Automobile sales or rentals	/	/	/	/	U	P	P	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(11)(d)
	Automotive wrecker service	/	/	/	/	U	/	P	P	P	/	/	/	/	/	/	/	/	40.1-4.3(C)(11)(e)
	Car wash or auto detailing	/	/	/	/	U	P	U	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(11)(f)
	Motorcycle sales	/	/	/	/	U	P	U	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(11)(d)
	Recreational vehicle sales or rentals	/	/	/	/	U	U	U	P	P	/	A	A	/	/	P	/	/	40.1-4.3(C)(11)(d)
	Taxicab service	/	/	/	/	U	P	P	P	P	A	A	A	/	/	P	/	/	
	Tire/muffler sales and mounting	/	/	/	/	U	P	P	P	P	/	A	A	/	/	/	/	/	40.1-4.3(C)(11)(g)
Visitor Accommodations	Bed and breakfast inn	/	/	/	/	/	/	/	/	/	/	/	/	U	U	/	/	/	40.1-4.3(C)(12)(a)
	Campground or recreational vehicle (RV) park	/	/	/	/	U	/	U	U	U	/	A	A	/	/	/	/	/	
	Hotel or motel, extended stay	/	/	/	U	/	U	U	U	U	A	A	A	/	/	/	/	/	40.1-4.3(C)(12)(b)
	Hotel or motel, full service	/	/	/	P	P	P	P	P	P	A	A	A	/	/	/	/	U	40.1-4.3(C)(12)(c)
	Tourist Home	/	/	/	/	P	P	P	/	/	A	A	A	/	/	/	/	/	40.1-4.3(C)(12)(d)
INDUSTRIAL USE CLASSIFICATION																			
Industrial Services	Building, heating, plumbing, or electrical contractor	/	/	/	/	P	P	P	P	P	/	A	A	/	/	/	/	/	
	Electric motor repair	/	/	/	/	/	/	U	P	P	/	A	A	/	/	U	/	/	40.1-4.3(D)(1)(a)
	Fuel oil/bottled gas distributor	/	/	/	/	/	/	/	P	P	/	/	/	/	/	/	/	/	
	Fuel oil storage	/	/	/	/	U	U	P	P	P	/	A	A	/	/	P	/	/	40.1-4.3(D)(1)(b)

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL OR SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	General industrial service	/	/	/	/	/	/	/	U	P	/	/	/	/	/	/	/	/	
	Heavy equipment sales, rental, or storage	/	/	/	/	/	/	U	P	P	/	A	A	/	/	/	/	/	40.1-4.3(D)(1)(c)
	Heavy equipment servicing and repair	/	/	/	/	/	/	/	P	P	/	/	/	/	/	/	/	/	
	Laundry, dry cleaning, and carpet cleaning plants	/	/	/	/	/	/	/	U	P	/	/	/	/	/	/	/	/	40.1-4.3(D)(1)(d)
	Machine shop	/	/	/	/	/	/	/	P	P	/	/	/	/	/	/	/	/	40.1-4.3(D)(1)(a)
	Repair of scientific or professional instruments	/	/	/	/	/	/	U	P	P	/	A	A	/	/	/	/	/	
	Research and development	/	/	/	/	P	P	P	P	P	/	A	A	/	/	/	/	/	
	Tool repair	/	/	/	/	/	/	U	P	P	/	A	A	/	/	/	/	/	40.1-4.3(D)(1)(a)
Manufacturing and Production	Asphalt plants	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	40.1-4.3(D)(2)(a)
	Brewery/Distillery/ Winery/ Cidery	/	/	/	/	/	/	/	P	P	/	/	/	/	/	/	/	/	
	Concrete plants	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	40.1-4.3(D)(2)(a)
	Manufacturing of chemicals, fertilizers, paint, and turpentine	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	
	Manufacturing, heavy	/	/	/	/	/	/	/	/	P	/	/		/	/	/	/	/	
	Manufacturing, light	/	/	/	/	/	/	U	P	P	/	/	A	/	/	/	/	/	
	Petroleum Refining	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	40.1-4.3(D)(2)(a)
	Rendering	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	
Warehouse and Freight Movement	Bulk fuel sales and storage	/	/	/	/	/	/	/	P	P	/	/	A	/	/	/	/	/	40.1-4.3(D)(3)(a)
	Cold storage plant	/	/	/	/	/	U	U	P	P	/	/	A	/	/	/	/	/	
	Outdoor storage (as a principal use)	/	/	/	/	U	U	U	P	P	/	A	A	/	/	/	/	/	40.1-4.3(D)(3)(b)
	Parcel services	/	/	/	/	/	P	P	P	P	A	A	A	/	/	/	/	/	40.1-4.3(D)(3)(c)
	Shipping container storage yard	/	/	/	/	/	/	/	U	U	/	/	U	/	/	/	/	/	40.1-4.3(D)(3)(d)
	Truck or freight terminal	/	/	/	/	/	/	/	P	P	/	/	A	/	/	/	/	/	40.1-

TABLE 40.1-4.1(A): USE TABLE
P = PERMITTED USE U = USE PERMIT REQUIRED A = ALLOWED BLANK CELL OR SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	ZONING DISTRICTS																	ADDITIONAL REQUIREMENTS
		RESIDENTIAL [1]				BUSINESS					ACTIVITY CENTER			SPECIAL [2]					
		NR	GR	UR	URH	NMU	GMU	MUH	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
	Warehouse (distribution)	/	/	/	/	/	/	U	P	P	/	/	A	/	/	/	/	/	4.3(D)(3)(c)
	Warehouse (storage)	/	/	/	/	/	U	P	P	P	/	A	A	/	/	/	/	/	
Waste-Related Services	Energy recovery plant	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	40.1-4.3(D)(4)(a)
	Hazardous waste collection sites	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	
	Incinerator	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	
	Recycling and salvage center	/	/	/	/	/	/	/	/	P	/	/	/	/	/	/	/	/	40.1-4.3(D)(4)(b)
	Recycling drop-off center	/	/	/	/	P	P	P	P	P	A	A	A	/	/	P	/	/	40.1-4.3(D)(4)(c)
	Salvage and junkyard	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	40.1-4.3(D)(4)(d)
	Tire disposal or recycling	/	/	/	/	/	/	/	/	U	/	/	/	/	/	/	/	/	
	Waste composting	/	/	/	/	/	/	/	U	U	/	/	/	/	/	/	/	/	
Wholesale sales	All uses	/	/	/	/	/	/	U	P	P		A	A	/	/	/	/	/	40.1-4.3(D)(5)

NOTES:
[1] The Residential Mobile Home (RMH) District is not included in the table. Amendments to the official zoning map establish new RMH districts are prohibited.
[2] The tables of permitted uses for the Downtown (D1) and (D2) districts are included in Appendices A and B of this Ordinance.

40.1-4.2 USE CLASSIFICATIONS, USE CATEGORIES, AND USE TYPES

(A) General

(1) Purpose

This section is intended to provide a systematic framework for identifying, describing, categorizing, and consolidating or distinguishing land uses in a way that makes it easier to determine how a particular land use activity, or combination of activities, is to be considered in applying the use table and other provisions in this Ordinance. This section is also intended to provide support in identifying instances where a new or unanticipated land use not identified in the use table is of such a nature, function, or duration that the impact of allowing it in a particular zoning district is so similar to that of a use type already identified in the use table as allowed in the zoning district that allowing the new or unanticipated land use should be interpreted as being consistent with the intent of the zoning district and the use regulations.

(2) Structure of this Section

(a) General

This section identifies each of the four use classifications in Table 40.1-4.1(A), Use Table, and includes a section under each use classification identifying each use category. There are "characteristics" and "examples" subsections under each use category (individual use types are defined in Article 40.1-8: Definitions).

(b) Principal Use Characteristics and Accessory Uses

The "characteristics" subsection describes common characteristics of each use category. Principal uses are assigned to the use category that most closely describes the nature of the principal use. Also listed are examples of common accessory uses that, unless otherwise stated in this Ordinance, are allowed in conjunction with a principal use.

(c) Examples

The "examples" subsection lists common examples of use types included in the respective use category. The names of these example uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "wholesale sales," but sells mostly to consumers, is included in the Retail Sales and Service Use Category rather than the Wholesale Sales Use Category. This is because the activity on the site matches the characteristics of the Retail Sales and Service Use Category.

(3) Developments with Multiple Principal Uses

When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore, and bakery, for example, would be classified in the Retail Sales and Service Use Category because all of the development's principal uses are in that use category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable use category and each use is subject to applicable regulations for that use category. Developments with multiple principal uses, such as shopping centers, shall incorporate only those use types allowed in the applicable zoning district.

(4) Interpretation of Unlisted Uses

(a) Procedure for Interpreting Unlisted Uses as Permitted

The Zoning Administrator may interpret a particular land use not expressly listed in the use table as allowed in a particular zoning district, in accordance with the procedure in Section 40.1-2.3(J), Interpretation, and based on the standards in Section 40.1-4.2(A)(4)(b), Standards for Approving Unlisted Uses.

(b) Standards for Interpreting Unlisted Uses as Permitted

The Zoning Administrator shall interpret an unlisted land use as permitted in a particular zoning district only after determining that the nature, function, and duration of the use and the impact of allowing it in the zoning district are so similar to those of a use type or use category allowable in the zoning district that the unlisted land use should be deemed allowable in the same manner as the similar use type or use category. In making such determination, the Zoning Administrator shall consider the purpose and intent statements in this Ordinance concerning the zoning district, the character of use types allowable in the district, and all relevant characteristics of the unlisted use, including but not limited to the following:

(i) The volume and type of sales, retail, wholesale, etc.;

(ii) The size and type of items sold and nature of inventory on the premises;

(iii) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution;

(iv) Any dangerous, hazardous, toxic, or explosive materials used in the processing;

(v) The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building;

(vi) Predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);

(vii) The type, size, and nature of buildings and structures;

(viii) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;

(ix) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site;

(x) Trip purposes and whether trip purposes can be shared by other use types on the site;

(xi) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity;

(xii) The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;

(xiii) Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and

(xiv) The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types allowed in the zoning district.

(c) Effect of Approval of Unlisted Use

(i) After interpreting an unlisted land use as permitted in a particular zoning district, the Zoning Administrator shall determine whether the unlisted use is likely to be common or to recur frequently, or whether its omission from the use table is likely to lead to public uncertainty and confusion. On determining that the unlisted use is likely to be common or would lead to confusion if unlisted, the Zoning Administrator shall initiate an application for

a text amendment to this Ordinance to list the use in the use table. Until final action is taken on the text amendment application, the Zoning Administrator's interpretation shall be binding.

(ii) If after interpreting an unlisted land use as permitted in a particular zoning district, the Zoning Administrator determines that the unlisted use is of an unusual or transitory nature, and unlikely to recur frequently, the interpretation shall be binding in accordance with Section 40.1-4.4.2(A)(4), Interpretation of Unlisted Uses, without further action or amendment of this Ordinance.

(iii) Appeals of the Zoning Administrator's decision shall be submitted in accordance with the standards in Section 40.1-2.3(K), Appeal.

(B) Residential Use Classification

(1) Household Living

(a) Characteristics

The Household Living Use Category includes use types that provide for the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Accessory uses commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations are accessory uses that are subject to additional regulations (See Section 40.1-4.4(C)(6), Home Occupation).

(b) Examples

Example use types include detached single-family dwellings, attached single-family dwellings, two- to four-family dwellings, townhouse dwellings, multi-family dwellings, and live/work dwellings.

(2) Group Living

(a) Characteristics

The Group Living Use Category includes use types that provide for the residential occupancy of a structure by a group of people who do not meet the definition of "household." The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment. Common accessory uses include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.

(b) Examples

Example use types include dormitories, fraternity or sorority houses, family care homes, group homes, and rooming or boarding houses, as well as single room occupancy (SRO) facilities.

(c) Exceptions

Nursing homes, assisted living facilities, halfway houses, and shelters are classified as Institutions.

(C) Public and Institutional Use Classification

(1) Community Services

(a) Characteristics

The Community Services Use Category includes use types of a public, nonprofit, or charitable nature that provide a local service to people of the community. Generally, such uses provide ongoing continued service on-site or have employees at the site on a regular basis. Community centers or facilities that have membership provisions that are open to the general public (for instance, any senior citizen could join a senior center) are included in the Community Services Use Category. The use type may provide special counseling, education, or training of a public, nonprofit, or charitable nature. Accessory uses may include offices, meeting, food preparation, parking, health, and therapy areas; and athletic facilities.

(b) Examples

Example use types include community centers, cultural facilities, libraries, museums, senior centers, and youth club facilities.

(c) Exceptions

Parks are classified as Parks and Open Space.

(2) Day Care

(a) Characteristics

The Day Care Use Category is characterized by use types that provide care, protection, and supervision for children or adults on a regular basis away from their primary residence, and typically for less than 24 hours per day. Care can be provided during daytime or nighttime hours. Accessory uses include offices, food preparation, recreation areas, and parking.

(b) Examples

Example use types include adult day care centers, child day care centers, family child care homes, or home child day care.

(c) Exceptions

The Day Care Use Category does not include drop-in or short-term day care provided in connection with employment or shopping, recreational facility, religious institution, hotel, or other principal use, where children are temporarily cared for while parents or guardians are employed part-time or temporarily occupied on the premises or in the immediate vicinity.

(3) Educational Facilities

(a) Characteristics

The Educational Facilities Use Category includes use types such as public and private schools at the elementary, middle, or high school level that provide state-mandated basic education or a comparable equivalent. This use category also includes colleges, universities, and other institutions of higher learning such as vocational or trade schools that offer courses of general or specialized study leading to a degree or certification. Accessory uses at schools include offices, play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care. Accessory uses at colleges or universities include offices, dormitories, food service, laboratories, health and sports facilities, theaters, meeting areas, athletic fields, parking, maintenance facilities, and supporting commercial.

(b) Examples

Example use types include public and private elementary schools (including kindergarten schools), middle or junior high schools, and senior high schools that provide state-mandated basic education, as well as colleges or universities, and vocational or trade schools.

(4) Government Facilities

(a) Characteristics

The Government Facilities Use Category includes use types that provide for the general operations and functions of local, state, or federal governments. Accessory uses include maintenance, storage (indoor and outdoor), fueling facilities, satellite offices, and parking areas.

(b) Examples

Example use types include post offices, government offices, and government maintenance, storage, and distribution facilities.

(c) Exceptions

(i) Fire, police, and EMS facilities are classified as Public Safety.

(ii) Passenger terminals for airports and surface transportation are classified as Transportation.

(iii) City, county, and state parks are classified as Parks and Open Space.

(iv) Water, wastewater, gas, electric, and other infrastructure services, whether public or private, are classified as Utilities.

(5) Health Care Facilities

(a) Characteristics

The Health Care Facilities Use Category includes use types that provide medical or surgical care and treatment to patients as well as laboratory services. Hospitals and medical treatment facilities offer overnight care, as well as outpatient care. Accessory uses include offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, housing for staff or trainees, and limited accommodations for family members.

(b) Examples

Example use types include hospitals, medical and dental clinics, outpatient facilities, medical and dental labs, medical treatment facilities, drug and alcohol treatment facilities, and blood/tissue collection facilities.

(c) Exceptions

(i) Uses that involve provision of residential care for the elderly or disabled are classified Institutions.

(ii) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents and participants in a program, are considered Institutions.

(6) Institutions

(a) Characteristics

The Institutions Use Category includes use types that provide a variety of facilities, including buildings that provide meeting areas for religious activities, civic or fraternal club activities, convention centers or auditoriums, housing and care for the elderly or disabled, and housing related to treatment programs. Accessory uses include school facilities, limited medical treatment facilities, kitchens/cafeterias, recreation areas, offices, meeting rooms, parking, and staff residences.

(b) Examples

Example use types include auditoriums and convention centers, religious institutions (with cemeteries, columbaria, and mausoleums as accessory uses), private civic, social, or fraternal clubs or lodges, nursing homes, assisted living facilities, halfway houses, psychiatric treatment facilities, and shelters.

(c) Exceptions

Adult care homes where individual units meet the definition of dwelling unit in Article 40.1-8: Definitions, family care homes, and group homes are classified as Group Living.

(7) Parks and Open Areas

(a) Characteristics

The Parks and Open Areas Use Category includes use types that focus on open space areas largely devoted to vegetative landscaping or outdoor recreation, and that tend to have few structures. Accessory uses may include clubhouses, recreational structures, statuary, fountains, maintenance facilities, concessions, parking, and columbaria and mausoleums (as accessory to cemeteries).

(b) Examples

Example use types include arboretums or botanical gardens, parks, public squares or plazas, community gardens, public golf courses, cemeteries, and equestrian facilities.

(c) Exceptions

Privately owned golf courses are classified as Outdoor Recreation/Entertainment.

(8) Public Safety

(a) Characteristics

The Public Safety Use Category is characterized by use types that provide public safety services to the general public.

(b) Examples

Example use types include fire and EMS facilities, police stations, substations for fire and police, and fire training facilities, police firing ranges, and correctional facilities. Accessory uses include offices, teaching facilities, meeting areas, lunch rooms and cafeterias, sleeping quarters, storage, parking, and maintenance facilities.

(9) Transportation

(a) Characteristics

The Transportation Use Category includes use types that provide for the landing and takeoff of airplanes and helicopters, including loading and unloading areas. This use category also includes passenger terminals for surface transportation. Accessory uses include freight handling areas, concessions, offices, parking, maintenance, and fueling facilities.

(b) Examples

Example use types include airports, helicopter landing facilities, and passenger terminals for ground transportation (train, light rail, bus).

(c) Exceptions

Transit route facilities such as bus stops, bus shelters, and park-and-ride facilities are classified as Utilities.

(10) Utilities

(a) Characteristics

The Utilities Use Category includes both major utilities, which are infrastructure services that provide regional or community-wide service, and minor utilities, which are infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Wireless telecommunications towers also are a type of utility. Services may be publicly or privately provided. Accessory uses may include parking and control, offices, monitoring, storage areas, or data transmission equipment.

(b) Examples

(i) Examples of major utilities include wastewater treatment plants, potable water treatment plants, and electrical substations.

(ii) Examples of minor utilities include water towers, water and sewage pump stations, stormwater retention and detention facilities, facilities for the drop off or collection, and temporary holding, of household or business recyclables (e.g., recycle drop boxes and reverse vending machines), telephone exchanges, ground-based electrical/telephone/cable vaults, and transit route facilities such as bus stops, bus shelters, and park-and-ride facilities.

(iii) Examples of telecommunications towers (free-standing, collocated, and roof-mounted) include facilities for transmitting wireless phones and pager services, and television and radio broadcasting equipment.

(c) Exceptions

Recycling and salvage centers and waste composing uses are considered Waste-Related Services.

(D) Commercial Use Classification

(1) Adult Uses

(a) Characteristics

The Adult Uses Category includes use types that sell, distribute, or present material or feature performances or other activities that emphasize the depiction or display of specified sexual activities or specified anatomical areas as defined herein.

(b) Examples

Example use types in the Adult Uses category include adult bookstores and adult motion picture theaters (distinguished by being largely devoted to selling, renting, or presenting media emphasizing sexually explicit content), and adult entertainment uses (featuring live performances or services emphasizing the display of specified sexual activities or specified anatomical areas).

(2) Animal Care

(a) Characteristics

The Animal Care Use Category is characterized by use types related to the provision of medical services, general care, and boarding services for domestic animals.

(b) Examples

Example use types include animal shelters, animal grooming, kennels (outdoor and indoor), and veterinary clinics.

(3) Conference and Training Centers

(a) Characteristics

The Conference and Training Center Use Category is characterized by facilities used for business or professional conferences, seminars, and training programs.

(b) Examples

Example use types include conference centers, meeting facilities, and corporate retreat facilities.

(4) Eating Establishments

(a) Characteristics

The Eating Establishments Use Category includes use types that prepare and sell food and beverages for immediate or direct on- or off-premise consumption. Accessory uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, customer and employee parking areas, and valet parking facilities.

(b) Examples

Examples include restaurants with indoor and outdoor seating, restaurants with drive-through service, specialty eating establishments (ice cream parlors, bakery shops, dessert shops, juice or coffee houses), and dinner theaters.

(c) Exceptions

(i) Establishments that provide live entertainment, amplified music, or dancing are Entertainment Establishments.

(5) Entertainment Establishments

(a) Characteristics

Uses in the Entertainment Establishment Use Category include uses that offer some form of entertainment (e.g., dancing, comedy performances, amplified music, etc.) while on the premises. Such uses may also serve alcohol or spirits, charge patrons a membership fee or cover charge to enter, and serve food for on-site consumption.

(b) Examples

Nightclubs, discotheques, music halls, comedy clubs, live performance venues, and cabarets are Entertainment Establishments.

(c) Exceptions

(i) Cabarets that feature performances displaying specified anatomical areas are classified as Adult Uses.

(ii) Bars or brew pubs that offer alcohol, spirits, and food to patrons, but do not allow live performances or dancing are Eating Establishments.

(6) Offices

(a) Characteristics

The Office Use Category includes use types that provide for activities that are conducted in an office setting and generally focus on business, professional, or financial services. Accessory uses may include cafeterias, day care facilities, recreational or fitness facilities, parking, supporting commercial, or other amenities primarily for the use of employees in the business or building.

(b) Examples

Example use types include offices for business services, professional services (such as lawyers, accountants, engineers, or architects), financial services (such as lenders, banks, brokerage houses, tax preparers), and sales (including real estate agents).

(c) Exceptions

(i) Offices that are part of and located with a principal use in another use category are considered accessory to the establishment's primary activity. Headquarter offices that are located in conjunction with or adjacent to a principal use in another use category are considered part of the other use category.

(ii) Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

(iii) Government offices are classified as Government Facilities.

(iv) Medical and dental clinics, medical or dental labs, and blood collection facilities are classified as Health Care Facilities.

(v) Financial institutions offering drive-through or walk-up service to patrons (branch banks or credit unions) are classified as Retail Sales and Services.

(7) Parking, Commercial

(a) Characteristics

The Commercial Parking Use Category includes use types that provide free-standing parking lots and structures that are not accessory to a specific principal use. A fee may or may not be charged. A parking facility that provides both accessory parking for a specific principal use and regular fee parking for people not connected to the principal use is also classified as Commercial Parking. Accessory uses may include small shelters for parking attendants.

(b) Examples

Example use types include surface parking lots and parking structures (parking decks or garages).

(c) Exceptions

(i) Parking facilities that are accessory to a principal use, but charge the public to park for occasional events nearby, are not considered Commercial Parking.

(ii) Parking facilities that are accessory to a principal use, even if the principal use leases the facility or those parking in the facility are charged a fee, are not considered Commercial Parking.

(iii) Park-and-ride facilities are classified as Utilities.

(8) Recreation/Entertainment, Indoor

(a) Characteristics

The Indoor Recreation/Entertainment Use Category includes use types that are privately-owned and provide recreation or entertainment activities in an enclosed structure or structures. Accessory uses may include offices, concessions, snack bars, parking, and maintenance facilities.

(b) Examples

Example use types include indoor commercial recreation uses (including fitness centers, bowling alleys, game rooms, shooting ranges, pool halls (without alcohol) skating rinks, indoor swimming pools, racquetball and squash courts, indoor tennis club facilities, and theaters (including cinemas, screening rooms, and stages).

(c) Exceptions

(i) Banquet halls that are part of hotels (classified as Visitor Accommodation) or restaurants (classified as Eating Establishments) are accessory to those uses.

(ii) Private civic, social, or fraternal clubs or lodges are classified as Institutions.

(iii) Recreational facilities that are reserved for use by residents of particular residential developments and their guests are accessory to those residential use types.

(9) Recreation/Entertainment, Outdoor

(a) Characteristics

The Outdoor Recreation/Entertainment Use Category includes use types that are large, generally commercial, and provide continuous recreation or entertainment-oriented activities that primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting. Accessory uses may include concessions, parking, and maintenance facilities.

(b) Examples

Example use types include country clubs, private golf courses, golf driving ranges, privately-owned arenas, amphitheaters, or stadiums, and outdoor commercial recreation uses (including privately-owned miniature golf facilities; go-cart racing, race-track, or dirt-track facilities; drive-in movie theaters; privately-owned outdoor commercial tourist attractions, water parks, and amusement parks; and privately-owned active sports facilities such as ball fields, courts, and archery ranges), as well as outdoor swimming pools, tennis courts, and ball fields serving membership clubs. This category also includes marinas.

(c) Exceptions

Golf courses, tennis courts, swimming pools, basketball courts, ball fields, amphitheaters, and other similar outdoor recreational or entertainment-oriented facilities that are publicly owned are classified as Parks and Open Space.

(10) Retail Sales and Services

(a) Characteristics

The Retail Sales and Services Use Category includes use types involved in the sale, lease, or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods. Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, concessions, ATM machines, outdoor display/sales areas, and parking. Use types within this use category have been categorized based on their intensity, scale, and function.

(b) Examples

Example use types include uses from the following groups:

(i) Gasoline Sales

Uses engaged in the retail sale of gasoline and similar vehicular fuels (gas station or service station) that may or may not provide the range of goods or services associated with a convenience store.

(ii) Personal Services Establishments

Establishments meeting frequent or recurrent service needs of a personal nature, including financial institutions like check cashing establishments or payroll lenders, self-service laundries, laundry and dry-cleaning drop-off establishments, photographic studios, mailing or packaging services, photocopy and blueprint services, hair salons and barber/beauty shops, tanning and nail salons, massage therapy and day spas, dance or music instruction, martial arts classes, taxidermists, funeral homes, and psychics or mediums.

(iii) Repair Establishments

Uses primarily engaged in providing repair services for TVs, bicycles, clocks and watches, shoes, guns, canvas products, appliances, and office equipment, and including tailors, locksmiths, and upholsterers.

(iv) Retail Sales Establishments

Stores selling, leasing, or renting consumer, home, and business goods, whether new or used, including art and art supply stores, audio/video stores, bicycle sales, book stores, clothing stores, convenience stores, department stores, dry good sales, electronic equipment stores, fabric shops, furniture stores, florists, garden supply centers, gift shops, grocery stores, hardware stores, home improvement centers, household products, jewelry stores, office supply stores, pet and pet supply stores, pharmacies, plant stores, and stationery shops.

(c) Exceptions

(i) Laundry and dry-cleaning plants are considered Industrial Services.

(ii) Building trade contractors with on-site storage that sell primarily to contractors and do not have a retail orientation are classified as Warehouse and Freight Movement.

(iii) Repair and service of automobiles, motorcycles, and light and medium trucks is classified as Vehicle Sales and Service (Heavy or Light).

(iv) Bakeries, dinner theaters, or entertainment establishments primarily engaged in the sale of food for on-site consumption are considered Eating Establishments.

(v) Cinemas, theaters, concert halls, and stages are considered Indoor Recreation/Entertainment.

(vi) Uses providing financial, professional, or business services by appointment or with only limited contact with the general public are classified as Offices.

(vii) Uses that involve the sales, distribution, or presentation of materials or activities emphasizing sexually explicit content are classified as Adult Uses.

(viii) Massage parlors, tattoo parlors, body piercing establishments, or escort services are not personal services establishments.

(ix) Establishments that provide live entertainment, amplified music, or dancing are Entertainment Establishments.

(11) Self-Service Storage (Mini-warehouse)

(a) Characteristics

The Self-Service Storage Use Category includes use types that provide individual, self-contained units or areas leased to individuals, organizations, or businesses for self-service storage of household and personal property. The storage units or areas are designed to allow private access by the tenant for storing or removing personal property. Accessory uses include leasing offices, outdoor storage of boats and campers, and living quarters for a resident manager or security guard. Use of the storage areas for sales, service, repair, or manufacturing operations is not considered accessory to Self–Service Storage. The rental of trucks or equipment is also not considered accessory to the use.

(b) Examples

Example use types include self–service storage establishments, also called "mini-warehouses."

(c) Exceptions

A transfer and storage business, where there are not individual storage areas, or where employees are the primary movers of property being stored or transferred, is classified as Warehouse and Freight Movement.

(12) Vehicle Sales and Services, Heavy

(a) Characteristics

The Vehicle Sales and Services Use, Heavy Category include use types involving the direct sales and servicing of medium trucks, boats, and other consumer motor vehicles intended to transport persons or goods over land or water or through the air, whether for recreation, commerce, or personal transport. Accessory uses include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.

(b) Examples

Example use types include vehicle sales or rentals; significant automotive repair and servicing; automotive painting/bodywork; boat and marine sales or rental; aircraft parts, sales, and maintenance; transmission shops; and automotive wrecker services.

(c) Exceptions

(i) Refueling facilities for vehicles belonging to a specific principal use (fleet vehicles) are considered accessory uses if located on the site of the principal use.

(ii) Storage of inoperable vehicles or parts is considered a Waste-Related Service.

(iii) Sales of automobiles, oil change service, tire sales and service, and muffler shops are considered Light Vehicles Sales and services.

(13) Vehicle Sales and Services, Light

(a) Characteristics

The Vehicle Sales and Services Use, Light Category includes use types involving the direct sales and servicing of automobiles, motorcycles, light trucks. Accessory uses include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.

(b) Examples

Example use types include automotive sales or rentals (including the sales and rental of automobiles, motorcycles, and light trucks); light automotive repair and servicing such as oil changes, state vehicle inspections, and muffler shops; automotive parts sales and maintenance; car wash and auto detailing; and tire sales and mounting services.

(c) Exceptions

(i) Refueling facilities for vehicles belonging to a specific principal use (fleet vehicles) are considered accessory uses if located on the site of the principal use.

(ii) Storage of inoperable vehicles or parts is considered a Waste-Related Service.

(iii) Sales of major recreational equipment, bodywork, painting, transmission work, or substantial engine repair is classified as Vehicle Sales and Service, Heavy.

(14) Visitor Accommodations

(a) Characteristics

The Visitor Accommodations Use Category includes use types that provide lodging units or space for short-term stays of less than 30 days for rent, lease, or interval occupancy. Accessory uses may include pools and other recreational facilities, limited storage, restaurants, bars, supporting commercial, meeting facilities, offices, and parking.

(b) Examples

Example use types include full service hotels or motels, extended stay hotels or motels, bed and breakfast inns, tourist homes, recreational vehicle (RV) parks, and campgrounds.

(c) Exceptions

Rooming, boarding houses, and single-room-occupancy establishments are classified as Group Living.

(E) Industrial Use Classification

(1) Industrial Services

(a) Characteristics

The Industrial Services Use Category includes use types involving the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.

(b) Examples

Example use types include machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; heavy equipment sales, rental, or storage; heavy equipment servicing and repair; building, heating, plumbing, or electrical contractors; fuel oil or bottled gas distributors; research and development facilities; laundry, dry-cleaning, and carpet cleaning plants; and general industrial service uses.

(c) Exceptions

Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

(2) Manufacturing and Production

(a) Characteristics

The Manufacturing and Production Use Category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. The use category also includes custom industries (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory uses may include retail or wholesale sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, security and caretaker's quarters.

(i) Heavy Manufacturing

Heavy Manufacturing is the manufacture or compounding process of raw materials. These activities may involve outdoor operations as part of their manufacturing process.

(ii) Light Manufacturing

Light Manufacturing is the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

(b) Examples

(i) Heavy Manufacturing

Example use types of heavy manufacturing include, but are not limited to: the manufacture or assembly of machinery, equipment, instruments, vehicles, and appliances; rendering; concrete production; asphalt plants; glass and plastic production; cardboard fabrication; and petroleum refining.

(ii) Light Manufacturing

Example use types of light manufacturing include: production or repair of small machines or electronic parts and equipment; sewing or assembly of textiles into consumer products; woodworking and cabinet building; publishing and lithography; computer design and development; communications equipment, precision items and other electrical items; research, development, and testing facilities and laboratories; sign making, assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

(c) Exceptions

(i) Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Services if the manufacturing area is less than 35 percent of the development's gross floor area.

(ii) Manufacturing and production of goods from salvage material is classified as Waste-Related Services.

(iii) Manufacturing and production of goods from composting material is classified as Waste-Related Services.

(3) Warehouse and Freight Movement

(a) Characteristics

The Warehouse and Freight Movement Use Category includes use types involving the storage or movement of goods for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses include offices, truck fleet parking, outdoor storage, and maintenance areas.

(b) Examples

Example use types include separate storage warehouses (used for storage by retail stores such as furniture and appliance stores); distribution warehouses (used for distribution by trucking companies; cold storage plants, including frozen food lockers; outdoor storage (as a principal use); and parcel services.

(c) Exceptions

(i) Contractor's offices that do not include storage yards are classified as Offices.

(ii) Use types that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related Services.

(4) Waste-Related Services

(a) Characteristics

The Waste-Related Services Use Category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This use category also includes use types that receive hazardous wastes from others. Accessory uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.

(b) Examples

Example use types include recycling and salvage centers, land application of wastes, sanitary landfills, land clearing and construction debris landfills, tire disposal or recycling, waste composting, incinerators, energy recovery plants, salvage yards and junkyards, hazardous waste collection sites; and recycling drop-off centers.

(c) Exceptions

Wastewater treatment plants and potable water treatment plants are classified as major utilities, in the Utilities use category. Facilities for the drop off or collection, and temporary holding, of household or business recyclables—such as recycle drop boxes and reverse vending machines—are classified as minor utilities, in the Utilities use category.

(5) Wholesale Sales

(a) Characteristics

The Wholesale Sales Use Category includes use types involving the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Accessory uses may include offices, product repair, warehouses, minor fabrication services, outdoor storage, and repackaging of goods.

(b) Examples

Example use types include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, plants and landscaping materials, auto parts, and building hardware.

(c) Exceptions

(i) Firms that engage primarily in sales to the general public or on a membership basis are classified as Retail Sales and Services.

(ii) Firms that are primarily storing goods with little on-site business activity are classified as Warehouse and Freight Movement.

40.1-4.3 USE-SPECIFIC STANDARDS

Use-specific standards are the requirements applied to individual use types regardless of the zoning district in which they are located or the review procedure by which they are approved. This section is intended to identify the use-specific standards for all principal uses identified in Table 40.1-4.1, Use Table, as subject to "additional requirements." These standards may be modified by other applicable requirements in this Ordinance.

(A) Residential Uses

(1) Household Living

(a) General

All household living uses shall comply with the single-family residential design or multi-family residential design standards (as appropriate) in Article 40.1-5, Development Standards.

(b) Dwellings, Live/Work

Live/work dwellings shall comply with the following standards:

(i) The residential portion of the building shall occupy over 50 percent of the gross floor area.

(ii) The nonresidential portion of the building shall be located on the ground floor.

(iii) The nonresidential portion of the building shall comply with all applicable nonresidential building code requirements.

(iv) Employees shall be limited to occupants of the residential portion of the building plus up to three persons not residing in the residential portion.

(v) Drive-through facilities are prohibited.

(vi) The use shall comply with the parking, landscaping, and open space standards for mixed uses in Article 40.1-5: Development Standards.

(vii) Any nonresidential off-street parking shall be located as far as practicable from existing adjacent single-family dwellings.

(c) Dwellings, Two- to Four-Family

Two- to four-family dwellings shall comply with the following standards:

(i) Except for circular driveways, no two- to four-family dwelling lot shall be served by more than one driveway on the same block face.

(ii) Two- to four-family dwellings on lots in a GR district shall be served by a single entrance on any individual building façade.

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

(iv) Two- to four-family dwellings shall comply with Section 40.1-5.5(D), Multi-Family Development Standards.

(2) Group Living

(a) Dormitories

All dormitories shall be accessory to an educational facility located on the same site or campus, and house only persons who are students at the educational facility.

(b) Family Care Homes

Any family care home shall be located at least 2,600 feet (approximately one-half mile) from any other family care home.

(c) Group Homes

Any group home shall be located at least 2,600 feet (approximately one-half mile) from any other group home.

(d) Rooming or Boarding House

A rooming or boarding house shall comply with the following standards:

(i) No more than two rooms shall be rented at any one time;

(ii) No more than two borders at any one time;

(iii) The owner shall maintain the house as a primary residence;

(iv) Sleeping rooms in a rooming house shall:

a. Not include individual kitchen facilities; and

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

(e) Single Room Occupancy (SRO) Facility

(i) Applications for a new SRO or modifications to an existing SRO shall contain:

a. A mission statement;

b. An operational plan approved by the city;

c. A business plan that addresses case management and property management;

d. Detailed applicant screening policies and selection criteria;

e. Detailed description of supporting services and providers of such services;

f. A set of facility regulations, including but not limited to, visitor rules, times doors are locked, unauthorized resident absences, vehicle ownership/usage by residents, and permitted unit furnishings; and

g. A rent schedule for residents.

(ii) Single room occupancy facilities shall comply with the following standards:

a. Be located on a lot of at least one acre in area;

b. Be at least 500 feet from any other SRO facility;

c. Include at least 6,000 square feet of lot area for the first unit and 1,400 square feet of lot area for each additional unit;

d. Front a public street of at least 50 feet in width;

e. Be located within 1,600 feet, as measured on a straight line to any portion of the land utilized for a SRO facility of an active transit stop;

f. Include a minimum of one automatic washer and one automatic dryer for every 20 rooms in convenient locations, and maintain the equipment in good working order; and

g. Require every resident to complete successfully a series of interview assessments regarding their desire for life changes prior to being granted occupancy.

(B) Public and Institutional Uses

(1) Day Care

(a) Child Day Care Centers

Child day care centers, including pre-schools, shall be licensed as a child care center by the state and comply with all state regulations for child care centers and the following standards:

(i) Location

If not located in a stand-alone building, a child day care center shall be located on the first floor of a principal structure, and be segregated (including the restrooms) from the remaining portion of the building in which it is located.

(ii) Separation

Child day care centers shall be located at least 1,000 linear feet from any adult use.

(iii) Outdoor Play Areas

Outdoor play areas shall be provided, and shall:

a. Be completely enclosed by a fence that is at least three-and-one-half feet in height;

b. Be safely segregated from parking, loading, or service areas; and

c. Not be operated for outdoor play activities after 6:00 P.M.

(iv) Parking Area, Vehicular Circulation, and Drop-Off and Pick-Up

The parking areas and vehicular circulation for the child day care center shall be designed to:

a. Enhance the safety of children as they arrive at and leave the facility; and

b. Provide a designated pickup and delivery area that includes at least one parking/stacking space per 10 children configured so that children do not have to cross vehicular travelways to enter or exit the center.

(v) Accessory Uses

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

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

Family child day care homes and home child day care shall comply with the following requirements:

(i) Family child day care homes and home child day care shall be licensed and comply with all state regulations for family child day care homes and home child day care.

(ii) Family child day care homes and home child day care shall be located at least 1,000 linear feet from any adult use.

(iii) Operation shall be limited to Monday through Friday, no earlier than 5:00 a.m. to no later than 8:30 p.m.

(iv) Outdoor play areas shall not be used before 8:00 a.m. or after 6:00 p.m.

(v) Parking for employees and customers shall be provided on-site or may be provided on-street adjacent to the home provided there is no explicit prohibition on on-street parking.

(vi) **Process:** For a Family Child Day Care Home a request for a Zoning Compliance Permit shall be submitted and reviewed by the Zoning Administrator. Once the request has been determined to comply with the requirements of this chapter, the Zoning Administrator shall notify the adjoining property owners, including all owners across any public right-of-way, by registered or certified letter of the application for a Family Child Day Care Home. If the Zoning Administrator receives no written objection from a person so notified within thirty days of the date of sending the letter the zoning administrator may issue the permit sought. Where written objection is received from a person so notified within the 30 day time period, the Zoning Compliance Permit shall be denied. Where the Zoning Compliance Permit is denied the applicant may submit an application for a Use Permit in accordance with Section 40.1-2.3(B) of this Ordinance.

(2) Educational Facilities

All educational facilities shall be located at least 500 linear feet from any adult use, and shall be subject to the following requirements:

(a) Schools, Elementary/Middle/High

Any temporary structures needed for the expansion of an elementary, middle, or high school located within the residential districts, and on a site or parcel with an area of 20 acres or less, shall:

(i) Not be located between the principal building and any abutting right-of-way, unless there is no other practical alternative due to topography, the presence of utilities or easements, the existence of undisturbed open space and buffers, or other site features beyond the landowner's control; and

(ii) Have the base of the structure screened from view from abutting properties and public streets.

(3) Health Care Facilities

(a) Hospitals

A hospital shall:

(i) Be located on a site or parcel with an area of at least five acres.

(ii) Be located on a parcel that fronts or has direct access to an arterial or collector street.

(iii) Be served by a public water and wastewater system.

(b) Medical Treatment Facilities; Outpatient Facilities

A medical treatment facility or outpatient facility located in the NMU zoning district shall:

(i) Be small-scale (have a gross floor area not exceeding 3,000 square feet); and

(ii) Design visitor and patient facilities associated with the use so as to be compatible with surrounding uses.

(4) Institutions

(a) Auditoriums and Convention Centers

Auditoriums and convention centers shall comply with the following standards:

(i) The parcel or site shall have an area of at least five acres.

(ii) The building shall be located at least 500 feet from any NR or GR zoning district.

(b) Halfway House

Halfway houses shall comply with the use-specific standards for a group home (See Section 40.1-4.3(A)(2)(c), Group Homes).

(c) Religious Institutions

Religious institutions shall comply with the following standards:

(i) Religious institutions shall be located at least 500 linear feet from any adult use.

(ii) Religious institutions in the NR or GR districts, when permitted, that include a school or sanctuary with a capacity of 800 persons or more shall obtain a use permit in accordance with Section 40.1-2.3(B), Use Permit.

(5) Parks and Open Areas

(a) Cemeteries

Except as otherwise noted, new cemeteries and the expansion of existing cemeteries shall comply with the following standards:

(i) New cemeteries shall be located on a site or parcel with an area of at least 2.5 acres.

(ii) New cemeteries shall be located on a site or parcel that fronts an arterial or collector street.

(iii) Cemeteries shall include adequate space for the parking and maneuvering of funeral processions.

(iv) Interments shall take place at least 50 feet from any lot line and comply with all requirements of the Code of Virginia.

(6) Public Safety Facilities

(a) Correctional Facilities

Correctional facilities shall be located at least 1,500 feet from any NR or GR zoning district.

(7) Transportation Facilities

(a) Helicopter Landing Facilities

A helicopter landing facility shall comply with the following standards:

(i) The helicopter landing facility shall provide adequate land area for safe take-offs and landings in accordance with standards of the Federal Aviation Administration (FAA).

(ii) Where located within 500 feet of a NR or GR district, or existing single-family residential development, a helicopter landing facility shall provide an adequate buffer along the property line to ensure the facility does not adversely impact surrounding uses.

(8) Utilities

(a) Telecommunications Antennas, Co-location on Existing Tower or Placement on Existing Building

A telecommunications antenna that is co-located on an existing tower or placed on an existing building shall comply with the following standards:

(i) Antennas and any accessory equipment shall be painted or colored to blend in with the structure or surrounding environment.

(ii) Antennas, supports and utility cabinets shall be mounted or placed in a manner which blends with the surrounding environment. Screening is required where deemed appropriate by the Zoning Administrator.

(iii) The permit application shall include a certified report from a qualified and licensed professional engineer demonstrating that the non-ionizing electromagnetic radiation (NIER) to be emitted from the proposed facility, along with others on the same structure or in the immediate vicinity, will not exceed the exposure standards established by the U.S. Government and that the facility will not cause interference with any equipment operated by other users.

(b) Telecommunications Towers

No use permit is required of any city-owned sites preapproved by the City Council.

(c) Utility, Major

An electrical power facility, substation, or transmission station shall be set back at least 100 feet from all lot lines. Service or storage yards shall be prohibited.

(C) Commercial Uses

(1) General

Unless exempted, all commercial uses shall comply with the commercial development standards in Section 40.1-5.6, Commercial Development Standards.

(2) Adult Uses

(a) Purpose

Within the city, it is acknowledged that there are some uses, often referred to as adult uses, which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or located in direct proximity to residential neighborhoods, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse effects.

(b) Location, Size, and Design

The location, size, design and operating characteristics of a proposed adult use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.

(3) Animal Care Uses

Animal shelters, kennels (indoor and outdoor), and veterinary clinics shall comply with the following standards:

(a) The animal care use shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.

(b) Any open runs or pens used to house animals shall be located at least 75 feet from any lot line.

(c) Accessory uses to a kennel or veterinary clinic may include retail sales and grooming services, as long as the accessory uses do not occupy more than 25 percent of the total gross floor area of the principal building.

(d) Any incinerators included as an accessory use to an animal shelter shall be allowed only if a use permit is approved in accordance with Section 40.1-2.3(B), Use Permit.

(4) Conference and Training Centers

Conference centers shall comply with the following standards:

(a) Dining and banquet facilities may be provided for employees, trainees, and conferees, provided the gross floor area devoted to such facilities does not exceed 20 percent of the total floor area of the principal building.

(b) On-site recreational facilities may be provided for use by employees, trainees, or conferees.

(c) No products shall be sold on-site except those that are clearly incidental and integral to training programs and seminars conducted in the center (e.g., shirts, glasses and mugs, pens and pencils, and similar items bearing the logo of conference or seminar sponsors or participants).

(5) Eating Establishments

(a) Restaurants with Indoor or Outdoor Seating; Restaurant, Brew-pub

Restaurants having outdoor seating shall comply with the following standards:

(i) In the WF District

Outdoor dining located in a public right-of-way or on a seawall is prohibited.

(ii) In All Other Districts

a. The outdoor seating area shall be located no closer than 100 feet from any NR or GR zoning district.

b. The outdoor portions of the restaurant shall not operate after 11:00 P.M.

c. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

(b) Restaurants, with Drive-Through Service

Restaurants having drive-through facilities shall comply with the following standards:

(i) Drive-through facilities shall be located at least 100 feet from any detached single-family dwelling or single-family residential zoning district (NR or GR).

(ii) Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians along sidewalks, through areas intended for public use, or between the restaurant entrance and customer parking spaces.

(6) Entertainment Establishments

All entertainment establishments shall:

(a) Be separated from the lot line of existing Group Living uses, Day Care uses, Educational Facility uses, hospitals, or religious institutions by at least 250 feet.

(7) Parking, Commercial

(a) Parking Lots

A commercial parking lot shall comply with the following standards:

(i) Parking shall be the principal use of the parking lot. Parking spaces may be rented for parking, but no other business of any kind shall be conducted on the lot, including repair service, washing, display, or storage of vehicles or other goods.

(ii) Commercial parking lots shall not be located contiguous to a NR or GR zoning district.

(b) Parking Structures

A commercial parking structure shall comply with the following standards:

(i) Parking shall be the principal use of the parking structure, but retail sales and service and office establishments may be located on the ground floor of the structure.

(ii) Parking spaces may be rented for parking, but no other business of any kind shall be conducted in the structure, including repair service, washing, display, or storage of vehicles or other goods.

(iii) A commercial parking structure shall not be located contiguous to a NR or GR zoning district.

(8) Recreation/Entertainment, Outdoor

(a) Arenas, Amphitheaters, and Stadiums

Arenas, amphitheaters, and stadiums shall comply with the following standards:

(i) Arenas and stadiums shall be located at least 1,000 feet from residential zoning districts.

(ii) Stadiums shall be located on a site or parcel with an area of at least five acres.

(iii) Arenas and stadiums shall be located on a site or parcel that, at the primary point of access, has at least 200 feet of frontage on an arterial street.

(iv) Arenas and stadiums shall locate access points to minimize traffic to and through local streets in residential neighborhoods.

(b) Marinas

Marinas shall comply with the following standards:

(i) No marina shall be established on a lot less than one acre in size.

(ii) Each lot containing a marina shall have a minimum lot frontage of 200 linear feet.

(iii) Exterior lighting shall comply with the standards in Section 40.1-5.9, Exterior Lighting, and shall be directed and shielded so as to avoid glare on adjacent residential uses including residential uses across the body of water serving the marina.

(iv) Dry stacking of boats outside enclosed structures shall be prohibited.

(v) Storage buildings and other accessory structures associated with a marina located on a lot within the GR District shall be of a residential character.

(c) Membership Sports or Recreation Clubs

(i) Swimming Pools

Swimming pools that are a principal use shall comply with the following standards. Swimming pools that are accessory uses shall comply with Section 40.1-4.4(C)(17), Swimming Pools, Spas, and Hot Tubs.

a. Swimming pools for nonprofit organizations shall be located on a site or parcel with an area of at least one acre and a width of at least 200 feet at the building line.

b. A swimming pool shall be set back from any lot line at least a distance equal to three feet plus one foot for each foot of vertical excavation.

c. The area containing the pool shall be completely enclosed by a fence that is at least three feet high and has a gate that can be securely fastened.

d. Pools with a capacity of 2,000 gallons or more shall have filtering and purification, or automatic water exchange equipment that changes the pool water every 24 hours.

e. Any pump and filtering equipment and any appurtenant structures shall be located at least 10 feet from any lot line.

f. There shall be no commercial sales that are not an integral part of the pool use, nor shall any commercial displays be visible from the street or other property.

(ii) Tennis Courts

Tennis courts that are a principal use shall comply with the following standards:

a. All lighted tennis courts open to the public shall be located at least 50 feet from any adjacent residential use on a different lot.

b. Lighted tennis courts open to the public shall be screened from any existing detached single-family dwelling with a Type D buffer, an accordance with Section 40.1-5.2, Landscaping and Screening.

(9) Retail Sales and Services

(a) General

Any retail sales establishment selling food or beverages for off-site consumption shall maintain a litter receptacle outside all public entrances, and shall ensure that all litter receptacles are maintained in a clean and sanitary condition. Public litter receptacles located within 50 feet of a pubic entrance may be used to comply with these requirements.

(b) Reserved

(c) Gasoline Sales

Uses that include the retail sales of gasoline and other automotive fuels shall comply with the following standards:

(i) Gasoline pumps, canopies, and associated service areas are prohibited in any established front yard in the UR, UR-H, and MU-H districts.

(ii) If the gasoline sales use is located on a corner lot, the lot shall have an area of at least 30,000 square feet and a frontage of at least 125 feet on each street side. In all other cases, the lot shall have an area of at least 15,000 square feet and a lot width of at least 150 feet.

(iii) The gasoline sales use shall have no more than two vehicular access points. Access points shall be located at least 75 feet from each other, at least 50 feet from any intersecting street right-of-ways, and at least 15 feet from any other lot line.

(iv) Vehicular access points shall be no more than 40 wide.

(v) The gasoline sales use shall be designed to ensure safe and adequate vehicle stacking, circulation, and turning movements.

(vi) Drive-through facilities and associated stacking lanes and circulation shall be prohibited in the front of the building or in a side yard abutting a street.

(vii) Trash containers shall be fully screened by a wall that is constructed of the same material as the principal structure. Trash containers shall be located so as to minimize their visibility from adjacent public streets or other public gathering areas.

(d) Personal Services

(i) Personal Services Establishments

Personal service establishments in the UR-H and NMU zoning districts shall comply with the following standards:

a. An individual establishment shall have no more than 2,500 square feet of gross floor area.

b. The business activities of the establishment shall be conducted within an enclosed building, with no more than 20 percent of the gross floor area devoted to storage.

c. The establishment shall only sell products at retail.

(ii) Financial Institutions, with Drive-Through Service

Financial institutions with drive-through service shall locate the drive-through to the side or rear of the primary building, to the maximum extent practicable.

(iii) Funeral Homes

Funeral homes shall comply with the following standards:

a. The funeral home shall have its principal frontage, access, and orientation directly on an arterial street.

b. The funeral home shall have a type D buffer between it and any residentially-zoned property abutting or directly across the street from the funeral home site.

c. On-premise signage shall be oriented toward the arterial street that provides access to the site.

d. All structures shall be located so as not to require access from an interior residential street.

(iv) Hair Salons

Hair salons shall not be visible from a public street in the WF district.

(v) Dry Cleaning

Dry cleaning facilities shall be limited to drop off and pick-up service establishments only in the WF district.

(vi) Massage Parlors

Massage parlors shall comply with the standards in Section 24-170 of the City Code.

(vii) Special Events House

Special events houses shall comply with the following standards:

a. A special events house shall be owner-occupied.

b. The house shall admit guests by invitation only, shall not be open to the general public, and shall not charge admission at the door.

c. Attendance shall be limited to a maximum of 48 guests.

d. Food and beverages served shall be prepared off-site, but on-site warming or chilling of food and beverages is allowed.

e. The serving of alcoholic beverages shall be pursuant to a one-time banquet license secured by a person other than the operator of the special events house.

f. The house shall use background music only from a stereo system or a musician using only one amplified instrument. Any music produced shall not be audible beyond the site's boundaries.

g. The house shall not be used for regular meetings.

h. Signage shall be limited to one non-illuminated wall sign not exceeding four square feet in area.

(e) Retail Sales

(i) Convenience Stores, with Gasoline Sales

Convenience stores with gasoline sales shall comply with the standards for gas sales uses in Section 40.1-4.3(C)(7)(c), Gasoline Sales.

(ii) Drug Stores or Pharmacies, with Drive-Through Service

The drive-through facility shall be located to the side or rear of the primary building, where practicable.

(iii) Retail Sales Establishments, Large

Single tenant or two-tenant retail sales establishments located in a structure with a gross floor area of 60,000 square feet or more shall comply with the standards in Section 40.1-5.6(H), Standards for Large Retail Development.

(10) Self-Service Storage

Self-service storage or mini-warehouse uses shall comply with the following standards:

(a) Site Layout

(i) The minimum lot area shall be least two acres.

(ii) If separate buildings are constructed, there shall be a minimum separation of ten feet between buildings.

(b) Operation

(i) The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.

(ii) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

(iii) No more than one security or caretaker quarters may be developed on the site, and shall be integrated into the building's design.

(iv) Except as otherwise authorized in this subsection, all property stored on the site shall be enclosed entirely within enclosed buildings.

(v) Hours of public access to a self-storage use abutting a residential zoning district or existing residential use shall be restricted to the hours between 6:00 A.M. and 10:00 P.M.

(c) Parking and Circulation

(i) Interior parking shall be provided in the form of aisleways adjacent to the storage bays. These aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisleways shall be 21 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted.

(ii) The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist, at a minimum, of standard directional signage and painted lane markings with arrows.

(iii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

(iv) All access ways shall be paved with asphalt, concrete, or comparable paving materials.

(d) Building Appearance

(i) Garage doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.

(ii) With the exception of a structure used as a security guard or caretaker quarters, or the redevelopment of an existing structure, the maximum height of a self-service storage facility shall be 20 feet.

(iii) Outdoor lighting shall be the minimum necessary to discourage vandalism and theft, and shall be provided in accordance with Section 40.1-5.9, Exterior Lighting.

(iv) The exterior facades of all structures facing a public street shall be masonry (brick or split-faced CMU).

(v) Windows may not exceed 20 percent of any street-facing façade and shall not be reflective.

(vi) A maximum of two colors (excluding roof colors) shall be used on wall facades visible from off-site areas. Colors shall be neutral, and shall not be used to call attention to the use.

(vii) Perimeter or exterior walls visible from a public street or detached residential dwelling shall not include metal as a primary material.

(viii) All mechanical equipment and dumpsters shall be fully screened from off-site views.

(e) Fencing

All areas adjacent to a street frontage not occupied by a building shall include fencing designed in accordance with the following standards:

(i) Fences shall be no shorter than six feet or taller than eight feet.

(ii) Fencing shall be masonry, wrought iron, steel, or aluminum and shall be painted or vinyl coated with colors that compliment the buildings.

(iii) Chain link fencing is prohibited except where the use abuts lots with a business zoning designation, but in no instance shall chain link fencing be visible from a public street.

(iv) Metal fences shall include brick pilasters or supports located with consistent on-center spacing.

(v) Wooden or chain link entry gates into the use are prohibited.

(f) Open Storage

Open storage of recreational vehicles, travel trailers, and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self service storage facility use, provided that the following standards are met:

(i) No outdoor storage shall be visible from off-site at street level from a public right of way.

(ii) The storage shall occur only within a designated area, which shall be clearly delineated;

(iii) The size of the storage area shall not exceed 25 percent of the buildable area of the site;

(iv) Outdoor storage areas shall be located to the rear of the principal structure and be screened with a wooden fence or masonry wall at least eight feet high;

(v) Storage shall not occur within the areas set aside for minimum building setbacks;

(vi) No dry stacking of boats shall be permitted on-site;

(vii) Portable shipping containers are prohibited; and

(viii) Vehicles shall be allowed on the premises for storage only.

(11) Vehicle Sales and Services

(a) Automotive Painting/Body Shop

Automobile painting/body shop uses shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential zoning district, school, or day care.

(ii) Vehicles shall not be parked or stored as a source of parts or for the purpose of sale or lease/rent.

(iii) Repair and storage of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls.

(iv) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30 day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(b) Automotive Parts Sales and Installation

Automobile parts sales and installation uses shall comply with the following standards:

(i) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls.

(ii) The use shall provide adequate, enclosed trash storage facilities on the site.

(c) Automotive Repair and Service (Without Painting/Bodywork)

Automotive repair and service uses not involving painting or bodywork service shall comply with the following standards:

(i) The use shall be located at least 250 feet from any residential zoning district or existing residential use, school, or day care.

(ii) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(iii) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fencing Standards.

(iv) The use shall provide adequate, enclosed trash storage facilities on the site.

(v) If gasoline is sold on-site, the use shall also comply with the standards for a gasoline sales use in Section 40.1-4.3(C) (9) (c), Gasoline Sales.

(vi) Vehicles shall not be parked or stored as a source of parts.

(vii) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30 day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(d) Automotive and Recreational Vehicle Sales or Rentals

Uses primarily involving the sales or rental of automobiles, trucks, travel trailers, or recreational vehicles shall comply with the following standards:

(i) No vehicle or equipment displays shall be located within a required setback or perimeter buffer.

(ii) The use shall not have more than one vehicle display pad for every 100 feet of street frontage. The vehicle display pad may be elevated up to two feet above adjacent displays or grade level.

(iii) No vehicles or other similar items shall be displayed on the top of a building.

(iv) All lights and lighting shall be designed and arranged so no source of light is directly visible from any residential district or existing residential use;

(v) No other materials for sale shall be displayed between the principal structure and the street.

(e) Automotive Wrecker Service

Automotive wrecker service uses shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) The number of vehicles stored on-site shall be limited to less than 10 vehicles.

(iii) Vehicles shall not be stored for more than 90 days.

(iv) Vehicles shall be stored to the rear of the principal structure, behind a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls.

(f) Car Wash or Auto Detailing

Car wash and auto detailing uses shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements. If an automatic car wash is an accessory use to a gasoline sales use, it shall be governed by the use and dimensional standards applicable to the gasoline sales use.

(g) Tire/Muffler Sales and Mounting

Tire sales and mounting uses or muffler shop uses shall comply with the following standards:

(i) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls.

(ii) The use shall provide adequate, enclosed trash storage facilities on the site.

(iii) All automobile parts, dismantled vehicles, and similar materials shall be stored within an enclosed building or totally screened from view by an opaque or privacy fence.

(iv) The use shall not include outdoor storage lots or impound yards for towed vehicles.

(12) Visitor Accommodations

(a) Bed and Breakfast Inns

Bed and breakfast inns shall be:

(i) Operated in a primary residential structure and not in any accessory structure. The structure to be used shall be 50 years or more of age or be of historic significance. If the structure does not meet the age requirement, it shall be the applicant's responsibility to establish, by convincing proof, that the residential structure is of historic significance.

(ii) Two off-street parking spaces for the owner/manager and one off-street space per guest room shall be required. In the Port Norfolk Historic District, the City Council may reduce or eliminate the requirement for the two owner/manager spaces; provided, however, that no fewer than two off-street parking spaces are provided for the inn.

(iii) The front yard of an inn shall not be used for parking. If parking cannot be provided on the site, it must be provided within 300 feet of the site. The following shall also apply:

a. There shall be no on-street parking by guests.

b. The municipal parking areas in the Olde Towne Parking District may be used to satisfy the above requirement with the approval of and the issuance of parking passes by the Portsmouth Parking Authority.

c. All parking passes provided to the owner of the facility by the Portsmouth Parking Authority shall be accounted for by the owner's keeping of a record that enumerates the date and time the pass was used and by whom it was used. The record book shall be available for inspection by the city at any time.

(iv) A maximum of ten guest rooms shall be allowed in the Olde Towne Historic District. In the Port Norfolk Historic District, a maximum of five guest rooms shall be allowed.

(v) No exterior additions or alterations shall be made for the express purpose of creating or maintaining a bed and breakfast inn other than those required for health, safety or sanitation requirements. Minimal decorative alterations may be made to the structure if such changes are deemed to be compatible with the nature of the neighborhood. Such alterations and additions that are necessary or desired must meet all zoning, building, environmental and fire code regulations and must be approved by the Historic Preservation Commission.

(vi) The facility shall be occupied and managed by an individual having at least 51 percent ownership interest in the improved real estate upon which the inn is situated.

(vii) The maximum length of stay for a transient paying guest is limited to 14 consecutive days in any 30-day period of time. The proprietor shall keep a current guest register including names, addresses and dates of occupancy of all guests, which register shall be available for city inspection at any time.

(viii) For identification of the bed and breakfast inn, one wall sign of four square feet is permitted. Such sign shall not be directly illuminated, nor shall it contain the words "hotel" or "motel." Such sign shall meet all zoning requirements including approval from the HPC.

(ix) There shall be no retail sale of goods and merchandise on the premises.

(x) Receptions and other such functions, for compensation, shall not be permitted.

(xi) If approved as a condition of a use permit, meals may be served to transient overnight guests and to the public, between 7:00 AM and 2:00 PM. In the Port Norfolk Historic District, only one meal may be served between 7:00 AM. and 11:00 AM. Seating capacity in the dining room shall be limited to no more than four seats per bed and breakfast guest room.

(xii) A minimum of one full bathroom, to include a water closet, lavatory and bathtub or shower, shall be provided on each floor of the structure to be occupied by guests. However, additional bathrooms may be required as a condition of a use permit.

(xiii) A use permit is subject to review at any time and may be revoked after a public hearing by the Planning Commission and the City Council and a finding by the City Council that the use has become detrimental to the surrounding neighborhood or for any other reason allowed by law.

(xiv) A use permit granted to an owner for a bed and breakfast inn shall terminate when the owner transfers ownership of the property. Any such transfer shall require a new use permit from the City Council.

(b) Hotels and Motels, Extended Stay

Extended stay hotel and motel uses shall comply with the following standards:

(i) A hotel or motel shall have its principal frontage, access, and orientation directly on an arterial street or collector street.

(ii) Vehicular access from an interior residential street is prohibited.

(iii) A type D buffer shall be provided between a hotel or motel and any land that is in a single-family residential zoning district (NR or GR) or developed as detached single-family dwellings, and that abuts or is located directly across the street from the hotel or motel site.

(iv) Signage shall be oriented toward the arterial or collector street providing access to the site rather than toward a residential street.

(v) All services associated with the development shall be located so as not to require access from an interior residential street and shall be screened so as not to be visible from any abutting property containing detached single-family residential development.

(vi) Up to 15 percent of the gross floor area of a hotel or motel may be in non-living-quarter incidental uses (accessory uses), including management/employee offices, meeting rooms, banquet halls, retail services (such as news stands and gift shops), and similar uses, provided any incidental business is conducted primarily to service guests, and there is no entrance to such places of business except from the inside of the building.

(vii) In addition to the accessory uses allowed in Section 40.1-4.4, Accessory Use Standards, up to an additional 20 percent of the gross floor area of a hotel or motel may be devoted to eating establishments as an accessory use. The eating establishments(s) may have an entrance from outside the principal building.

(c) Hotel and Motel, Full Service

(i) A hotel or motel that provides four or more of the following services on-site shall not be required to obtain a use permit:

a. Room service;

b. Complimentary breakfast;

c. Pool;

d. Athletic/fitness room with at least multiple machines for cardio and strength training;

e. Eating establishments as an accessory use;

f. Lounge with entertainment by a single unamplified instrument;

g. Meeting or banquet rooms; or

h. Personal services, including but not limited to barber/beauty shops, shoe shine, dry cleaning pick up and delivery, concierge services.

(ii) Restaurants, located in full-service hotels shall not be required to obtain use permits.

(iii) Full service hotels and motels in the WF district shall provide meeting rooms and room service.

(d) Tourist Homes

A tourist home use shall be limited to a maximum of five overnight guests per night.

(D) Industrial Uses

Except as permitted in Section 33.1-2 of the subdivision standards, no building or other permit shall be issued for a proposed industrial use unless such use is located on a lot that abuts a fully-improved street. For the purposes of this section, "fully improved" shall mean the portion of a street abutting the lot and extending to the centerline of the street right-of-way that complies with the all subdivision standards for streets.

(1) Industrial Services

(a) Electrical Motor Repair; Machine Shop; Tool Repair

Repair of all machines shall occur within an enclosed building. Temporary outdoor storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 40.1-5.10, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(b) Fuel Oil Storage

Containers used for fuel oil storage shall not exceed an individual capacity of 275 gallons nor an aggregate capacity of 550 gallons.

(c) Heavy Equipment Sales, Rental, or Storage

Uses primarily involving the sales, rental, or storage of heavy equipment shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) No heavy equipment displays shall be located within a required setback or perimeter buffer.

(iii) The use shall not have more than one heavy equipment display pad for every 100 feet of street frontage.

(iv) No heavy equipment shall be displayed on the top of a building.

(v) All lights and lighting shall be designed and arranged so no source of light is directly visible from any residential district or existing residential use;

(d) Laundry, Dry Cleaning, and Carpet Cleaning Plants

Laundry, dry cleaning, and carpet cleaning plants shall be within an enclosed building and shall use nonflammable liquids in the cleaning processes that emit no odor, fumes, or steam detectable to normal senses from off the premises.

(2) Manufacturing and Production

(a) Manufacturing, Heavy

Heavy manufacturing uses shall comply with the following standards unless they are specifically waived or modified through a Use Permit process approved by City Council in accordance with Section 40.1-2.3(B) of this Ordinance:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) The use shall locate outdoor storage areas to the rear of the principal structure and be screened with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 40.1-5.10, Fences and

Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(iii) The use shall be designed to ensure proper functioning of the on-site transportation circulation system.

(iv) The use shall have direct access onto an arterial or major collector street.

(3) Warehouse and Freight Movement

(a) Bulk Fuel Storage Sales and Storage

(i) Gas storage shall be limited to quantities not exceeding 500,000 cubic feet and not located within 100 feet from any lot line.

(ii) Gas storage with quantities not exceeding 200 cubic feet, if the pressure is greater than 100 pounds per square inch, shall not be located within 50 feet of any lot line.

(b) Outdoor Storage (as a Principal Use)

Lots used for outdoor storage shall be fully enclosed with a fence or masonry wall no less than eight feet high and landscaped (as appropriate), in accordance with Section 40.1-5.10, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall. Customers and vehicles shall be allowed to circulate through the area used for outdoor storage.

(c) Parcel Services; Truck or Freight Terminal; Warehouse (Distribution or Storage)

Parcel services, truck or freight terminals, or warehouses (distribution or storage) shall comply with the following standards:

(i) The use shall be located at least 500 feet from any residential district, school, or day care center.

(ii) The use shall not locate storage areas within a required yard or perimeter buffer;

(iii) The use shall locate outdoor storage areas to the rear of the principal structure and screen them with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 40.1-5.10, Fences and Walls.

(iv) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(v) The use shall have direct access onto an arterial or major collector street.

(d) Shipping Container Storage Yard

Shipping container storage yards shall comply with the following standards:

(i) Drive aisles at least 50 feet wide shall be provided between rows of containers to provide sufficient space for forklifts and safe maneuvering.

(ii) Containers shall not be stored in groups that occupy an area measuring greater than 200 feet by 80 feet.

(iii) Containers shall be placed on a level, well-compacted surface of crushed stone or similar material. All entrance drives and off street parking areas shall be paved with asphalt or concrete. The container storage area, as well as the entrance drives and off-street parking areas, shall be maintained free of potholes.

(iv) Shipping containers may be stacked no higher than four containers high provided that no stacking of containers shall be located within 200 feet of any residential, mixed-use (NMU, GMU, MU-H), or light industrial zoning district.

(v) Only shipping containers being used in the active transport of goods, wares, or merchandise shall be placed or stored in a shipping container storage yard.

(vi) All shipping containers shall be placed or stored in a shipping container storage yard in an empty and ready to ship state.

(vii) On-site repairs of shipping containers shall be limited to minor repairs needed to ensure that they remain in a condition ready to ship—including cleaning, repairing, servicing, painting, or fumigation.

(viii) All shipping containers shall be kept within a fenced area. A type D buffer shall be provided around the perimeter of the site, between the fenced area and the property line.

(ix) The owner/operator shall maintain a log showing the dates each container was brought on the site and removed. No shipping container shall be stored on the site longer than 12 months.

(x) No signage shall be placed on the shipping container units.

(xi) Any graffiti on shipping containers that are visible from adjacent properties or public right-of-ways shall be removed immediately.

(xii) All truck chassis shall remain in an operable condition, be roadworthy, and display all valid vehicle license and current tags, as required.

(xiii) The property shall remain locked after hours or when it is unmanned.

(4) Waste-Related Services

(a) Energy Recovery Plant; Hazardous Waste Collection Site; Incinerator; Waste Composting

Energy recovery plants, hazardous waste collection sites, incinerators, and waste composting uses shall comply with the following standards:

(i) The use shall be located at least 1,000 feet from any existing residential use, school, or day care use.

(ii) The use shall be surrounded by a solid fence that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

(b) Recycling and Salvage Center

A recycling and salvage center shall comply with the following standards:

(i) The center shall be on a parcel with an area of at least five acres.

(ii) The center shall be located at least 250 feet from any residential district, school, or day care.

(iii) Except for a freestanding office, no part of the center shall be located within 50 feet of any lot line.

(iv) All recycling activities and storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of recycling activities or a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of

recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed 20 feet or the height of the principal building on the lot, whichever is greater.

(v) All outdoor storage areas shall be surrounded by a solid fence or wall that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

(vi) Recyclable materials shall be contained within a leak-proof bin or trailer, and not stored on the ground.

(vii) There shall be no collection or storage of hazardous or biodegradable wastes on the site.

(viii) Space shall be provided to park each commercial vehicle operated by the center.

(ix) If the center is located within 500 feet of property in a residential zoning district or developed for residential use, it shall not be in operation between the hours of 7:00 PM and 7:00 AM. The facility shall be administered by on-site persons during the hours the facility is open.

(x) The site shall be maintained free of fluids, odors, litter, rubbish, and any other nonrecyclable materials. The site shall be cleaned of debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.

(xi) Noise levels shall be controlled in accordance with Section 24-255 of the City Code.

(xii) Signage shall include the name and phone number of the facility operator and indicate any materials not accepted by the center.

(xiii) Access to the center shall be from a collector or arterial street.

(xiv) No dust, fumes, smoke, vibration or odor above ambient level shall be detectable on abutting properties.

(c) Recycling Drop-Off Centers

A recycling drop-off center shall comply with the following standards:

(i) The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five percent of the total on-site parking spaces. The mobility of the collection bin shall be retained.

(ii) The bin and adjacent area shall be maintained in good appearance and free from trash. Containers shall be equipped with a lid to prevent access to stored material by animals or vermin and to preclude stored paper from being scattered by the wind.

(iii) There shall be no collection or storage of hazardous or biodegradable wastes on the site.

(iv) All operations shall be located at least 100 feet from any school, church, hospital, public office building, commercial or residential uses on adjoining lots.

(v) All collection areas shall be provided instructional signage indicating how materials are to be separated and stating any limitations on the types of materials accepted for recycling. The signage shall note the name and telephone number of the operator of the facility and the hours of operation.

(vi) Access to the site shall be from a collector or arterial street.

(vii) Four off-street parking spaces shall be provided adjacent to the collection area.

(viii) The site shall be kept clean and free from litter and debris; weeds and rodents and other pests shall be controlled.

(ix) No burning, melting, or other reclamation shall be permitted.

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

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

(d) Salvage and Junkyard; Tire Disposal or Recycling

A salvage and junkyard or tire disposal or recycling facility shall comply with the following standards:

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

(ii) The facility shall be located at least 250 feet from any residential district, school, or day care center.

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

(iv) The facility shall be screened with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 40.1-5.10, Fences and Walls. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(5) Wholesale Sales

Any outdoor storage component of a wholesales sales use shall comply with the standards in Section 40.1-4.3.D(3)(b), Outdoor Storage.

40.1-4.4 ACCESSORY USE STANDARDS

(A) Purpose

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

(B) General Standards and Limitations

(1) Compliance with Ordinance Requirements

All accessory uses and accessory structures shall conform to the applicable requirements of this Ordinance, including the district standards in Article 40.1-3: Zoning Districts, and the use regulations in Article 40.1-4: Use Standards, and the development standards in Article 40.1-5: Development Standards. The provisions of this section establish additional standards and restrictions for particular accessory uses and structures.

(2) General Standards

All accessory uses and accessory structures shall meet the following standards:

(a) Directly serve the principal use or structure;

(b) Be customarily accessory and clearly incidental and subordinate to the principal use and structure;

(c) Be subordinate in area, extent, and purpose to the principal use or structure;

(d) Be owned or operated by the same person as the principal use or structure;

(e) Be located on the same lot as the principal use or structure;

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

(g) Not be constructed or established prior to the time the principal use or structure is constructed or established; and

(h) Not constitute a combination use, which is the combination of two principal uses (combination uses will not meet the above standards in terms of being subordinate or providing service to the principal use).

(3) Approval of Accessory Uses and Structures

Unless otherwise specified in this section, any accessory use or accessory structure shall be treated as a permitted use in the zoning district in which it is located. An accessory use or structure may be approved in conjunction with approval of the principal use or structure.

(4) Table of Permitted Accessory Uses

(a) Table as Guide

Table 40.1-4.4(A), Table of Permitted Accessory Uses or Structures, is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

(b) Listed Accessory Uses

Table 40.1-4.4(A), Table of Permitted Accessory Uses or Structures, lists what types of accessory uses, structures, and activities are allowed in each of the zoning districts. If a specific accessory use or structure is allowed in a base zoning district, the column underneath the zoning district is marked with a "P." If a specific accessory use or structure is allowed in an activity center district, the column underneath the zoning district is marked with a "A." If the accessory use or structure is not allowed in a zoning district, the column is blank. If there is a reference contained in the column entitled "Additional Requirements," refer to the cited section(s) for additional standards that apply to the specific accessory use or structure.

(c) Interpretation of Unidentified Accessory Uses

The Planning Director shall evaluate potential accessory uses that are not identified in Table 40.1-4.4(A), Table of Permitted Accessory Uses or Structures, on a case-by-case basis, as an Interpretation (See Section 40.1-2.3(J), Interpretation) In making the interpretation, the Planning Director shall apply the following standards.

(i) The definition of "accessory use" (See Article 40.1-8: Definitions.), and the general accessory use standards established in Section 40.1-4.4.B, General Standards and Limitations.

(ii) The additional regulations for specific accessory uses established in Section 40.1-4.4 (C), Specific Standards for Certain Accessory Uses.

(iii) The purpose and intent of the zoning district in which the accessory use or structure is located. (See Article 40.1-3: Zoning Districts)

(iv) Any potential adverse impacts the accessory use may have on other lands in the area, compared with other accessory uses permitted in the zoning district.

(v) The compatibility of the accessory use or structure, including the structure in which it is housed, with other principal and accessory uses permitted in the zoning district.

(d) Table of Permitted Accessory Uses and Structures

Table 40.1-4.4(A), Table of Permitted Accessory Uses, specifies types of accessory use and the zoning district where each type may be permitted.

TABLE 40.1-4.4(A): TABLE OF PERMITTED ACCESSORY USES AND STRUCTURES

P = PERMITTED USE A = ALLOWED USE BLANK CELL = PROHIBITED USE YELLOW CELL = PLACEHOLDER

ACCESSORY USE TYPE	RESIDENTIAL DISTRICTS				BUSINESS DISTRICTS					ACTIVITY CENTERS			SPECIAL DISTRICTS					ADDITIONAL REQUIREMENTS [1]
	NR	GR	UR	URH	NMU	MUH	GMU	IL	IN	NAC	CAC	RAC	HR	HLO	HLB	PG	WF	
Accessory Dwelling Units (for single-family detached dwellings only)	P	P	P	P	P	P	P	/	/	A	A	A	P	/	/	/	/	40.1-4.4(C)(1)
Amateur Home Radio/TV Antenna	P	P	P	P	P	P	P	/	/	A	A	A	P	/	/	/	/	40.1-4.4(C)(2)
Bike Rack	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	P	
Canopies	/	/	/	/	P	P	P	P	P	A	A	A	/	P	P	P	/	40.1-4.4(C)(3)
Chickens, Backyard	P	P	P	P	P								P	P	P			40.1-4.4(C)(18)
Community Garden	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	P	40.1-4.4(C)(4)
Fences or Walls	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	/	P	40.1-5.10
Garages/Carports	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	/	40.1-4.4(C)(17)
Greenhouse	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	/	40.1-4.4(C)(5)
Home Occupation	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	P	40.1-4.4(C)(6)
Limited Fuel/Oil/ Bottled Gas Distributor	/	/	P	P	P	P	P	P	P	A	A	A	/	/	P	/	/	40.1-4.4(C)(7)
Outdoor Display/Sales	/	/	/	P	P	P	P	P	P	A	A	A	/	P	P	P	/	40.1-4.4(C)(8)
Outdoor Storage	/	/	/	/	P	P	P	P	P	/	A	A	/	/	P	/	/	40.1-4.4(C)(9)
Produce Stand	/	/	P	P	P	P	P	/	/	A	A	A	/	P	P	P	/	40.1-4.4(C)(10)
Rainwater Cisterns	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	/	40.1-4.4(C)(11)
Recycling Drop-Off Stations	/	P	P	P	P	P	P	/	/	A	A	A		P	P	P	P	40.1-4.4(C)(12)
Satellite Dish	P	P	P	P	P	P	P	P	P	A	A	A	P	P	P	P	P	40.1-4.4(C)(13)
Solar Energy Equipment	P	P	P	P	P	P	P	P	P	A	A	A	/	/	/	/	P	40.1-4.4(C)(14)
Storage or Parking of Heavy Trucks, Trailers	P	P	P	P	/	/	/	P	P	/	/	A	P	P	P	/	/	40.1-4.4(C)(15)
Storage or Parking of Major Recreational Equipment or Mobile Home (for s.f. detached dwellings only)	P	P	P	P	/	/	/	/	/	/	/	/	P	P	P	/	/	40.1-4.4(C)(15)
Swimming Pool/ Hot Tub	P	P	P	P	P	P	P	/	/	A	A	A	P	P	P	P	P	40.1-4.4(C)(16)

NOTES: [1] See also use specific standards in Section 40.1-4.3

(e) Location of Accessory Uses or Structures

(i) Except for fences and walls, all accessory structures shall comply with the minimum setback and spacing standards applicable to accessory structures in the zoning district where the structure is located. (See Article 40.1-3: Zoning Districts)

(ii) No accessory structure shall be located within any platted or recorded easement or over any known utility.

(f) Maximum Height

All accessory structures shall comply with the maximum height standards applicable to accessory structures in the zoning district where the structure is located. (See Article 40.1-3: Zoning Districts)

(g) Lot Coverage

The total area occupied by all accessory structures shall not exceed the maximum lot coverage standard applicable to accessory structures in the zoning district where the structure is located. (See Article 40.1-3: Zoning Districts)

(h) Maximum Size

Accessory structures serving residential uses within the NR, GR, UR, and UR-H districts shall not exceed more than 800 square feet in area.

(C) Specific Standards for Certain Accessory Uses

(1) Accessory Dwelling Units

Accessory dwelling units shall comply with the following standards:

(a) Accessory dwelling units are permitted only on lots with single-family detached dwellings, and are not permitted on lots with multi-family, attached residential, townhouses, or two-to four-family dwellings.

(b) Not more than one accessory dwelling unit per lot is permitted.

(c) Accessory dwelling units shall be located within (e.g., a downstairs apartment), be attached, or detached (behind the principal structure as a freestanding building or above a detached outbuilding).

(d) If attached:

(i) The accessory dwelling unit must be attached to the principal structure and have an operative interconnecting door with the principal structure.

(ii) Access to the unit shall only be from the side or rear yard of the principal structure.

(e) If detached:

(i) A distance of at least six feet shall separate the accessory dwelling unit from the principal structure.

(ii) The accessory dwelling unit must be located in the same base zoning district as the principal structure.

(f) The use of manufactured homes, travel trailers, campers, tractor trailers, or similar vehicles as an accessory dwelling unit shall be prohibited.

(g) An accessory dwelling unit shall have a floor area of at least 300 square feet and shall not exceed 25 percent of the floor area of the principal structure, subject to the standards in Article 40.1-3: Zoning Districts.

(h) At least one, but no more than two, off-street parking spaces shall be provided for an accessory dwelling unit (in addition to the required off-street parking serving the principal use).

(i) Accessory dwelling units shall not be sold apart from the principal structure.

(j) Accessory dwelling units shall not include home occupations.

(2) Amateur Ham Radio & Television Antennas

(a) Towers associated with a ham radio operator or private television antenna shall not exceed 90 feet above grade.

(b) Towers or antennas attached to a principal structure shall be located on a side or rear elevation.

(c) Freestanding towers or antennas shall be located behind the principal structure.

(3) Canopies

(a) Canopies shall be attached to a principal structure and shall not be freestanding or attached to an accessory structure.

(b) Canopies covering a drive-through shall use a similar roof form, pitch, and materials to appear as an extension of the roof covering the principal structure.

(c) Canopies shall have a maximum height of 15 feet measured from the finished grade to the underside of the canopy.

(d) The design of the canopy, including any columns, shall match the design and exterior building materials of the principal building.

(e) Canopies covering fuel pumps may include logos or trademarks, but shall not include any other signage or advertising.

(f) In addition to meeting the standards in Section 40.1-5.9, Exterior Lighting, canopies shall not be internally illuminated, and any exterior lighting associated with a canopy shall be shielded so that the source of illumination is not visible from off-site areas.

(4) Community Garden

A community garden shall be permitted as an accessory to a principal use provided that the following standards are met.

(a) Overhead lighting in community gardens is prohibited, unless otherwise allowed.

(b) Signage is limited to a single, non-illuminated, flat sign of four square feet.

(c) No more than two vehicles shall be parked onsite of a community garden, excluding those parked within an enclosed structure.

(d) Retail sales shall not be permitted, except as an approved temporary use, as specified in Section 40.4-5, Temporary Use Standards.

(e) Plantings in community gardens shall not obstruct roadway visibility or impede the flow of traffic.

(f) Perimeter fencing, including trellises, are allowed in community gardens and are subject to the standards governing fence location, maintenance, and height and design within each respective zoning district.

(5) Greenhouse

A greenhouse shall be permitted as an accessory to a principle use provided that the following standards are met.

(a) Greenhouses must comply with each district's respective area standards, including setbacks, height, and lot coverage.

(b) All incidental equipment and supplies related to greenhouse uses, including fertilizer and empty containers, shall be kept within the greenhouse structure.

(6) Home Occupation

A home occupation shall be permitted as accessory to any principal dwelling unit, provided that:

(a) The use shall be conducted entirely within the principal dwelling.

(b) The business or service is located within the dwelling, and does not exceed 25 percent of the heated floor area of the principal structure.

(c) The principal person or persons providing the business or service resides in the dwelling on the premises.

(d) The use shall be conducted entirely by the occupants thereof and no person who is not a resident of the principal dwelling shall be employed in connection with the home occupation.

(e) The home occupation causes no change in the external appearance of the existing dwelling and structures on the property.

(f) All vehicles used in connection with the home occupation are of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood, and there are no more than two vehicles per home occupation.

(g) There is sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself.

(h) There are no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building.

(i) The property contains no outdoor display or storage of goods, equipment, or services that are associated with the home occupation.

(j) Wholesale or retail sales of goods do not occur on the premises.

(k) There shall be no personal physical service performed in the dwelling, except that a beauty/barber shop may be operated as a home occupation, provided that the operation conforms with the standards of this section and the following provisions: that no more than one customer may be provided service at the same time, and that the operator obtain and maintain in effect all required permits and licenses.

(l) The home occupation does not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.

(7) Limited Fuel/Oil/Bottled Gas Distributor

Limited fuel/oil/bottled gas distribution is intended to provide sales of limited quantities of gas, propane, and similar fuels as set out in Section 40.1-8: Definitions. Limited fuel/oil/bottled gas distribution is an accessory use to the following principal uses:

(a) Convenience stores with gas sales;

(b) Convenience stores without gas sales;

(c) Grocery stores;

(d) Retail sales establishments, large; and

(e) Other retail sales establishments.

(8) Outdoor Display/Sales

Outdoor display or sales may be allowed as an accessory use for all retail sales and service uses and wholesale sales uses. It is the intent of this Ordinance to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. The outdoor display/sales of goods shall comply with the following standards:

(a) Outdoor display/sales areas shall be depicted upon a site plan. (See Section 40.1-2.3(C) & (D), Development Plan.)

(b) All outdoor display of goods shall be located immediately adjacent to the storefront, or building sides, and not in drive aisles, loading zones, fire lanes, or parking lots.

(c) Outdoor display areas shall be limited to no more than one-half of the length of the store front or building side.

(d) In the case of a shopping center, the "storefront" shall include the entire frontage of the shopping center facade, meaning that the total amount of display for all the in-line tenants combined shall not exceed 50 percent of the aggregate store front of the total shopping center.

(e) The area of outdoor display or sales shall not encompass the width of the entrance doors to the establishment as projected straight out from the facility (For example, if the width of the entrance doors is 10 feet, there shall be at least a 10-foot clearance from the doors as projected straight out and away from the facility).

(f) No goods shall be attached to a building's wall surface.

(g) The height of the outdoor display shall not exceed eight feet.

(h) The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.

(i) At least five feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

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

(k) Outdoor storage of used or second hand goods, with the exception of motor vehicles, shall be allowed only during the normal hours of operation of the associated business establishment.

(9) Outdoor Storage

Outdoor storage may be allowed as an accessory use in accordance with the following standards:

(a) Each outdoor storage area shall be incorporated into the overall design of the principal structure on the site and shall be located to the side or rear of the principal structure.

(b) Goods stored in an outdoor storage area intended for sale or resale shall be limited to those sold on the premises as part of an associated, additional principal use.

(c) Each outdoor storage area shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall that is at least six feet high in side yards and eight feet high in rear yards, and incorporates at least one of the predominant materials and one of the predominant colors used in the primary structure. Materials may not be stored higher than the height of the primary structure. A landscaped earth berm may be used instead of or in combination with a fence or wall.

(d) If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

(e) Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.

(f) No materials may be stored in areas intended for vehicular or pedestrian circulation.

(10) Produce Stands

A produce stand shall:

(a) Be limited to the retail sale of agriculture and horticulture products;

(b) Be located to minimize the visual impact of the structure from adjacent public streets;

(c) Not remain in the same location for more than six months;

(d) Provide adequate ingress, egress, and off-street parking areas; and

(e) Be subject to the sign standards in Section 40.1-5.11, Signage.

(11) Rainwater Cisterns

Rainwater cisterns shall comply with the following standards.

(a) Rainwater cisterns shall be located directly adjacent to the principle structure on a lot.

(b) Rainwater cisterns shall not be located within front, side, or rear setbacks, unless the cistern is less than five feet in height.

(c) Rainwater cisterns shall be affixed to capture rainwater from the principle structure or accessory structure's gutter system.

(d) Rainwater cisterns shall not serve as signage.

(e) Water collected from rainwater cisterns shall be used in a manner that complies with city policies and regulations on gray water use and rainwater harvesting.

(12) Recycling Drop-Off Stations

Recycling drop-off stations shall comply with the following standards.

(a) General

All drop-off containers and storage bins, with the exception of roll-out carts located in townhouse and multifamily developments and recycling containers located on educational facility sites, shall be screened from view to at least 50 percent of the height of the containers and bins in the station. The screen may be fencing or plantings. Fencing must be solid opaque material, and chain link with slats is prohibited. If plantings are used, the plants must reach the required height within three years of planting. Roll-out carts shall be a neutral or earth tone color, not be visible from a public street, and be located within the interior of the development.

(b) Litter and Debris

The station shall be kept free of litter, debris, and residue.

(c) Signage

Each station shall be allowed one on-premise freestanding sign no more than 48 inches high and 16 square feet in area (including all sides of the sign combined). The sign shall include the name and telephone number of a party responsible for management and maintenance of the station.

(d) Setbacks

Drop-off containers and storage bins shall be located no closer than 50 feet from an existing residential use.

(e) Size

Excluding screening, drop-off containers and storage bins shall occupy no more than 500 square feet.

(f) Blocking Access

The station shall not occupy or block access to parking spaces or aisles.

(g) Use of Shipping Container Prohibited

The station shall not use portable shipping containers or tractor trailers for storage.

(13) Satellite Dishes

Satellite dishes are subject to the following standards to the maximum extent feasible, but only where there is no impairment of acceptable signal quality. These standards are not intended to impose unreasonable delays or costs on the installation, maintenance, or use of satellite dishes, and shall not be interpreted or enforced in any manner contrary to federal or state law.

(a) Location in Residential District Setbacks

(i) Satellite dishes in residential zoning districts shall not be located within the front setback of a lot's principal structure unless the lot owner can demonstrate that there is no possibility to avoid location in the front setback and still have an obstruction-free reception window to the satellite dish.

(ii) Satellite dishes in residential zoning districts may be located within the rear setback of the principal structure, but not closer than five feet to any lot line.

(b) Location on Roof

Satellite dishes may be located on the roof of a principal structure provided they are no more than 15 feet higher than the applicable maximum building height standard.

(14) Solar Energy Equipment

Solar energy equipment shall comply with the following standards.

(a) To minimize the visual impact, solar energy equipment, except for solar panels, is prohibited from being visible along the front street elevation.

(b) Solar panels may be located on any roof, irrespective of its relationship to the underlying district height limit, up to five feet above the roof surface to adequately access solar energy.

(c) Solar energy equipment, excluding solar panels or collectors, may project into side and rear yards but no closer than two feet to any property line, in order to permit equipment to be installed adjacent to existing, nonconforming electric meters.

(15) Storage or Parking of Heavy Trucks, Construction Equipment, Trailers, Major Recreational Equipment, or Mobile Home

(a) Intent

It is the intent of this subsection to prohibit the customary or continual parking of certain vehicles and equipment on streets and within yards adjacent to streets in residential neighborhoods since the presence of such vehicles runs contrary to the intended residential character of such neighborhoods. It is not the intent of these standards to prevent the occasional or temporary parking of such vehicles or equipment as necessary for the purposes of loading, unloading, or cleaning; however, the continual or customary overnight parking of such vehicles or equipment for a portion of the day followed by removal the following day is prohibited.

(b) Applicability

The standards in this subsection apply to.

1. Heavy trucks with more than two(2) axels and a gross weight of more than 20,000 pounds; or,
2. Construction Equipment
3. Major Recreational Vehicles
4. Trailers with more than one (1) axel

These standards shall not apply to school busses used for transport of children to or from school.

(c) Standards

(i) Heavy trucks, trailers, or major recreational equipment shall not be parked or stored on public rights-of-way in accordance with Chapter 22 of the City Code.

(ii) No heavy truck, trailer, other major recreational equipment shall be parked or stored for longer than four days over any calendar year in any front yard or side yard immediately adjacent to a street, unless the width of the side yard is less than 11 feet.

(iii) Boats, campers, and recreational vehicles shall be parked or stored only to the side or rear of the dwelling they are associated with unless the width of the side yard is less than 11 feet.

(iv) It shall be unlawful for any person to park any mobile home or camper-type trailer while used for human habitation on any street, alley, or other public

place in the city, or to park any mobile home or camper-type trailer when not so used on the streets of the city for a period longer than 12 hours.

(v) Only one such vehicle described by this section, other than construction equipment, shall be parked on a zoning lot in the NR, GR, UR, URH, HR, HLO, or HLB zoning districts at any one time.

(vi) The parking or storing of construction equipment on a lot in the NR, GR, UR, URH, HR, HLO or HLB zoning districts shall be prohibited, except on lots where active construction is being undertaken. All construction equipment must be removed from the lot within 10 days of issuance of a certificate of occupancy.

(16) Swimming Pools, Spas, and Hot Tubs

Swimming pools, spas, and hot tubs that are accessory uses shall comply with the following standards:

(a) The area containing a swimming pool, spa, or hot tub shall be completely enclosed by a fence that is at least three feet high and has a gate that can be securely fastened. In lieu of such fencing, a spa or hot tub may have a lockable cover capable of supporting a minimum of 150 pounds, and the cover shall be locked in place when the spa or hot tub is not in use.

(17) Garages/Carports

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

(18) Backyard Chickens

(a) Intent

With the increased awareness of self-sufficiency, sustainability and urban farming, the raising of a limited number of chickens is allowed as an accessory use to detached single family residential properties provided that the use meets certain minimum standards and does not pose a health hazard or become a nuisance to adjoining property owners.

(b) Standards

The keeping of backyard chickens is allowed in accordance with the following standards:

(i) The use is an accessory use to a detached single family residence.

(ii) The minimum lot size shall be 5,000 square feet. No more than one chicken for every 2,000 square feet of lot area is permitted.

(iii) No more than six (6) chickens are permitted on any lot.

(iv) All housing and fencing of chickens shall be located solely in the rear yard.

(v) Housing and fencing of chickens must be located at least 15 feet from any side or rear property line. Chickens may not roam in other areas of the property or off the property.

(vi) No roosters are allowed.

(vii) Feed shall be stored and maintained in a secure container. Manure, and other waste products shall be properly handled and disposed of in accordance with best management practices so as to not create an odor, attract vermin, or create a nuisance for surrounding property owners. Evidence of vermin may be cause for revoking a zoning compliance permit.

(viii) The sale of eggs shall be prohibited.

(c) Process for Approval

A request for a zoning compliance permit shall be submitted and reviewed by the Zoning Administrator. Once the request has been determined to comply with the requirements of this chapter, the Zoning Administrator shall notify the adjoining property owners, including all owners across any public right-of-way that a zoning compliance permit will be issued for the keeping of chickens. This notice must include a copy of the requirements for the keeping of chickens and information regarding the reporting of any code violations.

40.1-4.5 TEMPORARY USE STANDARDS

(A) Purpose

This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent land, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

(B) Table of Permitted Temporary Uses and Structures

(a) Table 40.1-4.5(A), Permitted Temporary Uses and Structures, summarizes the temporary uses and structures that are allowed within the city and any general or specific standards that apply. Temporary uses or structures not listed in Table 40.1-4.5(A), Permitted Temporary Uses and Structures, are not allowed by this Ordinance.

TABLE 40.1-4.5(A): PERMITTED TEMPORARY USES AND STRUCTURES

Temporary Use or Structure	Allowable Time Frame	Specific Regulations
TEMPORARY STRUCTURES		
Expansion or Replacement of Existing Facilities (including temporary offices for construction and/or security personnel)	(A)	Permit Required; see Section 40.1-4.5(F)(1)
Real Estate Sales Office/Model Sales Home	(A)	Permit Required; see Section 40.1-4.5(F)(2)
Construction-Related Activities for New Construction	(A)	Permit Required; see Section 40.1-4.5(F)(2)
Temporary Family Health Care Structure	Unlimited as long as requirements of 40.1-4.5(F)(5) are met	Permit Required: see Section 40.1-4.5 (F) (5)
Temporary Storage in an On-Demand Container	(B)	Permit Required; see Section 40.1-4.5(F)(4)
TEMPORARY SALES		
Outdoor Seasonal Sales	(B)	Permit Required; see Section 40.1-4.5(F)(6)
Farmer's Market	(C)	Permit Required; see Section 40.1-4.5.(F)(7)

TABLE 40.1-4.5(A): PERMITTED TEMPORARY USES AND STRUCTURES
Time Frames: [A] Such structures may be in place for no more than one to four years, unless expressly stated otherwise in this Ordinance. [B] Such structures or sales may be in place for not more than 30 days per calendar year, and no more than three occurrences per parcel, per year. [C] Such uses may operate on a continuous basis for up to five months per year on a single site.

(C) Prohibited Temporary Uses

Without limiting the standards of this Ordinance, the following activities are prohibited in all districts:

(1) Retail Sales or Display of Goods From Vehicles

Except as part of a permitted seasonal sale, retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container.

(D) Temporary Use Permits

All temporary uses and structures except temporary construction office trailers, required to obtain a temporary use permit in accordance with Table 40.1-4.5, Permitted Temporary Uses and Structures, shall obtain a Temporary Use Permit in accordance with Section 40.1-2.3(E), Temporary Use Permit. A temporary use permit shall be reviewed, approved, or denied only in accordance with the standards of this section.

(E) General Standards For Temporary Uses And Structures

All temporary uses, structures, or special events shall comply with the following general standards, unless otherwise specified in this Ordinance:

(1) Obtain the appropriate permit from the city (if required);

(2) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(3) Be compatible with the principal uses taking place on the site;

(4) Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;

(5) Not include permanent alterations to the site;

(6) Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this Ordinance.

(7) Comply with the maximum signage size for temporary signs in Section 40.1-5.11, Signage;

(8) Not maintain temporary signs associated with the use or structure after the activity ends;

(9) Not violate the applicable conditions of approval that apply to a site or use on the site;

(10) Not interfere with the normal operations of any permanent use located on the property; and

(11) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

(F) Specific Regulations For Certain Temporary Uses And Structures

(1) Expansion or Replacement of Existing Facilities

(a) Purpose and Scope

Factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy (except for minor unpacking and connection to utilities), and designed for relocation to other sites, may be placed on land to serve as the following:

(i) Temporary Expansion Space for Religious Institutions, Heath Care Facilities, and Government Offices

Expansion space for existing religious institutions, health care facilities, and government offices, provided plans for the permanent expansion of the existing facilities have been submitted to and been approved by the city.

(ii) Temporary Classroom Space

Temporary classroom space to augment an existing public educational facility.

(iii) Temporary Offices

Temporary offices for construction and security personnel during the construction of a development for which the city has issued a building permit.

(iv) Temporary Quarters for Recreational Facilities

Temporary quarters for recreational facilities that are being provided in conjunction with a new residential development, provided the city has approved a development plan (Section 40.1-2.3(C) & (D), Development Plan) for the development.

(v) Temporary Quarters for Other Nonresidential Uses

Temporary quarters for other nonresidential uses when the permanent building has been destroyed by a fire or other physical catastrophe, provided a building permit for the permanent facility is obtained within four months after approval of the temporary quarters. The Planning Director may approve a written request for an extension of an additional six months for good cause shown. Failure to obtain a Building Permit within the time frame allowed will revoke approval for the temporary quarters.

(vi) Temporary Office

One temporary office per site to include but not be limited to, the following uses: hiring, membership solicitation, multifamily development office/leasing, and other general office uses. The number of modular buildings housing such uses shall be limited to one, in addition to those already allowed by this section. Such modular buildings shall not be placed on the property prior to the issuance of a building permit.

(vii) Temporary Residence

A temporary residence used for housing occupants of an on-site existing principal dwelling unit subject to casualty damage.

(b) Standards

In addition to meeting the general standards of Section 40.1-4.5(E), General Standards for All Temporary Uses and Structures, all temporary structures approved in accordance with this section shall meet the following standards:

(i) The structure may be located anywhere on the site except within the following areas:

a. Existing required landscaping or perimeter buffer areas;

b. Areas designated as future required landscaping areas, whether or not vegetation currently exists; and

c. Other areas designated on the site for open space, vehicular use, or ingress/egress.

(ii) The temporary structure shall be factory-fabricated and transportable;

(iii) In addition to any other off-street parking required on the site in accordance with Section 40.1-5.1, Off-Street Parking, Loading and Circulation, adequate off-street parking shall be provided for the temporary use;

(iv) All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained prior to installation of the temporary structure; and

(v) The temporary structure shall be compatible with the existing buildings on the site in terms of exterior color.

(c) Duration

(i) General

Temporary structures under this subsection may remain on the site for no more than 12 months. This period may be renewed for two 12-month periods, for good cause shown, upon approval of a written request for such extension, submitted to the Planning Director, 30 days prior to the expiration of the temporary use permit. Except for temporary classrooms, in no event, shall the extension allow the temporary structure to remain on the site for more than three years.

(ii) Temporary classrooms

Temporary classrooms for use as part of an existing public educational facility may be allowed to remain on the site for longer than three years.

(2) Real Estate Sales Office and Model Sales Home

(a) General Standards

One temporary real estate sales office or model sales home may be allowed as incidental to a new residential or nonresidential development, provided that:

(i) The use is located on a lot approved by the city as part of the development.

(ii) Signage complies with the standards of Section 40.1-5.11, Signage.

(iii) The temporary use is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.

(iv) The temporary use complies with the minimum yard and setback standards of the zoning district in which it is located.

(v) Off-street parking provided for the temporary use complies with the standards of Section 40.1-5.1, Off-Street Parking, Loading and Circulation.

(vi) Upon termination of the temporary real estate sales office or model sales home, the structure shall be converted into, or removed and replaced with, a permanent use.

(vii) In approving or renewing approval of a real estate sales office, the Planning Director may impose other conditions as is deemed necessary to avoid adverse impacts that the use as a sales office may have on adjacent properties or the community as a whole.

(viii) All temporary trailers shall be removed from the site prior to the issuance of the last certificate of occupancy for the site.

(b) Duration

(i) Temporary Real Estate Sales Office

Temporary real estate sales offices may be approved for a period of up to one year. This period may be renewed for three additional 12-month periods, for good cause shown, upon approval of a written request for such an extension, submitted to the Planning Director, 30 days prior to the expiration of the permit. In no event shall the extension allow the temporary structure to remain on the site for more than four years.

(ii) Model Sales Home

Model sales homes may be approved for a period of up to four years. This period may be renewed for additional six-month periods, for good cause shown, upon approval of a written request for such an extension submitted to the Planning Director, 30 days prior to the expiration of the permit. There is no time limit on the use of model sales units.

(3) Construction-Related Activities for New Construction

(a) General

Temporary construction-related activities for new construction, including construction offices, storage buildings, outdoor storage, and employee parking areas, may be approved for a period of up to one year. This period may be renewed for additional 12-month periods, for good cause shown, upon approval of a written request for such an extension, submitted to the Zoning Administrator, 30 days prior to the expiration of the permit. Such uses shall be removed within 30 days after issuance of a certificate of occupancy.

(b) Adjacent Site

Because of site constraints, construction-related activities may need to occur on a site that is adjacent to or nearby the construction site. In such cases, a temporary use permit is required. (See Section 40.1-2.3(E), Temporary Use Permit.) Such uses shall be removed within 30 days after issuance of a certificate of occupancy, and the site is restored to its previous condition.

(4) Temporary Storage in an On-Demand Container

Temporary storage in an on-demand container shall be permitted to serve an existing residential use, subject to the following standards:

(a) Containers shall not exceed 20 feet in length;

(b) Containers shall not be located in the front yard;

(c) Containers shall not be located within 10 feet of any lot line;

(d) Containers shall not be located on an individual parcel or site for more than 14 consecutive days per site per calendar year; and

(e) The standards in this sub-section related to container location shall not apply to lots with a frontage of 50 feet or less.

(5) Temporary Family Health Care Structure

A temporary family health care structure shall be allowed as an accessory use in any residential zoning district on lots zoned for and occupied by a single-family detached dwelling provided they comply with the standards of this section.

(a) Standards

(i) The structure shall be used solely for and occupied by a mentally or physically impaired person as defined in § 63.2-2200 of the Code of Virginia, and as certified in writing provided by a physician licensed by the Commonwealth.

(ii) The structure must be located on property owned or occupied by the caregiver as his residence. The caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

(iii) Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(iv) Only one family health care structure shall be allowed on a lot or parcel of land.

(v) The structure shall be a transportable residential structure primarily assembled at a location other than its site of installation that complies with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code containing no more than 300 gross square feet. Placing the temporary family health care structure on a permanent foundation shall be prohibited.

(vi) The structure shall be connected to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the City.

(b) Duration

(i) The applicant shall provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property.

(ii) Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

(iii) The City may inspect the temporary family health care structure at reasonable times convenient to the caregiver to ensure compliance with the standards and intent of this section.

(6) Outdoor Seasonal Sales

(a) Applicability

Merchants may display and/or sell goods in the city on a temporary basis without establishing a permanent place of business, subject to the standards of this section.

(b) Location

(i) The outdoor display and/or sale of goods consistent with the provisions of Section 40.1-4.4(C)(9), Outdoor Display/Sales, is considered an accessory use and does not require a temporary use permit.

(ii) All other sales/displays of goods (other than agricultural products) require a temporary use permit in accordance with Section 40.1-2.3(E), Temporary Use Permit, and this subsection.

(c) Standards

A temporary use for the temporary display and/or sale of products shall comply with the following standards:

(i) The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.

(ii) The display or sale of goods, products, and/or services shall not occur in the public right-of-way or within 100 feet of an existing residential use.

(iii) The display or sale of products, goods and/or services shall be limited in scope to similar or complementary products, goods, and/or services to those offered by the existing principal use located on the same site. The temporary sale of non-agricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.

(iv) Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.

(v) Tents and other temporary structures shall be located on an improved surface such as asphalt, gravel, or other improved surface.

(vi) Off-street parking shall be adequate to accommodate the proposed sale of products.

(vii) The temporary display or sale of products shall not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.

(viii) The hours of operation of the temporary sale of products shall be from no earlier than 7:00 AM to no later than 10:00 PM, or the same as the hours of operation of the principal use.

(d) Duration; Sales per Year

(i) The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than 30 total days per calendar year.

(ii) The number of temporary sales of products per site per calendar year shall not exceed three.

(7) Farmer's Market

Farmer's markets shall:

(a) Renew all applicable temporary use permits once per calendar year;

(b) Be limited to the retail sale of agriculture and horticulture products;

(c) Be located to minimize the visual impact of the structure from adjacent public streets;

(d) Provide adequate ingress, egress, and off-street parking areas; and

(e) Be subject to the sign standards in Section 40.1-5.11, Signage.

ARTICLE 40.1-5:
DEVELOPMENT STANDARDS

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ARTICLE 40.1-5: DEVELOPMENT STANDARDS

40.1-5.1 OFF-STREET PARKING, LOADING, AND CIRCULATION

(A) Purpose and Intent

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance. The standards in this section are intended to provide for adequate off-street parking while allowing the flexibility needed to accommodate alternative solutions. The standards are also intended to achieve city policies of supporting development and redevelopment of the activity centers, commercial corridors, and downtown areas. The standards are proposed to accommodate appropriate infill development and encourage pedestrian-oriented development, while avoiding excessive paved surface areas, promoting low impact development, and safeguarding historic resources.

(B) Applicability

(1) General

Except where exempted by Section 40.1-5.1(C), Exemptions, the off-street parking, loading, and circulation standards of this section shall apply to all new development in the city.

(2) Time of Review

Review of proposed development to ensure compliance with the standards of this section shall occur at time of Development Plan (Section 40.1-2.3 (C) & (D)), Master Plan associated with an Amendment to the Zoning Map to establish an Activity Center district (Section 40.1-3.4(F)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code)or Zoning Compliance Permit (Section 40.1-2.3(F)), whichever occurs first.

(3) Existing Development

(a) Change in Use

(i) Unless as otherwise modified by Section 40.1-6.6, any change in use of an existing development shall provide the additional off-street parking and loading facilities required to comply with this section.

(ii) Applications seeking to deviate from the standards of this section may be reviewed, depending upon the amount of the deviation, as:

a. An administrative adjustment, in accordance with the standards and procedures in Section 40.1-2.3(H), Administrative Adjustment; or

b. A type II development plan, in accordance with the procedure and standards in Section 40.1-2.3.D, Type II Development Plan.

(b) Expansion and Enlargement

Unless otherwise modified by Section 40.1-6.6, the off-street parking, loading, and circulation standards of this section apply when an existing structure or use is expanded or enlarged by 25 percent or more.

(c) Nonconforming Parking or Loading Facilities

Expansion or enlargement of an existing development on a site that does not comply with the standards of this section shall comply with the standards of Section 40.1-6.6, Nonconforming Site Aspects.

(C) Exemptions

Development on lots within the D1 and D2 districts. in addition to the general requirements applicable to all parking set forth in this article, shall comply with the regulations of the sections found in Appendix sections A and B where they apply. The more restrictive regulations shall apply in cases of conflict.

(D) General Standards for Off-Street Parking, Stacking, and Loading Areas

(1) Use of Parking Area, Stacking Area, or Loading Space

All vehicular parking areas, stacking areas, methods of vehicular ingress and egress, internal aisles, and loading spaces required by this section may be referred to as "vehicular use area" as well as off-street parking areas.

(a) Business, Activity Center, and Special Districts

A vehicular use area or off-street parking area shall be used solely for the parking of licensed motorized vehicles in operating condition. Required spaces may not be used for the display of goods for sale or lease or storage of vehicles, boats, motor homes, campers, mobile homes, or building materials.

(b) Residential Districts

(i) Required off-street parking areas are to be used solely for the parking of licensed motor vehicles in operating condition.

(ii) In addition to the standard driveway parking spaces provided in conjunction with any single-family residence, up to one additional off-street parking space may be provided for a commercial vehicle on a single-family lot in accordance with the standards in Section 40.1-5.1(G), Off-Street Parking Within Residential Districts, and Section 40.1-4.4(C)(16), Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Homes.

(2) Identified as to Purpose and Location

Off-street parking areas of four or more spaces and off-street loading areas shall include painted lines, wheel stops, or other methods of identifying individual parking spaces and loading areas and distinguishing such spaces from aisles and other circulation features.

(3) Surfacing

(a) All off-street parking and loading areas shall be surfaced with asphalt, concrete, brick, stone pavers, aligned concrete strips, or an equivalent material.

(b) Single-family detached residential development may use an alternative surfacing material in accordance with Section 40.1-5.1(G), Off-Street Parking Within Residential Districts.

(c) Development subject to the standards of this section may include an alternative surfacing material as part of an alternative parking plan in accordance with Section 40.1-5.1(J),Off-Street Parking Alternatives, except industrial development in the IN district is not required to submit an alternative parking plan for use of crushed stone or a comparable surfacing material.

(d) In cases where alternative surfacing materials are allowed, the surfaces shall be maintained in a smooth, well-graded, and dust-free condition.

(4) Alternative Materials

The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to "grasscrete," or recycled materials such as glass, rubber, used asphalt, brick, block and concrete—may be approved for required vehicular surface area on a site, provided such areas are properly maintained. Where possible, such materials should be used in areas proximate to and in combination with on-site stormwater control devices.

Figure 40.1-5.1(D)(4): Alternative Materials
"Grasscrete" is an alternative material that can help limit damage to existing trees and help address stormwater quality issues.

(5) Arrangement

(a) Convenient Access

(i) Off-street parking and loading areas shall be arranged for convenient access and safety of pedestrians and vehicles.

(ii) Off-street parking areas with four or more spaces shall be arranged so no parking or maneuvering incidental to parking shall occur on a public street or sidewalk, and an automobile may be parked or un-parked without moving another automobile (except as provided in Section 40.1-5.1(J)(6), Valet and Tandem Parking).

(b) Backing onto Streets Prohibited

Except for parking areas serving single-family detached, attached, townhouse, and two-to four-family dwellings, all off-street parking and loading areas shall be arranged so that no vehicle is required to back from such areas directly onto a street.

(6) Drainage

All off-street parking and loading areas shall be properly drained so as not to cause any nuisance on adjacent land. Drainage may be directed to shared, community stormwater management devices.

(7) Exterior Lighting

When lighted, off-street parking and loading areas shall be lighted so as to prevent glare or illumination exceeding maximum allowable levels on adjacent land (See Table 40.1-5.9(E)(3), Maximum Illumination Levels), and unless exempted, shall comply with the standards of Section 40.1-5.9, Exterior Lighting.

(8) Landscaping

Except for off-street parking areas serving single-family detached and attached dwellings, as well as two-to four-family dwellings and townhouse development of 5,000 square feet in building size or less, all off-street parking and loading areas shall comply with the standards of Section 40.1-5.2(D), Vehicular Use Area Landscaping.

(9) Curbs and Motor Vehicle Stops

All off-street parking and loading areas shall provide curbs, motor vehicle stops, or similar devices so as to prevent vehicles from overhanging a public right-of-way, sidewalk, walkway, landscape area, or adjacent property (see Figure 40.1-5.1(D)(9), Wheel Stops).

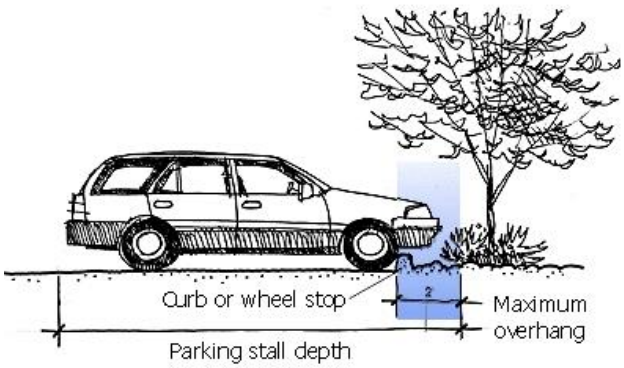


Figure 40.1-5.1(D)(9): Wheel Stops
Vehicular use area landscaping needs to be protected from damage by vehicles.

(10) Maintained in Good Repair

(a) Maintained at All Times

All off-street parking, loading, and circulation areas shall be maintained in a safe condition and good repair at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land.

(b) Periodically Restored

All off-street parking, loading, and circulation areas shall be periodically painted or otherwise restored to maintain a clear identification of separate parking stalls or loading areas.

(11) Markings

(a) General

Each required off-street parking space and off-street parking facility must be identified by surface markings and must be maintained in a manner so as to be readily visible and accessible at all times. Such markings must be arranged to provide for orderly and safe loading, unloading, parking, and storage of vehicles. Markings required to be maintained in a highly visible condition includes striping, directional arrows, lettering on signs and in handicapped-designated areas and field color.

(b) Car Accessible

One-way and two-way accesses into required parking facilities must be identified by directional arrows. Any two-way access located at any angle other than 90 degrees to a street must be marked with a traffic separation stripe the length of the access. This requirement does not apply to aisles.

(12) Placement

The location or placement of off-street parking areas on a development site shall be limited in accordance with the standards of this section, Section 40.1-5.5, Multi-Family Development Standards, Section 40.1-5.6, Commercial Development Standards, and Section 40.1-5.7, Transitional Standards, as appropriate.

(13) Minimum Separation

(a) All off-street parking areas shall be separated at least five feet from buildings in order to allow room for sidewalks, landscaping, and other plantings between the building and the parking area.

(b) In the event foundation plantings are required in accordance with Section 40.1-5.2(G), Site Landscaping, additional minimum separation may be needed to maintain a minimum five-foot-wide pedestrian clear zone along with the minimum area needed for landscaping.

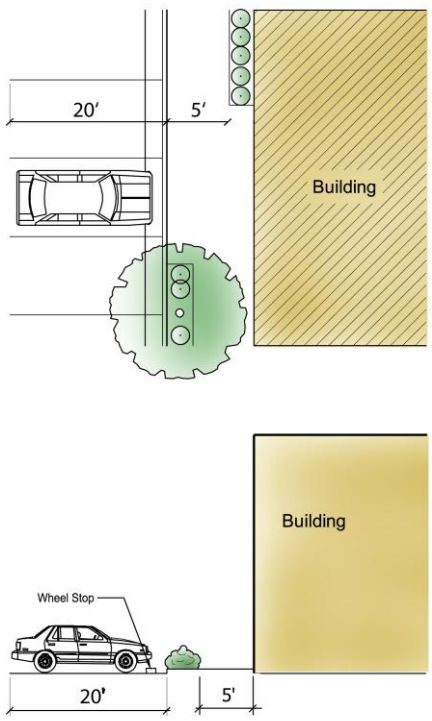


Figure 40.1-5.1(D)(13): Minimum Separation
Separation between parking spaces and building walls allows room for pedestrian movement.

(c) This separation may be eliminated to the rear of buildings in areas designed for unloading and loading of materials.

(14) Completion

All off-street parking, loading, and circulation areas shall be completed prior to the issuance of a certificate of occupancy for the development they serve. In the case of phased development, off-street parking, loading, and circulation areas should only be provided for portions of the development with development plan or subdivision approval.

(E) Off-Street Parking Standards

(1) Parking Plan Required

(a) Uses with four or more spaces shall submit a parking plan along with an application for a Development Plan (Section 40.1-2.3(C) & (D)), or a master plan associated with an Zoning Map Amendment to establish an AC District (Section 40.1-3.5(B)), as appropriate.

(b) The parking plan shall accurately designate the required parking spaces, access aisles, and driveways, and the relation of the off-street parking facilities to the development the facilities are designed to serve.

(2) Minimum Number of Spaces Required

Unless otherwise expressly stated in this section, the minimum number of off-street parking spaces shall be provided in accordance with Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

Use Category	Use Type	Minimum Number of Parking Spaces [1]
Residential Use Classification		
Household Living	Dwelling, live/work	1 per DU
	Dwelling, multi-family	1.5 per DU
	Dwelling, single-family attached	2 per DU
	Dwelling, single-family detached	2 per DU
	Dwelling, townhouse	1.5 per DU
	Dwelling, two-to four-family	2 per DU
	Dwelling, upper story	1 per DU
Group Living	Dormitory	1 per every 2 resident beds
	Family care home	3 per home
	Fraternity or sorority house	1 per every 2 resident beds
	Group home	1 per employee + 1 per every 3 adults
	Rooming or boarding house	1 per guest room
	Single room occupancy (SRO) facility	0.75 per guest room
Public and Institutional Use Classification		
Community Services	Community center	1 per every 300 sf
	Cultural facility	
	Library	
	Museum	1 per every 500 sf
	Senior center	1 per every 300 sf
	Youth club facility	
Day Care	Adult day care center	1 per every 2 employees
	Child day care center	1 per every 5 persons up to 50, then 1 per every 10 persons
	Family child day care home (6 to 12 children)	3 + 1 per employee
	Home child day care for 5 or fewer children	2 per du
Educational Facilities	College or university	1 per every 2 students + 1 per employee on the largest shift
	School, elementary	1 per every 30 students + 1 per employee
	School, middle	
	School, high	1 per every 300 sf + any requirements for outdoor recreation facilities
	Vocational or trade school	
Government Facilities	Government maintenance, storage, or distribution facility	1 per every 600 sf
	Government offices	1 per every 300 sf
	Other Government Facilities	

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
	Post office	
Health Care Facilities	Blood/tissue collection facility	1 per every 250 sf
	Drug or alcohol treatment facility	
	Hospital	1 per 2 beds + 1 per employee + 1 per every 3 seats in emergency and waiting areas
	Medical or dental clinic	1 per every 300 sf
	Medical or dental lab	
	Medical treatment facility	1 per every 250 sf
	Outpatient facility	1 per every 300 sf
Institutions	Assisted living facility	1 per 2 beds
	Auditorium	1 per 4 seats
	Convention center	1 per 300 sf
	Halfway house	1 per 2 beds
	Nursing home	1 per 2 beds + 1 per employee on the largest shift
	Psychiatric treatment facility	
	Religious institution	1 per every 6 seats in worship area
	Civic, social, or fraternal clubs or lodges	1 per 300 sf
	Shelter	1 per 2 beds
Parks and Open Areas	Arboretum or botanical garden	See Section 40.1-5.1(E)(4)
	Cemetery, columbaria, mausoleum	1 per employee on largest shift
	Community garden	2 + 1 per every 0.5 acre
	Golf course, public	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
	Park, public	
	Park, private	
Public Safety	Correctional facility	See Section 40.1-5.1(E)(4)
	Fire or EMS facility	
	Fire or police substation	
	Police station	
Transportation	Airport	Greater of: 1 per 1,000 sf or 1 per 2 employees
	Helicopter landing facility	
	Passenger terminal, surface transportation	1 per every 200 sf
Utilities	Telecommunications antenna, collocation on existing tower	None
	Telecommunications antenna, placement on existing building	
	Telecommunications tower, freestanding	1 per tower
	Utility, major	1 per employee on largest shift
	Utility, minor	See Section 40.1-5.1(E)(4)

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
COMMERCIAL USE CLASSIFICATION Uses in the commercial use classification shall not provide more than 125% of the minimum number of spaces required, unless subject to alternative parking plan (see Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted).		
Adult Uses	Adult bookstore	1 per every 3 persons of maximum fire rated capacity
	Adult entertainment establishment	
	Adult motion picture theatre	
Animal Care	Animal grooming	1 per every 300 sf
	Animal shelter	
	Veterinary clinic	
	Kennel, indoor	1 per every 500 sf
	Kennel, outdoor	
Conference and Training Centers	Conference or training center	See Section 40.1-5.1(E)(4)
Eating Establishments	Dinner theatre	1 per 4 seats
	Restaurant, with indoor and outdoor seating	1 per every 150 sf (not including outdoor waiting/seating/dining areas)
	Restaurant, with drive-through service	
	Restaurant, without drive-through service	
	Specialty eating establishment	1 per 4 seats
Offices	Offices, business services	1 per every 300 sf
	Offices, financial services	
	Offices, professional services	
	Offices, sales (including real estate)	
	Radio and television broadcasting studio	1 per every 500 sf
Parking, Commercial	Parking lot	None
	Parking structure	None
Recreation/Entertainment, Indoor	Commercial recreation, indoor	1 per every 300 sf
	Theatre	1 per every 4 seats
	Art galleries and art centers	1 per every 400 sf
	Arena, amphitheatre, or stadium	1 per 4 seats
	Commercial recreation, outdoor	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
	Country club	
	Golf course, public	1 per every 250 sf + 1 per tee
	Golf driving range	
	Marina	1 per every 2 slips + 1 per every 4 dry storage spaces
	Marina, pleasure boats only	
	Membership sports or recreation club	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
Retail Sales & Services	Bar, nightclub, or cocktail lounge	1 per every 3 persons of maximum fire-rated capacity
	Entertainment establishment	
	Gasoline sales	1 per employee

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
	Crematory	1 per 4 seats
	Dry cleaning and laundry drop-off establishment	1 per every 250 sf
	Financial institution, without drive-through service	1 per every 300 sf
	Financial institution, with drive-through service	
	Funeral home	1 per 4 seats in viewing area + 1 per employee on the largest shift
	Laundry, self-service	1 per every 200 sf
	Massage parlor	1 per every 300 sf
	Personal services establishment	
	Special events house	1 per 200 sf + 1 per every 4 persons of maximum outdoor facility capacity
	Tattoo parlor/body piercing establishment	1 per every 300 sf
	Repair establishment	
	Convenience store, with gas sales	1 per 250 sf
	Convenience store, without gas sales	
	Drug store or pharmacy, without drive-through service	1 per every 250 sf
	Drug store or pharmacy, with drive-through service	
	Flea market	1 per every 200 sf
	Grocery store	1 per every 250 sf of indoor and outdoor sales/display area + 1 per 1,000 sf of storage area
	Liquor store	1 per every 250 sf
	Retail sales establishment, large	1 per every 400 sf
	Other retail sales establishments	1 per 200 sf + 1 per 1,000 sf of storage area
Self-Service Storage	All	1 per 100 units
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance	1 per 200 sf + 1 per 1,000 sf of storage area
	Automotive paint and body shop	1 per every 500 sf
	Automotive wrecker service	1 per employee on largest shift
	Transmission shop	1 per every 500 sf
	Boat and marine rental and sales	Greater of: 1 per 1,000 sf or 1 per every 2 employees on largest shift
	Truck stop	1 per every 300 sf
Vehicle Sales and Services, Light	Automotive parts and installation	1 per every 300 sf
	Automobile repair and servicing, without painting/body work	
	Automobile sales or rentals	1 per every 300 sf
	Car wash auto detailing	1 per employee on largest shift
	Motorcycle sales	1 per every 300 sf
	Recreational vehicle sales or rental	1 per every 3,000 sf of building area + 1 per every 5,000 sf of outdoor display area

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS

USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
	Taxicab service	1 per employee on largest shift
	Tire/muffler sales and mounting	1 per every 300 sf
Visitor Accommodations	Bed and breakfast	2 spaces + 1 per guest bedroom
	Campground or recreational vehicle park	1 per space + 1 per employee on the largest shift
	Hotel or motel	1 per every 2 guest rooms plus at least 75% of spaces required for on-site accessory uses
	Tourist home	2 spaces + 1 per gust room
INDUSTRIAL USE CLASSIFICATION Light industrial uses in the industrial use classification shall not provide more than 125% of the minimum number of spaces required, unless subject to alternative parking plan (see Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted).		
Industrial Services	Building, heating, plumbing, or electrical contractor	Greater of: 1 per 1,000 sf or 1 per every 2 employees on largest shift
	Electric motor repair	1 per 300 sf
	Fuel oil/bottled gas distributor	1 per 500 sf
	Fuel oil storage	Greater of: 1 per 1,000 sf or 1 per every 2 employees on largest shift
	General industrial service	1 per every 2 employees on largest shift
	Heavy equipment sales, rental, or storage	1 per every 200 sf + 1 per 1,000 sf of storage area
	Heavy equipment servicing and repair	1 per every 500 sf
	Laundry, dry cleaning, and carpet cleaning plants	1 per 250 sf
	Machine shop	1 per every 500 sf
	Repair of scientific or professional instruments	1 per every 2 employees on largest shift
	Research and development	
	Tool repair	1 per every 300 sf
Manufacturing and Production	Manufacturing, heavy	1 per every 2 employees on largest shift
	Manufacturing, light	
Warehouse and Freight Movement	Cold storage	See Table 40.1-5.1(E)(3)
	Outdoor storage, as principal use	One per every 1,000 sf
	Parcel services	1 per employee on largest shift
	Shipping container storage yard	1 per every 2 employees on largest shift
	Truck or freight terminal	1 per employee on largest shift
	Warehouse (distribution)	See Table 40.1-5.1(E)(3)
	Warehouse (storage)	
Waste-Related Services	Energy recovery plant	See Section 40.1-5.1(E)(4)
	Hazardous waste collection site	See Section 40.1-5.1(E)(4)
	Incinerator	
	Recycling and salvage center	1 per employee on largest shift + 3 spaces
	Recycling drop-off center	1 per every 2 employees on largest shift

TABLE 40.1-5.1(E)(2): MINIMUM OFF-STREET PARKING STANDARDS		
USE CATEGORY	USE TYPE	MINIMUM NUMBER OF PARKING SPACES [1]
	Salvage and junkyard	
	Tire disposal or recycling	
	Waste composting	
Wholesale sales	All uses	1 per every 2 employees on the largest shift
NOTES: [1] DU = dwelling unit; sf = square feet (or floor area unless otherwise noted)		

(3) Off-Street Parking Standards for Selected Industrial Uses

Uses in Table 40.1-5.3(E)(3), Minimum Off-Street Parking Standards, that reference Table 40.1-5.1(E)(2) shall provide the minimum number of spaces established in Table 40.1-5.1(E)(3), Off-Street Parking Standards for Selected Industrial Uses:

TABLE 40.1-5.1(E)(3): OFF-STREET PARKING STANDARDS FOR SELECTED INDUSTRIAL USES	
USE OR ACTIVITY	MINIMUM NUMBER OF PARKING SPACES [1] [2]
Office or administrative area	1 per every 300 sf
Indoor sales area	1 per every 250 sf
Indoor storage/warehousing/assembly/vehicular service/manufacturing area 1 – 3,000 sf 3,001 – 5,000 sf 5,001 – 10,000 sf 10,001 sf or more	 1 per every 250 sf 1 per every 500 sf 1 per every 750 sf 1 per every 1,250 sf
Outdoor sales/display/storage area (3,000 sf or less)	1 per every 750 sf
Outdoor sales/display/storage area (more than 3,000 sf)	1 per every 1,000 sf
NOTES: [1] sf = square feet (of floor area unless otherwise noted) [2] The total number of required spaces is cumulative, based on the variety of different functions present in a single use.	

(4) Uses with Variable Parking Demand Characteristics

Uses that reference this subsection in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading standard. Upon receiving a development application for a use subject to this subsection, the Planning Director shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking standards on the basis of a parking and loading demand study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Planning Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

(5) Unlisted Uses

Upon receiving a development application for a use not expressly listed in this section, the Planning Director is authorized to apply the off-street parking standard in the listed use that is deemed most similar to the use, or establish the off-street parking requirements by reference to standard parking resources published by the National Parking Association or the American Planning Association. Alternatively, the Planning Director may require the applicant to submit a parking demand study that justifies estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

(6) Maximum Number of Spaces Permitted

(a) Provision up to 175 Percent of Minimum

(i) Light industrial uses and commercial uses listed under the commercial use classification in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, shall not exceed 125 percent of the minimum number of parking spaces required in the table.

(ii) Through approval of an alternative parking plan in accordance with Section 40.1-5.1(J)(1), Provision Over the Maximum Allowed, light industrial and commercial uses listed under the commercial use classification in Table 40-5.1(E)(2), Minimum Off-Street Parking Standards, may provide up to a maximum of 175 percent of the minimum number of parking spaces required in the table.

(iii) Provision of more than 175 percent of the minimum number of parking spaces for uses subject to the standards of this section shall require approval of a use permit in accordance with Section 40.1-2.3(B), Use Permit.

(b) Additional Requirements

Any off-street parking spaces provided in excess of the minimum number of off-street parking spaces required shall comply with the standards of Section 40.1-5.1(J)(1), Provision Over the Maximum Allowed.

(F) Calculation of Required Off-Street Parking Spaces

(1) Fractions

When computation of the number of required parking spaces results in a fraction, the result shall be rounded upward to the next highest whole number.

(2) Multiple Uses or Mixed Use Development

Unless otherwise approved, development containing more than one use must provide off-street parking in an amount equal to the total requirements of all individual uses, unless the Planning Director determines that a lower standard would be adequate because of differences in peak operating hours. Further, this provision shall not limit the ability to submit an alternative parking plan (see Section 40.1-5.1(J), Off-Street Parking Alternatives) to reduce the minimum number of required off-street parking spaces in recognition of different operating hours or peak business periods.

(3) Seat Based Standards

Where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the design capacity of the areas used for seating.

(4) Floor-Area Based Standards

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on total floor area, minus any mechanical rooms, bathrooms, stairwells, or elevators.

(5) Occupancy or Capacity-Based Standards

Except as otherwise provided in this section, where the minimum number of off-street parking spaces required is based on the number of employees, students, or residents, all computations shall be based on the largest number of persons working on any single shift (for employees), maximum enrollment (for students), or the maximum fire-rated capacity (for residents), whichever is applicable.

(6) On-Street Parking

When available, on-street parking on public or private streets, driveways, or drives may be used to satisfy the off-street parking standards of this section.

(7) Driveways Used to Satisfy Requirements

For single-family detached, attached, townhouses, and two- to four-family dwellings, driveways may be used to satisfy minimum off-street parking standards, provided sufficient space is available to satisfy the standards of this section and this Ordinance.

(G) Off-Street Parking within Residential Districts

Off-street parking serving single-family detached, duplex, or two- to four-family dwellings and located within front yard and/or corner side yard areas shall comply with the following standards:

(1) Parking in Vehicular Use Area Required

Commercial vehicles, whether parked or stored, shall be located in a vehicular use area. For the purposes of this subsection, "vehicles" shall include but not be limited to, passenger vehicles, all trucks under 20,000 pounds of gross vehicle weight (GVW), vans, golf carts, or other similar vehicles, whether operable or otherwise. Vehicles exceeding 20,000 pounds GVW are subject to the standards in Section 40.1-4.4(C)(15), Storage or Parking of Heavy Trucks, Trailers, Major Recreation Equipment, or Mobile Home.

(2) Maximum Area Available for Vehicular Use

Vehicular use areas located within the first 40 feet of the front or corner side yard (as measured from the edge of the lot line) shall be limited to the lesser of 33 percent of the entire front and/or corner side yard area, or 750 square feet. Nothing in this subsection shall be construed to limit the size of the vehicular use area located beyond the first 40 feet of a front or corner side yard area, nor does it apply to indoor parking.

(3) Vehicular Use Area Demarcated

Vehicular use areas serving single-family detached dwellings may be surfaced with gravel, crushed stone, or similar material, but vehicular use areas surfaced with those materials shall maintain a visibly discernible and definable edge composed of landscape timbers, metal edging, vegetation (such as low shrubs or decorative grasses), or a similar technique of distinguishing the vehicular use area from the front or corner side yard area.

(4) In Historic Districts

Off-street parking in the Front yards is prohibited except as normally exists in driveways.

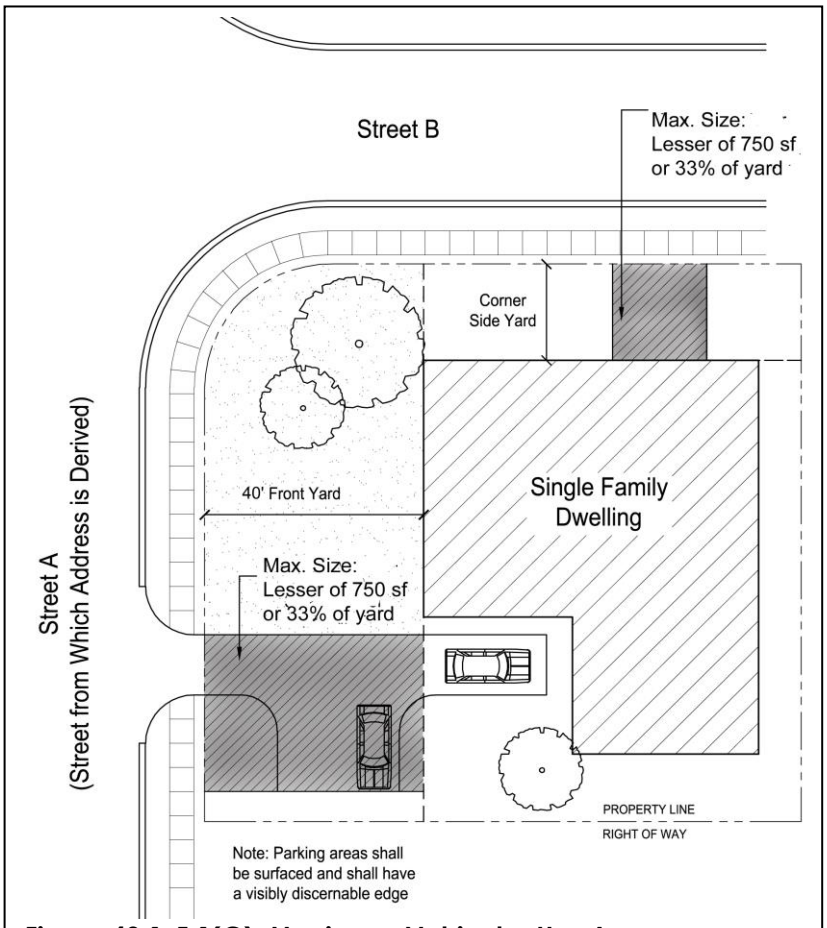


Figure 40.1-5.1(G): Maximum Vehicular Use Area
Limitations on the size of the parking area within front yards helps to minimize automobile dominance.

(H) Accessible Parking Spaces for Physically Disabled Persons

Development required to provide off-street parking spaces shall ensure that a portion of the total number of required off-street parking spaces shall be specifically designated, located, and reserved for use by persons with physical disabilities, in accordance with the standards in the federal American with Disabilities Act.

(I) Dimensional Standards for Parking Spaces and Aisles

(1) General

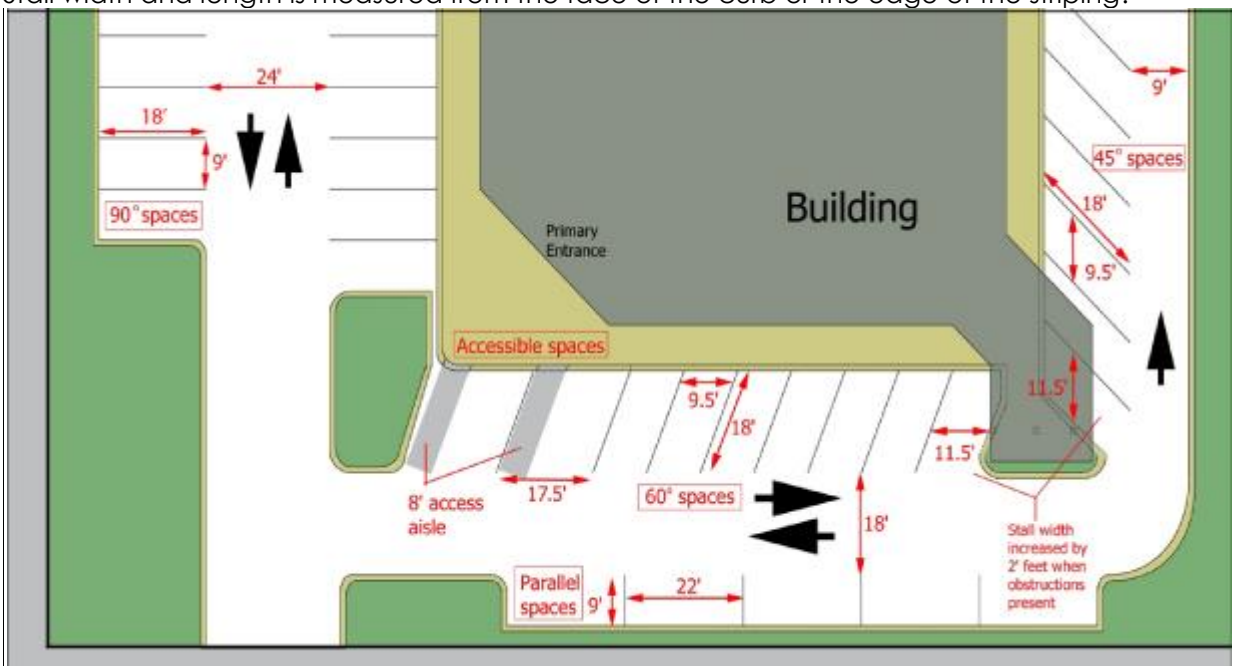
Standard car parking spaces and parking lot aisles shall comply with the minimum dimensional standards established in Table 40.1-5.1(I)(1), Dimensional Standards for Parking Spaces and Aisles, and the illustrations in Figure 40.1-5.1(I), Parking Stall Measurement:

TABLE 40.1-5.1(I)(1): DIMENSIONAL STANDARDS FOR PARKING SPACES AND AISLES

Parking Angle	Stall Width (feet)[1]	Stall Depth (feet)	Aisle Width for Two-Way Traffic (Feet) [2]
Parallel	9	22	18
45 degrees	9.5	18	18
60 degrees	9.5	18	18
90 degrees	9	18	24

NOTES:
[1] Stall widths and depths shall be measured from the face of the curb or the outer edge of lane striping, and may be reduced by one-half for aisles proposed for one-way traffic.
[2] Limited to a maximum of 30 percent of the minimum required off-street parking.

Figure 40.1-5.1(I), Parking Stall Measurement
Stall width and length is measured from the face of the curb or the edge of the striping.



(2) Dimensional Adjustments

Parking structures may be subject to dimensional adjustments based on utilization, but in no case shall the standard parking space width be less than eight feet. Reduction in design standards shall be subject to approval by the Planning Director.

(3) Vertical Clearance

All off-street parking spaces must have a minimum overhead clearance of seven feet.

(4) Reduction for Planter and Sidewalk Overhangs

When a parking space abuts a landscape island or planter, the front two feet of the required parking space length may overhang the planter, provided that wheel stops or curbing are provided.

(5) Spaces Near Obstructions

(a) When the side of a parking space abuts a wall, column, or other structure that is taller than six inches, the width of the parking space shall be increased by two feet on the obstructed side.

(b) The additional two-foot width may be decreased by three inches for every foot of parking space depth beyond the minimum depth required.

(c) This provision does not apply parking spaces abutting support columns in a parking garage.

(J) Off –Street Parking Alternatives

The Planning Director shall be authorized to approve an alternative parking plan that proposes alternatives to providing the number of required off-street parking spaces required by Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, in accordance with the standards listed below. The alternative parking plan shall be submitted with an application for a Development Plan (Section 40.1-2.3(C) & (D)), Master Plan associated within an Amendment to the Zoning District Map to establish an AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate. Nothing in this subsection shall limit the utilization of one or more of the following off-street parking alternatives by a single use.

(1) Provision over the Maximum Allowed

Requests to provide more than the maximum number of off-street parking spaces required by Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted, shall comply with the following:

(a) Parking Demand Study

Requests for exceeding the maximum number of required off-street parking spaces shall be accompanied by a parking demand study demonstrating how the maximum number of parking spaces specified by Section 40.1-5.1(E)(7), Maximum Number of Spaces Permitted, is insufficient for the proposed development.

(b) Minimum Amount Required

The maximum number of off-street spaces allowed shall be limited to the minimum number of additional spaces recommended as needed by the required parking demand study.

(2) Shared Parking

Requests for shared parking shall comply with all of the following standards:

(a) Location

(i) Shared parking spaces shall be located within 750 linear feet of the building served.

(ii) Shared parking spaces shall not be separated from the use they serve by an arterial or collector road unless the shared parking area or parking structure is served by an improved pedestrian crossing.

(b) Pedestrian Access

Adequate and safe pedestrian access must be provided from and to the shared parking areas.

(c) Maximum Shared Spaces

The maximum reduction in the number of parking spaces required for all uses sharing the parking area shall be 50 percent.

(d) Directional Signage

Directional signage that complies with the standards of this Ordinance shall be provided to direct the public to the shared parking spaces. It is preferable for the employees of an establishment to utilize these spaces.

(e) Shared Parking Plan

(i) Justification

Those requesting to use shared parking as a means of satisfying the off-street parking standards must submit a shared parking plan as part of an alternative parking plan that justifies the feasibility of shared parking. Justification shall include information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

(ii) Recorded Agreement

A shared parking plan portion of an alternative parking plan shall be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be recorded. Recordation of the agreement shall take place prior to issuance of a zoning compliance permit (see Section 40.1-2.3(F)) for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces are provided in accordance with the requirements of Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(iii) Duration

A shared parking agreement shall remain in effect until one or more of the uses subject to the agreement changes.

(3) Off-Site Parking

Requests to locate required off-street parking spaces on a separate lot from the lot on which principal uses are located, shall comply with all of the following standards.

(a) Ineligible Uses

The off-site parking shall not be used to satisfy the off-street parking standards for residential uses (except for guest parking), restaurants, convenience stores or other convenience-oriented uses. In addition, required parking spaces reserved for persons with disabilities may not be located off-site.

(b) Location

No off-site parking space shall be located more than 700 feet from the primary entrance of the use served (measured along the shortest legal pedestrian route), unless a remote parking shuttle bus service is provided. Off-site parking spaces may not be separated from the use served by a street right-of-way with a width of more than 80 feet, unless a grade-separated pedestrian walkway is provided or other traffic control or a remote parking shuttle bus service is provided.

(c) Zoning Classification

The zoning district classification of the off-site parking area is the same or a more intensive zoning classification than that required for the use served. In no instance shall an off-site parking area be located within a residential district.

(d) Agreement for Off-Site Parking

(i) In the event that an off-site parking area is not under the same ownership as the principal use served, the off-site parking arrangement shall be established in a written agreement between the record owners.

(ii) An off-site parking plan portion of an alternative parking plan shall be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be recorded. Recordation of the agreement shall take place prior to issuance of a Zoning Compliance Permit (see Section 40.1-2.3(F)) for any use to be served by the off-site parking area. A off-site parking agreement may be revoked only if all required off-street parking spaces are provided in accordance with the requirements of Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(4) On-Street Parking

The use of on-street parking to meet a portion of the minimum off-street parking requirements shall comply with the following:

(a) Adequate on-street or structured parking exists within 500 linear feet from the primary entrance of the proposed development;

(b) The proposed development includes mixed uses, or is located in an area where residential and nonresidential uses are within 500 feet from one another;

(c) Only the on-street parking spaces directly abutting (not across the street) to the lot containing the development and served by a sidewalk shall be credited; and

(d) There is no negative impact to existing or planned traffic circulation patterns.

(5) Deferred Parking

Requests to defer the construction of up to 30 percent of the number of off-street parking spaces required in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, if the request complies with the following standards:

(a) Fewer Spaces Needed

The applicant demonstrates through an off-street parking study that because of the location, nature, or mix of uses, there is a reasonable probability the number of parking spaces actually needed to serve the development is less than the minimum required by Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(b) Reserve Parking Plan

The request is accompanied by a reserve parking plan identifying: (a) the amount of off-street parking being deferred, and (b) the location of the area to be reserved for future parking, if future parking is needed.

(c) Parking Demand Study

Assurance is provided that an off-street parking demand study evaluating the adequacy of the existing parking spaces in meeting the off-street parking demand generated by the development will be submitted to the Planning Director within 16 months after the initial certificate of occupancy is issued for the development. If the study indicates that the existing parking is adequate, then construction of the remaining number of parking spaces shall not be required. If the study indicates a need for additional parking, it shall be provided consistent with the reserve parking plan and the standards of this section.

(d) Limitations on Reserve Areas

Areas reserved for future parking shall be brought to the finished grade and shall not be used for buildings, storage, loading, or other purposes.

(e) Landscaping Required

Areas reserved for future off-street parking shall be landscaped with an appropriate ground cover, and shall comply with all relevant city landscaping standards (see Section 40.1-5.2, Landscaping and Screening).

(6) Valet and Tandem Parking

Requests to use an off-street parking program utilizing limited tandem parking for uses listed under the commercial use classification in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, shall comply with the following standards:

(a) The development served provides 75 or more off-street parking spaces;

(b) No more than 30 percent of the total number of spaces is designated as tandem; and

(c) Guarantees are provided that a valet parking attendant will be on duty during hours of operation of the uses served by the valet or tandem parking.

(7) Reduction for Elderly Housing

(a) Multi-family development designated exclusively for use by elderly persons may request a reduction in the minimum amount of required parking in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, to an amount as low as one space for every two dwelling units.

(b) Changes in use status as a facility designated for the elderly only shall result in the need for the use to comply with the minimum requirements in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(K) Parking Reduction Incentives

(1) Transportation Demand Management

The Planning Director may approve a transportation demand management plan (TDM plan) as a means of reducing the minimum number of off-street parking spaces required for large employers (defined for purposes of this section as those with at least 500 employees) within a nonresidential or mixed-use development with a minimum overall area of 10 acres.

(a) Required TDM Plan

Approval of a TDM plan submitted in addition to a development plan or zoning compliance permit shall result in a 15 percent reduction in the minimum number of required parking standards in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards provided the TDM Plan:

(i) Includes facts or projections (i.e., type of development, proximity to transit and/or other multi-modal systems, anticipated number of employees or patrons, and minimum parking requirements); and

(ii) Indicates the types of transportation demand management activities that will be instituted to reduce single-occupant vehicle use and reduce traffic congestion.

(b) Transportation Demand Management Activities

The TDM plan must provide a minimum of three of the following transportation demand management activities in order to qualify for a reduction in required minimum off-street parking:

(i) Establish a development-specific website that provides multi-modal transportation information such as real-time travel/traffic information, bus routes, bus schedules and maps and alternative commute log (bicycle, pedestrian, carpool, and vanpool).

(ii) Disclose in writing to all employees transportation information and educational materials.

(iii) Coordinate the formation of, but not limited to, carpooling, vanpooling, ridesharing, guaranteed ride home, teleworking, or shuttle service programs.

(iv) Create a preferential parking management plan that specifically marks spaces for each registered carpool and/or vanpool vehicle, located near building entrances or in other preferential locations.

(v) Institute off-peak work schedules, allowing employees to arrive and depart at times other than the peak morning commute period. The peak morning commute period is defined as 7:00 AM and 9:00 AM, and the peak evening commute period is defined as 5:00 PM and 7:00 PM.

(vi) Establish an office location within the development, staffed by the transportation coordinator that makes transportation and ride-sharing information available to employees, residents, and nonresidents.

(vii) Alternative transportation demand management activities may be approved by the Planning Director as a means of complying with the parking reduction incentive provisions of this subsection.

(c) Transportation Program Manager/Coordinator

(i) The applicant must appoint a program coordinator to oversee transportation demand management activities.

(ii) The program coordinator must be a qualified or trained TDM professional.

(iii) The transportation coordinator must be appointed prior to issuance of a certificate of occupancy for the buildings to be served by the transportation demand management program.

(d) TDM Annual Report

The program coordinator shall provide a report annually to the Planning Director that details the implementation strategies for the approved TDM plan. The report may include the following:

(i) A description of the transportation management activities efforts;

(ii) A list of current tenants and number of employees for each tenant;

(iii) A parking-reduction analysis based on employee or resident use of ridership programs or alternative transportation options;

(iv) Changes to the TDM plan to increase ridership; and

(v) Employee transportation survey.

(e) Recordation

(i) A copy of the approved TDM plan shall be recorded with the Clerk of the Circuit Court prior to the issuance of a building permit for the development to be served by the plan.

(ii) The TDM plan shall be recorded against the property, and the applicant and successors of interest shall be responsible for the plan in perpetuity on the property.

(f) Enforcement

In the event that:

(i) The program coordinator fails to submit a report to the Planning Director in a timely fashion not to exceed 60 days after the annual report deadline, or

(ii) The applicant no longer implements the program,

The TDM plan shall be considered terminated and the required off-street parking spaces must be provided in accordance with requirements in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards.

(g) Amendments

An amendment to an approved TDM plan shall be approved by the Planning Director.

(2) Special Facilities for Bicycle Commuters

The Planning Director may authorize up to a five percent reduction in the number of required off-street parking spaces for development that provides both of the following:

(a) Enclosed (indoor or locker), secure bicycle parking spaces equal to at least five percent of the number of vehicle parking spaces provided; and

(b) Employee shower and dressing areas.

(3) Other Eligible Alternatives

The Planning Director may approve any other parking-reduction incentive that reduces minimum off-street parking requirements in exchange for strategies that will effectively reduce parking demand on the site of the subject development provided the alternative does not result in a modification that is greater than a ten percent modification of the off-street parking standards found in this section. Such alternatives may only be approved if the applicant demonstrates to the satisfaction of the Planning Director that the proposed plan will protect surrounding neighborhoods, maintain traffic-circulation patterns, and promote quality urban design to an extent equal to or greater than the applicable off-street parking standards.

(L) Bicycle Parking

Bicycle parking, provided in accordance with the following standards, shall be provided by development in the UR, URH, NMU, GMU, MU-H, WF, and activity center zoning districts:

(1) Parking Areas Containing Less Than 20 Off-Street Spaces

Off-street parking areas containing less than 20 off-street parking spaces shall provide at least one bicycle rack to accommodate a minimum of four bicycles.

(2) Parking Areas Containing More Than 20 Off-Street Parking Spaces

Off-street parking areas containing 20 or more parking spaces shall provide at least one bicycle rack to accommodate a minimum of four bicycles, plus room to accommodate two additional bicycles for each additional ten spaces in the parking area, up to a maximum requirement of 100 bicycles.

(3) Location

Bicycle racks shall be placed within 50 feet of the primary entrance of the building they are intended to serve.

(M) Vehicular Circulation

(1) Internal Street Connectivity

(a) Development including new streets on lots in business, special, and activity center districts shall provide for multiple connections to the existing city street network, wherever possible.

(b) Whenever cul-de-sac streets (or "knuckles") are created, at least one eight-foot-wide lighted pedestrian access way in common open space shall be provided, to the maximum extent practical, between each cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian sidewalk or pathway.

(2) External Street Connectivity

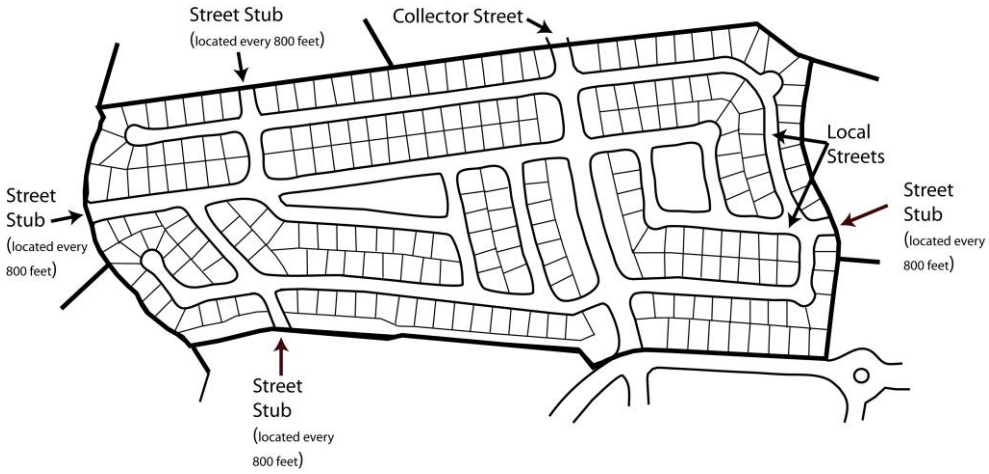
Except for lots within the D1 and D2 districts, proposed development shall maintain external street connectivity in accordance with the following standards:

(a) The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands in those cases in which the adjoining lands are undeveloped and intended for future development or in which the adjoining lands are developed and include opportunities for such connections. Traffic-calming measures, such as but not limited to diverters, street gardens (subject to an executed best management practice agreement and approval by the City Engineer), and curvilinear alignments, shall be integrated into the development to mitigate the impact of potential future cut-through traffic.

(b) Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development at least every 800 feet for each direction (north, south, east, and west) in which development abuts vacant lands, to the maximum extent practical. Such street stubs shall not be required to abut adjacent development lacking existing or planned street connections, floodplains, or other unique site conditions preventing a street connection (see Figure 40.1-5.1(M)(2), External Street Connectivity).

(c) Shared commercial/residential connections with arterials shall be primarily oriented towards commercial centers.

Figure 40.1-5.1(M)(2): External Street Connectivity
New streets should connect with existing streets, and new street stubs help establish future connections.



(3) Stacking Spaces for Drive-through and Related Uses

In addition to meeting the off-street parking standards in Table 40.1-5.1(E)(2), Minimum Off-Street Parking Standards, uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service facility shall provide the minimum number of stacking/standing spaces established in Table 40.1-5.1(M)(3), Required Stacking/Standing Spaces.

TABLE 40.1-5.1(M)(3): REQUIRED STACKING/STANDING SPACES		
USE OR ACTIVITY [1]	**MINIMUM NUMBER OF STACKING/STANDING SPACES**	**MEASURED FROM [2]**
Automated teller machine	3	Teller machine
Automobile repair and service (all types)	2 per bay	Bay entrance
Bank Teller	3	Teller window
Car wash, automatic	2	Bay entrance
Car wash, self-service	1 per bay	Bay entrance
Day care center, child	1/every 10 children	Main building entrance
Drug store or pharmacy, with drive-through service	4 per lane	Agent window
Dry cleaner, with drive-through service	4 per lane	Window
Nursing home	3	Main building entrance
Personal services with drive-through (e.g., laundry/dry-cleaning establishment)	4 per lane	Agent window
Restaurant, with drive-through service	5	Pick-up window
Other	Uses not specifically listed are determined by the Planning Director based on standards for comparable uses, or alternatively based on a parking demand study.	
NOTES: [1] See Table 40.1-4.1(A): Use Table [2] Distance measured from window where products are delivered, when more than one window is present.		

(4) Stacking Lanes for Parking Lot Entrances

Except in the UR-H, NMU, NAC, D-1 and D-2 districts, nonresidential uses shall provide stacking lanes between the edge of the street right-of-way and entrances into off-street parking areas in accordance with the minimum stacking lane distance established in Table 40.1-5.1(M)(4), Stacking Lanes for Parking Lots:

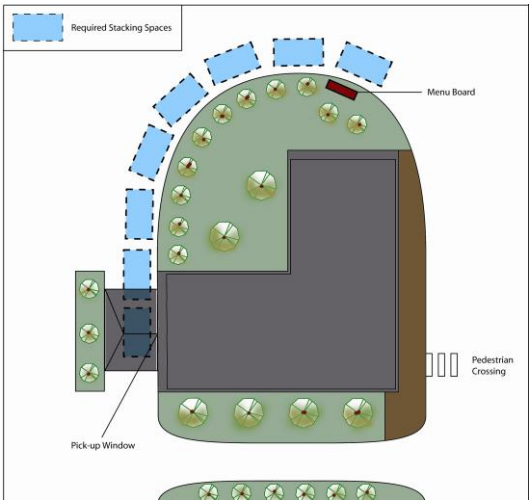


Figure 40.1-5.1(M)(3): Stacking Spaces
Stacking spaces should be configured to maintain safe pedestrian access and be located away from off-site views, where possible.

TABLE 40.1-5.1(M)(4): STACKING LANES FOR PARKING LOTS	
NUMBER OF OFF-STREET PARKING SPACES [1]	MINIMUM STACKING LANE DISTANCE (FEET) [2]
1-24	10
25-49	20
50-249	40
250 or more	100
NOTES: [1] Entrances into parking structures may be credited towards the stacking lane distance requirement provided the parking structure entrance is accessed from a development driveway and not a primary drive aisle. [2] Stacking lane distance is measured within the driveway apron from the right-of-way line along the centerline of the stacking lane to its intersection with the centerline of the primary drive aisle through the parking area.	

(5) Design and Layout

Required stacking spaces are subject to the following design and layout standards.

(a) Size

Stacking spaces shall be a minimum of eight feet by 20 feet in size.

(b) Location

Stacking spaces shall not impede onsite or offsite traffic movements or movements into or out of off-street parking spaces.

(c) Design

Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the Planning Director for traffic movement and safety.

(6) Medians in Driveway Entrances

Medians may be provided within driveway entrances provided:

(a) The median is surrounded by valley or "roll" curbing;

(b) No signage is included within sight triangles;

(c) Planted material within the median is limited to understory trees, shrubs, and ground cover; and

(d) The minimum aisle width is maintained for each travel and turning lane.

(7) Primary Drive Aisles

Primary drive aisles within off-street surface parking lots with 400 or more spaces shall be designed to appear as an extension of the public street network extending from the public right-of-way along the full length of the primary facades of structures being served by the drive, and shall meet the following standards:

(a) Primary drive aisles shall have a maximum cross section of 38 feet from face-of-curb to face of-curb to serve two travel lanes and accommodate parallel parking spaces along both sides of the drive aisle in areas not needed for turning movements, unless additional travel/turn lanes are required by a TIS and/or a median is proposed, all as approved by the City Engineer;

(b) Primary drive aisles shall be striped to designate parallel parking spaces, where appropriate;

(c) Sidewalks meeting or exceeding the city's construction standards shall be provided adjacent to the building's front facade; and

(d) Street trees shall be provided along both sides of the primary drive aisle every 50 feet, although understory trees may be used adjacent to the building façade within 40 feet of building entrances.

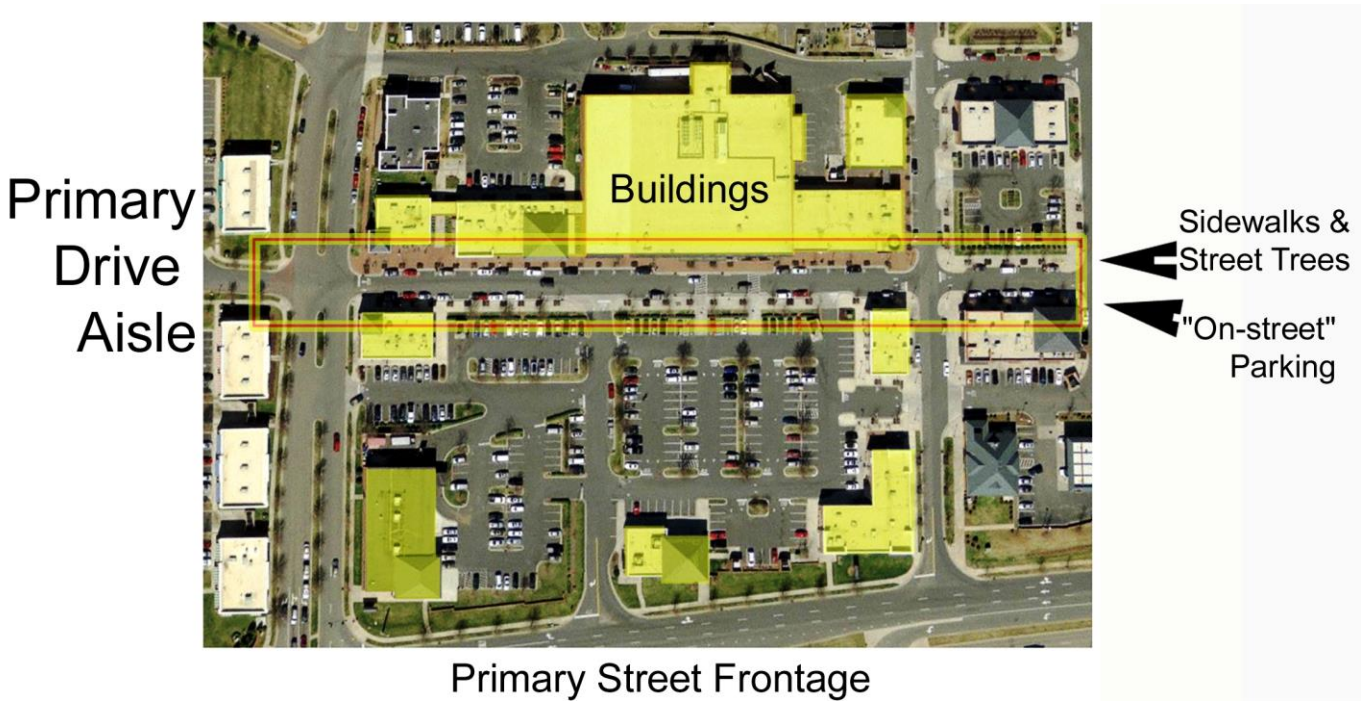


Figure 40.1-5.1(M)(7): Primary Drive Aisle
Primary drive aisles can be configured to appear as extensions of the city street network to promote greater pedestrian orientation and sustainability.

(N) Pedestrian Circulation

New development shall address pedestrian circulation in accordance with the following pedestrian circulation standards:

(1) Sidewalks Required

Minimum five-foot sidewalks shall be installed along all street frontages of all new development (including loop streets, cul-de-sacs, and private streets, but excluding alleys) unless it is determined by the Planning Director that the Master Transportation Plan (MTP) recommends sidewalks of a greater width (e.g., six to eight feet), and sidewalks of such larger widths are compatible with the on-site development and the development context on adjacent lots. The requirement for sidewalks on both sides of a street shall not apply where it would result in adverse impacts on natural features, or potential soil erosion and drainage problems.

(2) Onsite Pedestrian Connections

(a) All commercial, mixed-use, and multi-family development shall provide a network of onsite pedestrian walkways with a minimum width of five feet to and between the following areas:

- **(i)** Entrances to each building on the site, including outparcel buildings;
- **(ii)** Public sidewalks or walkways on adjacent properties and along public rights-of-way that extend to the boundaries shared with the subject development;
- **(iii)** Adjacent public transit station areas, transit stops, or other transit facilities; and
- **(iv)** Adjacent parks, trails, schools, and recreation centers.

(b) Pedestrian walkways and crosswalks shall be identified to motorists and pedestrians through the use of painted crosswalks and one or more of the following methods:

- **(i)** Changing paving material, patterns, or paving color;
- **(ii)** Changing paving height;
- **(iii)** Decorative bollards;
- **(iv)** Raised median walkways with landscaped buffers; or
- **(v)** Stamped asphalt.

(c) Pedestrian circulation routes shall be emphasized with special design features that establish them as areas where pedestrians are physically separated from the flow of vehicular traffic and/or are protected from the elements. Techniques shall include one or more of the following:

- **(i)** Arcades, porticos, or other shade structures;
- **(ii)** Pedestrian light features;
- **(iii)** Curbs or curbing;
- **(iv)** Bollards;
- **(v)** Seat walls or benches;
- **(vi)** Drinking water fountains; or
- **(vii)** Landscape planters.

(d) Sites larger than two acres shall be divided into smaller units through the use of pedestrian walkways, private drives, and other vehicular circulation routes.

Breaking up such sites need not require any subdivision of the site or creation of a separate legal description(s).

(e) To the extent practical, drainage facilities should be similarly designed with pedestrian amenities on the same sites.

(3) Standards for Pedestrian Improvements

(a) General Pedestrian Walkway Standards

Required pedestrian walkways shall:

(i) Be at least five feet in width;

(ii) Be distinguishable from traffic lanes by painted markings, pavement material, texture, or raised in elevation (striped asphalt does not count);

(iii) Have adequate lighting for security and safety;

(iv) Be centrally located on the subject property;

(v) Be ADA accessible; and

(vi) Not include barriers that limit pedestrian access between the subject property and adjacent properties.

(b) Pedestrian Walkways Through Parking Areas and Parking Garage Standards

(i) Pedestrian walkways and separate pedestrian entrances shall be provided through parking garages from the parking area to the abutting public right-of-way or to the primary entrance of the building served by the parking.

(ii) Pedestrian walkways may not use vehicle entrance or exit driveways from the parking area to a public right-of-way.

(iii) Pedestrian walkways shall connect parking spaces to the primary entrance of the building served by the parking or to a sidewalk with direct access to the primary building entrance.

(c) Pedestrian Access through Parking Areas

All parking lots that contain more than 50 parking spaces shall include clearly identified pedestrian routes from the parking stalls to the primary building entrance or to a sidewalk providing direct access to the primary building entrance. At a minimum, walkways must be provided for every three driving aisles or at a distance of not more than 150-foot intervals, whichever is less.

(O) Driveway Standards

(1) Any required parking area shall have direct access to a public or private street via a driveway.

(2) Unless otherwise approved by the City Engineer, no driveway shall exceed 50 feet in width at the curbline or more than 35 feet at the front lot line.

(3) One-way driveways shall have a minimum width of 15 feet, and two-way driveways shall be at least 24 feet wide.

(4) Driveway aprons, constructed of 3,000 psi concrete a minimum of seven inches thick, shall be provided between the curbline and the front lot line.

(5) No driveway shall be located within 15 feet of a corner side lot line, , or closer than five feet from the end of a curb radius.

(6) Lots with two or more driveways along the same street frontage shall provide at least 75 feet between driveways.

(7) In no instance shall the number of driveways serving a single lot along a single street frontage exceed a maximum of four.

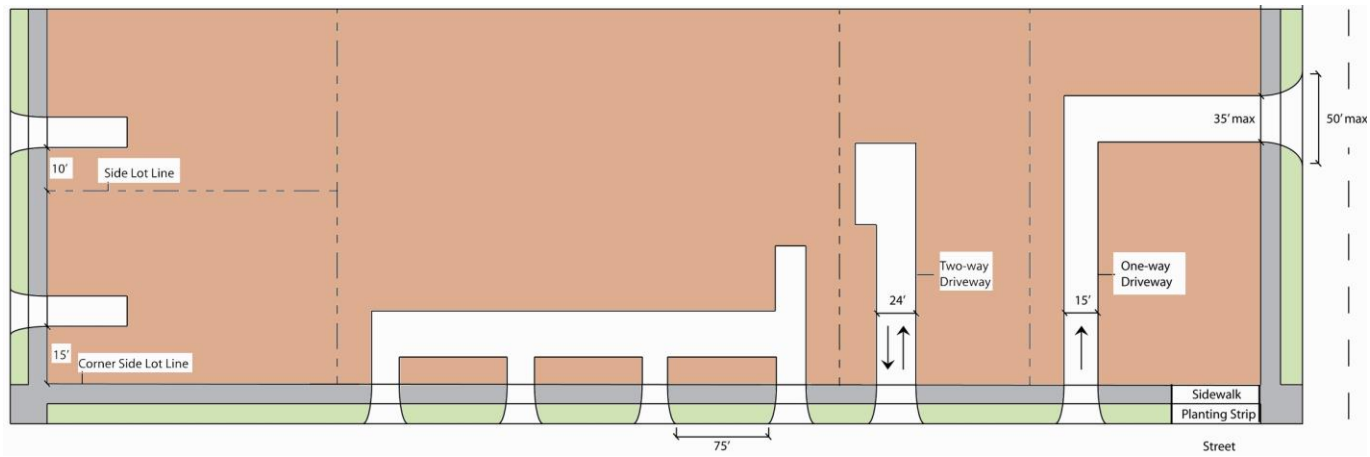


Figure 40.1-5.1(O)(1): Driveway Standards
Driveways should be separated from one another and major intersections to maintain street capacity.

(P) Loading Space Standards

(1) Number of Required Off-street Loading Berths

The following uses shall provide on-site loading areas or berths in accordance with the requirements in Table 40.1-5.1(P)(1), Required Off-Street Loading Berths.

TABLE 40.1-5.1(P)(1): REQUIRED OFF-STREET LOADING BERTHS [1]

USE OR ACTIVITY [2]	GROSS FLOOR AREA (GFA)	MINIMUM NUMBER OF LOADING BERTHS
Offices and personal service establishments in multi-story buildings [2]	7,500 sf or more	1
All other commercial or industrial use types [1]	7,500 sf – 47,500 sf	1
	47,501 sf or more	2 + 1 per every additional 20,000 sf of GFA

NOTES:
[1] Residential floor area within a mixed–use development is not included within the GFA.
[2] Single-story buildings may utilize temporary loading spaces, 25 percent of which may be located within travel aisles.

(2) Standards

(a) Minimum Dimensions

Each loading space required by this subsection shall be at least 12 feet wide by 30 feet long (or deep), with at least 15 feet of overhead clearance. Each off-street loading space shall have adequate, unobstructed means for the ingress and egress of vehicles.

(b) Location

Where possible, loading areas shall be located to the rear of the use they serve. In addition, the loading area shall be located adjacent to the buildings loading doors, in an area that promotes their practical use.

(c) Delineation of Loading Spaces

All loading spaces shall be delineated by signage and striping and labeling of the pavement.

(d) Access to a Street

Every loading area shall be provided with safe and convenient access to a street, but in no case shall the loading space extend into the required aisle of the parking lot. Off-street loading spaces shall be configured to avoid the need for vehicles to back up within the street right-of-way, to the maximum extent practicable.

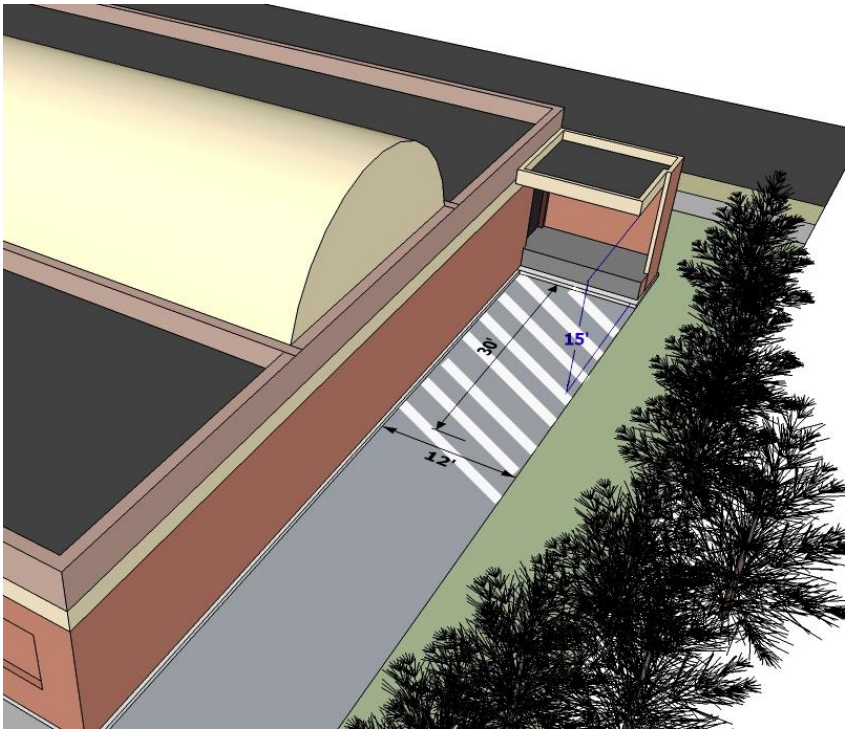


Figure 40.1-5.1(P)(1): Loading Zone
Loading zones shall be striped and located to the side or rear of buildings.

(e) Single-Story Buildings

Single-story office and personal services uses in buildings of 47,500 square feet or less are not required to provide dedicated loading zones, and may be served by temporary loading facilities that may project into vehicle drive aisles by up to 25 percent of the loading zone.

(f) Paving

The ground surface of loading areas shall be paved with a durable, dust free, and hard material, such as surface and seal treatment, bituminous hot mix, Portland cement, concrete, or some comparable material. Such paving shall be maintained for safe and convenient use at all times.

(g) Landscaping

Loading areas shall be landscaped in accordance with Section 40.1-5.2(D), Vehicular Use Area Landscaping.

(h) Exterior Lighting

Exterior lighting for loading areas shall comply with the standards in Section 40.1-5.9, Exterior Lighting.

40.1-5.2 LANDSCAPING AND SCREENING

(A) Section Organization

These landscaping standards are organized into eight main sub-sections:

(1) Section 40.1-5.2(B), Purpose and Intent, sets out the purpose and intent for the standards;

(2) Section 40.1-5.2(C), General Requirements for Landscaping, includes the applicability provisions, requirements for landscaping plans, and standards for new plantings;

(3) Section 40.1-5.2(D), Vehicular Use Area Landscaping, includes the standards for landscaping around the perimeter and within vehicular use areas;

(4) Section 40.1-5.2(E), Perimeter Buffers, includes the landscaping buffer standards applied to the edges of some base zoning districts;

(5) Section 40.1-5.2(F), Screening, includes the screening requirements for site features like refuse, loading, and service areas;

(6) Section 40.1-5.2(G), Site Landscaping, includes the standards for foundation plantings around some buildings;

(7) Section 40.1-5.2(H), Alternative Landscaping Plan, includes the procedures and standards for review of alternative landscaping plans; and

(8) Section 40.1-5.2(I), Other Landscaping Standards, includes the other standards for landscaping installation, timing, maintenance, monitoring for compliance, and incentives.

(B) Purpose and Intent

It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the planting, maintenance, and preservation of trees, shrubs, and other plants within the city. The intent of this section is to promote this purpose by:

(1) Ensuring and encouraging the planting, maintenance, restoration and survival of trees, shrubs, and groundcover;

(2) Ensuring the protection of community residents and visitors from personal injury and property damage, and the protection of the city from property damage, caused or threatened by the improper planting, maintenance or removal of trees, shrubs, or other plants;

(3) Mitigating against erosion and sedimentation;

(4) Reducing stormwater runoff and the costs associated therewith;

(5) Preserving and protecting the water table and surface waters;

(6) Reducing audible noise from automobiles and land uses;

(7) Restoring soils and land denuded as a result of construction or grading;

(8) Increasing the tree canopy to provide shade and moderate the effect of urban heat islands;

(9) Limiting glare created by exterior lighting;

(10) Reducing visual pollution from the urban environment and increasing privacy between incompatible uses;

(11) Protecting and enhancing property values and aesthetic qualities;

(12) Helping to differentiate streets and other areas of the public realm from private lands;

(13) Providing additional improvements to air quality through the carbon dioxide uptake process provided by trees and landscaping; and

(14) Providing visual screening, where appropriate.

(C) General Requirements for Landscaping

(1) Applicability of Landscaping Standards

(a) General

Except where exempted by Section 40.1-5.2(C)(1)(c), Exemptions, these standards shall apply to all development in the city.

(b) Review for Compliance

Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3 (C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(c) Exemptions

Development in the D1 and D2 districts in addition to the general requirements applicable to all landscaping and screening set forth in this article, shall comply with the regulations of the sections found in Appendix sections A and B where they apply. The more restrictive regulations shall apply in cases of conflict.

(d) Landscape Plan

(i) To ensure compliance with the standards of this section, a landscape plan demonstrating how landscaping will be planted on a development site shall be included as a part of any application an Development Plan (Section 40.1-2.3(C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(ii) New developments not required to provide landscaping (e.g., new single-family detached residential development adjacent to existing single-family detached residential development) are exempt from the requirement to provide a landscape plan.

(2) Planting Standards

Plantings provided in accordance with this section shall comply with the following standards:

(a) Deciduous and evergreen canopy or shade trees shall be a minimum of two inches in caliper at the time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2004, as amended, and shall be a minimum of eight feet in height above ground level at the time of planting.

(b) Understory, small maturing, or ornamental trees shall have a caliper of one-and-one-half inches at time of planting, as determined in the American Standard for Nursery Stock, ANSI Z60.1-2004, as amended, and shall be a minimum of six feet in height above ground level at the time of planting.

(c) Deciduous or evergreen shrubs shall be upright in nature and be a minimum of 24 inches in height at the time of planting.

(d) In cases where an aggregate caliper inch (ACI) requirement is utilized to derive a required amount of vegetation, and the ACI figure includes a fraction, an applicant may:

(i) Utilize a tree or trees with a caliper inch measurement exceeding the minimum size at time of planting standard of this subsection in order to meet the required ACI; or

(ii) Round the ACI figure upwards until the figure corresponds with a whole number of trees meeting the minimum size at time of planting standard.

When trees exceeding the minimum size at time of planting standard are proposed, the minimum calipers of such trees shall be clearly noted on the Master Plan, Development Plan, or Preliminary Subdivision Plat, as appropriate.

(e) In cases where application of the requirements in this subsection result in a fraction in the number of shrubs to be provided, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

(f) All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1, as amended). Plant material shall be of standard quality or better, true to name and type of species or variety.

(g) The use of native, drought tolerant vegetation is encouraged to reduce dependency upon irrigation.

(h) To curtail the spread of disease or insect infestation in a plant species, new tree plantings shall comply with the following standards:

(i) When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions.

(ii) When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions.

(iii) When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions.

(iv) Nothing in this subsection shall be construed so as to prevent the utilization of a larger number of different species than specified above.

(i) All planting materials shall correspond to the city's approved plant materials, unless alternative materials are proposed as part of an alternative landscape plan (See Section 40.1-5.2(H), Alternative Landscape Plan).

(3) Existing Vegetation

Existing healthy, well-formed canopy and understory trees as well as healthy shrubs shall be credited toward the requirements of this section, provided the vegetation meets the minimum size standards of this Ordinance, and is protected before and during development of the site in accordance with Section 40.1-5.3(B), Tree Protection During Construction, and maintained thereafter in a healthy growing condition.

(4) Stabilization

All required landscape planting areas shall be stabilized and maintained with lawn, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainwater infiltration.

(5) Berms

All berms shall comply with the following design standards:

(a) The slope of all berms shall not exceed a two-to-one (2:1) ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe of the berm.

(b) All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

(c) Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.

(d) Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

(6) Easements

Nothing except groundcover shall be planted or installed within any underground or overhead utility, drainage, gas easement, or within five feet of a fire protection system without the consent of the utility provider, easement holder, or the city, as appropriate.

(D) Vehicular Use Area Landscaping

Except where exempted by Section 40.1-5.2(D)(1), Exemptions, all vehicular use areas shall include landscaping both within the interior of the vehicular use area and around its perimeter, as a means of mitigating the parking area's microclimate and visual impacts.

(1) Exemptions

The following uses shall be exempt from the requirements to provide vehicular use area landscaping:

(a) Single-family detached residential development;

(b) Two- to four-family dwellings; and

(c) Off-street surface vehicular use areas with four or fewer spaces.

(2) Interior Landscaping Standards

All vehicular use areas shall provide and maintain landscaped planting areas within the interior of the vehicular use area in accordance with the standards in this subsection. These standards shall not apply to parking structures or vehicle display areas.

(a) Configuration

Interior planting areas shall be designed in accordance with the following standards:

(i) Islands shall be located at the end of parking bays and have a minimum size of 153 square feet for single loaded parking bays, and a minimum size of 306 square feet for double loaded bays.

(ii) Off-street surface parking areas with 100 or more spaces shall be organized into a series of modules of 15,000 square feet or less per module, and be visually separated by eleven-foot-wide continuous landscaped islands containing pedestrian pathways located at least every six parking bays (see Figure 40.1-5.1(D)(2): Interior Planting Configuration).

(iii) No single row of parking spaces shall exceed 12 spaces without including an island.

(iv) Landscaped planting areas shall be distributed throughout the parking area for the purpose of heat abatement.

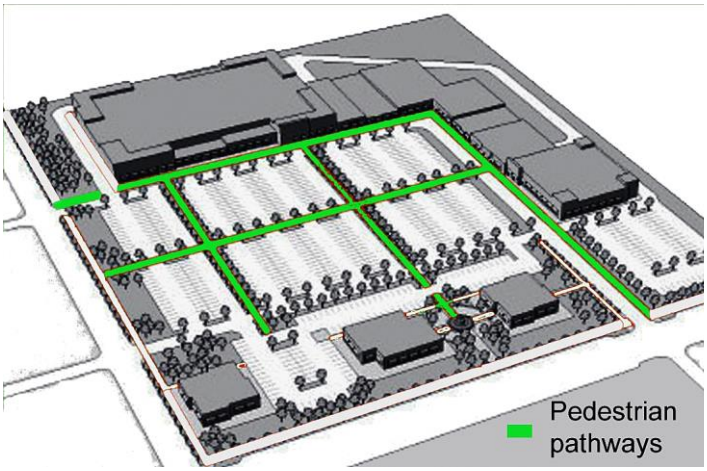


Figure 40.1-5.2(D)(2)(a): Interior Planting Configuration
Parking areas with 100+ spaces should be broken up by pedestrian pathways for safety and livability.

(v) Driveway and primary drive aisle medians shall have a minimum width of four feet for medians with shrubs and six feet for medians with shrubs and understory trees.

(vi) Each interior planting island shall contain at least one canopy or understory tree per every 153 square feet, or portion thereof, of the total landscape island area.

(vii) Shrubs shall be planted within landscaping islands at a minimum rate necessary to ensure that at least 25 percent of the total land area occupied by landscaping islands is planted with shrubs.

(b) Screened Backfill

Soil utilized in vehicular use area islands, driveway medians, and other areas internal to a vehicular use area shall be screened prior to deposition in planting areas.

(c) Protection of Planting Areas

All planting areas shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods. This standard shall not prohibit the use of planting areas as on-site stormwater management devices.

(3) Perimeter Landscaping Standards

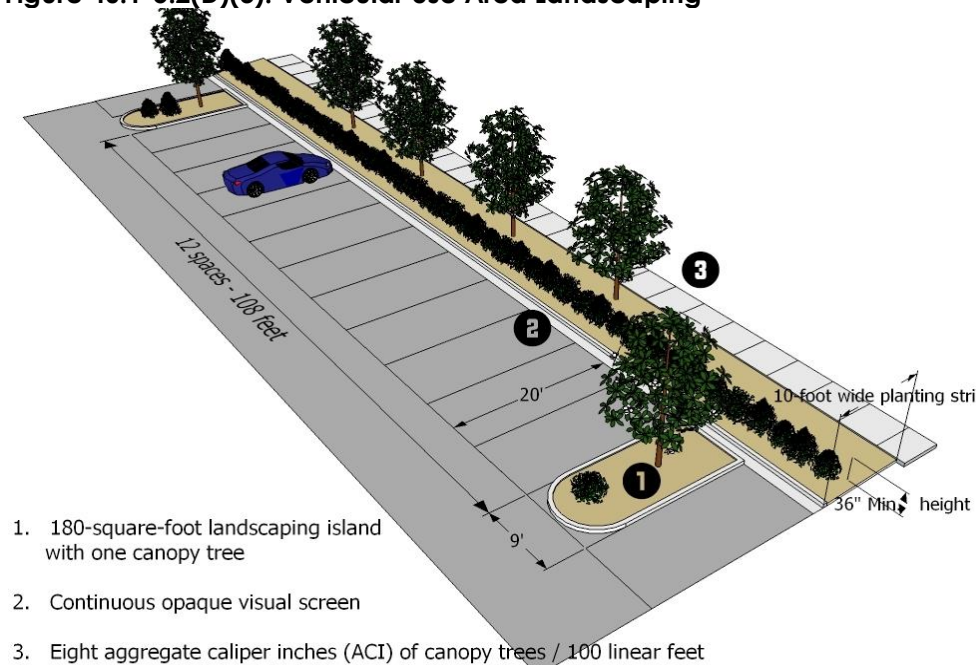
Where a vehicular use area serving a use subject to these standards abuts a street right-of-way, vacant land, or any other development (except another vehicular use area), perimeter landscaping strips shall be provided and maintained between the vehicle use area and the abutting right-of-way or property line in accordance with the following standards.

(a) Location

(i) Perimeter landscaping strips shall be located on the same land where the vehicular use area is located, and shall be placed to assure visibility and safety of pedestrians on the public street, as well as those within the vehicular use area.

(ii) Perimeter landscaping strips may not be placed within future street rights-of-way as identified in the Master Transportation Plan.

Figure 40.1-5.2(D)(3): Vehicular Use Area Landscaping



(b) Minimum Width

When a vehicular use area is located within 50 feet of a street right-of-way, the perimeter landscaping shall be located within a planting strip at least ten feet wide. In all other instances, the strip shall be the minimum width necessary to assure required landscaping is not damaged by vehicles or other on-site activity. In no instance shall the strip be less than three feet wide.

(c) Continuous, Opaque Visual Screen Required

Perimeter landscaping for vehicular use areas shall form a continuous, opaque visual screen, excluding required sight clearances at driveways. The perimeter landscaping strip shall meet all city, state, and federal highway sight distance standards.

(d) Protection of Landscaping Strip

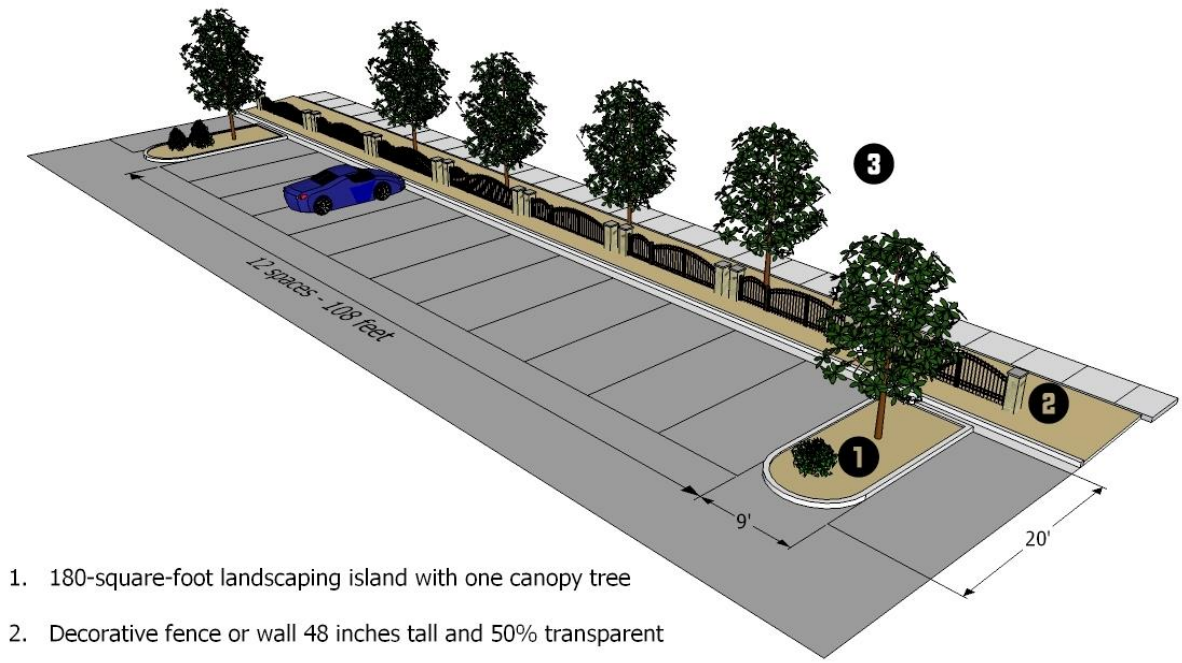
The perimeter landscaping strip shall be protected from vehicular damage by the installation of curbing, wheel stops, extra width in the landscaping strip, or other method approved by the Planning Director. Nothing in this subsection shall prevent the configuration of vehicular use area landscaping as a stormwater management device.

(e) Required Materials

(i) In cases where the visual screen is comprised of vegetation, evergreen shrubs shall be used to form the continuous, opaque visual screen in the perimeter landscaping strip.

(ii) A decorative fence or wall with a minimum transparency of 50 percent or more may be substituted for the evergreen shrubs (see Figure 40.1-5.1(D)(4):

Figure 40.1-5.2(D)(4): Alternative Perimeter Screening Configuration



1. 180-square-foot landscaping island with one canopy tree
2. Decorative fence or wall 48 inches tall and 50% transparent
3. Eight aggregate caliper inches (ACI) of canopy trees / 100 linear feet

Alternative Perimeter Screening). In no instance shall chain link fencing qualify as decorative fencing for the purpose of providing vehicular use area landscaping.

(iii) In addition to the evergreen shrub requirements, each perimeter landscaping strip shall include at least eight aggregate caliper inches (ACI) of canopy trees per 100 linear feet of landscaping strip. Understory trees may be used beneath overhead utilities.

(f) Minimum Height

(i) Shrubs associated with the perimeter landscaping shall be maintained at a minimum height of at least three feet above the surface elevation of the adjacent vehicular use area pavement within four years of planting.

(ii) Fences or walls used in-lieu of shrubs shall maintain a height of 48 inches above the adjacent grade, except where there is a requirement for a lower height because the fence or wall is located within a sight triangle.

(g) Adjacent to Perimeter Buffers

Perimeter landscape strips associated with a vehicle use area may be credited towards perimeter buffer standards (See Section 40.1-5.2(E), Perimeter Buffers), provided the minimum buffer standards of this section are met.

(h) Adjacent to Off-Street Surface Parking on Other Lots

Where two or more off-street surface vehicular use areas are located adjacent to one another, but upon different lots, no perimeter landscaping strip shall be required between the two vehicular use areas.

(i) Stormwater Management Generally

(i) The location of Stormwater retention and detention ponds shall be in accordance with this section for all development, except single family lots. Slight swales used to channel water to another portion of the lot or bio-retention swales, filters and basins are not regulated by this section.

(ii) Only Stormwater retention and detention facilities below ground shall be located in between the building and any street.

(iii) Stormwater retention ponds not designed and landscaped as a site amenity shall be fully screened from off-site views.

(iv) Landscape plantings may be used to increase infiltration and decrease runoff. Alternative designs, such as landscaping islands configured with a lower grade than adjacent parking, or rain gardens are encouraged.

(4) Incentives

The total aggregate caliper inch requirements for canopy and understory trees in this subsection may be reduced by five percent when:

(a) At least 65 percent of the provided parking is located to the side or rear of the building;

(b) At least 30 percent of the total required parking is subject to a shared parking agreement (See Section 40.1-5.1(J)(2), Shared Parking; and

(c) When pervious parking surfacing is used for 20 percent or more of the total vehicular use area.

Nothing shall prohibit the combination of these incentives or the resulting cumulative reduction in the amount of required tree ACI.

(E) Perimeter Buffers

(1) Purpose and Intent

Perimeter landscape buffers are intended to mitigate potential negative effects of different contiguous uses.

(2) Applicability

Except for single-family detached residential uses and uses in the D1 and D2 districts, all development shall provide a perimeter landscape buffer to separate it from uses in a different use classification in accordance with Table 40.1-5.2(E)(3), Buffer Types, and Table 40.1-5.2(E)(4), Buffer Type Application.

(3) Types of Buffers

Table 40.1-5.2(E)(3), Buffer Types, describes four different buffering types in terms of their function, opacity, width, and planting requirements. Where a particular buffer type is required in Table 40.1-5.2(E)(4), Buffer Type Application, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2. Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of Section 40.1-5.10, Fences and Walls.

TABLE 40.1-5.2(E)(3): BUFFER TYPES		
BUFFER TYPE AND CONFIGURATION **ACI = AGGREGATE CALIPER INCHES**	**MINIMUM PERIMETER BUFFER [1] [2] [3]**	
	OPTION 1: MINIMUM WIDTH 20 FEET	**OPTION 2: MINIMUM WIDTH 10 FEET [4]**
TYPE A - BASIC		
This perimeter buffer functions as basic edge demarcating individual properties with a slight visual obstruction from the ground to a height of ten feet.		
	2 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	
TYPE B - AESTHETIC		
This perimeter buffer functions as an intermittent visual obstruction from the ground to a height of at least 20 feet, and creates the impression of spatial separation without eliminating visual contact between uses.		
	8 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	2 ACI of canopy trees +14 ACI understory trees + 35 shrubs per 100 linear feet
TYPE C - SEMI-OPAQUE		

TABLE 40.1-5.2(E)(3): BUFFER TYPES		
BUFFER TYPE AND CONFIGURATION **ACI = AGGREGATE CALIPER INCHES**	**MINIMUM PERIMETER BUFFER [1] [2] [3]**	
	OPTION 1: MINIMUM WIDTH 20 FEET	**OPTION 2: MINIMUM WIDTH 10 FEET [4]**
This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet.		
	12 ACI of canopy trees + 14 ACI of understory trees + 25 shrubs per 100 linear feet	One 4-foot-high berm or one 4-foot-high solid fence + 2 ACI of canopy trees + 16 ACI understory trees per 100 linear feet
TYPE D - OPAQUE		
This perimeter buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation.		
	18 ACI of canopy trees + 20 ACI of understory trees + 55 shrubs per 100 linear feet	One 6-foot-high solid fence + 12 ACI of canopy trees per 100 linear feet
NOTES:		

TABLE 40.1-5.2(E)(3): BUFFER TYPES		
BUFFER TYPE AND CONFIGURATION ACI = AGGREGATE CALIPER INCHES	MINIMUM PERIMETER BUFFER [1] [2] [3]	
	OPTION 1: MINIMUM WIDTH 20 FEET	OPTION 2: MINIMUM WIDTH 10 FEET [4]
[1] Any required perimeter buffer width can be reduced to five feet with the provision of a solid masonry wall at least five feet in height, along with ten large shrubs per every 100 linear feet. [2] Perimeter buffer widths (but not vegetation amounts) may be reduced in accordance with Section 40.1-2.3(H), Administrative Adjustment. [3] In cases where an adjacent use is designed for solar access, understory trees can be substituted for canopy trees. [4] Fences and walls shall comply with the standards in Section 40.1-5.10, Fences and Walls.		

(4) Buffer Type Application

Table 40.1-5.2(E)(4), Buffer Type Application, specifies the type of perimeter landscape buffer that new development shall provide between it and adjacent property, based on the zoning district of the development site and that of the adjacent property. The buffer type is indicated by a letter corresponding to one of the four buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.

TABLE 40.1-5.2(E)(4): BUFFER TYPE APPLICATION [1]
A = TYPE A BUFFER B = TYPE B BUFFER C = TYPE C BUFFER D = TYPE D BUFFER
N/A = NOT APPLICABLE (NO BUFFER REQUIRED)

PROPOSED USE TYPE [2] [3]	EXISTING USE TYPE ON ABUTTING LAND				
	SINGLE-FAMILY RESIDENTIAL	ALL OTHER RESIDENTIAL	MIXED-USE & PUBLIC/ INSTITUTIONAL	COMMERCIAL	INDUSTRIAL
Single-Family Residential	N/A	N/A	N/A	N/A	N/A
All other Residential	A	N/A	N/A	N/A	N/A
Mixed-Use and Public/Institutional	B	A	N/A	N/A	N/A
Commercial	C	B	A	N/A	N/A
Industrial	D	D	D	C	N/A

NOTES:
[1] Letters in cells correspond to the buffer types depicted in Table 40.1-5.2(E)(3), Buffer Types.
[2] Development in AC districts is subject to perimeter buffer requirements in the AC district standards. In cases where development is proposed next to an existing PD district having no perimeter buffer, the proposed development shall provide a perimeter buffer that is consistent with the type of buffer required if the adjacent use was in a differing base district appropriate for the type of use.
[3] Multi-family, townhouse, multi-building campus, or shopping center developments shall provide buffers around the perimeter of the development instead of around individual buildings.

(5) Location of Buffers

(a) Perimeter buffers required by this section shall be located only along the outer perimeter of the parcel where it abuts another parcel, and shall extend to the parcel boundary line or right-of-way line.

(b) Perimeter buffers are not required along lot lines abutting streets, except as needed to screen outdoor industrial operations or storage on lots in an industrial

district. Industrial uses with outdoor operations or storage components shall include perimeter buffers as necessary to screen outdoor use areas from off-site views.

(c) A perimeter buffer may be located along shared access easements between parcels in nonresidential developments.

(6) Responsibility for Buffer Installation

Where a developing parcel is adjacent to an existing use and a perimeter buffer is required in accordance with this section, the developing parcel shall provide the full perimeter buffer required adjacent to the existing use in accordance with Table 40.1-5.2(E)(3) Buffer Types, and Table 40.1-5.2(E)(4), Buffer Type Application, unless a portion or all of a perimeter buffer that complies with the standards of this section already exists between the lots. Where all or part of a perimeter buffer exists, but the buffer does not fully comply with the standards of this section, the developing parcel shall be responsible for providing all the additional planting material necessary to meet the standards of this section.

(7) Development within Required Buffers

(a) The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted in this Ordinance.

(b) Sidewalks, trails, and other elements associated with passive recreation may be placed in perimeter buffers if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.

(c) Overhead and underground utilities required or allowed by the city are permitted to cross a required buffer in a perpendicular fashion, but shall minimize the impact to vegetation to the maximum extent practicable. Where required landscaping material is damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this Ordinance.

(8) Sight Triangles

No fencing, berms, walls, or other landscaping features may exceed 36 inches above grade within required sight triangles for streets, alleys, or driveways(See Section 4.1-8.2(C)(4).

(9) Credit for Existing Vegetation

Existing vegetation meeting the size standards of Section 40.1-5.2(C)(2), Planting Standards, located within the perimeter buffer area may be preserved and credited toward the perimeter buffer standards.

(F) Screening

(1) General Requirements

In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from off-site views. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

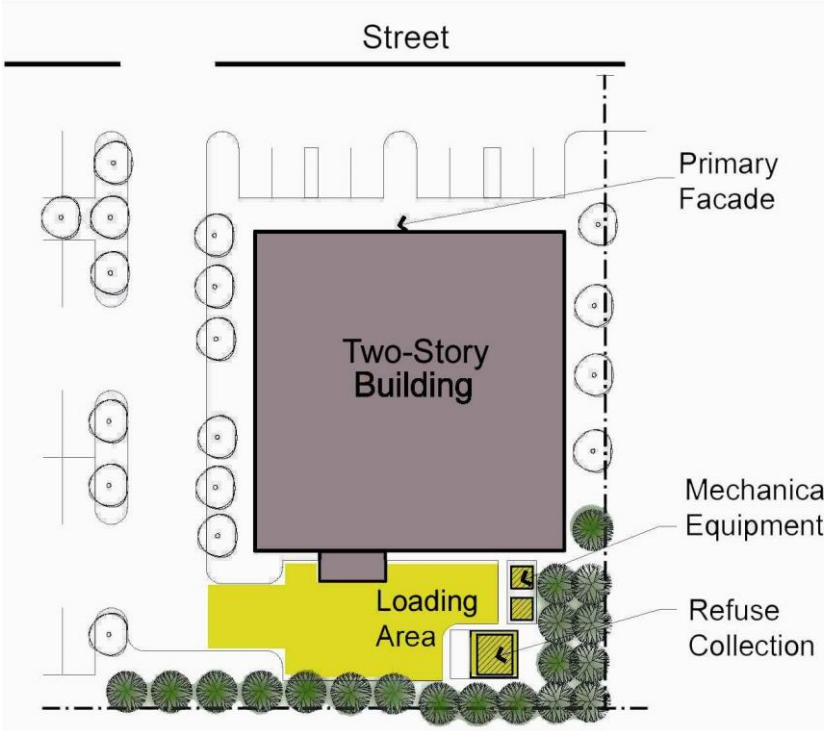


Figure 40.1-5.2(F): Screening Methods
Vegetation can screen service and loading areas effectively.

(2) Items to be Screened

The following areas shall be screened in accordance with this section:

(a) Large waste receptacles (e.g., dumpsters and cardboard recycling containers) and refuse collection areas;

(b) Loading and service areas;

(c) Outdoor storage areas (including, but not limited to: inoperable vehicles, appliances, tires, manufactured homes, building materials, equipment, raw materials, and above-ground storage tanks) located within 600 feet of a public right-of-way;

(d) Ground-level mechanical equipment and utility meters; and

(e) New construction, demolition, or other site conditions that could be unsafe for pedestrian or vehicles.

(3) Screening Methods

The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.

(a) Vegetative materials that provide a fully opaque screen to the minimum height necessary to fully screen the facility from off-site views; or

(b) An opaque fence or wall consistent with the standards in Section 40.1-5.10, Fences and Walls.

Alternative screening materials that are not listed or alternative configurations may be proposed as part of an alternative landscaping plan (see Section 40.1-5.2(H)), if the alternative materials or configuration provide an equivalent or superior screening function.

(4) Configuration of Vegetative Materials

In cases where vegetative materials are used for screening in accordance with this subsection, the vegetative materials shall:

(a) Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;

(b) Be configured in two staggered rows or other arrangement that provides maximum screening;

(c) Be upright, large evergreen shrubs and capable of reaching at least six feet in height within three years of planting; and

(d) Be spaced no farther than three feet on-center.

(5) Large Waste Receptacles and Refuse Collection Areas

Except for facilities serving individual single-family detached residential, two- to four-family dwellings, and un-manned uses that do not generate any waste, all large waste receptacle and refuse collection areas shall be subject to the following standards.

(a) Depicted on Master Plans or Development Plans

The location and configuration of screening for large waste receptacles and refuse collection areas shall be depicted on all AC master plans and development plans.

(b) Screening Configuration

In cases where access to large waste receptacles and refuse collection areas faces a public right-of-way, the accessway shall be screened with an opaque gate. Chain link shall not be used for such gates.

(c) Setbacks

Large waste receptacles and refuse collection areas and the fences or walls screening them shall maintain setbacks applicable for accessory buildings in the district where located, and shall not be located within front or corner side yards.

(d) Surfacing Requirements

Areas intended for large waste receptacles and refuse collection shall be surfaced with concrete that meets or exceeds minimum city standards.

(e) Drainage

Eating establishments and other uses that produce significant amounts of liquid waste shall configure areas intended for large waste receptacles and refuse collection to drain to the sanitary sewer system through grease traps or similar devices as required by the Planning Director.

(G) Site Landscaping and Building Foundation Planting

(1) Purpose and Intent

Site landscaping material is intended to soften the visual impact of building foundations and provide for the even dispersal of trees across a development site.

(2) Distinguished from Other Required Landscaping

Site landscaping, for the purpose of this section, is landscaping that is not:

(a) Required vehicular use area landscaping;

(b) Located within a required perimeter buffer strip; or

(c) Required screening.

(3) Site Landscaping Standards

Except for single-family detached residential and two- to four-family dwellings, site landscaping shall be required for all development, and shall be supplied in the amounts identified in Table 40.1-5.2(G)(3), Required Site Landscaping Plantings. Site landscaping shall meet the minimum size standards for new planting specified in Section 40.1-5.2(C)(2), Planting Standards.

TABLE 40.1-5.2(G)(3): REQUIRED SITE LANDSCAPING PLANTINGS

USE TYPE [1]	REQUIRED PLANTINGS PER SITE [2] [3]
Multi-family dwellings	16 caliper inches of canopy trees (including at least 5 evergreen trees) per acre + at least 2 shrubs per each 10 feet of building perimeter
Public and Institutional uses	14 caliper inches of canopy trees (including at least 2 evergreen trees) per acre + at least 1 shrub per each 10 feet of building perimeter
Commercial and mixed-uses	10 caliper inches of canopy trees (including at least 1 evergreen tree) per acre, + at least 2 shrubs per each 10 feet of outer building perimeter
Industrial uses	4 caliper inches of canopy trees (including at least 1 evergreen) per acre + at least 1 shrub per every ten feet of building wall facing a public right-of-way

NOTES:
[1] See Table 40.1-4.1(A), Use Table.
[2] At least one-half of the required shrubs shall be of an evergreen variety.
[3] Each evergreen tree meeting the minimum size standards of this section shall count as two caliper inches towards the total number of required canopy tree caliper inches.

(4) Shrub Placement

Required shrubs shall be placed around the building perimeter in a minimum 3 foot wide planting strip, with emphasis placed on building foundations visible from the public right-of-way. Required shrubs may be planted up to 15 feet from the building provided there is a sidewalk located between the planting area and the building wall. Alternatively, the planting strip may be reduced to 1.5 feet where supported vine structures are used that are at least 8 feet tall to carry vines or clambering shrubs.

(5) Tree Placement

Trees serving as site landscaping shall be dispersed across a site in accordance with good planting practice and the following priority listing:

(a) In yards between a building façade and a street right-of-way where no vehicular use area landscaping is required;

(b) Between a building and an adjacent lot with an existing use that provides more than 50 percent of the vegetative material associated with a required perimeter buffer;

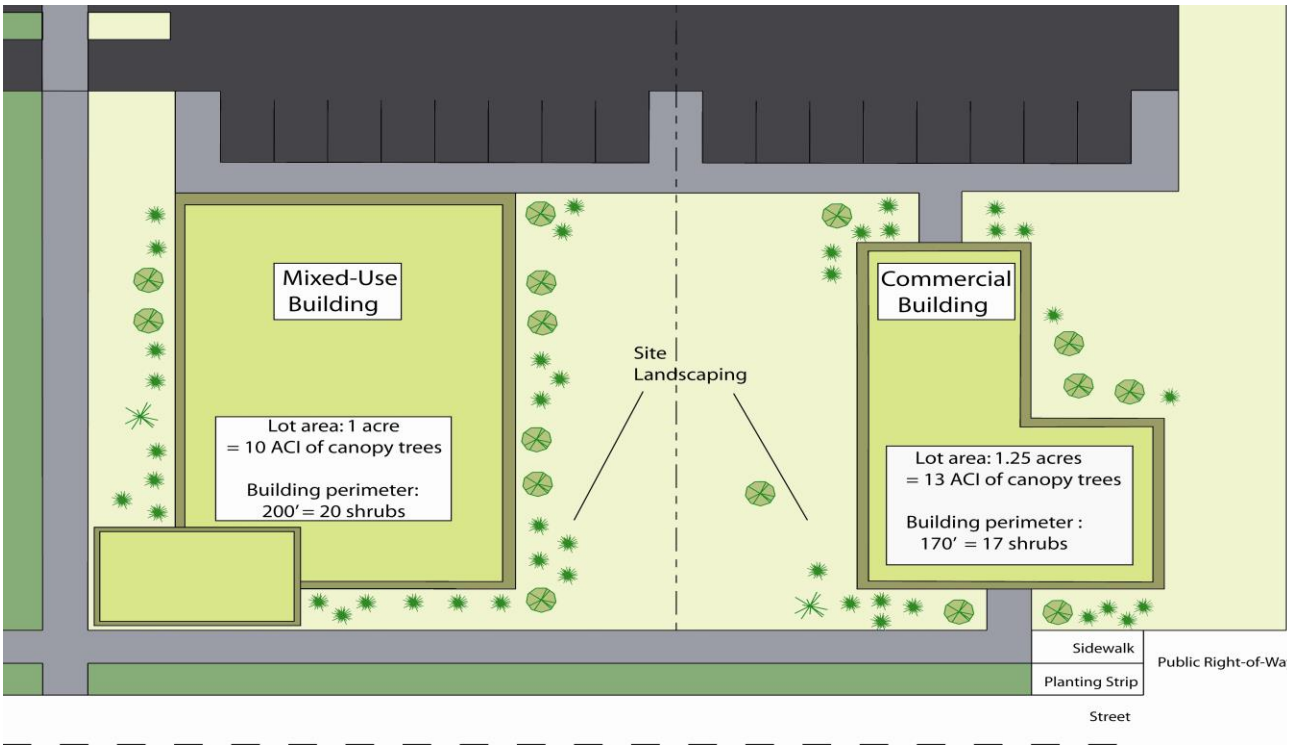
(c) Between a building façade and an abutting lot with the same or a more intense zoning district classification (where no perimeter buffering is required);

(d) Within open-space set-aside areas with no existing or reforested trees;

(e) Adjacent to on-site areas of pedestrian or vehicular circulation where no other vegetative material is required (e.g., drive-throughs or stacking lanes); or

(f) Other areas near accessory structures or accessory uses.

Figure 40.1-5.2(G)(5): Site Landscaping
Site landscaping includes foundation plantings and helps ensure required vegetation is distributed evenly across sites.



(H) Alternative Landscape Plan

(1) Purpose

In cases where development conditions require a deviation from the landscaping standards in this section, or the tree protection standards in Section 40.1-5.3, Tree Protection, an alternative landscaping plan shall be required. An alternative landscaping plan shall indicate how compliance with the standards in this Ordinance is impossible or impractical, and shall illustrate how compliance can be achieved to the maximum extent practicable. Nothing in this subsection shall prohibit a development configuration that meets or exceeds the landscaping and tree protection standards in this Ordinance.

(2) Justification

Alternative plans, materials, or methods may be justified due to:

(a) Natural conditions, such as streams, natural rock formations, or topography;

(b) The likelihood that landscaping material would be ineffective at maturity due to topography, placement, or other existing site conditions;

(c) Lot size or configuration;

(d) The presence of utility or other easements;

(e) The potential for interference with public safety; and

(f) Other situations where strict adherence to the landscaping or tree protection standards in this Ordinance are determined to be impractical by the Director of Planning and Development Services.

(3) Allowable Deviations

With input from other city departments, the Planning Director shall approve an alternative landscape plan if it meets the purpose and intent of the landscaping standards in Section 40.1-5.2, Landscaping and Screening, or Section 40.1-5.3, Tree Protection, as appropriate. Allowable deviations from the standards of this section include, but are not limited to the following:

(a) Reduced Planting Rates due to Public Facilities

An adjustment to planting locations or reduction of up to 20 percent in the type or total number of required caliper inches may be allowed when underground connections to public facilities or public utilities, or public easements or right-of-way, are located upon or in close proximity to the parcel.

(b) Reduction in Standards due to Nature of Parcel

A reduction in the count, spacing, or species diversity standards by up to 20 percent may be allowed where the reduction is desirable in terms of protection of existing natural resources, better consistency with the goals of the comprehensive plan, or a site design that exceeds the quality of what would otherwise result under a strict application of the standards in this Ordinance, in the opinion of the Planning Director.

(c) Redevelopment of Nonconforming Sites

The installation of required landscaping during redevelopment of existing nonconforming sites shall occur in accordance with Section 40.1-6.6, Nonconforming Site Aspects.

(I) Other Landscape Standards

(1) Time for Installation of Required Landscaping

(a) Time Limit

All required landscaping (including mulching and seeding) shall be installed in accordance with the required planting standards set forth in this section prior to issuance of a permanent or non-temporary certificate of occupancy unless the Planning Director grants an extension to this time limit in accordance with Section 40.1-5.2(I)(1)(b), Extensions.

(b) Extensions

(i) The Planning Director may, for good cause shown, grant extensions to the above time limit, allowing a developer/owner to delay the installation of required landscaping. Circumstances that may warrant an extension include, but are not limited to, the following:

a. Unusual environmental conditions, such as drought, ice, hurricanes, or over-saturated soil (deep mud);

b. It is not yet the appropriate planting season for the approved plant species; or

c. Credible evidence that the approved plant species or required plant sizes are not commercially available and cannot be substituted within a reasonable time despite an applicant's diligent effort to secure the required materials.

(ii) Upon receipt of a performance guarantee, the city may issue a temporary certificate of occupancy for a maximum period of up to 180 days.

(2) Maintenance of Landscaping Materials

The owner shall be responsible for the maintenance of all landscape areas not in the public right-of-way. Such areas shall be maintained in accordance with the approved landscape plan or alternative landscape plan and shall present a healthy and orderly appearance free from refuse and debris. All plant life shown on an approved landscape plan or alternative landscape plan shall be replaced if it dies, is seriously damaged, or removed.

(a) Damage Due to Natural Occurrence

In the event that any vegetation or physical element functioning to meet the standards of this section is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner or developer may be required to replant if the landscaping standards are not being met. The owner shall have one growing season to replace or replant. The Planning Director shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural re-vegetation in making a determination on the extent of replanting requirements.

(b) Protection during Operations

The owner or developer shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants shall be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.

(c) Maintain Shape

All required trees (whether canopy, understory, or otherwise) shall be maintained in their characteristic natural shape, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Trees (including but not limited to Crape Myrtles) that have been severely pruned, sheared, topped, or shaped as shrubs no longer serve the intended buffering or screening function and shall be considered as damaged vegetation in need of replacement in accordance with Section 40.1-5.2(I)(2)(a), Damage Due to Natural Occurrence, and shall be replaced within one growing season.

(d) Natural Death

The natural death of existing vegetation within any required landscape area does not necessarily constitute a violation and does not require re-vegetation to replace the plant material unless the required landscape area no longer complies with the required standards of this section. In no instance shall this provision be construed to prevent re-planting if, in the opinion of the Planning Director, the required performance standard of the landscaping is not being met.

(J) Stormwater Management Generally

(1) The location of Stormwater retention and detention ponds shall be in accordance with this section for all development, except single-family lots. Slight swales used to channel water to another portion of the lot or bio-retention swales, filters and basins are not regulated by this section.

(2) Only stormwater retention and detention facilities below ground shall be located in between the building and any street.

(3) Stormwater retention ponds not designed and landscaped as a site amenity shall be fully screened from off-site views.

(4) Landscape plantings may be used to increase infiltration and decrease runoff. Alternative designs, such as landscaping islands configured with a lower grade than adjacent parking, or rain gardens are encouraged.

40.1-5.3 TREE PROTECTION

(A) Protection of Specimen Trees

(1) Applicability

(a) General

All development in the city, except that exempted in accordance with Section 40.1-5.3(A)(1)(b), Exemptions, shall be required to protect specimen trees in accordance with this section.

(b) Exemptions

The following development shall be exempt from these standards:

(i) Land within the Downtown D1 and D2 districts; and

(ii) Existing single-family detached residential dwellings on lots of record established prior to May 1, 2010.

(2) Depiction on Landscaping or Development Plan

The location, species, and size of all specimen trees to be retained in accordance with this section shall be depicted on the development plan or landscaping plan associated with the development.

(3) General Requirement

No specimen tree may be removed, except in accordance with Section 40.1-5.3(A)(4), Removal of a Specimen Tree. In addition, all specimen trees shall have the following protections, whether located on public or private land:

(a) Cutting, Removal, or Harm Prohibited

Specimen trees shall not be cut, removed, pushed over, killed, or otherwise harmed.

(b) Paving or Soil Compaction Prohibited

The area within the dripline of any specimen tree shall not be subject to paving or soil compaction.

(4) Removal of a Specimen Tree

Specimen trees may be removed if the landowner demonstrates to the Planning Director one of the following conditions:

(a) Removal of a Healthy Specimen Tree

A specimen tree is in healthy condition, and all of the following standards are met:

(i) The landowner is otherwise in compliance with this section;

(ii) The specimen tree prevents development of a lot platted prior to May 1, 2010 in a way that limits building area to less than otherwise allowed, or hinders compliance with the standards in Article 40.1-3: Zoning Districts, Article 40.1-4: Use Standards, or Article 40.1-5: Development Standards.

(iii) Mitigation is provided in accordance with Section 40.1-5.3(A)(5), Replacement/Mitigation of Specimen Trees.

(b) Removal of a Severely Diseased, High Risk, Damaged, or Dying Specimen Tree

A specimen tree is certified by an arborist or other qualified professional as severely diseased, high risk, damaged by an act of God, or dying. Removal of a severely diseased, high risk, or dying specimen tree shall not require mitigation in accordance with Section 40.1-5.3(A)(5), Replacement/Mitigation of Specimen Trees.

(5) Replacement/Mitigation of Specimen Trees

Those causing the destruction or removal of a healthy specimen tree, unless exempted in accordance with Section 40.1-5.3(A)(4), Removal of a Specimen Tree, shall be responsible for the following mitigation:

(a) Replacement Trees Required

Each healthy specimen tree removed or destroyed shall be replaced with three replacement trees, measuring at least six inches in diameter by American Nurseryman Standard. The replacement trees shall be replanted within 12 months of the removal or destruction of the specimen tree.

(b) Location of Replacement Trees

Replacement trees shall be either planted on the parcel of land from which the specimen tree was removed if sufficient space is available, or placed on nearby lands in accordance with Section 40.1-5.2(H), Alternative Landscape Plan.

(c) Establishment Period

Replacement trees shall be maintained through an establishment period of at least three years. The applicant shall guarantee the survival and health of all replacement trees during the establishment period and guarantee any associated replacement costs. If the replacement trees do not survive the establishment period, the applicant shall purchase and install new replacement trees.

(B) Tree Protection During Construction

(1) Owner's Responsibility

During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

(2) Tree Protection Fencing

(a) Where Required

Specimen trees and other existing trees being used for credit towards landscaping requirements in accordance with Section 40.1-5.4(A)(1)(b), Credit Applied Towards Required Plantings, shall be fenced with a sturdy and visible fence before grading or other development activity begins. Fencing shall be erected no closer than one linear foot to the tree's dripline. The Planning Director shall consider the existing site conditions in determining the exact location of tree protection fencing. Areas located inside of tree protection fencing are considered as "tree save areas".

(b) Inspection

All tree protection measures shall be inspected and approved by the city prior to start of any land disturbing activities. Failure to have tree protection measures prior to the commencement of construction is a violation of this Ordinance.

(c) When Required

No construction, grading, equipment or material storage, or any other activity shall be allowed within the fenced area. Fencing shall be maintained until after the final site inspection.

(3) Encroachments into Tree Save Areas

Encroachments into specimen tree save areas shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be employed:

(a) Soil Compaction

Where compaction might occur due to construction traffic or materials delivery through a tree save area, the area must first be mulched with a minimum four inch layer of wood chips. Equipment or materials storage shall not be allowed within a tree save area.

(b) Fill

No fill shall be placed within a specimen tree save area without adequate venting to allow air and water to reach the roots.

(c) Chemical Contamination

Trees located within a specimen tree save area shall be protected from chemical contamination from liquids or other materials, including but not limited to paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils, or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

(d) Paving Limitations

Except for driveway access points, sidewalks, curb, and gutter, no paving shall occur within a tree save area unless authorized through an alternative landscaping plan (See Section 40.1-5.2(H), Alternative Landscaping Plan).

(C) Tree Preservation Incentives

(1) Tree Preservation Credits

In order to encourage the preservation of as many trees as practical on a development site, credit towards the minimum landscaping requirements shall be applied to all existing trees retained on a site that are not specimen trees that comply with the credit standards of this subsection. Credits are offered only for trees that are not required to be retained by other sections of this Ordinance. Credits shall be granted in accordance with the following standards:

(a) Credit Amount

A credit of one-and-one-quarter (1.25) multiplied by the aggregate caliper of trees that are not specimen trees shall be credited and applied towards the landscaping standards in Section 40.1-5.2, Landscaping and Screeening, when the trees that are saved complies with the following minimum size standards:

(i) Canopy Trees

Canopy trees, whether deciduous or evergreen, of seven inches in caliper or greater, measured six inches above ground level.

(ii) Understory/Ornamental Trees

Understory or ornamental trees, whether deciduous or evergreen, of four inches in caliper or greater, measured four inches above ground level.

(b) Credit Applied Towards Required Plantings

The credit shall be applied to the aggregate tree caliper inch standards for landscaping. In no case shall credits substitute for more than 75 percent of the required landscaping material.

(2) Reduction in the Minimum Number of Required Parking Spaces

Up to a five percent reduction in the number of off-street parking spaces required on a development site shall be allowed if the reduction in the amount of required pavement will preserve the root zones of existing healthy specimen trees. The amount of reduction can be determined only after taking into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be agreed upon by both the applicant and the Planning Director. Alternative paving materials (See Section 40.1-5.1(D)(4), Alternative Materials) may be required by the Planning Director in cases where required parking areas encroach upon root zones.

40.1-5.4 OPEN SPACE STANDARDS AND SET-ASIDES

(A) Purpose and Intent

Open space set-asides are for the use and enjoyment of a development's residents, employees, and users. Open space set-asides serves numerous purposes, including preservation of natural areas, ensuring resident access to open areas and recreation, reducing the heat island effect, enhancing stormwater quality, and providing other public health benefits.

(B) Applicability

(1) General

Unless exempted, the provisions of this section shall be applied to development of all land in the city at the time of Preliminary Subdivision Plat (Chapter 33.1 of the City Code),Master Plan associated with an Amendment to the Zoning Map to establish an AC district (Section 40.1-5.1(B)), Development Plan (Section 40.1-2.3(C) & (D)), or a Zoning Compliance Permit (Section 40.1-2.3(F)), whichever occurs first.

(2) Exemptions

Development on lots within the D1 and D2 districts, and development in existence before May 1, 2010 shall be exempt from the open space set-aside standards in this section.

(C) Open Space Set-Aside Standards

(1) Amounts of Open Space Set Aside Required

All development not exempted from the requirements of this section shall set-aside the minimum amounts of open space set-aside identified in Table 40.1-5.4(C)(1), Required Open Space Set-Aside, below:

TABLE 40.1-5.4(C)(1): REQUIRED OPEN SPACE SET-ASIDE

USE CLASSIFICATION [1]	MINIMUM OPEN SPACE SET-ASIDE AREA (PERCENTAGE OF TOTAL DEVELOPMENT SITE AREA)
Residential development of 20 or more dwelling units	15%
Mixed-use development with less than 20 dwelling units	10%
Mixed-use development with 21 or more dwelling units	15%
NOTES: [1] See Table 40.1-4.1(A), Use Table	

(2) Types of Open Space Set-Aside Features

Each of the features and areas identified in Table 40.1-5.4(C)(2), Common Open Space Set-Aside Features, meeting the minimum standards in the table shall be credited towards the open space set-aside requirements of this section.

TABLE 40.1-5.4(C)(2): COMMON OPEN SPACE SET ASIDE FEATURES		
AREA COUNTED AS COMMON OPEN SPACE SET-ASIDE	**DESCRIPTION**	**MINIMUM STANDARDS**
NATURAL FEATURES		
	Includes any of the following: 1. Water features, including wetlands, natural ponds, streams, rivers, drainage channels, and lakes, and other riparian areas; 2. Flood hazard areas; 3. Slopes of 15% or more; and 4. Wildlife habitat areas	Where natural features exist, the developer or owner shall give priority to their preservation as common open space. In reviewing the proposed location of common open space set-asides, the Planning Director shall use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected. Maintenance is limited to a minimum removal and aviodance of hazards, nusiances, or unhealthy conditions.
ACTIVE RECREATIONAL AREAS		
	Land occupied by active recreational uses such as pools, playgrounds, tennis courts, jogging trails, ball fields, and clubhouses used primarily for recreational purposes.	Active recreation areas may occupy up to 100 percent of the common open space set-aside (if no natural features exist on the site), but in no case shall active recreation constitute less than 40% of the total open space set-aside area within a residential or mixed-use development. Land shall be compact and contiguous unless the land is used to link or continue an existing or planned open space resource. The site shall be bounded by at least one street, if reasonably practical.
FORMAL PLANTINGS AND GARDENS		
	Formally planned and regularly maintained open areas that provide passive recreation opportunities including arranged plantings, gardens, gazebos or similar structures.	Formal plantings and gardens shall have at least one direct access road, and be oriented to surrounding development. Roof gardens are also acceptable.

TABLE 40.1-5.4(C)(2): COMMON OPEN SPACE SET ASIDE FEATURES		
AREA COUNTED AS COMMON OPEN SPACE SET-ASIDE	**DESCRIPTION**	**MINIMUM STANDARDS**
SQUARES, FORECOURTS, PLAZAS, AND PARKS		
	Squares, forecourts, plazas, and parks provide active and passive recreational opportunities and help create special places.	Where provided, such features shall have a Minimum size of 200 square feet, and a maximum size of one acre. They shall have at least one direct access road. Surrounding buildings shall be oriented toward the square, forecourt, or park when possible and a connection shall be made to surrounding development.
REQUIRED LANDSCAPE AREAS		
	Required landscape areas serve as a buffer to surrounding areas. Except for landscaped areas within parking lots and areas occupied by street trees, all areas occupied by required landscaping may count as common open space.	Where landscaping and tree protection areas exist, they shall be counted toward open space set-asides.
STORMWATER MANAGEMENT DEVICES		
	Up to 75 percent of the land area occupied by stormwater management devices, including retention ponds, and other bio-retention devices may be counted towards the common open space set-aside requirement when such features are treated as a site amenity.	To qualify, stormwater management devices shall support passive recreation uses by providing access, gentle slopes less than 3:1, and pedestrian elements such as paths and benches.

TABLE 40.1-5.4(C)(2): COMMON OPEN SPACE SET ASIDE FEATURES		
AREA COUNTED AS COMMON OPEN SPACE SET-ASIDE	**DESCRIPTION**	**MINIMUM STANDARDS**
PUBLIC ACCESS EASEMENTS		
	Public access easements, which often combine utility easements, with paths or trails, are available for passive recreational activities such as walking, running and biking.	They shall include at least one improved access from a public sidewalk, street, trail, or easement that includes signage designating the access point.

(3) Not Counted as Open Space Set-Asides

(a) Not Counted as Open Space

The following areas shall not be counted as open space set-aside:

(i) Private yards not subject to an open space or conservation easement;

(ii) Public street rights-of-way or private street easements, including sidewalks located within those rights-of-way or easements;

(iii) Open parking areas and driveways for dwellings;

(iv) Land covered by structures not designated for active recreational uses; and

(v) Designated outdoor storage areas.

(4) Design Standards for Open Space Set-Asides

Land used as an open space set-aside shall meet the following design standards:

(a) Location

Open space shall be located so as to be readily accessible and useable by residents and users of the development. Where possible, a portion of the open space set-aside should provide focal points for the development.

(b) Access

For commercial and mixed uses, a reasonable portion of the open space set-aside shall abut at least one direct street access, to the maximum extent practicable.

Figure 40.1-5.4(C)(4): Open Space Set-Aside Configuration
Connecting open spaces helps provide better habitat and more sustainable environments.

(c) Configuration

(i) Lands set aside as open space shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.

(ii) Where open areas, trails, parks, or other open space resources are planned or exist adjacent to development, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other open area land.

(d) Orientation of Adjacent Buildings

Buildings adjacent to required open space set-asides shall have at least one entrance facing the open space set-aside.

(e) Provision in Multi-Phase Developments

(i) Multi-phase development shall preserve open space set-asides in phases, so that the first phase of development does not contain 100 percent of the open space allotted for the entire development, but does contain, at a minimum, its pro rata share of the total amount of required open space set aside.

(ii) Open space set-asides shall be apportioned among phases such that the total amount of open space set aside in a phase and any previously approved phases meets the open space set-aside standard as applied to the total area of the phase and previously approved phases.

(f) Prioritization of Open Space Set-Aside

To the maximum extent possible, the open space set-aside should be located and organized to include, protect, or enhance as many of the following open areas and features as possible, in the following order:

(i) Natural features;

(ii) Lands that may extend or enhance existing park or open space features;

(iii) Water features such as drainages, canals, ditches, lakes, natural ponds, and retention and detention ponds;

(iv) Landscaped buffers or visual transitions between different types or intensities of uses;

(v) Natural or geologic hazard areas or soil conditions, such as unstable or potentially unstable slopes, faulting, landslides, rockfalls, expansive soils, or floodplains;

(vi) Areas that accommodate multiple compatible open space uses rather than a single use.

(5) Use of Open Space Set-Asides

Open space set-asides required by this section shall not be disturbed, developed, or improved with any structures, except for those identified in Table 40.1-5.4(C)(2), Common Open Space Set-Aside Features, or other comparable uses.

(6) Ownership of Open Space Set-Asides

(a) Method of Ownership

(i) Open space set-aside areas shall be maintained as permanent open space through one of the following options:

a. A property or home owner's association which holds the land in deed-restricted private ownership and in common, and is responsible for managing and maintaining the land in common; or

b. Dedication of the land to a third party beneficiary like a non-profit environmental or civic organization.

(ii) All methods utilizing private ownership shall be in a form approved by the City Attorney, who shall review the documents to ensure perpetual maintenance, preservation, and restricted use, where appropriate.

(iii) If an open space set-aside is deeded to a property or home owners' association, it shall be established in accordance with the following:

a. The landowner shall submit documents for the creation of the home or property owners association to the city for review and approval, including the association's bylaws, all documents governing ownership, maintenance, and use restrictions for the open space set-aside, and a legal description of open space set-aside areas.

b. The landowner shall agree that the association shall be established by the landowner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before approval of the first subdivision or building permit for the development, whichever occurs first.

c. Membership in the association shall be automatic (mandatory) for all purchasers of land, dwelling units, or structures in the development, and their successors in title.

(iv) If the open space set-aside is to be held by a third party beneficiary like a non-profit civic organization, then it shall include deed restrictions that:

a. Govern the use of the open space set-asides, consistent with the standards in this section;

b. Run with the land in perpetuity; and

c. Include any other provisions the City Attorney deems necessary and appropriate to fulfill the requirements of this section.

40.1-5.5 MULTI-FAMILY DEVELOPMENT STANDARDS

(A) Purpose and Intent

These multi-family development standards are intended to:

(1) Promote greater compatibility between two- to four-family residential, townhouse, and multi-family development and other allowable uses in the city; and

(2) Establish a minimum level of quality for multi-family development.

(B) Applicability

(1) General

Except where exempted in accordance with Section 40.1-5.5(B)(2), Exemptions, these standards apply to all new two- to four-family residential, townhouse, and multi-family development in the city.

(2) Exemptions

Development within the Downtown (D1 and (D2) and historic districts shall comply with the regulations of this article and shall also comply with the sections found in Appendix sections A and B where they apply. The more restrictive regulations shall apply in cases of conflict.

(3) Redevelopment

Redevelopment of an existing two- to four-family residential, townhouse, or multi-family development that exceeds 33 percent of the building's reproducible value (exclusive of foundations) shall require the newly redeveloped portions to comply with the standards of this section, to the maximum extent practicable.

(4) Review for Compliance

Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3(C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(C) Plan for Development Required

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

(D) Multi-Family Development Standards

New two- to four-family residential, townhouse, and multi-family development shall comply with the following standards:

(1) Street Network

(a) On sites including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable.

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

(c) Street design shall conform to the city street design standards, but narrower-width streets are encouraged in the URH and NMU districts to promote pedestrian scale.

(d) Vehicular access driveways shall be at least 100 feet away from any major intersection, to the maximum extent practicable.

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

(f) Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

(2) Access and Circulation

(a) Pedestrian Circulation

(i) A clearly defined, visible, and identifiable pedestrian network (combination of walkways, low shrub or ground cover plantings, and trees) shall be provided between parking lots, public street sidewalks, open spaces, recreational facilities, and individual buildings.

(ii) Pedestrian walkways shall be at least five feet in width.

(iii) The owner or an owners association shall maintain pedestrian walkways outside public rights-of-way.

(iv) Where possible, pedestrian walkways shall be connected within parks, open spaces or common areas internal or external to the site.

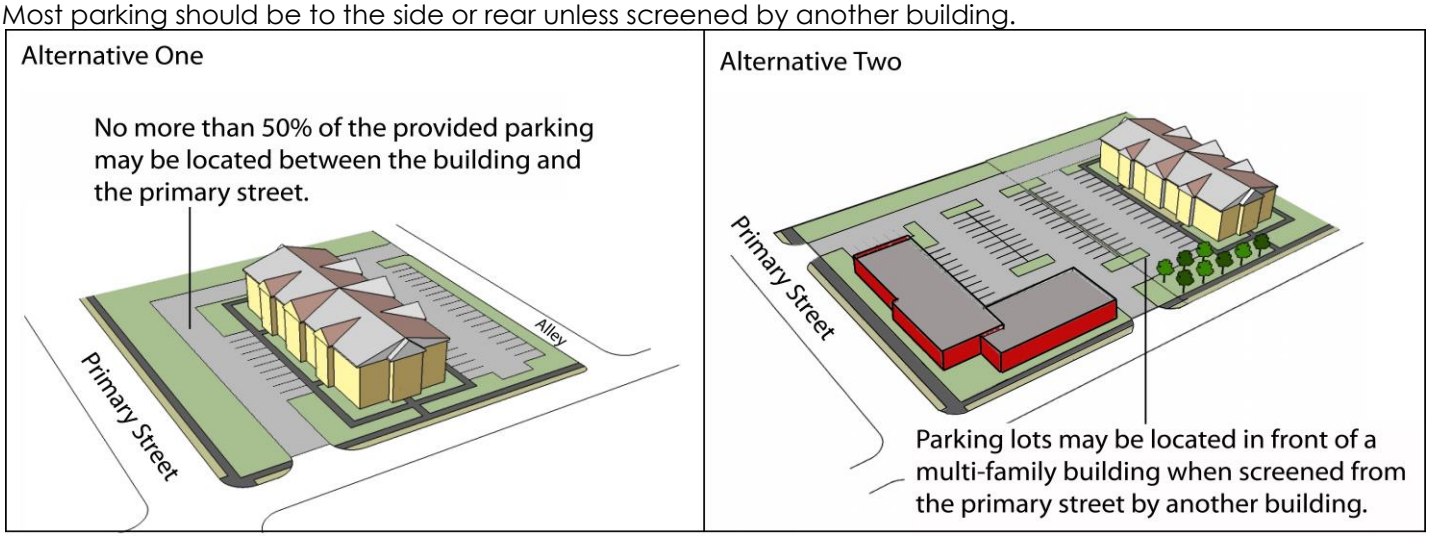
(v) Both vehicular and pedestrian access must be visible from the street or alley serving the development.

(vi) Pedestrian entrances to the site shall be accentuated through the use of landscaping, special paving, gateways, or smaller features.

(b) Parking Area Design and Location

(i) No more than 50 percent of the required parking shall be provided

Figure 40.1-5.5(D)(2)(b): Multi-Family Parking Area Design
Most parking should be to the side or rear unless screened by another building.



between the front yard and side yard, if the site is a corner lot, of the principal building and the street it fronts unless the principal building and the parking is screened from view by other development and landscaping.

(ii) Vehicular access to the development shall be provided from a secondary street or an alley, when present.

(iii) Site design, including entrances and parking lots, shall be coordinated with the location of existing and planned transit facilities.

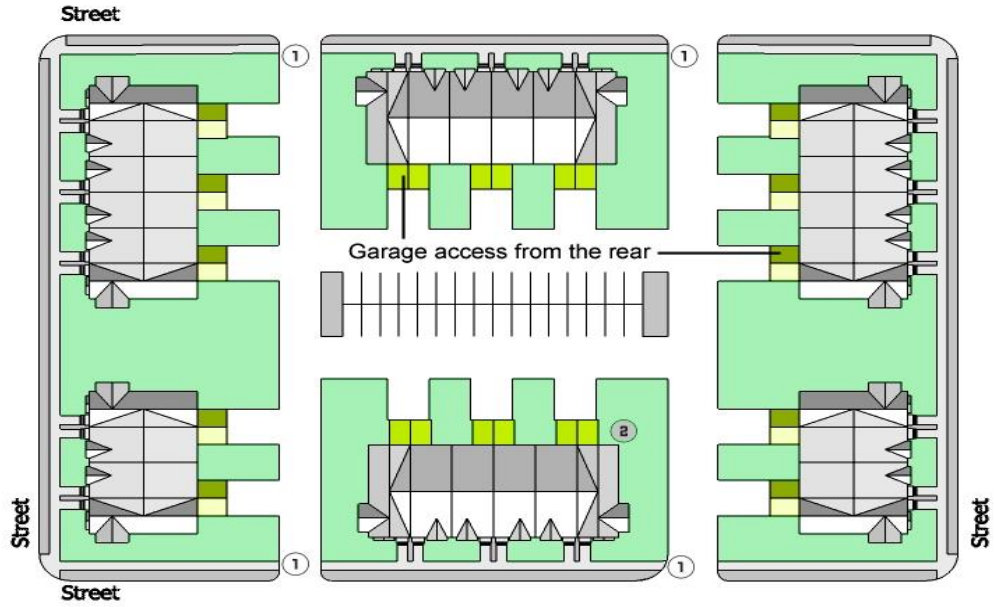
(c) Garage Standards

(i) Street-facing garages on corner lots shall be located to the side or rear of buildings.

(ii) Street-facing garages on interior lots shall be located at least two feet behind the front façade plane of the structure served.

(iii) Attached garages shall be accessed from alleyways or secondary streets, wherever possible.

Figure 40.1-5.5(D)(2)(c): Multi-family Garage Configuration



1 Attached garages accessed from alleys or parking lots
2 Architectural features of an attached garage compatible with the multi-family development

(iv) The exterior materials, design features, and roof form of garages shall be compatible with the building they serve.

(d) Service Area Placement and Screening

(i) Outdoor storage and trash collection areas shall be integrated with overall design of the building, or be screened in accordance with the standards in Section 40.1-5.2(F), Screening.

(ii) When specified in an approved master plan or other development approval, establishing multi-family development, private trash pick up shall be provided.

(3) Building Design

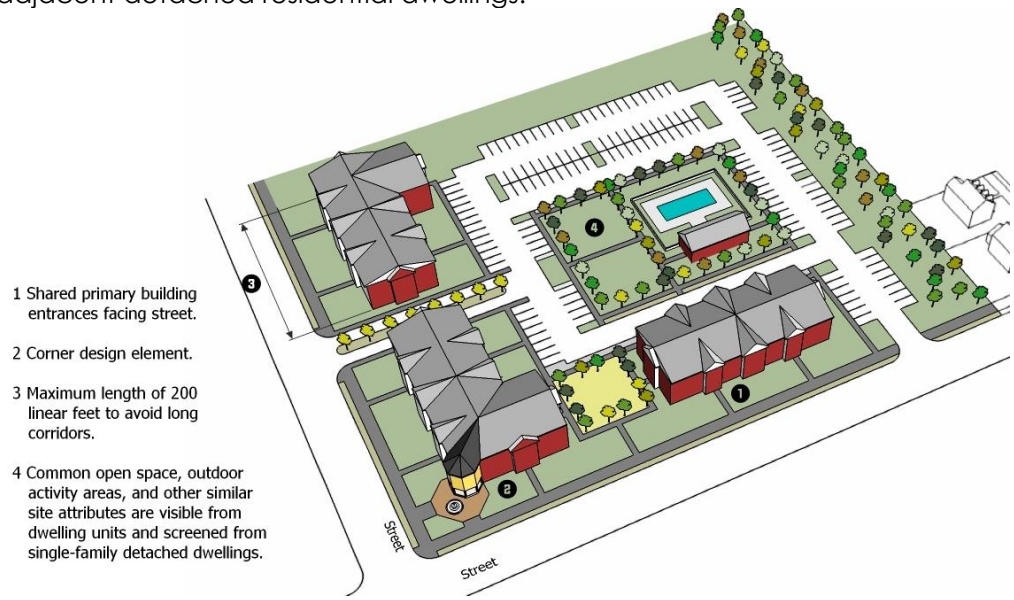
(a) Building Orientation and Entryways

(i) All building with shared building entrances shall be oriented so that primary entrance(s) faces the street. In case of corner lots, the primary entrance(s) shall face the street from which the building derives its street address.

(ii) Long linear corridors and hidden entrance(s) to buildings shall be avoided.

(iii) Buildings that do not have a direct and visible pedestrian entrance from a

Figure 40.1-5.5(D)(3): Multi-family Building Orientation
Multi-family buildings should be oriented to streets, and well-screened from adjacent detached residential dwellings.



public street shall at a minimum have windows or patios facing the street.

(iv) Common open spaces and children's play areas shall be clearly visible from the dwelling units on the site.

(v)

(b) Building Size

(i) Individual building floorplates for townhouse and multi-family building shall be in accordance with Table 40.1-5.5(D)(3)(b), Maximum Building Size:

(ii) The maximum length of any townhouse or multi-family structure shall be 200 linear feet, regardless of number of units. In no instance shall provision of a firewall between differing building sections constitute two separate structures.

TABLE 40.1-5.5(D)(3)(B): MAXIMUM BUILDING SIZE	
DISTRICT WHERE LOCATED	**MAXIMUM FLOORPLATE SIZE (SQUARE FEET) [1]**
Urban Residential (UR)	15,000 [2]
High Density Urban Residential (UR-H)	20,000
Neighborhood Mixed-Use (NMU)	15,000
General Mixed Use (GMU)	20,000
High-Intensity Mixed-Use (NMH)	25,000
NOTES: [1] Maximum building sizes apply only to portions of a building devoted to residential use. [2] Townhouse buildings only.	

(c) Maximum Height

Buildings subject to the standards of this section shall have a maximum height of three stories within 100 feet of a lot with an existing single-family detached residential dwelling, without an intervening public street. This standard shall apply regardless of any incentives, administrative adjustments, or master plans.

(d) Building Design and Placement

(i) Developments abutting public street corners shall provide one or more of the following elements:

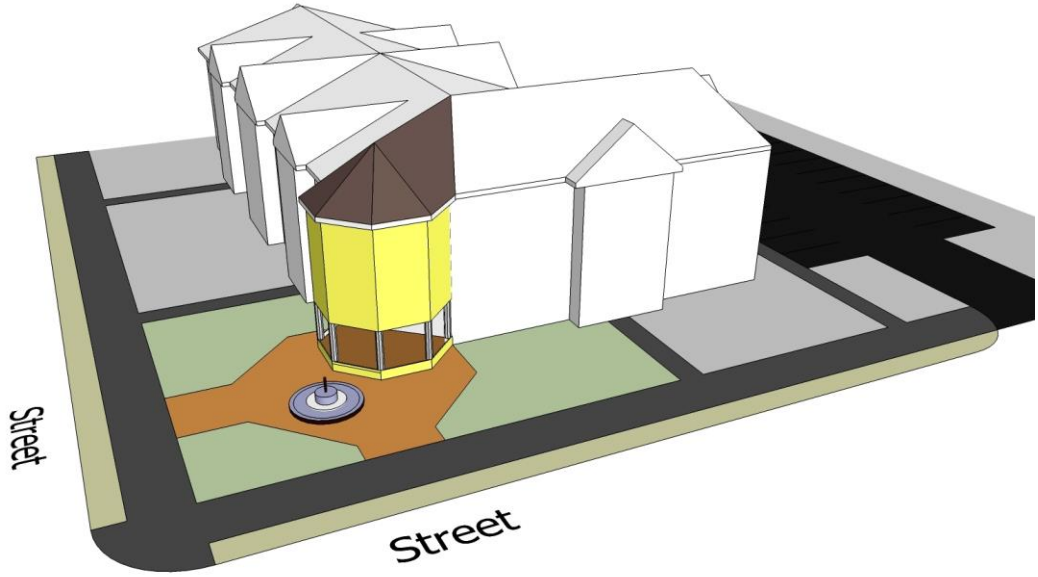
a. Plaza;

b. Placement of primary pedestrian entry;

c. Distinctive roof form; or

d. Other architectural features (e.g. porches, canopies).

Figure 40.1-5.5(D)(3)(d): Buildings Abutting Corners



(ii) Building details, including roof forms, siding materials, windows, doors, and trim shall reflect a similar level of quality and architectural detailing on all sides facing:

a. A street;

b. Abutting existing single-family development; and

c. Vacant land designated as a single-family district on the official zoning map.

(e) Facade Articulation

(i) Street-facing building facades shall be articulated with wall offsets at least two feet deep for every 30 feet of facade frontage.

(ii) In addition to wall offsets, front facades facing streets shall provide a minimum of three of the following articulation elements:

a. A covered porch;

b. One or more dormer windows or cupolas;

c. Pillars, posts or pilasters;

d. One or more bay windows with a minimum twelve-inch projection from the façade plane;

e. Multiple windows with a minimum of four-inch-wide trim;

f. Raised corniced parapets over the door;

g. Eves with a minimum of four-inch-wide trim; or

h. Integral planters that incorporate landscaped areas and/or places for sitting.

(iii) Side facades shall maintain at least ten percent of the facade area as windows.

(f) Roof Form

(i) Development shall incorporate roof pitches between 3:12 and 12:12, or shall incorporate a three-foot parapet with a three-dimensional cornice around a flat roof. Alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features.

(ii) All roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or otherwise be configured to the degree practicable, to have a minimal visual impact as seen from the street.

(g) Accessory Structures

(i) Access to accessory structures (such as garages, carports, storages, mailboxes, trash receptacles) shall be provided from alleys or secondary streets to the maximum extent practicable.

(ii) Accessory buildings shall be designed to be consistent with the principal structure through the use of materials, massing and color.

(iii) Accessory structures shall not physically obstruct pedestrian entrances.

(iv) Trash receptacles shall be located in an enclosed area.

(v) Fencing of multi-family development recreational amenities such as tennis courts, swimming pool must provide visibility and safety.

(4) Stormwater Management

(a) Stormwater Management

(i) Stormwater retention facilities shall not be located within front or corner side areas.

(ii) Stormwater retention ponds not designed as a site amenity shall be fully screened from off-site views.

(iii) Provided however, landscape plantings may be used to increase filtration and decrease runoff. Alternative designs, such as landscape islands configured with a lower grade than adjacent parking and Low Impact Design (LID's) or rain gardens are permitted and encouraged.

40.1-5.6 COMMERCIAL DEVELOPMENT STANDARDS

(A) Purpose and Intent

These commercial development standards are intended to:

(1) Promote a strong sense of place and pedestrian-friendly development;

(2) Encourage a pedestrian-friendly environment though attention to site features and human scale design;

(3) Foster greater compatibility between commercial development and adjacent residential neighborhoods; and

(4) Address the visual impact and compatibility of large-scale retail buildings.

(B) Applicability

(1) General

Except where exempted by Section 40.1-5.6((C), Exemptions, these commercial development standards apply to all uses in the Commercial Use Classification in Table 40.1-4.1(A), Use Table.

(2) Redevelopment

(a) Redevelopment of an existing building established before May 1, 2010 by 25 percent or more of the floor area devoted to commercial activities shall be subject to these standards.

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

(c) All redevelopment activities within any five-year period shall be treated as a single redevelopment for the purposes of determining the need for compliance with these standards.

(3) Commercial Development in the UR, UR-H, and NMU Districts

Commercial development in the UR, UR-H, and NMU districts shall comply with the standards in Section 40.1-5.6(F), General Commercial Standards, and Section 40.1-5.6(G), Additional Standards for Lots in the UR, UR-H, and NMU District.

(4) Large Retail Development

Single-tenant buildings of 60,000 gross square feet in size or more, with 60 percent or more of the total floor area occupied by retail sales activities, shall comply with the standards in Section 40.1-5.6(F), General Commercial Standards, and Section 40.1-5.6(G), Standards for Large Retail Buildings.

(5) Master-Planned Development Within an Activity Center District

These standards may be modified on in an activity center district through a master plan associated with an Amendment to Modify the Zoning Map to establish an AC district (Section 40.1-3.5(B)).

(C) Exemptions

Commercial development in the Downtown (D1) and (D2) districts and historic districts shall comply with the regulations of this article and shall also comply with the sections found in Appendix sections A and B where they apply. The more restrictive regulations shall apply in cases of conflict.

(D) Review for Compliance

Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3 (C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code),Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(E) Plan for Development Required

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

(F) General Commercial Standards

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

(1) Street Access

Except as permitted in Section 33.1-2 of the City Code, no building or other permit shall be issued for a proposed commercial use unless such use is located on a lot that abuts a fully-improved street. For the purposes of this section, "fully improved" shall mean a street that abuts the lot and extends to the centerline of the street right-of-way that complies with the all subdivision standards for streets.

(2) Street Network

(a) For development including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable.

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

(c) Street design shall conform to the city street design standards, but narrower-width streets are encouraged in the UR-H and NMU zoning districts to promote pedestrian scale.

(d) Vehicular access driveways shall be at least 100 feet away from any major intersection, to the maximum extent practicable.

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

(f) Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

(3) Street Trees

(a) Buildings subject to the standards in this section shall provide canopy trees along all street frontages (except alleys) located between the curb and sidewalk, or within five feet of the right-of-way when no sidewalk exists.

(b) Street trees shall be placed a maximum of 40 feet on-center.

(c) Understory trees may be used in cases where overhead utilities will remain after development is complete.

(4) Building Orientation

(a) The building façade containing the primary entrance shall be considered as the primary façade.

(b) The primary facades of all buildings shall face a public street serving the development.

(c) In the case of multi-building development, the perimeter buildings shall be oriented so that the primary facade faces a public street. Buildings interior to the site may be oriented to private streets or accessways.

(5) Multi-Building Development

Development composed of multiple buildings totaling 30,000 gross square feet or more shall be configured in one or more of the following ways:

(a) Break up the site into a series of smaller "blocks" defined by on-site streets, pedestrian walkways, or other circulation routes;

(b) Frame the corner of an adjacent street intersection or entry point to the development;

(c) Frame and enclose parking areas, public spaces, or other site amenities on at least three sides; or

(d) Frame and enclose outdoor dining or gathering spaces for pedestrians between buildings.

Figure 40.1-5(F)(5): Multi-Building Configuration
Development should enclose entryways or parking to create a stronger sense of place.

(6) Outparcel Development

(a) To the extent practicable, outparcels and their buildings shall be configured and located to define street edges, development entry points, and spaces for gathering between buildings.

(b) Spaces between buildings shall be enlivened with pedestrian amenities such as plazas, seating areas, parks and gathering places in addition to off-street parking spaces, to the extent practicable.

(c) Outparcel buildings located on lots at street corners shall be located and configured to define the corner through a combination of:

- **(i)** Locating the building as close to the right-of-way as is practicable;
- **(ii)** Limiting surface parking between the building and the streets;
- **(iii)** Providing a public gathering space adjacent to the corner;
- **(iv)** Distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

(d) Outbuildings within the same development shall include a consistent level of facade articulation on facades facing public streets, a gathering space, or parking lots.

(7) Gathering Spaces

(a) A portion of the spaces between buildings located on outparcels and/or multi-building developments shall be enlivened with pedestrian amenities such as small plazas, seating areas, and central gathering spaces. These places shall include at least two of the following:

- **(i)** Patio/seating area;
- **(ii)** Pedestrian plaza with benches;
- **(iii)** Window display areas;
- **(iv)** Outdoor play area;
- **(v)** Kiosk;
- **(vi)** Water feature;
- **(vii)** Clock tower; or
- **(viii)** Other features or amenities as approved by the Planning Director.

(b) Gathering places with pedestrian amenities shall be located in prominent, central locations.

(c) Gathering places shall have direct access to the site pedestrian network.

Figure 40.1-5.6(F)(7): Gathering Places
Spaces between outbuildings can serve as public gathering spaces.

(8) Service and Loading Area Placement and Screening

(a) Outdoor storage, trash collection, and loading areas shall be integrated with the overall design of the building, or be screened in accordance with the standards in Section 40.1-5.2(F), Screening.

(b) Outdoor storage, trash collection, and loading areas shall not be located within 20 feet of the public or private rights-of-way.

(c) Shopping cart containment areas shall not be located adjacent to internal public spaces, plazas, or commercial streets.

(d) Exterior shopping cart storage areas located adjacent to a building shall be screened by an opaque fence or wall of at least four feet in height.

(9) Roof-Mounted Equipment

(a) All rooftop equipment shall be screened from all off-street views.

(b) When flat roofs are used, parapet walls with three dimensional cornice treatments shall be used to conceal roof-mounted equipment.

(10) Glazing

(a) Except for development subject to the standards for large retail, the front façade of buildings shall provide glazing for at least 40 percent of the ground floor facade

area between 2 feet above grade to 8 feet above grade towards the street that the front façade faces.

(b) On corner lots, other building facades that face a public street shall be designed with one or more of the following:

(i) Glazing for at least 40 percent of the ground floor facade area between 2 feet above grade to 8 feet above grade;

(ii) Recessed wall elements equal in area and location to the glazing requirement in (a) above and compatible with the overall architectural design and details of the building;

(iii) A mural or other artistic design of a non-commercial nature and of durable materials depicting an appropriate aspect of Portsmouth as determined by the Zoning Design Review Committee (ZDRC)comparable in size to the glazing requirement in (a) above; OR,

(iv) An alternative wall design specifically submitted and approved by the Zoning Design Review Committee (ZDRC)or as part of a Use Permit application that meets the design intent of this section.

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

(c) All street-level widows shall be visually permeable between a height of three feet and eight feet above the walkway grade.

(d) Reflective or tinted glass that obstructs views into the building shall not be used on 1st floor building facades adjacent to sidewalks.

(11) Accessory Structures

Accessory structures shall comply with the standards in Section 40.1-4.4, Accessory Use Standards, and the following standards:

(a) Access to accessory structures shall be provided from alleys or secondary streets, whenever possible.

(b) Accessory structures shall be compatible with the principal structure in terms of, materials, massing, and color.

(c) Accessory structures shall not physically obstruct pedestrian entrances or travelways.

(d) Trash receptacles and refuse collection areas shall be located in an enclosed area.

(12) Off-Street Parking Location

Development subject to the standards of this section, except for development in the UR, UR-H, and NMU districts, shall limit the amount of off-street parking between the primary or front façade and the street it faces in accordance with Table 40.1-5.6(F)(12), Off-Street Parking Location.

TABLE 40.1-5.6(F)(12): OFF-STREET PARKING LOCATION	
DEVELOPMENT SIZE (SQ. FT.)	AMOUNT OF PARKING THAT MAY BE LOCATED BETWEEN THE FRONT FAÇADE AND THE STREET [1][2]
< 10,000	1 single loaded bay
10,000 – 29,999	2 single loaded bays
30,000 – 60,000	4 bays
> 60,000	60% of total provided
NOTES: [1] And side of the buildings and the street, when on a corner lot. [2] Parking bays may extend the full length of the front façade.	

(13) On-Site Circulation

(a) Pedestrian Circulation and Walkways

Pedestrian walkways shall:

(i) Connect all buildings within a multi-building development with the larger pedestrian network surrounding the site.

(ii) Have a minimum width of five feet.

(iii) Be provided along the full length of building facades with an entryway or facing off-street parking areas.

(iv) To maximize pedestrian safety, crosswalks shall be provided at all intersections and other street crossings (both external and internal to the site) where a high-level of pedestrian movement is anticipated.

(v) Site design, including entrances and parking lots, shall be coordinated with the location of existing and planned transit facilities.

(b) Parking Lot Cross-Access

Commercial development shall be designed to allow for vehicular cross-access to adjacent, compatible developments in accordance with the following standards:

(i) Cross-access ways shall be designed and located based on the standards of this section, but in no case shall a development be required to provide cross-access to more than two adjacent parcels.

(ii) Cross-access ways shall allow for two-way traffic between parcels through the use of a single drive aisle with a minimum width of 22 feet, or through two one-way aisles, each with a minimum width of 11 feet.

(iii) The cross-access standard may be waived by the Planning Director if the applicant demonstrates it is impractical to provide cross-access due to:

a. Topography, or natural features;

b. The size and configuration of the site;

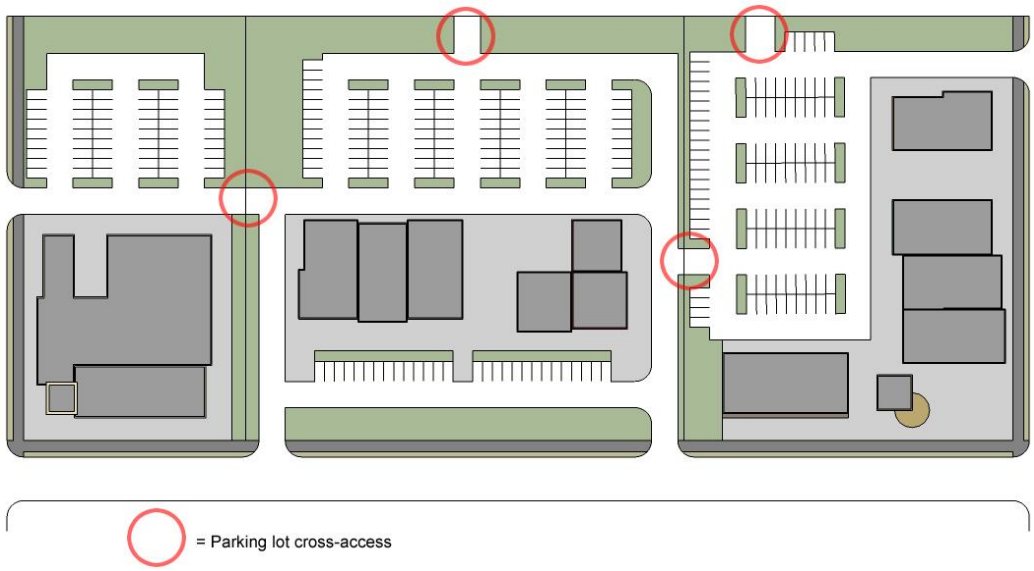
c. Vehicular safety factors;

d. The presence of incompatible uses; or

e. Existing development patterns on adjacent developed sites.

(iv) When cross-access is waived in accordance with this section, bicycle and pedestrian connections shall be provided between adjacent developments or uses, unless it is unreasonable or impracticable.

Figure 40.1-5.6(F)(13): Parking Lot Cross-Access
Cross-access between buildings helps maintain safety and street function.



(14) Drive-through Configuration

(a) Drive-throughs shall be located to the side or at the rear of the building so as not to compromise the quality of the pedestrian experience at the street edge.

(b) A drive-through may be permitted on the front façade, provided the building is located 150 feet or more from the edge of the right-of-way.

(c) Drive-throughs serving a building located on a corner lot shall be located to the rear or interior side. In no instance shall the drive-through be located on the side of a building facing a street.

(d) If covered, the roof over the drive-through shall be of a complementary architectural design as the design covering the primary portion of the structure.

(15) Stormwater Management

(a) Stormwater retention facilities shall not be located within front or corner side areas.

(b) Stormwater retention ponds not designed as a site amenity shall be fully screened from off-site views.

(c) Provided however, landscape plantings may be used to increase filtration and decrease runoff. Alternative designs, such as landscape islands configured with a lower grade than adjacent parking and Low Impact Design (LID's) or rain gardens are permitted and encouraged.

(G) Additional Standards for Development in the UR, UR-H, and NMU Districts

In addition to the general commercial standards, commercial development in the UR, UR-H, and NMU districts shall comply with the following standards.

(1) Off-Street Parking Areas

Commercial development located within a UR, UR-H, or NMU district shall be exempted from the parking location standards in Section 40.1-5.1, Off-Street Parking Location, and shall comply with the following standards:

(a) All required off-street parking shall be provided on the side or rear of the building.

(b) A single-loaded parking bay shall be permitted between a building and the street it faces when the building contains two or more useable floors.

(2) Front Building Setbacks

Except for outparcel buildings on corner lots, front building setbacks shall vary no more than 125 percent from the average building setback of buildings along the same block face. In cases where the average front setback is not discernable (e.g., the block face is vacant or lacks more than one building), the minimum front setback shall be established by the base zoning district standards.

(3) Building Facades

(a) Front building facades of more than 50 feet in length shall be articulated into a series of evenly-spaced storefronts to increase visual interest and pedestrian orientation. Such buildings shall incorporate two or more of the following design elements on each facade visible from a street:

(i) Changes in wall plane (such as projections or recesses) with an offset or depth of at least one foot, a width of at least ten feet, located a minimum of every 25 feet;

(ii) Distinct changes in texture and color of wall surfaces;

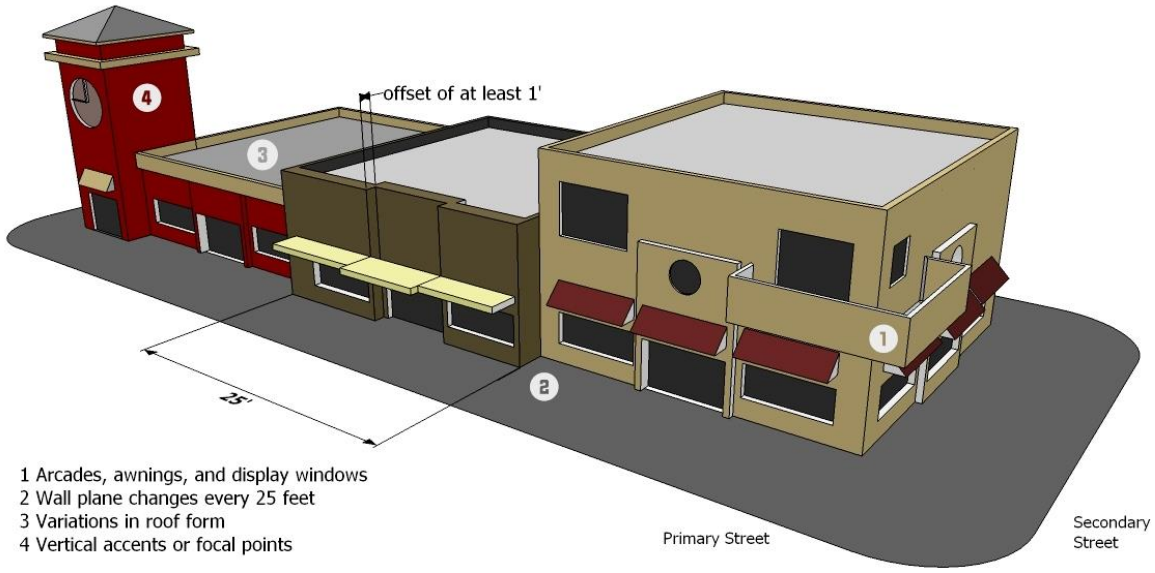
(iii) Variations in roof form and parapet heights;

(iv) Vertical accents or focal points; or

(v) Features such as arcades, display windows, entry areas, or awnings.

(b) All facade treatments shall be of similar scale and design.

Figure 40.1-5.6(G)(3): Commercial Building Facades
Building articulation provides visual interest and greater pedestrian orientation.



(4) Roofs

(a) New buildings shall use a pitched roof or a sloped parapet to maintain compatibility with surrounding residential uses.

(b) A flat roof shall be permitted for new buildings located between two existing buildings with flat roofs.

(5) Drive-Throughs Prohibited

Drive-throughs are not permitted for commercial developments within UR, UR-H, and NMU districts.

(6) Cross Access Not Required

Vehicular cross access between a commercial use and an abutting residential or public use is not required.

(H) Standards for Large Retail Development

In addition to the general commercial standards, all new single tenant buildings of 60,000 gross square feet in area or more with 60 percent or more of the total floor area occupied by retail sales activities, shall comply with the following standards.

(1) Building Entrances

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

(a) Canopies or porticos;

(b) Overhangs;

(c) Recesses/projections;

(d) Arcades;

(e) Raised corniced parapets over the door;

(f) Peaked roof forms;

(g) Arches;

(h) Outdoor patios;

(i) Display windows;

(j) Architectural detail such as tile work and moldings integrated into the building structure and design; or

(k) Integral planters that incorporate landscaped areas and places for sitting.

(2) Building Massing

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

(i) Changes in wall plane, such as projections or recesses, having a wall offset of at least one foot depth, and located a minimum of every 40 feet. Each required offset shall have a minimum width of ten feet;

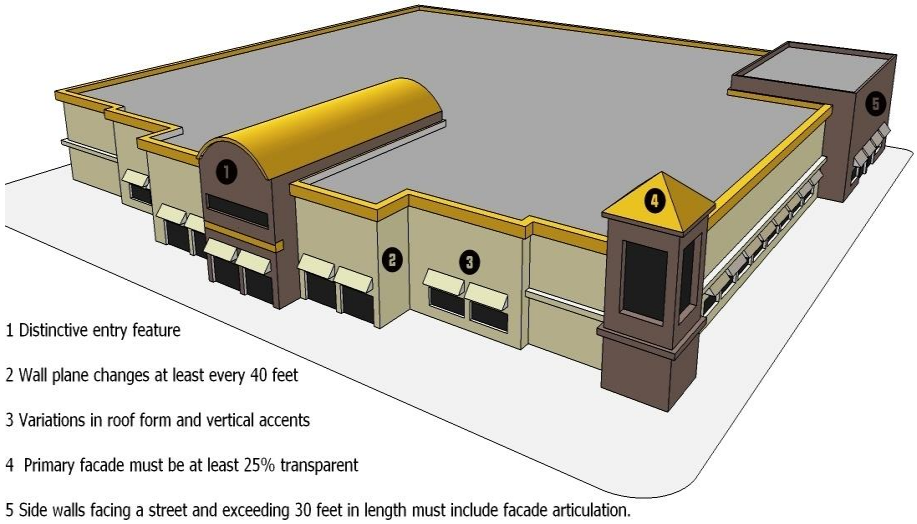
(ii) Distinct changes in texture and color of wall surfaces;

(iii) Variations in roof form and parapet heights;

(iv) Vertical accents or focal points.

(b) Side walls exceeding 30 feet length shall have facade articulating elements such as columns and/or changes in plane, texture, or masonry pattern.

Figure 40.1-5.6(H)(2): Large Retail Massing
Articulation can reduce the scale and monolithic nature of large retail buildings.

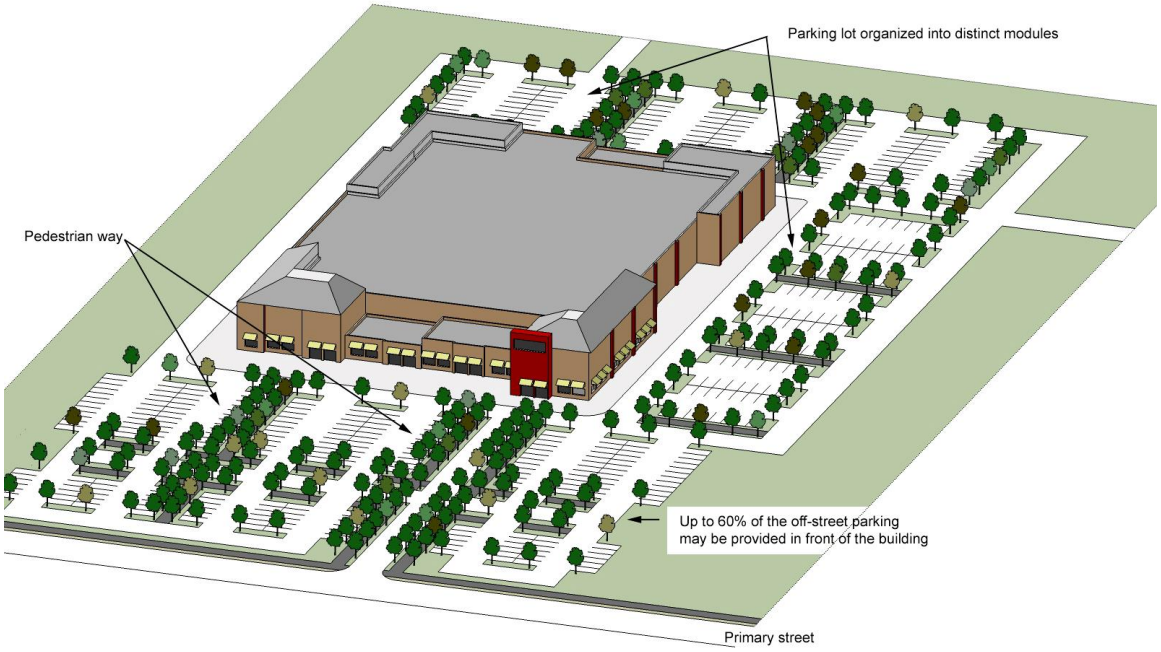


(3) Off-Street Parking Location Standards

(a) Up to 60 percent of the total parking provided is permitted to be located between the front façade of a building and the street it faces.

(b) Off-street parking lots of 250 or more spaces serving a large retail building shall be organized into a series of parking bays surrounded by buildings, landscaping, or streets.

Figure 40.1-5.6(H)(3): Large Retail Parking Lot
Organizing surface parking lots into different "bays" or "pods" can help reduce their visual dominance.



(4) Glazing

(a) Facades of large retail buildings facing a street shall include glazing in an amount equal to 25 percent of the ground floor facade area.

(b) Glazing on side facades may consist of clear, frosted, or spandrel glass, and shall be organized into a display window configuration.

40.1-5.7 TRANSITIONAL STANDARDS

(A) Purpose and Intent

These transitional standards are intended to:

(1) Provide proper transition and compatibility between single-family detached development and other more intense development.

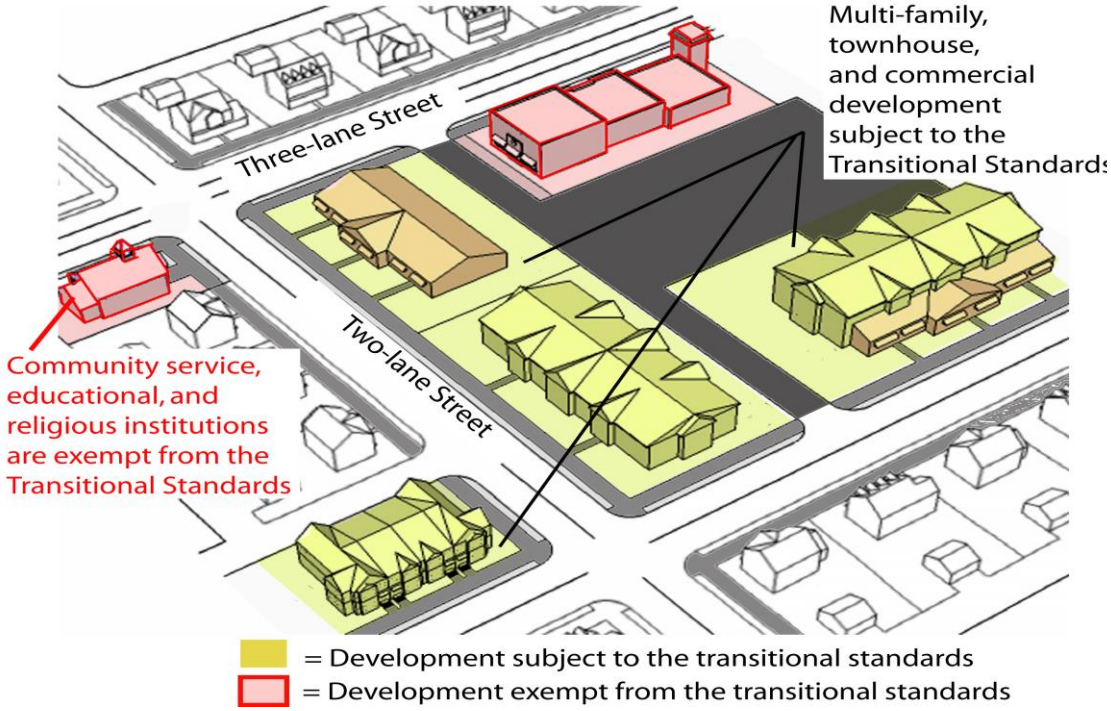
(2) Establish or maintain vibrant pedestrian-oriented areas where differing uses can operate in close proximity to one another.

(3) Protect the character of single-family development from negative impacts resulting from adjacent more intense forms of development.

(B) Applicability

These transitional standards apply to commercial, industrial, mixed-use, attached residential, townhouse, two- to-four-family residential, and multi-family development located on land abutting or across a local street or alley from existing single-family detached residential development.

Figure 40.1-5.7(B): Applicability of Transitional Standards



(C) Exemptions

The following development is exempt from these standards:

(1) Community service, educational facilities, religious institutions, and utilities (See Table 40.1-4.1(A), Use Table);

(2) Commercial, industrial, mixed-use, attached residential, townhouse, two- to four-family residential, or multi-family development located across a street with three-or more lanes from single-family detached residential development; and

(3) Development within the D1 or D2 districts.

(D) Review for Compliance

Review for compliance with the standards of this section shall occur during review of a Development Plan (Section 40.1-2.3(C) & (D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code) Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Zoning Compliance Permit (Section 40.1-2.3(F)), as appropriate.

(E) Plan for Development Required

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

(F) Transitional Development Standards

Development subject to the standards of this section shall comply with the following standards.

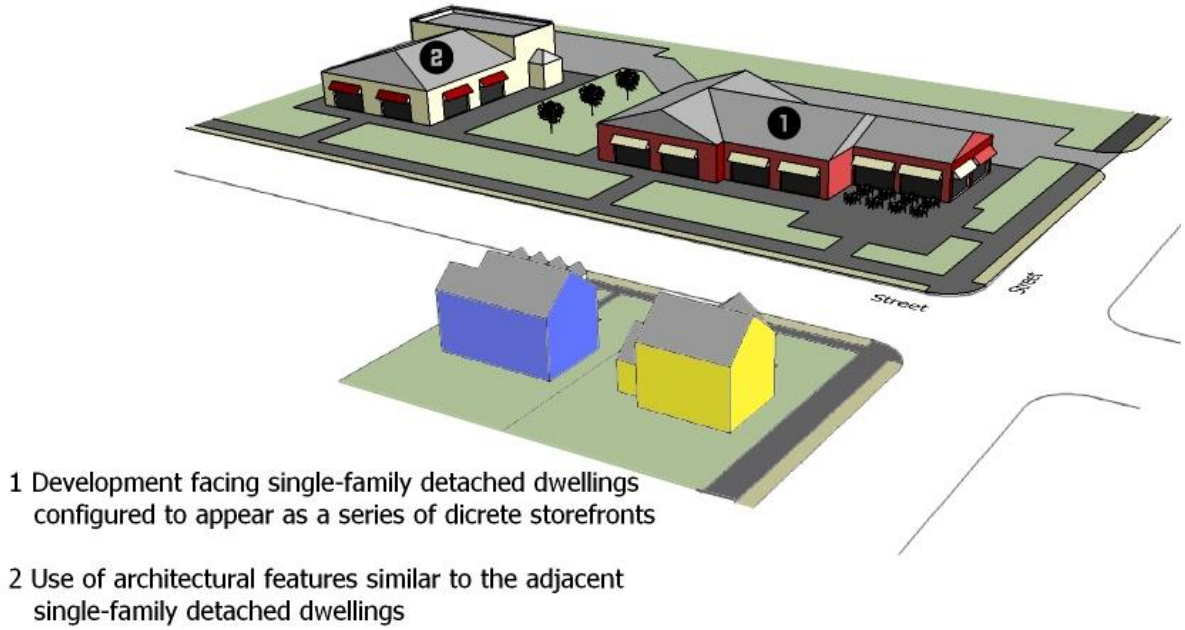
(1) Building Placement

Buildings shall be oriented towards the street from which they derive their street address.

(2) Building Setback

Building setbacks shall be consistent with other buildings on the block face and across the street to maintain a consistent plane or edge of buildings along public frontages. Building setbacks shall vary no more than ten percent than the adjacent buildings setbacks.

Figure 40.1-5.7(F): Building Facades in Transitional Areas



(3) Building Facades

Buildings shall:

(a) Be configured to appear as a series of discrete storefronts if facades face single-family detached dwellings, with no single storefront occupying more than 50 percent of the total façade width;

(b) Use exterior colors that are compatible with nearby single-family detached dwellings;

(c) Use similarly sized and patterned architectural features such as windows, doors, awnings, arcades, pilasters, cornices, wall offsets, building materials, and other building articulations found on adjacent single-family detached dwellings; and

(d) Orient porches, balconies, outdoor space, and other exterior site features such as vending machines away from adjacent single-family detached dwellings.

(4) Building Height

(a) Buildings on lots adjacent to single-family detached dwellings shall maintain the same height as the dwelling, or be stepped-back from the lot line such that the lowest portion of the building is the portion closest to the single-family detached dwelling.

(b) No building within 150 feet of a single-family detached dwelling shall exceed 36 feet in height.

(c) In instances when buildings or portions of buildings are allowed to exceed 35 feet in height, they shall be broken up into modules or wings with the smaller and shorter portions of the structure located adjacent to single-family detached dwellings.

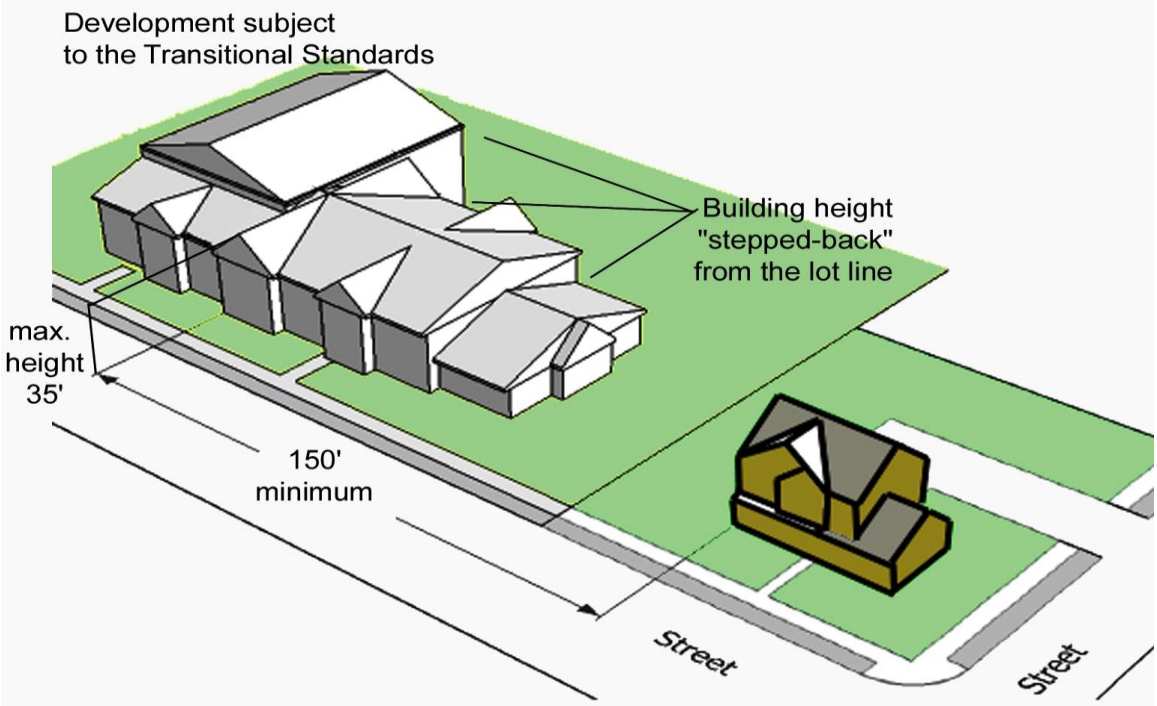


Figure 40.1-5.7(F)(5): Building Heights and Roof Forms in Transitional Areas
Building heights need to be reduced when abutting single-family structures.

(5) Similar Roof Forms

Consistency in roof forms with adjacent buildings shall be addressed by using a similar roof form with varying height and proportion.

(6) Service and Loading Area Location and Screening

(a) Separate service related activities associated with commercial uses shall be located behind or to the sides of buildings away from the adjacent residential uses, screened with walls and/or landscaping, and provided with access that is integrated with parking areas and the vehicular circulation network.

(b) Outdoor storage, trash collection, and loading areas shall not be visible from public or private rights-of-way.

(7) Parking and Driveways

When required, off-street parking shall be established in one of the following locations (listed in priority order):

(a) Adjacent to off-street parking lots serving nonresidential uses on abutting lots;

(b) Adjacent to lot lines abutting nonresidential development;

(c) Adjacent to lot lines abutting mixed-use development;

(d) On a lot's corner side;

(e) Behind the building;

(f) In front of the building; or

(g) Adjacent to lot lines abutting single-family detached dwellings.

(G) Drive-Throughs

Ordering speakers and menu boards associated with a drive-through use shall be located as far as possible from abutting single-family detached development.

(H) Outdoor Activity Areas

Outdoor dining and other outdoor gathering areas that generate noise shall be located away from abutting detached single-family residential uses so as to minimize acoustic impacts.

(I) Open Space

(1) Location of Open Space

Buildings subject to these standards and the standards in Section 40.1-5,4 Open Space Set Asides, shall locate the open space set-aside adjacent to existing single-family dwellings, if reasonably possible.

(2) Existing Natural Features

Natural features such as existing vegetation, natural differences in topography, streams, wetlands, and other such features shall be used as transitions where possible. Where such natural features are used as transitions, pedestrian connections to adjoining land uses shall be provided.

Figure 40.1-5.7(H): Outdoor Activity Areas
Locating outdoor areas away from residential development helps ensure compatibility.

(J) Use Intensities

For multi-building development including varying intensities in the different buildings, a gradual gradation of uses shall be provided with the least intense use next to abutting detached single-family residential uses or zoning.

(K) Operational Standards

Upon approval of development application, the city may impose conditions as described in the Procedures Manual to limit operational activities of the development to ensure it is compatible with adjoining residential uses. These operational activities include but are not limited to placement of trash receptacles, location of delivery and loading zones, placement and illumination of outdoor vending machines, hours of operation, and other such conditions.

40.1-5.8 GREEN BUILDING INCENTIVES

(A) Purpose

In an effort to encourage sustainable development practices within the zoning districts as a means of addressing global climate change, the protection of natural resources, and ensuring a high quality of life for future city residents, the following green building incentives are provided.

(B) Type of Bonuses

(1) Development providing green building features in accordance with the provisions of this section shall be eligible for bonuses including:

(a) A density bonus of up to 20 percent beyond the maximum allowable gross residential density;

(b) An increase in the maximum allowable height by up to two stories beyond the maximum allowed in the base zoning district;

(c) An increase in the maximum allowable building coverage by 15 percent beyond the maximum allowed in the base zoning district;

(d) A reduction in the total amount of required landscaping material for site landscaping and perimeter buffers by up to 35 percent;

(e) A modification to the off-street parking requirements resulting in a reduction from the minimum requirements by 15 percent, or an increase to the maximum allowable number of spaces provided by 15 percent; or

(f) A reduction in the amount of open space set-aside by 10 percent.

(2) Development may include a sufficient number of green building features to take advantage of more than one type of bonus, but in no instance shall the amount of an incentive be increased or decreased (as appropriate) beyond the maximum listed in this sub-section.

(C) Applicability

(1) The incentives included in this section are available to new development in the business, special, and UR-H districts.

(2) Sustainability bonuses shall be limited to those related to building height or gross residential density in the Downtown (D1) and (D2) districts.

(D) Conflict with Transitional Standards

In cases where bonuses in this section conflict with the transitional standards in Section 40.1-5.7, the transitional standards shall control.

(E) Procedure

(1) Development seeking to use green building incentives shall include a written request with the development application.

(2) Review for compliance with this section, and receipt of a bonus in accordance with this section shall occur during review of a Development Plan (Section 40.1-2.3 (C) & (D)), Master Plan associated with an Amendment to the Zoning Map to establish a new AC district (Section 40.1-3.5(B)), or Use Permit (Section 40.1-2.3(B)), as appropriate.

(3) The bonus shall be based on the number of green building features provided, in accordance with Table 40.1-5.8, Green Building Bonuses, and Section 40.1-5.8(F), Menu of Green Building Features.

TABLE 40.1-5.8: GREEN BUILDING BONUSES		
TYPE OF BONUS [1]	MINIMUM NUMBER OF GREEN BUILDING FEATURES PROVIDED	
	FROM SCHEDULE A	FROM SCHEDULE B
Increase in gross residential density by up to 10 percent beyond district maximum	1	3
Increase in building height by 1 story beyond district maximum	1	2
Increase in the maximum building coverage by up to 5 percent	1	2
Modification in the minimum or maximum number of off-street parking spaces by up to 5 percent	1	2
Increase in gross residential density by between 10 and 20 percent beyond district maximum	2	4
Increase in building height by 2 stories beyond district maximum	2	4
Increase in the maximum building coverage by 5 to 15 percent	2	3
Modification to the minimum or maximum number of off-street parking spaces by between 5 and 15 percent	2	2
NOTES: [1] In case of conflict between the type of bonus and the minimum required transitional standards, the standards in Section 40.1-5.7, Transitional Standards, shall control.		

(F) Menu of Green Building Features

One or more of the following green building features may be offered by an applicant for proposed development in accordance with Table 40.1-5.8, Green Building Bonuses.

TABLE 40.1-5.8(F): MENU OF GREEN BUILDING FEATURES	
SCHEDULE	FEATURE
ENERGY	
A	Generation of a minimum of 20 percent of the electricity needed by the development from alternative energy sources (solar, wind, geothermal, or biomass) within five years
A	Proof of purchase of carbon offsets in an amount equivalent to 15 percent of the construction costs within five years
B	Design buildings so that they can accommodate the installation and operation of solar photovoltaic panels or solar thermal heating devices
RECYCLING/WASTE REDUCTION	
A	Utilize recycled materials for 50 percent of streets, off-street parking, sidewalks, curbs, and 25 percent of building materials
B	Provide at least enclosed recycling station per building suitable for storage and collection of recyclable generated on-site
SITE CONFIGURATION	
B	Provision of a community garden with at least 500 square feet per dwelling that is controlled by a property-owners association
B	Use of paving materials in driveways and parking lots that have solar reflectance index (SRI) score of at least 29 (SRI is a measure of a parking lot's ability to reject solar heat; a higher SRI yields a cooler parking lot)
B	Configuration of new buildings with one axis 1.5 times longer than the other, and the long axis oriented in an east-west configuration for solar access
A	Include underground parking or a parking structure

TABLE 40.1-5.8(F): MENU OF GREEN BUILDING FEATURES	
SCHEDULE	**FEATURE**
A	Provide for mixed-use structures with active retail or personal service uses on ground floors, and residential uses on upper floors
RESOURCE CONSERVATION	
B	Provision of 150-foot undisturbed buffers adjacent to all perennial stream banks, wetlands, and bodies of water
A	Use only native vegetation for required landscaping
A	Use of Low Impact Development (LID) techniques instead of retention or detention ponds for stormwater management
B	Preservation of 15 percent of the tree canopy on a site comprised of the canopies of trees 10" or greater in DBH
A	Double the minimum open space set-aside amount
A	Remediate site contamination on a documented (by means of a Phase II Environmental Site Assessment) "brownfield" site
TRANSPORTATION	
A	Provision of a network of multi-purpose trails with at least one connection to the public greenway or sidewalk system for every acre of land
B	Inclusion of showering and dressing facilities in nonresidential development for employees using alternative forms of transportation
A	Provide on-site transit facilities (e.g., designated park-and-ride parking spaces, bus shelters, water-taxi stops, or similar features
BUILDING CONFIGURATION	
A	Inclusion of green roofs on at least 30 percent of the roof area within the development
B	Meet minimum Energy Star (or equivalent) criteria for at least 75 percent of the residential floor area
A	Design the building to achieve a minimum LEED certification of platinum [1]
A	Design the building to achieve a minimum LEED certification of gold
B	Design the building to achieve a minimum LEED certification of silver
B	Include shade features (e.g., awnings, louvers, shutters, overhangs, etc.) to shade all windows and doors on the southern building facade
B	Design buildings such that 25 percent of the residential units are consistent with Universal Design practices
A	Design buildings such that 50 percent of the residential units are consistent with Universal Design practices [1]
WATER CONSERVATION	
A	Inclusion of a recycled or grey water system for landscaping irrigation
B	Use xeriscape landscaping techniques with no turf or lawn
NOTES: [1] Credited as provision of two schedule "A" features.	

40.1-5.9 EXTERIOR LIGHTING

(A) Purpose

The purpose of this section is to regulate light spillage and glare to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent properties. More specifically, this section is intended to:

(1) Regulate Exterior Lighting to Mitigate Adverse Impacts

Regulate exterior lighting to assure that excessive light spillage and glare are not directed at adjacent properties, neighboring areas, and motorists;

(2) Ensure Proper Insulation

Ensure that all site lighting is designed and installed to maintain adequate lighting levels on site while limiting negative lighting impacts on adjacent lands; and

(3) Provide Security

Provide security for persons and land.

(B) Applicability

(1) General

The provisions of this section shall apply to all development in the city unless exempted in accordance with Section 40.1-5.9(C), Exemptions.

(2) Time of Compliance

An exterior lighting plan shall be submitted and approved along with an application for a Development Plan (Section 40.1-2.3(C) &(D)), Preliminary Subdivision Plat (Chapter 33.1 of the City Code), Zoning Compliance Permit (Section 40.1-2.3(F)), or Temporary Use Permit (Section 40.1-2.3(E)), whichever occurs first.

(C) Exemptions

The following is exempted from the exterior lighting standards of this section.

(1) Single-family detached dwellings;

(2) Existing athletic field lighting;

(3) City-owned, -operated, or -maintained street lights located within a street right-of-way or other easement granted to the city;

(4) Lighting and fixtures approved as part of a Certificate of Appropriateness (Section 40.1-2.3(I); and

(5) Lighting approved as part of a Zoning Compliance Permit (Section 40.1-3.2(H)) in the Downtown (D2) district.

(D) General Standards for Exterior Lighting

(1) Hours of Illumination

Public and institutional uses, commercial uses, and industrial uses (See Table 40.1-4.1(A), Use Table.) that are adjacent to existing residential development or vacant land in residential districts shall turn off all exterior lighting—except lighting necessary for security or emergency purposes—within one hour of closing. For the purposes of this subsection, lighting "necessary for security or emergency purposes" shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways, or to illuminate outdoor storage areas. Such lighting may be activated by motion sensor devices.

(2) Illumination Direction

In all districts, lighting shall be directed downward. In addition, upwardly-directed lighting shall not be used to illuminate structures, except for low-wattage architectural lighting or lighting for the American flag.

(E) Design Standards for Exterior Lighting

All exterior lighting shall meet the following standards:

(1) Maximum Lighting Height

(a) Except for outdoor sports fields or performance areas, the height of outdoor lighting, whether mounted on poles or walls or by other means, shall be no greater than 16 feet in residential districts and no greater than 30 feet in other districts.

(b) Wherever possible, illumination of outdoor seating areas, building entrances, and walkways shall be accomplished by use of ground mounted fixtures not more than four feet in height.

(2) Shielding

(a) Exterior

Light fixtures in excess of 60 watts or 100 lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets.

(b) Interior

No interior light source shall be positioned, aimed, or configured so as to result in the light source being visible from land occupied by existing residential development.

(c) Canopies

No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

(d) Awnings

Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e., from underneath or behind the awning).

(3) Maximum Illumination Levels

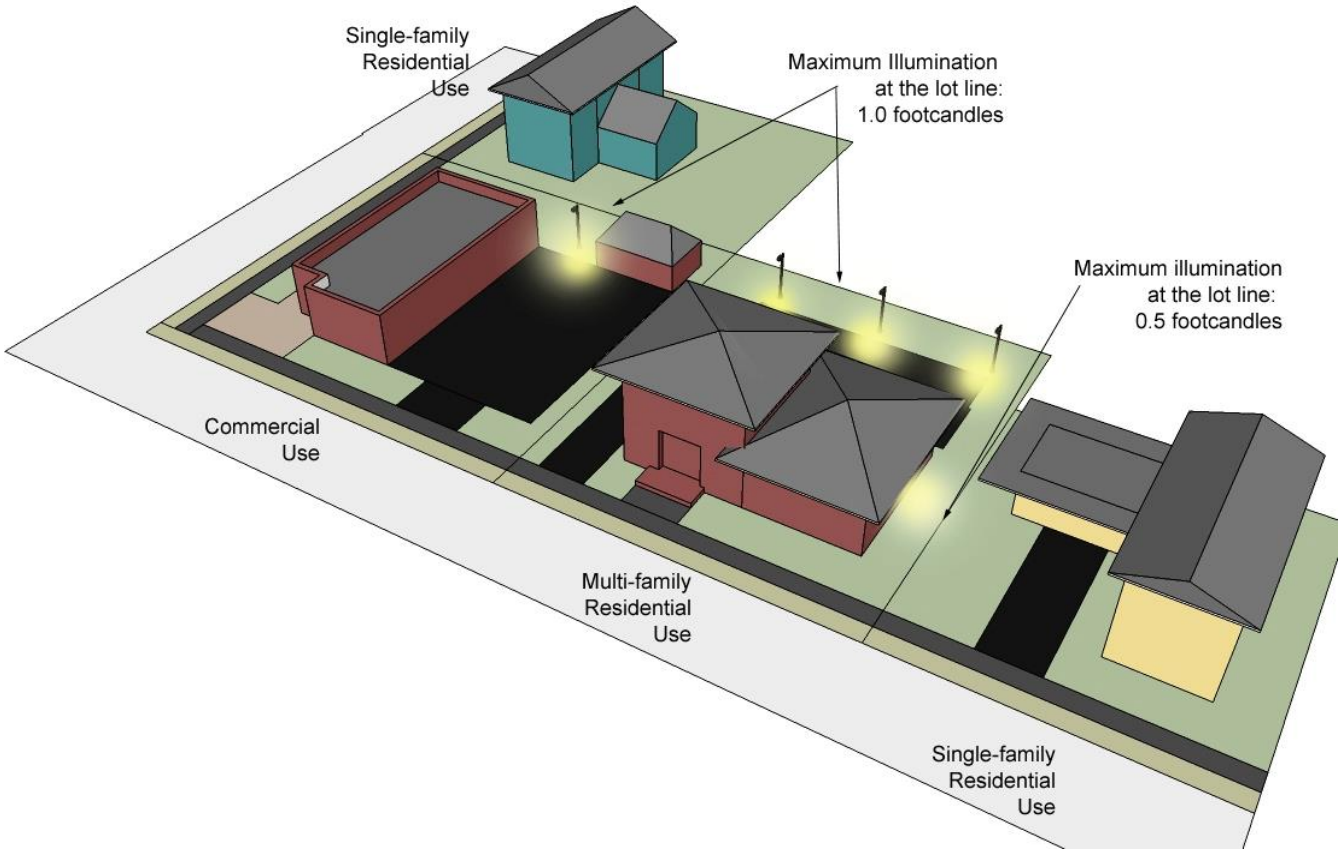
All outdoor lighting and indoor lighting visible from outside shall be designed and located so that the maximum illumination measured in footcandles at ground level at a property line shall not exceed the standards in Table 40.1-5.9(E)(3), Maximum Illumination Levels. Cut-off lighting shall be designed to direct light downward (e.g., shoe box style).

TABLE 40.1-5.9(E)(3): MAXIMUM ILLUMINATION LEVELS

TYPE OF USE [1]	MAXIMUM ILLUMINATION AT PROPERTY LINE (FOOTCANDLES)
Residential or Public and Institutional Use	0.5
Commercial Use	1.0
Parking lots [2}	1.0

NOTES:
[1] See Table 40.1-4.1(A), Use Table.
[2] The minimum illumination level at the property line shall be 0.2 footcandle.

Figure 40.1-5.9(E): Maximum Illumination
Exterior lighting shall be configured to avoid casting glare on adjacent lands.



(F) Wall Pack Lights

Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. Wall packs on the exterior of the building shall be fully shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward and be of low wattage (preferably 100 watts or lower). Wall pack light sources visible from any location off the site are prohibited.

(G) Exemptions for a Security Plan

Government facilities, parks and open areas, public safety, and other uses (see Table 40.1-4.1(A), Use Table) where sensitive or dangerous materials are stored may submit to the Planning Director a site security plan proposing exterior lighting that deviates from the standards in this subsection. The Planning Director shall approve, or approve with conditions, the site security plan and its proposed deviation from the standards of this subsection, upon finding that:

(1) Deviation Necessary to Protect Public or Ensure Security

The proposed deviation from the standards is necessary for the adequate protection of the public;

(2) Significantly Greater Danger of Theft or Damage Without Additional Lighting

The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding land; and

(3) Deviation is Minimum Required and Will Not Have Adverse Effect

The proposed deviation from the standards is the minimum required, and will not have a significant adverse effect on neighboring lands.

(H) Illumination of Outdoor Sports Fields and Performance Areas

Lighting of outdoor sports fields and performance areas shall comply with the following standards:

(a) Glare Control Package

All lighting fixtures shall be equipped with an existing glare control package (e.g., louvers, shields, or similar devices) and aimed so that their beams are directed and fall within the primary playing or performance area.

(b) Hours of Operation

The lighting system for any game or event shall be extinguished after the end of the game or event.

(I) Sign Lighting

Lighting fixtures illuminating signs shall comply with the standards of this section, and such fixtures shall be aimed and shielded so that direct illumination is focused exclusively on the sign face and is not visible from off-site areas.

40.1-5.10 FENCES AND WALLS

(A) Purpose and Intent

The purpose and intent of this section is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within residential, business, activity center, and special districts; protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls; and ensure the safety, security, and privacy of properties.

(B) Applicability

(1) General

Unless exempted in accordance with Section 40.1-5.10(B)(2), Exemptions, the provisions of this section shall apply to the construction, reconstruction, or replacement of fences or walls in the city. In the event of any conflict between the provisions of this section and any screening standard in Section 40.1-5.2(F), Screening, the latter shall govern.

(2) Exemptions

The following are exempted from the requirements of this section.

(a) Development in the D1 and D2 Districts

Development on lots in the Downtown D1 and D2 and historic districts shall comply with the regulations of this article and shall also comply with the sections found in Appendix sections A and B where they apply. The more restrictive regulations shall apply in cases of conflict.

(b) Required Screening

Fencing provided to meet the standards of Section 40.1-5.2 Landscaping and Screening, but in no case shall the fencing exceed the maximum height limits of Section 40.1-5.2, Landscaping and Screening.

(c) Recreational Fencing

Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility.

(d) Temporary Fencing

Temporary fencing established around construction sites, demolitions, or other site conditions unsafe for pedestrians or vehicles, provided it is consistent with the building code.

(3) Time of Compliance

Compliance with the standards of this section shall occur prior to approval of a building permit or zoning compliance permit, whichever occurs first.

(C) General Requirements for Fences and Walls

(1) Location

Fences are permitted anywhere on a lot outside of sight triangles or public easements, and may be located directly over a property line between two or more parcels of land held in private ownership.

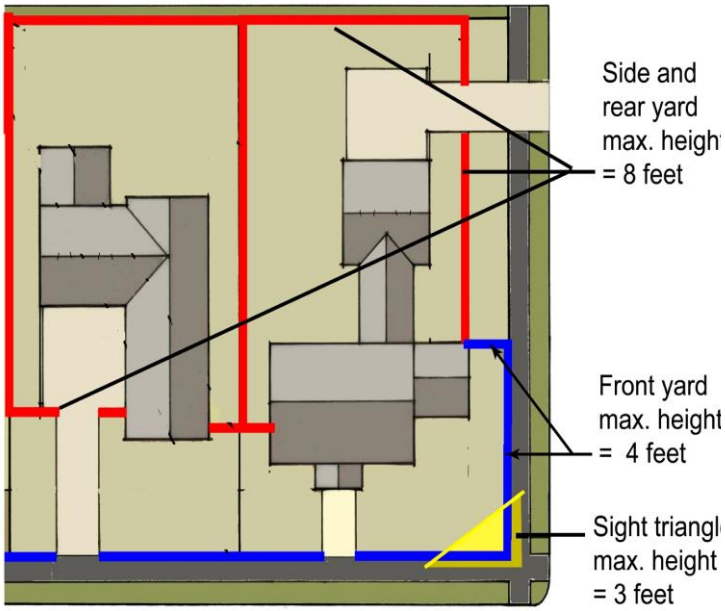
(2) Blocking Natural Drainage Flow

No fence shall be installed so as to block or divert a natural drainage flow on to or off of any other land. Nothing in this section shall be construed to prevent the installation of temporary fencing to protect existing trees, limit sedimentation, or control erosion.

(3) Fences and Walls within Buffers

Fences and walls shall be installed so as not to disturb or damage existing vegetation or installed plant material. The perimeter fencing or wall for a single development shall be of a uniform style that complies with the standards of this section.

Figure 40.1-5.10(D): Fence Height Requirements
Maximum fence heights differ depending upon where the fence is located.



(D) Height Requirements for Fences and Walls

All fences and walls shall conform to the following standards. In all cases, heights are measured from finished grade on the highest side of the fence or wall.

(1) Residential Districts

In residential districts (see Table 40.1-3: Base Zoning Districts Established), fences and walls shall not exceed:

(a) Front Yards

A height of four feet in front yards and that part of side yards from the front lot line to the front façade plane of the structure.

(b) Side or Rear Yards

A height of eight feet in side and rear yards.

(c) Transparency

Fences or walls located within a front yard or side yard adjacent to a street shall maintain a minimum of 50 percent transparency.

(2) Other Districts

(a) General

(i) Except within industrial districts, fences and walls shall not be permitted in front setback areas, and shall not exceed a height of four feet in the remainder of front yards and eight feet in side or rear yards, unless the fence in the side or rear yard is located within 15 feet of a public right-of-way, in which case it shall not exceed a height of six feet.

(ii) Fences in industrial districts shall not exceed eight feet in height in front and corner side yard areas, or where industrial land abuts a residential district.

(iii) If a fence is constructed on top of a retaining or other wall, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone.

(b) Major Utilities, Wireless Communications, Government Facilities, and Other Public Safety Uses

Fences and walls in front, side, and rear yards of major utilities, wireless communication towers, government facilities, and other public safety uses shall not exceed eight feet.

(3) Vacant Property

(a) Vacant property may be fenced if:

(i) The fence does not exceed four feet in residential districts and eight feet in all other districts;

(ii) The fencing maintains a minimum transparency of 50 percent; and

(iii) The purpose of the fencing is to discourage unauthorized dumping or unauthorized parking on the property.

(b) Fencing of the vacant property shall not be construed to allow use of the property for outdoor storage.

(E) Exemption for Security Plan

A property owner or tenant or a representative of a public agency responsible for a government facility, public safety use, or other use in need of heightened security may submit to the Planning Director a site security plan proposing fences or walls taller than those permitted by this section or proposing the use of barbed or concertina wire atop a fence or wall for security reasons. The Planning Director shall approve or approve with conditions the site security plan and its proposed exemption of fences or walls from the standards of this section, upon finding:

(1) Taller Fence or Wall Needed for Safety or Security Reasons

The condition, location, or use of the property, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land, or represent a significant hazard to public safety without a taller fence or the use of barbed or concertina wire atop a fence or wall; and

(2) No Adverse Effect

The proposed taller fences or walls or use of barbed or concertina wire will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area as a whole.

(F) Perimeter Fences and Walls Abutting Public Rights-of-Way

Fences or walls located within 15 feet of a street or public right-of-way shall:

(1) Be located outside the public right-of-way;

(2) Include breaks, offsets of at least one foot, access points, or other design details in the wall plane at least every 200 feet as illustrated in Figure 40.1-5.10(F), Required Fencing Offsets;

(3) Comply with the standards in Section 40.1-5.10(K), Appearance; and

(4) Comply with the requirements of Section 40.1-5.10(K)(4), Screening.

(G) Visibility Clearance

Fences and walls shall be placed outside of required sight triangles or areas needed for visibility.

(H) Prohibited Fences

Figure 40.1-5.10(F): Fence Abutting R-O-W
Offsets and other features help ensure an attractive public realm.

Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, or waste materials are prohibited in all zoning districts unless such materials have been recycled and reprocessed for marketing to the general public as building materials that resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).

(I) Chain Link Fencing

(1) Chain link fencing shall be allowed, subject to the following standards:

(a) Residential Districts

Chain link fencing is permitted on lots within residential zoning districts provided it does not include opaque slats, and does not exceed the maximum allowable height in Section 40.1-5.10(D), Height Requirements for Fences and Walls.

(b) Industrial Districts

Chain link fencing shall be allowed on lots within industrial zoning districts provided it does not include opaque slats, is coated with black or dark green vinyl, and does not exceed eight feet in height within front or corner side areas.

(2) Chain link fencing shall not be allowed on lots within a business or mixed-use zoning district.

(J) Barbed or Razor Wire

Barbed or razor wire is allowed permitted only in accordance with an approved security plan (See Section 40.1-5.10(E)).

(K) Appearance

(1) Customary Materials

Fences and walls shall be constructed of any combination of treated wood posts and vertically-oriented planks, rot-resistant wood, wrought iron, decorative metal materials, brick, stone, masonry materials, or products designed to resemble these materials. Where wood, masonry, or other opaque materials are specified for particular types of screening or buffering fences or walls, all other fence materials are prohibited.

(2) Finished Side to Outside

Wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (e.g., one side has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter of the lot rather than the interior of the lot.

Figure 40.1-5.10(K)(2): Fence Finished Side to Outside

(3) Compatibility of Materials along a Single Lot Side

All fencing or wall segments located along a single lot side shall be composed of a uniform style and colors compatible with other parts of the fence and with the associated buildings.

(4) Landscape Screening

All fences and walls exceeding four feet in height in all districts, if located within 15 feet of a public street right-of-way, shall be supplemented with landscape screening in accordance with the following standards, to soften the visual impact of the fence or wall.

(a) Shrubs Required

One evergreen shrub shall be installed for every five linear feet of fence or wall, on the side of the fence or wall facing the public street right-of-way. Shrubs shall meet the size standards of Section 40.1-5.2(C)(2), Planting Standards, and may be installed in a staggered, clustered, grouped, or linear fashion.

(b) Substitution of Understory Trees

One understory or ornamental tree may be substituted for every three evergreen shrubs provided that the tree meets the size standards of Section 40.1-5.2(C)(2), Planting Standards.

(c) Integration with other Required Landscaping

Required landscape screening for fences or walls may be integrated into the landscaping required for vehicular use area screening or perimeter buffers, provided the standards in Section 40.1-5.2, Landscaping and Screening Standards, are maintained.

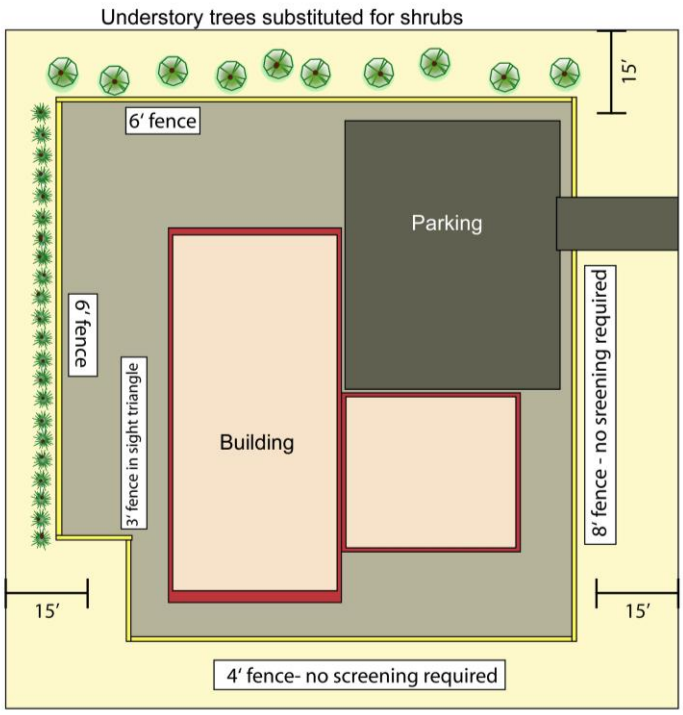


Figure 40.1-5.10(K)(4): Fence Landscaping
Fences taller than four feet and closer than 15 feet to a street must be landscaped.

40.1-5.11 SIGNAGE

(A) Purpose

The purpose of these sign standards is to encourage the effective use of signs as a means of communication in the city, to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of these sign restrictions.

(B) Applicability

Signs shall be permitted on private property in the city in accordance with this section. Signs in the public right of way are prohibited unless approved by the City Engineer. Signs located in the D1 and D2 district shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article, and either the Downtown Design Guidelines or the D2 Form Based Code, as applicable. The more restrictive regulations shall apply in cases of conflict.

(C) Prohibited Signs

The following signs are expressly prohibited:

(1) Roof signs;

(2) Signs which are of a size, location, movement, content, coloring or manner of illumination which may be construed as traffic-control devices or signs or which hide from view any traffic or street sign or signal or which obstruct the view at a street or road intersection;

(3) Pennants;

(4) Balloons with a commercial message greater than two feet in diameter with a tether more than two feet long extending from the roof or structure by means of a rope, string, or other device shall be prohibited;

(5) Portable or nonstructural signs with no permanently mounted, self-supporting structure, including signs mounted on wheels and otherwise constructed to be used as a temporary sign display;

(6) Obsolete signs containing sign copy, print, or graphics which advertise an activity, business, product, or service no longer produced or conducted. An exception to the immediate removal of obsolete sign copy, print or graphics will occur where the owner or lessor of the premises on which the sign is located is seeking a new tenant, then the sign copy, print or graphics shall be removed by the owner or lessor no more than 90 days from the date of vacancy of the premises on which the obsolete sign is located; and

(7) Animation of signs, except revolving signs and changeable copy signs, where permitted.

(D) Exempted Signs

The following signs are exempted from the requirements of this section:

(1) Signs less than two square feet in size, containing only property numbers, names of occupants or buildings or hours of operation;

(2) Memorial signs, names of buildings or commemorative plaques when cut into masonry or made of a noncombustible material;

(3) Signs erected by public agencies; however a sign permit application shall be completed and submitted for review and approval;

(4) Signs denoting the entrance to residential areas, if not in excess of 18 square feet in area nor taller than six feet in height;

(5) Real estate signs less than four square feet in area in residential zoning districts, less than eight square feet in mixed-use zoning districts, and less than 16 square feet in industrial zoning districts, one per street frontage; provided that such signs shall be permitted for on-premises sale, lease or rentals only and provided that the sign is removed within seven days of consummating the sale, lease or rental. No signs advertising off-premises sale, lease or rentals are permitted; Only one sign per street frontage is permitted.

(6) One construction sign per street frontage indicating the name of the developer, builder, contractor, architect, engineer or lending institution; provided that the advertising display area does not exceed 32 square feet per zone lot in commercial or industrial zoning districts and 24 square feet per zone lot in any other zoning district. Such signs shall be removed no later than 14 days after the city has issued a certificate of occupancy for the final building in the development;

(7) Signs erected in connection with elections or political campaigns; provided that such signs are erected no more than 90 calendar days before and removed within 15 days after the election date. After expiration of said time, such remaining signs may be removed by the city and the cost of such removal shall be charged to the candidate; and

(8) Works of art containing no commercial message.

(E) Signs Permitted by Zoning District

Signs shall be permitted in the various zoning districts as set forth in this section.

(1) Signs Permitted in all Residential (NR and GR) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all residential (NR and GR) zoning districts:

(a) Signs Permitted Without City Approval

(i) Name plate sign;

(ii) Residential freestanding signs;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Historic and memorial marker;

(ii) Institutional canopy sign;

(iii) Temporary sign, including temporary banner signs;

(iv)

(v) Institutional freestanding sign; and

(vi) Noncommercial sign.

(2) Signs Permitted in all Residential UR and UR-H zoning districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all UR and UR-H zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Name plate sign;

(iii) Residential freestanding sign;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Canopy sign;

(ii) Freestanding sign up to eight feet in height;

(iii) Historic and memorial marker;
(iv) Institutional canopy sign;
(v) Institutional freestanding sign;
(vi) Noncommercial sign;
(vii) Projecting sign;
(viii) Temporary sign, including temporary banner signs
(ix) Wall sign; and
(x) Window sign.

(3) Signs Permitted in the NMU and GMU Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Neighborhood Mixed Use (NMU) and General Mixed Use (GMU) zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;
(ii) Name plate sign;
(iii) Residential freestanding sign;
(iv) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Banner sign, permanently mounted;
(ii) Canopy sign;
(iii) Changeable copy sign;
(iv) Freestanding sign, up to 8 feet in the NMU district and up to 26 feet in height in the GMU district;
(v) Historic and memorial marker;
(vi) Institutional canopy sign;
(vii) Institutional freestanding sign;
(viii) Marquee sign in the GMU district only;
(ix) Noncommercial sign;
(x) Projecting sign;
(xi) One Temporary sign, including temporary banner signs; and
(xii) Wall sign.

(4) Signs Permitted in the MU-H and AC Districts

Signs located in the MU-H district and any of the AC districts shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article and the adopted design standards applicable to the district. The more restrictive regulations shall apply in cases of conflict. Should no adopted design standards exist as it pertains to signs, then signs in the MU-H district and any of the AC districts shall be permitted in accordance with subsection (3), above.

(5) Signs Permitted in the D1 and D2 Districts

Signs located in the D1 and D2 district shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article, and either the Downtown Design Guidelines or the D2 Form Based Code, as applicable. The more restrictive regulations shall apply in cases of conflict.

(6) Signs Permitted in the IL and IN Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Light Industrial (LI) and General Industrial (IN) zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Name plate sign;

(iii) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

(i) Banner sign, permanently mounted;

(ii) Canopy sign;

(iii) Changeable copy sign;

(iv) Freestanding sign, up to 26 feet in height;

(v) Historic and memorial marker;

(vi) Institutional canopy sign;

(vii) Institutional freestanding sign;

(viii) Noncommercial sign;

(ix) Off-premises advertising sign;

(x) Projecting sign;

(xi) One Temporary sign, including temporary banner signs; and

(xii) Wall sign.

(c) In the IN zoning district, off-premises advertising sign may only be granted a zoning compliance permit after a use permit has been approved by the City Council.

(7) Signs Permitted in Historic (H) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Historic (H) zoning districts:

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Residential freestanding sign;

(b) Signs permitted with a Zoning Compliance Permit

(i) Canopy signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;

(ii) Historic and memorial markers in all Historic zoning subdistricts;

(iii) Noncommercial signs in all Historic zoning subdistricts;

(iv) Projecting signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;

(v) Temporary signs, including temporary banner signs in the Historic Residential HR and Historic Limited Business HLB zoning subdistricts only;

(vi) Wall signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only; and

(vii) Window signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only.

(8) Signs Permitted in the W-1 District

(a) Signs Permitted Without City Approval

(i) Incidental sign;

(ii) Residential freestanding sign;

(iii) Name Plate sign; and

(iv) Window sign.

(b) Signs permitted with a Zoning Compliance Permit

(i) Banner sign, permanently mounted;

(ii) Canopy sign;

(iii) Freestanding sign; up to eight feet in height;

(iv) Historic and Memorial Marker;

(v) Institutional canopy sign;

(vi) Institutional freestanding sign;

(vii) Noncommercial sign; and

(viii) Projecting sign.

(F) Streets Having Special Sign Restrictions

In order to restrict the use of off-premises signs beyond the restrictions imposed by the zoning district, the City Council may, from time-to-time, designate certain streets as having special sign restrictions. Off-premises signs are prohibited from being erected along or oriented towards streets or portions thereof which have been designated by the City Council as streets having special sign restrictions.

(1) In making such designation, the City Council may consider any or all of the following factors:

(a) The promotion of highway safety;

(b) The convenience and enjoyment of public travel;

(c) The protection of pedestrians;

(d) The attraction of tourism; and

(e) Any general purpose of this Ordinance.

(2) The following streets are hereby designated as streets having special sign restrictions:

(a) London Boulevard between its intersection with Effingham Street and its intersection with High Street;

(b) West Norfolk Road;

(c) Western Freeway;

(d) Martin Luther King Expressway.

Any nonconforming off-premises sign on the Martin Luther King Expressway (the "Expressway") between London Boulevard and the Midtown Tunnel that would be required to be removed as a result of a state or federal road project may be physically relocated to a point on the same side of the roadway as the sign's original location. The new location shall be at approximately the same point laterally along the Expressway as the original location of the sign, or of any other sign which is relocated pursuant to this section, and oriented in the same direction as the sign which had been at that location. Each sign which is relocated shall be subject to setback and height requirements applicable to off-premises signs, other than setback requirements applicable to expressways, as set forth in this section plus any other requirements imposed by state or federal authorities of competent jurisdiction.

(G) General Requirements Applicable to All Signs

The following general requirements shall apply to all permitted signs:

(1) Advertising

Notwithstanding any other provision of this section, no sign except a permitted off-premises advertising sign or a permitted real estate sign shall advertise any service or product which if offered on the lot where the sign is located would constitute a violation of this Ordinance or a permit granted hereunder or condition imposed.

(2) Building Code Compliance

The requirements of this section are supplemental to the building, electrical, and other applicable codes. Nothing herein shall exempt any sign from compliance with such codes.

(3) Signs to be Permanent

Except for real estate signs, yard sale signs, window signs, permitted temporary signs, and noncommercial signs utilizing the dimensional requirements applicable to any of those, all signs shall be permanently installed as defined by the Uniform Statewide Building Code. Installation using ropes, cords, and the like is not considered permanent.

(4) Illumination

Illumination, where permitted, shall be designed, installed and maintained in a manner that avoids glare on adjoining property and that avoids glare or reflection which in any way interferes with traffic safety. In the UR, UR-H, and Historic zoning districts, signs other than name plates shall be illuminated only by the reflector method. In the D-1 and D-2 districts, signs shall be illuminated by the manner prescribed in the Downtown Design Guidelines or the Form Based Code, as applicable.

(5) Maintenance

All signs, including those exempt from this Ordinance, shall be maintained in good condition at all times. All signs shall be kept free of holes or tears or fraying, and neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The Planning Director shall have the authority to order the painting, repair, alteration or removal of a sign which is defective, damaged or deteriorated and to remove any sign not brought into compliance.

(H) Administration

Administration of the provisions of this section shall be as set forth as follows:

(1) Computations Related to Signs; Maximum Sign Area Totals

Computations related to the interpretation and construction of this section shall be made in accordance with the following principles:

(a) Advertising Display Area

The advertising display area shall be computed as the area encompassed by one continuous line connecting the extreme points or edges of a sign. The structural supports for a sign, whether they be columns, pylons or a building or part thereof, shall not be included in the advertisement area unless they are designed as integral parts of the display for the purpose of illustration or attraction. If a sign being constructed for the City of Portsmouth is sponsored by another entity, then sponsorship information on the sign shall not be computed as part of the allowable advertising display area, provided that the sponsorship information constitutes less than 25 percent of the advertising display area. Otherwise such sponsorship information must conform to the requirements of this section.

(b) Height

The height of a sign shall be measured from the top edge of the sign to the ground level measured at the edge of the pavement of the public street on which the sign faces.

(c) Maximum Display Area

(i) Off-Premises Signs

a. The maximum advertising display area shall be 672 square feet in Industrial zoning districts and 300 square feet in High Intensity Mixed-Use zoning districts.

(ii) On-Premises Signs

a. The maximum advertising display area for all applicable on-premises signs located on any property zoned UR, UR-H, RMH, or H (other than institutional freestanding or institutional canopy signs) shall be 18 square feet per sign face.

b. The maximum advertising display area for all applicable on-premise signs located on any property within a business, mixed-use, and special district shall be the larger of the following:

1. One square foot per linear foot of street footage of the zone lot; provided, that no individual on-premises sign may exceed 125 square feet per sign face; or

2. Ten percent of the area (square footage) of the front building facade, not to exceed 40 square feet per sign face, for on-premises signs located on zone lots with street frontages of 40 feet or less.

c. The maximum advertising display area for all applicable on-premises signs located on any property zoned D1 or D2 shall not exceed ten percent of the area (square footage) of the front building façade, not to exceed 40 square feet per sign face, for on-premises signs located on zone lots with street frontages of 40 feet or less. Locational and height requirements of the Downtown Design Guidelines or the Uptown Form Based Code, as applicable, shall apply.

(I) Localized Sign Overlay Districts

(1) Generally

Certain large scale land uses with common design elements, including but not limited to office parks, corporate centers, and medical centers having a multi-building campus, or land uses that are unique in their design, operating characteristics, and presence in the city, including but not limited to outdoor performing arts centers, may present unique development opportunities of special value to the community. In order to ensure that the economic, social, and cultural benefits of those land uses are optimized, the establishment of one or more localized alternative sign overlay districts is authorized to address the unique signage needs and opportunities associated with the land use.

(2) Application Process and Elements

(a) A property owner, a developer, or the City Manager may apply to the Planning Commission for the establishment of a localized alternative sign overlay district. Properties located within a localized alternative sign overlay district shall be subject to such signage requirements, as the planning commission shall establish at the time of the application's approval.

(b) The application for creation of a district shall include the following:

(i) A description of the boundaries of the proposed district;

(ii) A statement of the reasons for the request; and

(iii) A comprehensive set of signage standards proposed to be applied within the district.

(c) The Planning Commission shall observe all notice and public hearing requirements set forth in Section 40.1-2.2, Common Review Procedures, prior to approval of an application.

(3) Required Planning Commission Findings

A localized alternative sign overlay district with alternative signage standards may be established by the Planning Commission upon a finding that the following conditions exist:

(a) The proposed land use in the district is consistent with the comprehensive plan;

(b) The value of the proposed use to the community will be optimized by the approval of an alternative set of signage standards; and

(c) The signage standards for the proposed district are consistent with this section.

(J) Individual Sign Standards

(1) Freestanding Signs

Freestanding signs, where allowed, shall be subject to the following standards:

(a) Any parts of any freestanding signs shall be setback a minimum seven feet from the front property line.

(b) The minimum sign setback from interstate highways and expressways designated by City Council shall be 100 feet.

(c) Freestanding signs on property adjoining property which is included in any R or Historic zoning district shall be set back from the property line adjoining such residential property by a distance at least equal to the height of the sign.

(d) There shall not be more than one freestanding sign per zone lot or, if the zone lot has frontage on more than one public street, one additional freestanding sign shall be allowed for each such street in excess of one.

(e) One freestanding sign may contain advertising messages for any number of businesses.

(f) National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(2) Incidental Signs

Incidental signs, where allowed, shall:

(a) Not exceed two square feet in area;

(b) Not be illuminated;

(c) If freestanding, not exceed four feet in height; and

(d) If freestanding, be set back from the property line by a distance equal to the height of the sign, however, there shall be no setback for such signs if attached to a building or fence.

(e) Such signs shall not be included in the "maximum advertising area" computation.

(3) Sign, Institutional Canopy

A religious, educational or other public or quasi-public institutions shall be entitled to a certificate of compliance for one canopy sign per street frontage, subject to all other applicable requirements of this section, except that such signs may be up to 12 feet in height.

(4) Sign, Institutional Freestanding

A religious, educational or other public or quasi-public institution in any zoning district shall be entitled to a certificate of compliance for one institutional sign, or bulletin board for each separate street frontage; provided:

(a) Each such sign must be located on the same zone lot with the institution;

(b) The sign shall not have an advertising display area of more than 18 square feet or a height of more than six feet.

(c) Such signs shall be illuminated only by the reflector method.

(d) Such signs shall be set back from each property line by a distance at least equal to the height of the sign.

(e) In zoning districts allowing larger or taller on-premises signs for business, such institutions shall comply with the zoning district requirements.

(5) Sign, Marquee

Marquee signs, where allowed, shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of eight feet.

(6) Sign, Name Plate

Name plates, where allowed, shall not exceed two square feet in area and may be lighted by a single incandescent bulb.

(7) Sign, Off Premises

Off-premise signs, where allowed, shall:

(a) Be only single-faced;

(b) Be set back at least 25 feet from the right-of-way of any public street and 660 feet from any expressway designated by City Council;

(c) Be set back 15 feet from any other property line, or, if the property line adjoins property zoned R, by a distance at least equal to the height of the sign;

(d) The maximum height of any off-premises sign shall be 50 feet in Industrial zoning districts and 26 feet in MU-H districts.

(e) No off-premises sign shall be erected within 500 feet of any other off-premises sign on the same side of the same street.

(f) Off-premises signs within 660 feet of the right-of-way of any highway classified as an interstate highway or as a federal aid primary highway shall also comply with Chapter 7, Code of Virginia, Section 33.1-351 et seq., as amended.

(g) No off-premises sign shall be permitted within the MU-H zoning district on any zone lot upon which improvements have been constructed.

(h) Notwithstanding the zone, no off-premises signs shall be allowed along or oriented towards any street or highway or portion thereof which has or have been designated by the City Council as streets having special sign restrictions.

(8) Sign, Permanently Mounted Banner

There shall be no more than one permanent banner sign per establishment per zone lot.

(9) Sign, Projecting

(a) Projecting signs, where allowed, shall not extend more than six feet from a building to which they are attached.

(b) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade at the right-of-way line.

(c) Projecting signs in the D1, D2 and H zoning districts, shall extend no more than six feet from a building to which they are attached and shall be perpendicular to the building.

(d) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign.

(e) Projecting signs shall not exceed 12 square feet in area per face.;

(f) Such signs shall be nonilluminated.

(g) Projecting signs shall consist primarily of graphics or symbols with a minimum of lettering.

(h) Projecting signs located within the public right-of-way shall comply with the provisions of Section 32-7 pertaining to street encroachments.

(10) Sign, Residential Freestanding

Residential freestanding signs shall not exceed three square feet per side in area.

(11) Sign, Temporary

Such signs shall be subject to the limitations as to size, height, and location requirements of the zoning district in which they are located, as well as the following:

(a) Temporary inflatable signs may, if affixed to the roof of a building or structure, project no more than 30 feet above the roof line or top of the building or structure, or if affixed to the ground, have a height not exceeding 30 feet above ground

level. Such signs shall be displayed no more than once per year per zone lot, for a period of time not to exceed seven days.

(b) Temporary signs may include A-frame or T-frame signs in the D1 or D2 zoning district and such signs shall require the issuance of an annual certificate of compliance and depositing with the City Manager and keeping current a policy of liability insurance covering bodily injury and property damage in the amount of $1,000,000.00 which names the city as a co-insured.

(c) Temporary signs must be removed on the day after the last day of the advertised event or promotion or upon expiration of the required certificate of compliance or termination of the required insurance coverage.

(d) Temporary real estate signs shall be permitted for on-premises sale, lease or rentals only and provided that such sign is removed within seven days of consummating such sale, lease or rental.

(e) No temporary signs advertising off-premises sale, lease or rentals are permitted.

(f) Banner signs that are mounted with rope or straps or other temporary means shall be considered temporary signs.

(g) In no case shall any establishment display a temporary banner sign for a cumulative period of time longer than 30 days in any calendar year.

(h) National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(12) Sign, Wall

Wall signs, where allowed, shall be subject to the general requirements, except that where groupings of office or commercial businesses share a common zone lot, additional wall signs shall be permitted based upon the actual building frontage as related to the requirements of this section.

(13) Sign, Window

(a) Window signs, where allowed, shall:

(i) Be permitted on the ground floor only; and

(ii) Not cover more than 20 percent of any window area, except that where groupings of office or commercial businesses share a common zone lot.

(b) Window signs in conformance with this section are not counted towards the maximum display area calculations contained within Section 40.1-5.11(I)(1)(c).

40.1-5.12 TRANSPORTATION ANALYSIS

(A) Applicability

The provisions of this section shall apply to all new development as follows:

(1) Any residential, commercial, industrial use, or combination thereof, where the anticipated average weekday twenty-four-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(2) Any development or subdivision of a portion of property where the potential average weekday twenty-four-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) for the developable portion of the entire property based on permitted uses under existing zoning equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends, regardless whether the remainder of the property is currently proposed for development unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(3) Any Amendment of the Zoning Map or Use Permit applications, other than those requests initiated by the Planning Commission or City Council, where the anticipated average weekday twenty-four-hour traffic generation, using the *Trip Generation Manual* (Institute of Transportation Engineers, Sixth Edition or as it may from time to time be amended) equals or exceeds 1,000 trip ends or where the traffic volume during a peak hour equals or exceeds 100 trip ends unless the City Engineer shall determine, in writing, that such analysis is unnecessary due to the existence of previous-studies and analyses which adequately cover the extent of the proposed development and its traffic impact.

(4) Any non-residential development which proposes to access a street which is residential in character and classified as a minor collector or lower order street.

(5) Any other development proposal which, as determined by the City Engineer, has a significant potential to cause or aggravate traffic safety or congestion problems and, as such, would benefit from a professional review of proposed access and circulation designs.

(B) Transportation Analysis Standards and Requirements

(1) For any development described in subsection (a) above, a traffic impact analysis, prepared by a licensed professional engineer, shall be submitted for review and consideration by the city.

(2) A minimum of five copies of such traffic impact analysis shall be submitted to the city at the same time as the initial application for approval. Preliminary Subdivision Plats, Development Plans, Amendments to the Zoning Map, Use Permit applications, and other development proposals for which a traffic impact analysis is required shall not be deemed to be received until the traffic impact analysis is submitted. The traffic engineering department will provide available technical information. The applicant must collect traffic data that is not already available or is outdated.

(3) The submitted traffic impact analysis shall, unless otherwise approved by the City Engineer in writing, contain the following information and analysis:

(a) Existing conditions summary including twenty-four-hour volumes, peak periods and peak volumes on adjacent roadways, peak periods and peak volumes of the generator, and peak hour factor(s); roadway geometrics; grades; lateral clearance; heavy vehicles, pedestrian, bicycle, and recreational vehicle percentages; existing lane configurations; traffic control devices and timing plans if signals are present and level of service analysis based on the *2000 Highway Capacity Manual*.

(b) Future conditions summary-including the horizon (analysis) year(s) and the criteria used in its selection, committed future roadway improvements, traffic growth factors combined with forecasts for adjacent sites to determine future background traffic (both twenty-four-hour and peak period), and level of service analysis, compared with existing conditions.

(c) Trip generation and design hour volumes-including traffic forecast for site development to include twenty-four-hour and peak hour volumes both for the traffic generator itself and on adjacent roadways. Trip Generation Manual (Institute of Transportation Engineers, Sixth Edition, or as it may from time to time be amended) rates or equations shall be used unless verifiable local data is available. Any assumptions or adjustments shall be fully documented and, where appropriate, justified with source references provided.

(d) Trip distribution and traffic assignment-including a directional distribution of site traffic to its area of influence based on primary market, analogy, origin-destination, gravity model, or other similar methods. Each step in the process shall be fully and carefully documented.

(e) Design year total volumes developed for both twenty-four-hour and for the peak periods of the generator and on adjacent roadways.

(f) Capacity analysis-including intersection and lane capacity based on the *2000 Highway Capacity Manual* as it may from time to time be amended and revised. Where intersections (both signalized and unsignalized) are spaced in such proximity or the volumes are such that the intersection does not operate independently, appropriate progression and queuing analyses performed using a recognized methodology or analysis or simulation package must accompany the capacity analyses. Capacity analyses shall be prepared for each potential access design scenario. Any assumptions and adjustments to the default values in the *2000 Highway Capacity Manual* shall be fully documented and justified. These include, but are not limited to, peak hour factor, average running speeds, and cycle lengths, especially very short or long cycles. All worksheets shall be submitted.

(g) The distribution and frequency of traffic accidents shall be analyzed and a determination made as to whether any safety deficiencies exist or will be caused or exacerbated. This shall specifically include a safety analysis of all proposed street extensions.

(h) The recommended roadway and traffic network improvements based on the design hour in the design year shall be shown on a scaled plan sheet with appropriate narrative. Such improvements shall be designed to yield a minimum level of service of "C" as defined by the *2000 Highway Capacity Manual* as it may from time to time be amended, supplemented, or revised. Where the existing conditions provide a current level of service of less than "C," the improvements shall be designed to at least maintain the current volume to capacity ratio as determined by the methods contained in the *2000 Highway Capacity Manual* without further degradation through the design year plus two years. A detailed construction cost estimate of the required improvements shall be provided.

(i) Including the number and width of driveway lanes, the appropriate throat lengths (both unobstructed and with cross traffic permitted) for ingress and egress points, stacking and queuing lanes, pedestrian accommodations, bicycle facilities, and any other facilities or accommodations and any other factor which could impact traffic operations along the adjacent roadways or overall traffic safety, both internal and external. The internal circulation system shall be designed to preclude stacking or queuing in the travel lanes of adjacent roadways during the peak hours of the traffic generator.

(j) Including all conclusions of the analyst applicable to the site, particularly with respect to the appropriate timing and phasing of improvements. Timing and phasing must be clearly tied to identifiable stages of development or specific time

frames. Conclusions about the relative safety of the post-development situation shall also be included.

(k) An executive summary containing key findings and recommended actions.

(4) All intersections, commercial entrances, median breaks, pavement markings, driveways, or other roadway features potentially affecting traffic flow located within 500 feet of the proposed development as well as all intersections and driveways internal to the development shall be considered and either shown or clearly noted on a scaled plan submitted with the traffic impact analysis.

40.1-5.13 UNDERGROUND UTILITIES

All utilities within or serving new development (e.g., cable television, electrical (excluding transformers), gas, sewer, telephone, and water lines) shall be placed underground in accordance with Section 32-155 of the City Code.

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ARTICLE 40.1-6:
NONCONFORMITIES

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ARTICLE 40.1-6: NONCONFORMITIES

40.1-6.1 GENERAL APPLICABILITY

(A) Purpose and Scope

There exist in the city nonconforming uses of land, structures, lots, and signs that were lawfully established before this Ordinance was adopted or amended, that now do not conform to its requirements. The purpose and intent of this article is to regulate and to limit the continued existence of those nonconforming uses, structures, lots, and signs that do not conform to the requirements of this Ordinance, or any subsequent amendments.

(B) Intent of Provisions

It is the intent of this Ordinance to permit nonconformities to continue until they are removed, but discourage their survival or substantial investment in them except under the limited circumstances established in this article.

(C) Authority to Continue

Nonconformities are allowed to continue, and are encouraged to receive routine maintenance in accordance with the requirements of this article as a means of preserving safety and appearance.

(D) Determination of Nonconformity Status

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the owner of the land on which the alleged nonconformity is located.

(E) Minor Repairs and Maintenance

Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, lots, and signs in a safe condition are allowed, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconformity. For the purposes of this section, "minor repair or normal maintenance" shall mean:

(1) Maintenance of Safe Condition

Repairs that are necessary to maintain a nonconforming use, structure, lot, or sign in a safe condition.

(2) Maintenance of Land for Safety

Maintenance of land areas to protect against health hazards and to promote the safety of surrounding uses.

(3) Maintenance Limitations

An improvement or other action intended to materially extend the useful life of a nonconformity shall not be considered maintenance.

(F) Value of Development or Redevelopment

The cost or cash value of development or redevelopment associated with a nonconformity shall be determined by the Building Official.

(G) Change of Tenancy or Ownership

No change of title or possession or right to possession of land shall be construed to prevent the continuance of a nonconforming use, structure, lot, or sign.

40.1-6.2 NONCONFORMING USES

(A) General

Nonconforming uses are declared generally incompatible with the permitted uses in the zoning district in which they are located and with the provisions of this Ordinance. To be considered a nonconforming use the property owner must provide documentation to the Zoning Administrator that the use was legally established. Nonconforming uses shall be subject to the standards in this subsection.

(B) Change of Use

(1) Residential Uses

(a) Nonconforming residential uses located within a building on a lot in a business district may be changed to another nonconforming residential use.

(b) In the event a building on a lot in a business district containing a nonconforming residential use is redeveloped to an extent exceeding 50 percent of its reproducible value (exclusive of foundations), the nonconforming residential use shall be extinguished, and all uses shall comply with this Ordinance.

(2) All Other Uses

(a) A nonconforming use, other than a residential use shall not be changed to any other nonconforming use.

(b) Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed back to a nonconforming use.

(C) Expansion and Enlargement

(1) Generally

Except as otherwise allowed below, no nonconforming use shall be enlarged, intensified or increased, nor intensified to occupy a larger structure, building or land area than was occupied at the effective date of adoption or subsequent amendment of this ordinance. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel unoccupied by such use at the time of the adoption or subsequent amendment of this ordinance, and no building or structure not conforming to the requirements of this ordinance shall be erected in connection with the nonconforming use of land.

Nonconforming uses in a historic zoning district (HR, HLO, HLB) may expand, subject to an approved use permit, and the standards in this section.

(2) Date of Establishment

Nonconforming uses in a historic district may only be expanded if lawfully-established prior to the following dates:

(a) Lots in the Olde Towne Historic District: September 23, 1971;

(b) Lots in the Truxtun Historic District: March 25, 1975;

(c) Lots in the Cradock Historic District: February 10, 1976;

(d) Lots in the Park View Historic District: April 1, 1984; and

(e) Lots in the Port Norfolk Historic District: April 26, 1983.

(3) Procedure

(a) Requests for expansion to an existing nonconforming use shall be reviewed in accordance with the requirements in Section 40.1-2.3(B), Use Permits, and Section 40.1-6.2(C)(3), Use Permit Standards.

(b) Expansions to nonconforming uses on lots within a Historic District shall obtain a Certificate of Appropriateness (Section 40.1-2.3(I)) prior to review of the Use Permit application.

(4) Use Permit Standards

In approving a use permit for the expansion of a nonconforming use, the Planning Commission shall find:

(a) The nonconforming use remains compatible with adjacent land uses and the comprehensive plan;

(b) Approval of the use permit is not injurious to the neighborhood;

(c) All access roads and entrance or exit drives to the nonconformity will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and control and access in the case of fire or other emergency;

(d) All off-street parking, loading, refuse collection, and other service areas will be adequate with respect to automotive and pedestrian safety and convenience, traffic flow, and economic, noise, glare, odor, and other impacts on adjoining properties;

(e) All landscaping, screening, and fencing will be adequate, with respect to the effectiveness of the type, dimensions, and character, and will be adequate with respect to minimizing the economic, noise, glare, odor, and other impacts of the nonconformity on adjoining properties and other properties in the neighborhood;

(f) That the type, size, and intensity of the proposed use, including such considerations as storage of items and arrangement, the size of the site and the location of the use upon it, and the hours of operation and numbers of people who are likely to utilize the use, will be adequate with respect to minimizing the impact of the nonconformity upon adjoining properties, other properties in the neighborhood, and achieving the purpose and intent of the zoning district in which the property is located;

(g) No part of the nonconforming use being expanded occurs outside a building or structure;

(h) Denial of the request would create a severe and undue hardship to the property owner; and

(i) Denial will result in no appreciable benefit to the neighborhood.

(5) Conditions

The Planning Commission may impose any conditions on approval of the request, including appropriate time limits for meeting those conditions, as it deems necessary to mitigate any potential hazards or problems, or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of nearby property owners and the general public.

(D) Discontinuance or Abandonment

(1) A nonconforming use shall not be re-established after discontinuance for a period of two years or more. If efforts to renovate or repair the use legally began prior to

the expiration of the two year period, the use is not considered a vacancy, abandonment, or discontinuance, provided all appropriate permits or development approvals are obtained, and provided the renovation or repair is completed within one year from commencement of repair or renovation, and the use is re-established within one month from the time the renovation or repairs are completed. Failure to complete the repairs or renovation within two years or re-establish the use within one month following repairs or renovation shall constitute discontinuance, and a nonconforming use shall not be re-established.

(2) If a building, structure or land was: a)vacant on May 1, 2010, b) the specialized equipment necessary for the operation of the approved use removed; and c) repairs are not occurring with a valid building permit, that parcel of land is to be considered vacant and all previous approvals null due to the owner's activities.

(E) Accessory Uses

Once a nonconforming principal use is discontinued, all associated accessory uses shall cease operations within 30 days.

(F) Relocation

In the event a structure housing a nonconforming use is moved any distance, the nonconforming use shall be brought into compliance with the requirements of this Ordinance.

(G) Reconstruction after Casualty Damage

(1) Destruction or Damage by Act of God or Natural Disaster

(a) Any nonconforming use which has been damaged or destroyed by a natural disaster or other act of God, may be repaired, rebuilt, or replaced to eliminate or reduce the nonconforming features.

(b) A nonconforming use may be restored to its original nonconforming condition, regardless of the amount of damage or destruction, provided it complies with the flood protection standards in Chapter 14 of the City Code.

(c) The owner or the owner's contractor shall apply for a building permit and complete all reconstruction within two years of the act of God or natural disaster.

(d) In the event the damage or destruction occurs in a federally-declared disaster area, all reconstruction shall be completed within four years of the declaration date.

(e) If a nonconforming use is not reconstructed within the required timeframe, reconstruction shall occur only in compliance with the standards in this Ordinance.

(2) Destruction or Damage by Other Means

Casualty damage resulting from a means other than an act of God or natural disaster shall be subject to the following standards.

(a) Destruction or Damage of 50 Percent of Value

(i) Except for single-family detached, attached, two-to four-family, and townhouse dwellings, in the event a structure housing a nonconforming use is damaged or destroyed, to an extent that constitutes 50 percent or more of its replacement value (exclusive of foundations) at the time of damage or destruction, the use shall only be restored in a manner that conforms with the provisions of this Ordinance.

(ii) New construction (including the establishment of off-street parking, landscaping, signage, and other site features) shall be in accordance with the requirements of this Ordinance.

(iii) Nonconforming single-family detached, attached, two-to four-family, and townhouse dwellings damaged in excess of 50 percent of replacement value (exclusive of foundations) at the time of damage or destruction may be re-built subject to the standards in Section 40.1-6.2(G)(2)(b), Damage of Less Than 50 Percent of Value.

(b) Damage of Less Than 50 Percent of Value

(i) In the event a structure housing a nonconforming use is damaged or destroyed, to an extent that constitutes less than 50 percent of its replacement value (exclusive of foundations) at the time of damage or destruction, it may be re-built to its previous form if a building permit for such repair or restoration is obtained within one year of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

(ii) Wherever practical, redevelopment of a nonconforming use following casualty damage shall demonstrate greater compliance with this Ordinance than existed prior to the casualty.

(iii) In no event shall repair or restoration increase, expand, or enlarge the degree of nonconformity.

(iv)

40.1-6.3 NONCONFORMING STRUCTURES

(A) Relationship with Nonconforming Uses

A nonconforming principal structure containing a conforming use may only continue in accordance with the provisions of this subsection. Nonconforming structures housing nonconforming uses may only continue in accordance with the standards in Section 40.1-6.2, Nonconforming Uses.

(B) Continuation

Normal repair and maintenance may be performed to allow the continued use of nonconforming structures in accordance with Section 40.1-6.1(E), Minor Repairs and Maintenance.

(C) Enlargement

(1) Except for nonconforming structures in a historic district, nonconforming structures may be redeveloped or enlarged, provided they shall not be enlarged or expanded in any way that increases the nonconformity. Expansion of the structure in a way that complies with applicable dimensional standards or that decreases the degree of nonconformity is permitted.

(2) In the event a nonconforming structure is enlarged to an extent exceeding 50 percent of the structure's replacement value (exclusive of foundations), the entire structure shall be brought into compliance with the applicable dimensional standards for the district where located.

(3) In historic districts, a nonconforming structure may only be enlarged in accordance with the standards and procedure for enlarging a nonconforming use in Section 40-1.6.2 (C), Expansion and Enlargement in Historic Districts.

(D) Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless upon relocation it conforms to the requirements of this Ordinance.

(E) Restoration after Casualty Damage

(1) Destruction or Damage by Act of God or Natural Disaster

(a) Any nonconforming structure which has been damaged or destroyed by a natural disaster or other act of God, may be repaired, rebuilt, or replaced to eliminate or reduce the nonconforming features.

(b) A nonconforming structure may be restored it to its original nonconforming condition, regardless of the amount of damage or destruction, provided it complies with the flood protection standards in Chapter 14 of the City Code.

(c) The owner or the owner's contractor shall apply for a building permit and complete all reconstruction within two years of the act of God or natural disaster.

(d) In the event the damage or destruction occurs in a federally-declared disaster area, all reconstruction shall be completed within four years of the declaration date.

(e) If a nonconforming structure is not reconstructed within the required timeframe, reconstruction shall occur only in compliance with the standards in this Ordinance.

(2) Destruction or Damage by Other Means

Casualty damage resulting from a means other than an act of God or natural disaster shall be subject to the following standards.

(a) Residential Development

If a legally-established single-family attached, detached, two- to four-family, or townhouse dwelling is destroyed by casualty on a lot in a residential zoning district that was part of a subdivision or division of land evidenced by plat or deed, or both, recorded prior to April 25, 1961, an identical replacement use may be reconstructed even though the structure is nonconforming.

(b) Nonresidential Development

(i) Destruction or Damage of 50 Percent of Value

a. Except for single-family detached, attached, two-to four-family, and townhouse dwellings, in the event a nonconforming structure is damaged or destroyed, to an extent that constitutes more than 50 percent of its replacement value (exclusive of foundations)at the time of damage or destruction, it shall only be restored in a manner that conforms with the provisions of this Ordinance.

b. New construction (including the establishment of off-street parking, landscaping, signage, and other site features) shall be in accordance with the requirements of this Ordinance.

(ii) Damage of Less Than 50 Percent of Value

a. In the event a nonconforming structure is damaged or destroyed, to an extent that constitutes less than 50 percent of its replacement value (exclusive of foundations)at the time of damage or destruction, it may be re-built to its previous form if a building permit for such repair or

restoration is obtained within one year of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

b. In no event shall repair or restoration increase the nonconformity.

40.1-6.4 NONCONFORMING LOTS

(A) Development Prohibited

No use or structure shall be established on a lot of record that does not conform to the standards established in this Ordinance, except in accordance with this section.

(B) Status of Structures on Nonconforming Lots

(1) Conforming structures legally established on a nonconforming lot prior to May 1, 2010 may be continued, enlarged, extended, reconstructed, or structurally altered in any way that is in conformance with the standards of this Ordinance.

(2) Nonconforming structures legally established on a nonconforming lot prior May 1, 2010 may be continued, enlarged, or redeveloped in accordance with the standards in Section 40.1-6.3, Nonconforming Structures.

(C) Governmental Acquisition of a Portion of Lot

Conforming lots subject to governmental acquisition of a portion of the lot for a public purpose that results in the lot becoming nonconforming because it no longer complies with lot area or width standards of the district shall be deemed conforming upon receipt of a Zoning Compliance Permit (Section 40.1-2.3(F)), and compliance with the following standards:

(1) The development proposed complies with Table 40.1-4.1(A), Use Table.

(2) The development proposed complies with the dimensional standards of this Ordinance to the maximum extent practicable;

(3) The development proposed is designed to comply with the off-street parking and landscaping standards of this Ordinance to the maximum extent practicable;

(4) The development proposed complies with all other standards and requirements of this Ordinance; and

(5) The proposed development is designed and located in a way that is compatible with surrounding development.

(D) Lot Consolidation

(1) If a nonconforming lot of record has continuously been in separate ownership from any contiguous lot on the same existing or proposed public right-of-way since April 25, 1961, the nonconforming lot may be developed in accordance with the applicable standards in this Ordinance.

(2) Except on lots within a historic district, if a nonconforming lot of record has, at any time since April 25, 1961, been in common ownership with any contiguous lot on the same existing or proposed public right-of-way, such lots shall be consolidated. If all of the contiguous lots in common ownership are consolidated and the resulting lot remains nonconforming, it still may be developed in accordance with Section 40.1-6.4(E), Development of Nonconforming Lots.

(E) Development of Nonconforming Lots

(1) In Residential Districts

(a) Nonconforming lots within a residential district may be developed for single-family detached residential use in accordance with the requirements in Section 40.1-2.3(C), Type I Development Plan, if all of the contiguous nonconforming lots in common ownership are consolidated, or if consolidation cannot be achieved because lots are not under common ownership.

(b) If after consolidation, or if consolidation cannot be achieved, the lot(s) still fail to comply with the standards of this Ordinance, one single-family detached residential unit may be developed on the lot(s). The single-family detached residential unit shall be located on the lot and designed so as to comply with the standards of this Ordinance, to the maximum extent practicable.

(2) In All Other Districts

Nonconforming lots in business and special districts may be developed in accordance with the requirements in Section 40.1-2.3(D), Type II Development Plan, and the following standards:

(a) The use shall be permitted in the district where proposed (See Table 40.1-4.1(A), Use Table);

(b) The use shall be of a design and location on the lot that is compatible with adjacent, existing uses; and

(c) The use shall comply with the applicable district standards to the maximum extent practicable.

(F) Restoration after Casualty Damage

If a legally-established, conforming use is destroyed by casualty on a nonconforming lot that was part of a subdivision or division of land evidenced by plat or deed, or both, recorded prior to April 25, 1961, an identical replacement use may be reconstructed even though the lot is nonconforming.

40.1-6.5 NONCONFORMING SIGNS

The following additional restrictions shall apply to signs which were legally erected prior to May 1, 2010, but which do not conform to provisions of this Ordinance:

(1) Any nonconforming on-premises sign shall be removed or brought into conformance with this section if for any period of 90 days it does not advertise a business or service located on the same lot with the sign;

(2) Any nonconforming off-premises sign shall be removed or brought into conformance with this Ordinance if for any period of 60 days it does not contain copy or messages on the advertising display area; and

(3) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this Ordinance and the remnants of the former sign structure is cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to the extent that the cost of repairing the sign to its former stature equals or exceeds the value of the sign so damaged.

40.1-6.6 NONCONFORMING SITE ASPECTS

(A) Purpose

(1) The purpose of this section is to provide a means by which the city may require certain nonconforming site features to come into compliance with the standards of this Ordinance as part of remodeling or expansion of a building or structure.

(2) It is not the intent of this section to allow multiple incremental improvements to a nonconforming site without addressing the nonconformities as required in this section.

(B) Applicability

(1) For purposes of this section, the term "nonconforming site features" includes the following:

(a) Nonconforming off-street parking;

(b) Nonconforming landscaping;

(c) Nonconforming screening of mechanical equipment; and

(d) Nonconforming screening walls or fences.

(2) If an application is filed for a building permit for the remodeling or expansion of a building or site that has one or more nonconforming site features identified in Section 40.1-6.6(B), Applicability, and the value of the proposed improvements over a five-year period exceeds at least 25 percent of the assessed value of the existing site over a five-year period, the applicant shall be required to address the nonconforming site features as provided in this section.

(3) The Planning Director may develop administrative guidelines to assist in the implementation of this subsection, including guidelines for the resolution of conflicts when it may not be possible for one or more types of nonconforming site features to be brought into conformance with the requirements of this Ordinance because of particular site constraints or impacts upon adjacent properties.

(C) Exemptions

These standards shall not apply to the reconstruction of a nonconformity damaged by an act of God or other natural disaster.

(D) Structural Alteration

These standards shall apply to structural alterations, as provided in Section 36-97 of the Uniform Statewide Building Code. For the purposes of these standards, structural alternations only include activities that do not result in the expansion of a building.

(1) Determining Applicability

For purposes of determining when site features must be brought into partial or full compliance with the standards of this Ordinance, the costs that constitute the assessed value of the structural alteration of a building or structure shall be as shown on the building permit application, and shall include the cost of materials and labor.

(2) General

(a) 25 Percent or Less of Structure Value

Structural alteration of a building or structure during a five-year period whose assessed value is 25 percent or less of the current assessed value of the building or structure shall not require any correction to nonconforming site features.

(b) More Than 25 Percent but Less Than 75 Percent of Structure Value

Structural alteration of a building or structure whose assessed value exceeds more than 25 percent but less than 75 percent of the current assessed value of the structure during a five-year period shall require that a corresponding percentage of the site features identified in Section 40.1-6.6(B), Applicability, be brought into compliance, until the site achieves 100 percent compliance.

Example: a nonresidential site with nonconforming off-street parking (site feature) with an assessed value of $100,000 is undergoing remodeling equaling $40,000 (40 percent of the assessed value), the developer must add a corresponding number of additional required parking spaces until the site fully complies. The site at the time of remodel has 10 parking spaces, but the ordinance requires a minimum of 20 for the use that is proposed (10 more spaces are required for the site to be conforming), the applicant would be required to provide 40 percent of the 20 spaces - or 8 more parking spaces, bringing the total number of spaces on the site to 18 spaces.

(c) 75 Percent or More of Structure Value

Structural alteration of a building or structure during a five-year period whose alteration is estimated to cost 75 percent or more of the current assessed value of the building or structure shall require 100 percent compliance with the site features identified in Section 40.1-6.6(B), Applicability.

(d) Two or Fewer Additional Parking Spaces

When two or fewer additional off-street parking spaces are required under this subsection as a result of a redevelopment, such additional off-street parking is not required to be installed.

(3) Physically Constrained Properties- Comply to Maximum Extent Practicable

Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall comply to the maximum extent practicable, as determined by the Planning Director.

(E) Expansions

Expansions to buildings or structures or use areas on sites with nonconforming site features identified in Section 40.1-6.6(B), Applicability, shall require compliance until the site achieves 100 percent compliance for site features in accordance with this section.

(1) General

(a) Expansions of 15 Percent or Less

(i) Additions or expansions that increase a building or structure or use area's size by 15 percent or less over a five-year period shall not require any correction to nonconforming site features.

(ii) This provision shall not be used to allow multiple, incremental, small-scale increases to a structure or use area without addressing nonconforming site features.

(b) Expansion between 15 and 50 Percent of Gross Square Footage Over 5 Years

Expansion in any continuous five-year period, which results in an increase in the gross square footage of the existing building or structure or use area (measured at the beginning of the five-year period) greater than 15 percent, but less than 50 percent, requires a corresponding percentage of the nonconforming site features identified in Section 40.1-6.6(B), Applicability, to be brought into compliance, until the site achieves 100 percent compliance.

Example: A 25 percent increase in square footage will necessitate a 25 percent increase in the total number of parking spaces provided (up to the minimum requirement). Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping.

(c) Expansion of Greater Than 50 Percent of Gross Square Footage Over 5 Years

Expansions over any continuous five-year period, which results in a greater than 50 percent increase of the gross square footage of the existing building or structure or use area (measured at the beginning of the five-year period) that has a nonconforming site feature identified in Section 40.1-6.6(B), Applicability, shall require the building or site or use area to comply with the standards of this Ordinance for that site feature.

(2) Physically Constrained Properties- Comply to Maximum Extent Practicable

Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall comply to the maximum extent practicable as determined by the Planning Director.

(3) Addition of Outdoor Storage Area Only

When only outdoor storage areas are being added or increased on a site, the percentage increase in outdoor operations area shall require a corresponding percentage increase in perimeter buffers and screening. Perimeter buffer and screening augmentation shall be located so as to achieve the performance objectives in Section 40.1-5.2, Landscaping and Screening, with priority given to screening the impacts of outdoor operations.

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ARTICLE 40.1-7:
ENFORCEMENT

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ARTICLE 40.1-7: ENFORCEMENT

40.1-7.1 PURPOSE

This article establishes procedures through which the city seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

40.1-7.2 COMPLIANCE REQUIRED

(A) General

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the city.

(B) Receipt of Development Approvals Required

All persons shall obtain all permit and development approvals required by this Ordinance prior to development.

40.1-7.3 VIOLATIONS

(A) General Violations

(1) Failure to Comply with Ordinance or Condition of Approval Constitutes Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordnance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Ordinance shall constitute a violation of this Ordinance as provided in this article.

(2) Permits or Permit Approvals Only Authorize Development Approved

Permits or development approvals issued by a review or decision-making body authorize only the use, density or intensity, location, design, or development set forth in such permits or development approvals. Development that differs from that approved by a review or decision-making body in a permit or development approval in accordance with this Ordinance is a violation of this Ordinance and punishable as provided in this article.

(B) Specific Violations

It shall be a violation of this Ordinance to undertake any development contrary to the provisions of this Ordinance, including but not limited to the following, which shall be subject to the enforcement remedies and penalties provided by this article and the Code of Virginia (1950), as amended:

(1) Develop land without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

(2) Occupy or use land or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

(3) Engage in any development or other activity of any nature in any way inconsistent with the permit or development approval, or other form of authorization granted for such activity by the city.

(4) Violate, by act or omission, any term, condition, or qualification placed by the city upon a required permit, certificate, or other form of authorization granted by the city to allow the development or other activity upon land.

(5) To alter, maintain, or use any building or structure or to use any land in violation of any provision of this Ordinance.

(6) Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

(7) Create, expand, replace, or change any nonconformity, except in accordance with this Ordinance.

(8) Reduce or diminish the requirements of use, development, or dimensional standards below the minimum required by this Ordinance.

(9) Through any act or omission, fail to comply with any other provisions, procedures, or standards, as required by this Ordinance.

(10) To continue any of the above-stated violations.

40.1-7.4 RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, or an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this article.

40.1-7.5 ENFORCEMENT GENERALLY

(A) Responsibility for Enforcement

The Zoning Administrator shall be responsible for enforcing the provisions of this Ordinance in accordance with the Code of Virginia (1950), as amended.

(B) Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may notify the Zoning Administrator, stating fully the cause and basis of the alleged violation. The Zoning Administrator shall properly record such complaint, investigate, and take appropriate action as provided by this Ordinance.

(C) Inspections

The Zoning Administrator may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the land owner to enter upon land for these purposes. If consent is not given by the land owner, the Zoning Administrator may enter upon land in accordance with 15-2.2286(A)15, Code of Virginia (1950), as amended.

(D) Investigations of Complaint

(1) Learning there is a potential violation of this Ordinance, the Zoning Administrator shall investigate and determine whether a violation of this Ordinance exists.

(2) When the Zoning Administrator has reasonable cause to believe that a violation of this Ordinance that limits occupancy in a residential dwelling unit has or is taking place, and the Zoning Administrator has been unable to obtain necessary information from the owner concerning the violation, the Zoning Administrator may petition the general district court for a subpoena against anyone refusing to provide data or information. Any person failing

to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena.[3]

(3) Following an unsuccessful good faith effort to obtain consent to investigate an alleged violation of this ordinance, the Zoning Administrator may present sworn testimony to a magistrate or court of competent jurisdiction and request an inspection warrant to enable the Zoning Administrator to enter the premises for the purpose of determining whether a violation exists.

(E) Notice of Violations

(1) Procedure

(a) On finding that a violation of this Ordinance exists, the Zoning Administrator shall provide written notification of the violation through a notice of violation, by personal service or certified mail, return receipt requested, to the owner of the property on which the violation exists and the person causing or maintaining the violation. Such notification shall:

(i) Describe the location and nature of the violation;

(ii) State the actions necessary to abate the violation;

(iii) Order that the violation be corrected within a specified reasonable time period not to exceed 30 days after receipt of the notice of violation.

(b) The notice of violation shall state what course of action is intended if the violation is not corrected with the specified time limit. The notice of violation shall also advise the alleged violator(s) of their right to appeal the notice of violation to the BZA in accordance with Section 40.1-2.3(K), Appeal, within 30 days of receipt of the notice of violation, and that the decision not to appeal shall be final and unappealable if not appealed within 30 days. The fee for an appeal and where additional information may be obtained for filling an appeals shall also be included in the notice of violation.

(c) A notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in a residential zoning district, or similar short-term, recurring violations shall have an appeal of ten days, and that the decision not to appeal shall be final and unappealable if not appealed within ten days.

(d) On receiving a written request for extension of the time limit for correction specified in the notice of violation, the Zoning Administrator may, for good cause shown, grant a single extension of the time for up to 30 days.

(e) If the owner of the property cannot be located or determined, the Zoning Administrator shall post a copy of the notice of violation on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

(2) Application of Remedies and Penalties

On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation in accordance with Section 40.1-2.3(K), Appeal, the Zoning Administrator shall take appropriate action, as provided in Section 40.1-7.6, Remedies and Penalties, to correct and abate the violation and to ensure compliance with this Ordinance.

[3] This provision incorporates changes to the Code of Virginia effective on 7/1/08.

(3) Emergency Enforcement without Notice

On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Zoning Administrator may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in Section 40.1-7.6, Remedies and Penalties.

40.1-7.6 REMEDIES AND PENALTIES

(A) Enforcement and Remedies

Any violation of this article may be corrected, restrained, or abated by any of the following proceedings and remedies in accordance with the Code of Virginia (1950), as amended.

(1) The city may stop work on any building or structure on any land on which there is or has been an uncorrected violation of a provision of this article or of a permit or other form of authorization issued hereunder in accordance with its powers to stop work under the Virginia Uniform Statewide Building Code.

(2) Failure to comply with the terms and conditions of a Certificate of Appropriateness (COA) may result in the revocation of any subsequently issued permit requiring a COA or may result in a notice of violation.

(3) In accordance with Section 15.2-2209 and 15.2-2286(A)5, Code of Virginia (1950), as amended, the city has adopted a uniform schedule of penalties for violations of this Ordinance, which shall include the maximum penalties allowed by the Code of Virginia (1950), as amended.

(a) This schedule of offenses does not include any zoning violation resulting in injury to any persons, and the existence of these penalties shall not preclude action by the Zoning Administrator in accordance with Section15.2-2286(A)4 of the Code of Virginia (1950), as amended, or action by the City Council under Section15.2-2208 of the Code of Virginia (1950), as amended.

(b) Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $5,000.

(c) Designation of a particular Ordinance violation for a penalty in accordance with this section shall be in-lieu of other sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

(d) The Zoning Administrator may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the Department of Finance or the Treasurer of the city prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

(e) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the

locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(4) If the alleged violator fails to correct the violation by the time limit set forth in the notice of violation, or any granted extension, or paid the appropriate penalty, and failed to timely appeal the notice of violation in accordance with Section 40.1-2.3(K), Appeal, the Zoning Administrator shall, after consultation with the City Attorney, take appropriate legal action in the circuit court of the City of Portsmouth, including requirements to correct and abate the violation.

(5) In accordance with Section 15.2-2286(A) 5 of the Code of Virginia (1950), as amended, the court may impose penalties upon the conviction of any violator. A violation shall be a misdemeanor punishable by a fine that does not exceed the maximum allowed by the Code of Virginia (1950), as amended. If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation to comply with the violation, 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 that does not exceed the maximum allowed by the Code of Virginia (1950), as amended.

(6) Any conviction resulting from a violation of provisions regulating the number of unrelated persons in singly-family residential dwellings shall be punishable by a fine of up to $2,000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to $5,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to $7,500. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.

(7) At any time after the filing of an injunction or other appropriate proceeding to restrain, correct, or abate an alleged violation of this Ordinance where the owner of the real property is a party to such proceeding, the Zoning Administrator may record a memorandum of lis pendens in accordance with Section 8.01-268 of the Code of Virginia (1950), as amended. Any memorandum of lis pendens admitted to record in an action to enforce a violation of this Ordinance shall expire after 180 days. If the city has initiated an enforcement proceeding against the owner of the real property and such owner subsequently transfers the ownership of the real property to an entity in which the owner holds an ownership interest greater than 50 percent, the pending enforcement proceeding shall continue to be enforced against the owner.

(8) The city shall have such other remedies as are and as may from time to time be provided for or allowed by the Code of Virginia (1950), as amended, for the violation of zoning, subdivision, and other provisions of the City Code.

(9) To the extent allowed by law, all such remedies provided herein shall be cumulative. To the extent that the Code of Virginia (1950), as amended, may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

(B) Remedies for Failure to Obtain or Comply with a Certificate of Appropriateness

In accordance with Code of Virginia, § 15.2-2209, the uniform schedule of civil penalties for failure to obtain or comply with an approved certificate of appropriateness in Table 40.1-7.5(A) Civil Penalties in Historic Districts, is adopted. The table does not include any zoning violation resulting in injury to any persons, and the existence of these civil penalties shall not preclude action by the Zoning Administrator in accordance with Section 15.2-2286(4) of the Code of Virginia (1950), as amended, or action by the city under Section 15.2-2208 of the Code of Virginia (1950), as amended.

TABLE 40.1-7.5(A): CIVIL PENALTIES IN HISTORIC DISTRICTS

FAILURE TO OBTAIN A CERTIFICATE OF APPROPRIATENESS FOR:	INITIAL OFFENSE [1]	CONTINUING OFFENSE [2]	REPEAT OFFENSE [3]
The removal and/or installation of roofing materials	$100	$500	$500
The removal and/or installation of wall siding materials	$100		
The removal and/or installation of windows	$200		
The removal and/or installation of exterior doors	$100		
The removal and/or installation of fences	$100		
The painting of any exterior surfaces	$50		
The removal and/or installation of driveways and/or sidewalks	$100		
The demolition of part or all of any structure	$200		
The construction of any addition	$200		

NOTES:
[1] An initial offense is the first offense committed by this individual at this or any other property in the historic districts.
[2] A Continuing offense is an offense that has not been corrected after receiving notice to correct and being issued an initial civil penalty.
[3] A repeat offense is an offense committed by an owner, agent and/or contractor after receiving a violation notice for failure to obtain a certificate of appropriateness at any other property within any of the historic districts

ARTICLE 40.1-8:
DEFINITIONS

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ARTICLE 40.1-8: DEFINITIONS

40.1-8.1 GENERAL RULES FOR INTERPRETATION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

(A) Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 40.1-1.3, General Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in this article, the specific section's meaning and application of the term shall control.

(B) Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(C) Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

(D) Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the city, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the city. References to days are calendar days unless otherwise stated.

(E) References to Other Regulations or Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

(F) Delegation of Authority

Any act authorized by this Ordinance to be carried out by a specific official of the city may be carried out by a professional-level designee of such official.

(G) Technical and Non-technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(H) Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of Portsmouth, unless otherwise indicated.

(I) Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(J) Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items, conditions, provisions, or events apply; and

(2) "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

(K) Tenses and Plurals

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(L) Terms Not Defined

If a term used in this Ordinance is not defined in this article, the Planning Director shall have the authority to provide a definition through the interpretation procedure (See Section 40.1-2.3(J), Interpretation.) based upon the definitions used in accepted sources, including but not limited to *A Planners Dictionary, A Glossary of Zoning, Development, and Planning Terms*, and *A Survey of Zoning Definitions*, published by the American Planning Association.

40.1-8.2 RULES OF MEASUREMENT

(A) Measurements, Generally

(1) Purpose

The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this Ordinance. These standards may be modified by other applicable sections of this Ordinance.

(2) Distance Measurements, Generally

Unless otherwise expressly stated, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining those points.

(B) Lots

(1) Definitions/Measurement

(a) Average Lot Size

The mean lot size for three or more lots located along the same block face.

(b) Average Lot Width

The mean lot width for three or more lots located along the same block face. Average lot width is measured at the edge of the public right-of-way, not the rear edge of the front yard.

(c) Contextual Lot Size Standards

Dimensional configuration using one or more of the following:

(i) Average lot size;

(ii) Average lot width;

(iii) Average front yard;

(iv) Average Rear yard; or

(v) Average side yard.

(d) Lot Coverage

See "Building Coverage."

(e) Lot Depth

The horizontal distance between the front lot line and the rear lot line.

(f) Lot or Street Frontage

In the case of a building lot abutting upon only one street, the frontage line is the line parallel to and common with the right-of-way. In the case of a corner lot, that part of the building lot having the narrowest frontage on any street shall be considered the frontage line.

(g) Lot Line

(i) Corner Side Lot Line

The corner side lot line is a side lot line that abuts a street or other right-of-way.

(ii) Front Lot Line

The front lot line is the line connecting the two side lot lines along the edge of the street.

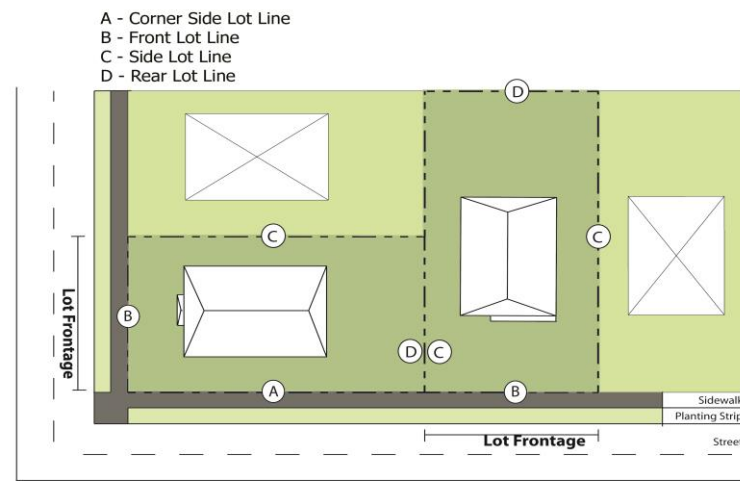


Figure 40.1-8.2(B)(1)(g): Lot Lines

(iii) Rear Lot Line

The rear lot line is the line connecting the two side lot lines along the edge of the lot opposite from the front line.

(iv) Side Lot Line

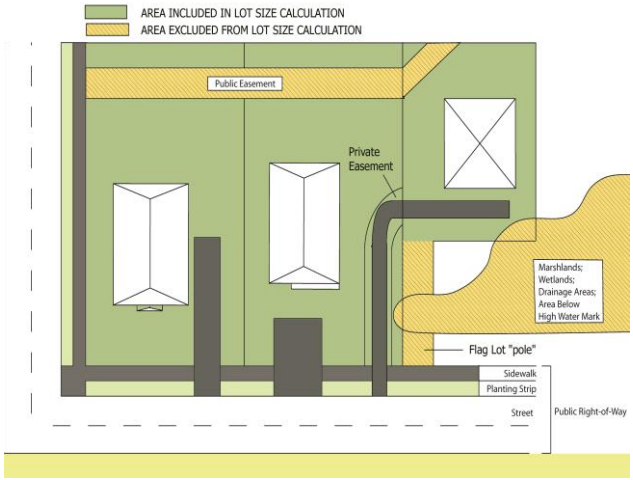
The side lot line is the lot line connecting the front and rear lot lines regardless of whether it abuts a right-of-way or another lot line.

(h) Lot Size

(i) The amount of land area, measured horizontally, included within the lines of a lot. Lands located within any private easements shall be included within the lot size. Public rights-of-way, areas below the mean high-water mark, marshlands, wetlands, or drainage areas located below the normal water level are not be included in calculating lot size, except where specifically allowed by this Ordinance.

(ii) The "pole" or "pan handle" portion of a flag lot shall not be counted towards the lot size.

Figure 40.1-8.2(B)(1)(h): Lot Size Calculation Area



(i) Lot Types

(i) Corner Lot

A lot located at the intersection of two or more streets (other than alleys), regardless of whether or not such streets intersect at right angles.

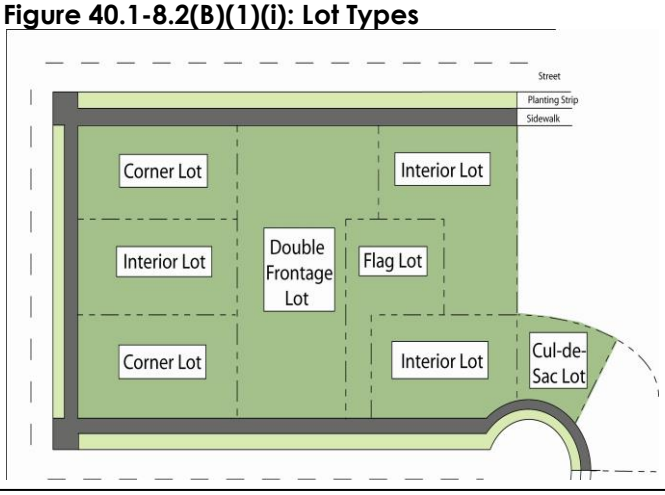
(ii) Cul-de-Sac Lot

A lot located on the head or turn around of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

(iii) Double Frontage Lot

A lot other than a corner lot with frontage on more than one street other than an alley.

Figure 40.1-8.2(B)(1)(i): Lot Types



(iv) Flag Lot

A lot that does not abut or front a street where access is obtained by a narrow private right-of-way.

(v) Interior Lot

A lot other than a corner lot with only one frontage on a street other than an alley.

(vi) Zone Lot

A parcel of land under single ownership that has a sufficient size to meet minimum zoning requirements for the base zoning district where it is located.

(j) Lot Width

The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the back edge of the front yard. On cul-de-sacs, lot width is measured at a point of tangency to the curve of the street.

(2) General Lot Requirements

(a) Erection of More Than One Principal Structure on a Platted Lot

Whenever any land is subdivided, a building permit for the construction of a building or other principal structure (excluding buildings under common ownership or unified control) shall not be issued unless the land is subdivided in accordance with the procedures and standards in Chapter 33.1 of the City Code.

(b) Lots Divided By Zoning District Lines

Whenever a single lot is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

(c) Flag Lots

All yards of a flag lot shall meet the minimum dimensional requirements for a front yard in the district where the flag lot is located.

(3) Zero Side Lot Line Development

One side yard required for attached residential and townhouses may be waived by the Planning Commission, provided:

(a) A subdivision plat approved in accordance with Chapter 33.1 of the City Code authorizes the placement of the dwelling on one side of the lot line;

(b) The width of the remaining side yard is equal to or exceeds the sum of both required side yards;

(c) Any wall facing on the zero side lot line is a structural wall capable of providing protection from fire, noise, and visual encroachment;

(d) At least 10 feet of the remaining side yard is open for access to the homeowner and city services;

(e) A five-foot-wide nonexclusive maintenance easement contiguous to the zero lot line wall on the adjoining property is reserved for the homeowner to repair and maintain such wall;

(f) Any eave encroachments over the zero side lot line are one foot or less; and

(g) The zero side lot line development is suitable, uniform, and compatible with the surrounding neighborhood.

(C) Required Yards

(1) Definitions/Measurement

(a) Accessory Structure Yard

The minimum yard requirement between a lot line and an allowable accessory structure. Accessory structures may not be placed within front or corner side yards.

(b) Average Front Yard

The mean depth of front yards of three or more lots along the same block face.

(c) Average Rear Yard

The mean depth of rear yards of three or more of the same type of lot along the same block face.

(d) Average Side Yard

The mean depth of side yards of three or more

(e) Building Setback Line

A line located at the inside edge of a required front, side, or rear yard. Exterior building walls may not encroach into the required yard beyond the building setback line. Portions of a building, (e.g., an overhang, eave, entry stairs, bay windows, foundation planters, etc.) may encroach into a required yard as allowed in Section 40.1-8.3, Allowable Yard Encroachments.

(f) Build-to Line

A line with which the majority of an exterior wall of a building is required to coincide.

(g) Right-of-Way

Land dedicated, deeded, used, or to be used for a street, road, alley, pedestrian way, crosswalk, bikeway, drainage facility, or other public uses, wherein the owner gives up rights to the land so long as it is being or will be used for the dedicated purpose. Right-of-way also is a land measurement term, meaning the distance between lot property lines which generally contain not only the street pavement, but also the sidewalk, grass area, and underground or aboveground utilities.

(h) Yard

A required open area unoccupied and unobstructed by any building or by any structure or portion of a structure except as allowed by this Ordinance. Fences, walls, and incidental structures (e.g., flagpoles, birdhouses or feeders, clothesline posts, etc.) may be permitted within a yard provided the structures do not interfere with corner visibility.

(i) Yard Types

(i) Corner Side Yard

A yard extending between the front and rear lot lines parallel to an abutting street or right-of-way.

(ii) Development Perimeter Yard

An undeveloped yard of a minimum width that surrounds all sides of a development.

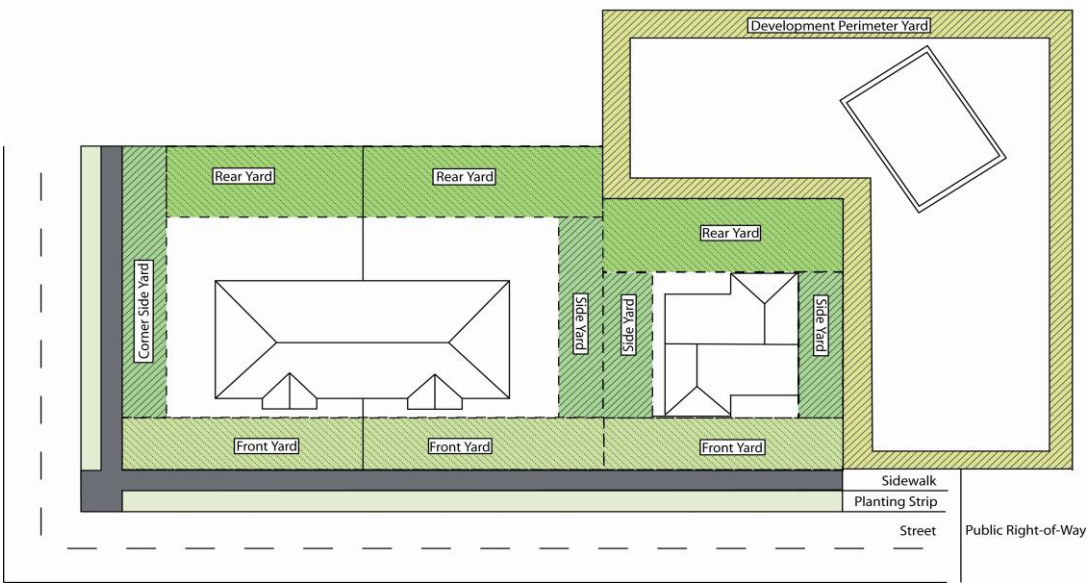
(iii) Front Yard

A yard extending between side lot lines across the front of a lot between the frontage line and the front building setback line.

(iv) Rear Yard

A yard extending across the rear of the lot between the rear lot line and the rear building setback line. In the case of double frontage lots, there is no rear yard, and the requirements for the front yard shall apply to the front and rear.

Figure 40.1-8.2(C)(1): Yard Types



(v) Side Yard

A yard extending from the front building setback line to rear building setback line. In the case of double frontage lots, the side yard extends from the front building setback line to the opposing building setback line associated with the other yard.

(vi) Zero Side Lot Line

A condition where no side yard is provided between two or more distinct dwelling units sharing a party wall (e.g., townhouse, duplex, attached residential, etc.).

(2) General Yard Requirements

(a) In General

A yard or other open area required about a building shall not be included as part of a yard or other open space for another building.

(b) Required Yards Increased for Some Uses

(i) Any commercial or industrial use on a lot adjacent to a lot in residential or historic base zoning district that is vacant or occupied by a dwelling unit shall maintain the minimum side or rear yard requirement, as appropriate, required by the adjacent residential or historic zoning base district.

(ii) In addition, the minimum yard requirements for such commercial or industrial buildings shall be increased by one foot for every foot in building height beyond 36 feet.

(3) Allowable Yard Encroachments

The following features may encroach into required yards: Driveways, walkways, patios, stairs, paved areas, and other accessory structures less than 36 inches above grade and all landscape plantings are exempted from yard requirements, but are subject to corner visibility requirements.

(a) Fences and walls intended for privacy or demarcation of lot lines that meet the standards in Section 40.1-5.10, Fences and Walls, may encroach into a required yard, but shall be subject to corner visibility requirements. Fences or walls intended for screening of service areas or mechanical equipment may not encroach into required yards.

Figure 40.1-8.2(C)(3): Allowable Yard Encroachments

(b) Stairs, chimneys, fireplaces, windows, pilasters, balconies, uncovered decks, uncovered porches, air condensers, mechanical equipment, signs, and other accessory structures with a height exceeding 36 inches above grade may encroach into a required yard by up to three feet.

(c) Front porches may encroach into front yards up to six feet.

(4) Sight Triangle and Corner Visibility

(a) Corner lots shall preserve areas necessary for corner visibility by limiting fence or wall height to a maximum of three feet above grade, and all other obstructions between three and ten feet of the established grade in the following areas:

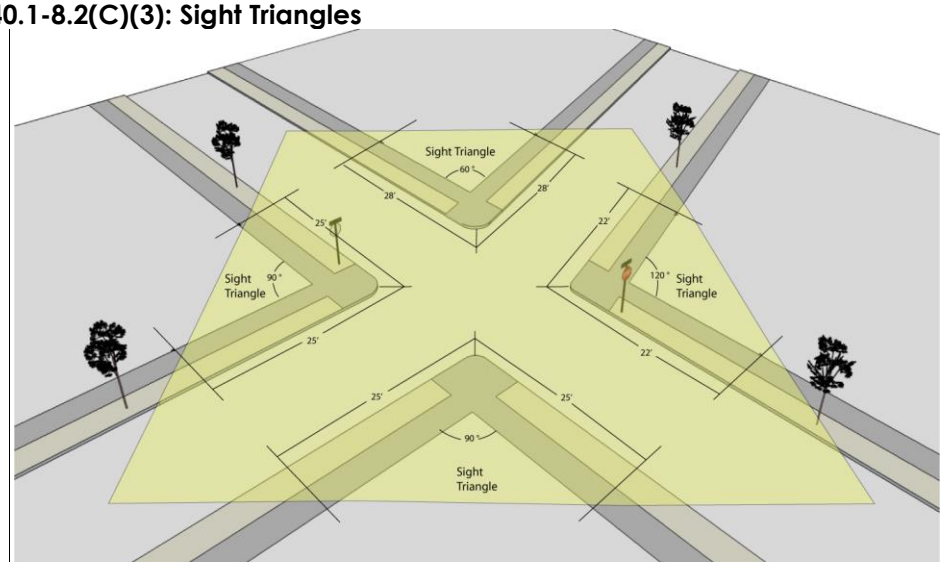
(i) For lots with an interior corner lot angle of 90 degrees or more at the street corner, the corner area is the area within the triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines at 30 feet from the corner on each property lot line.

(ii) For lots with an interior angle of less than 90 degrees at the street corner, the corner area is the area within the triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines 30 feet from the corner on each property lot line plus one foot for every ten degrees or major fraction less than 90 degrees.

(b) These standards do not apply to United States mailboxes, police and fire alarm boxes, public utility poles, street name markers, official traffic signs and control devices, and fire hydrants.

(c) Lots in an historic or downtown zoning district, may waive these standards following approval by the City Traffic Engineer, to fulfill the purposes and objectives declared in Section 40.1-3.6(F), Historic Districts.

Figure 40.1-8.2(C)(3): Sight Triangles



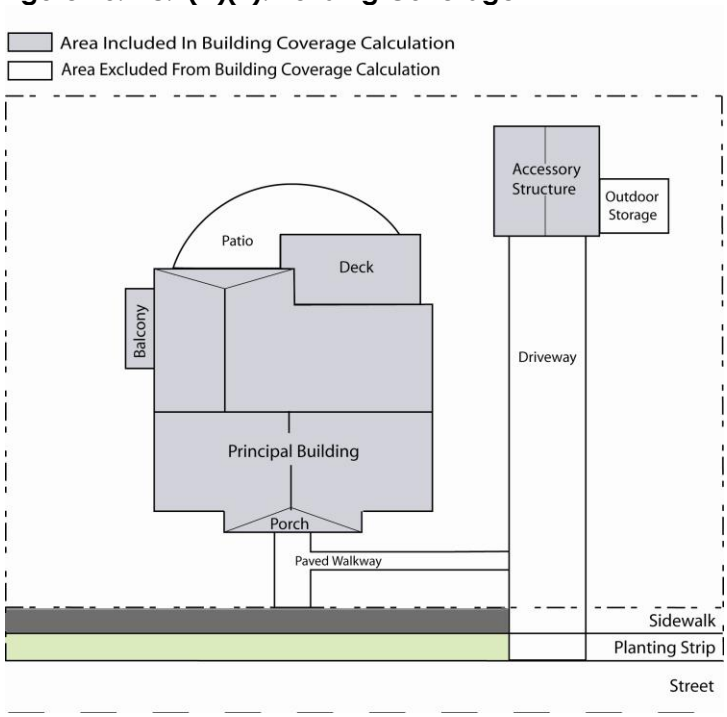
(D) Bulk

(1) Definitions/Measurement

(a) Building Coverage

Building coverage is a measure of intensity of a use of land that represents the portion of a site that is covered by building footprint, as well as attached porches, decks, and balconies. Building coverage does not include driveways, streets, sidewalks, and any other areas covered by an impervious surface material, including areas of outdoor storage.

Figure 40.1-8.2(D)(1): Building Coverage



(b) Building Size

Building size is the total floor area located inside exterior walls and covered by a roof.

(c) Density, Gross Residential The number of residential dwelling units permitted per gross acre of land that is determined by dividing the number of units by the total area of land within the boundaries of a parcel of land including existing streets, dedicated rights-of-way, tree protection zones, and open space set-asides, except as otherwise provided for in this Ordinance. In the determination of the number of residential units to be permitted on a specific parcel of land, a fractional unit equal to or greater than 0.6 of a unit shall be rounded up to equal a full unit. A fractional unit less than 0.6 of a unit shall be rounded down, and not counted as a unit.

(d) Density, Net Residential

The total number of dwellings existing or proposed on a zone lot, group of zone lots or other parcel, divided by the total land area in the zone lot or parcel, expressed in acres. If the parcel is undeveloped, required street rights-of-way and other lands required to be dedicated for public use are not included in the land area.

(e) District Size

The minimum size, in acres, of a base or overlay zoning district, including streets, rights-of-way, and open space areas, but excluding unbudilable lands.

(f) Floor Area

The sum of the gross horizontal areas of the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, and excluding the following:

(i) Attic areas with a headroom of less than seven feet;

(ii) Unenclosed stairs or fire escapes;

(iii) Elevator structures;

(iv) Cooling towers;

(v) Areas devoted to air conditioning, ventilating or heating or other building machinery and equipment;

(vi) Structured parking; and

(vii) Basement space where the ceiling is not more than 48 inches above the general finished and graded level of the adjacent part of the lot.

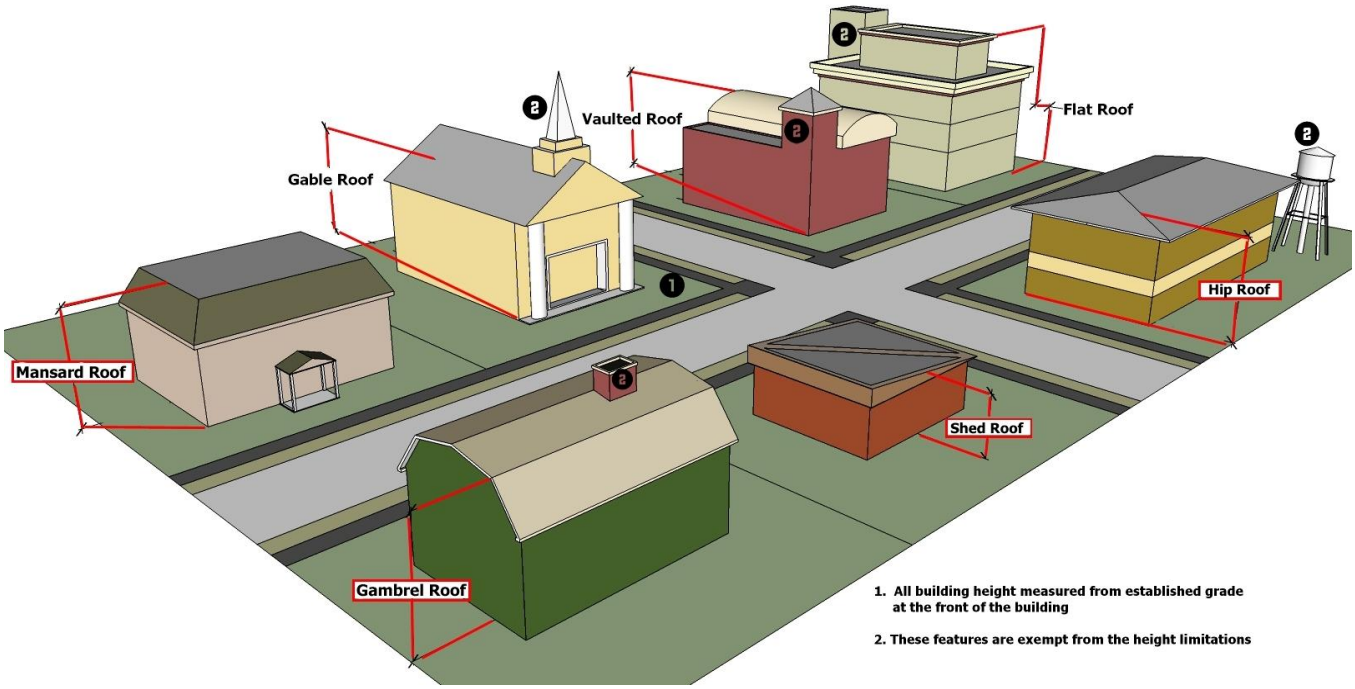
(g) Floor Area Ratio

The total floor area of all buildings or structures on a lot divided by the lot size.

(E) Height

(1) Definitions/Measurement

Figure 40.1-8.2(E)(1): Building Height Measurement



(a) Building Height

The vertical distance measured from the established grade at the corner of a front of a building to the highest point of the roof surface of a flat roof, to the deck line of a mansard or Bermuda roof, to the mean height level between eaves and ridge of gable, hip, cone, gambrel and shed roofs, as depicted in Figure 40.1-8(E)(1), Building Height Measurement.

(b) Building Story

The space between the surface of any floor and the surface of the next floor above it; or if there is no floor above it, the space between the floor surface and the top of the ceiling joists or roof rafters above it. Typically, story height in a residential structure is nine feet per story, and story height in a non-residential structure is twelve feet per story.

(c) Established Grade

Established grade is the finished grade following grading, excavation, or other land-disturbing activity.

(d) Grade

Grade means the level of the finished ground surface immediately adjacent to the exterior walls of a building.

(2) Exceptions

Height limits shall not apply to chimneys, church spires, belfries, cupolas, domes, flag poles, monuments, water towers, rooftop dish antennas, skylights, fire escapes or roof access stairways, mechanical equipment required to operate and maintain the building, or similar appurtenances, provided:

(a) The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;

(b) The appurtenance does not extend more than 25 feet above the maximum permitted building height, except as allowed herein;

(c) The appurtenance does not exceed a maximum height of 200 feet above grade;

(d) The appurtenance is not constructed for the purpose of providing additional floor area in the building; and

(e) The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in this Ordinance.

40.1-8.3 DEFINITIONS

ABANDONMENT

For the purposes of Article 40.1-6: Nonconformities, abandonment shall mean the stopping or halting of use or occupancy of a nonconformity for a period of two years or more. .

ABUTTING

The condition of two or more adjoining lots having a common property line or boundary including cases where two or more lots adjoin a corner, but not including cases where adjoining lots are separated by a street or alley.

ACCENT

The use of an alternate material, or color to a detail that is emphasized by contrasting with its surroundings.

ACCESSORY DWELLING UNIT

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

ACCESSORY STRUCTURE

A structure that is subordinate in use and square footage to a principal structure or permitted use.

ACCESSORY USE

A use that is customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located on the same lot.

ACT OF GOD

Any event in which the damage to a nonconforming use or structure is outside of the control of a single individual. Damage or destruction by fire (except arson) and damage by a vehicle are considered acts of God.

ACTIVE RECREATION USE

Uses or structures intended for specific active recreational uses such as play grounds, ball fields, tennis courts and other similar uses typically located in open space set-aside areas.

ADDITION

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by an independent perimeter load bearing wall is new construction.

ADJACENT

A lot or parcel of land that shares all or part of a common lot line or boundary with another lot or parcel of land or that is directly across a public street or right-of-way.

ADMINISTRATIVE ADJUSTMENT

A permit reviewed and approved, approved with conditions, or denied by the Planning Director in accordance with Section 40.1-2.3(H), Administrative Adjustments.

ADMINISTRATOR, ZONING

See "Zoning Administrator."

ADULT BOOKSTORE

Any commercial establishment having its stock and trade in books, films, video cassettes, (whether for viewing off premises or on premises), or magazines and other periodicals of which more than 25 percent (either sales, number of titles, or display area) are distinguished or characterized by their emphasis on or having as its dominant theme or purpose, matters depicting, describing or relating to specific sexual activities or specified anatomical areas as defined herein.

ADULT DAY CARE CENTER

A program operated in a structure other than a single-family dwelling that provides group care and supervision on a less than 24-hour basis, and in a place other than their usual place of abode, to four or more adults 18 years or older who may be physically or mentally disabled.

ADULT ENTERTAINMENT ESTABLISHMENT

An establishment offering goods and services of an adult nature which includes the selling and rental of publications and other material of a sexual nature (i.e. adult book stores, adult video rental stores, adult theaters, adult nightclubs).

ADULT MINI-MOTION PICTURE THEATER

An enclosed building or outdoor facility with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MOTION PICTURE THEATER

A commercial establishment where, for any form of consideration, films (which term shall also include videotapes and other, comparable technology) containing "specified sexual activities" or "specified anatomical areas" ("sexually oriented films") are predominantly shown; or where a predominant number of films are limited to adults only. For the purposes of this Ordinance, sexually oriented films will be deemed predominantly shown if they are shown more frequently than other, nonsexually oriented films or if there is regularly greater audience attendance at such films than at other, nonsexually oriented films. A finding by the Zoning Administrator that sexually oriented films predominate or that a predominant number of films are restricted to adults shall be presumed to be correct unless the subject owner or operator rebuts the presumption by clear and convincing evidence.

ADULT NOVELTY STORE

A commercial establishment which offers for sale, rental or viewing for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

When one of more of the following criteria apply:

(1) In any one month 25 percent or more of the gross income of the establishment is derived from the sale, rental or viewing of such materials;

(2) Twenty-five percent or more of the floor area of the premises is devoted to the display or storage of such materials; or

(3) Twenty-five percent of the stock and trade of the establishment is comprised of such materials.

ADVERTISING DISPLAY AREA

The advertising display surface area of a sign.

AFFECTED PROPERTY OWNER

The owner of any property upon which the proposed development will have a positive or negative impact.

AGGRIEVED PARTY

Any person (including an owner, developer, or applicant for a development order) who will suffer an adverse effect to an interest protected or furthered by the comprehensive plan or this Ordinance, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The party must be able to show an immediate, pecuniary, and substantial interest in any litigation, and not a remote or indirect interest.

AIRCRAFT PARTS, SALES, AND MAINTENANCE

The use of land for the display and sale of, or general repair, rebuilding, or reconditioning of any contrivance now known or hereafter invented for use in or designed for navigation of or flight in air.

AIRPORT

Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

AIRPORT ELEVATION

The highest point on any usable landing surface expressed in feet above mean sea level.

ALLEY

A minor way designed to give vehicular access to the side or rear of properties whose principal frontage is on another street.

ALTERATION

Any change or expansion in the size, configuration, or location of a structure; or any change or expansion in the use of a structure or lot, from a previously approved or legally existing size, configuration, location, or use.

ALTERNATIVE PARKING PLAN

A plan or other proposal to utilize one or more of the alternative parking provisions in Section 40.1-5.1(J), Alternative Parking Plans, as a means of providing more off-street parking spaces than typically allowed or fewer spaces than required.

AMATEUR RADIO TOWER

A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.

AMENITIES

Manmade or natural features which enhance or make more attractive a particular site for development.

ANCILLARY MECHANICAL EQUIPMENT

Supplemental equipment, attached or detached, including but not limited to equipment for the provision of services for heat, ventilation, air conditioning, electricity, plumbing, telephone and television.

ANIMAL GROOMING

Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged.

ANIMAL SHELTER

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

ANTENNA

A device used to transmit and/or receive radio or electromagnetic waves between land based or orbiting uses.

APPEAL

An appeal of a decision or interpretation made by the Planning Director or Zoning Administrator that is reviewed and reversed, modified, or upheld by the BZA in accordance with Section 40.1-2.3(K), Appeal.

APPEAL REVIEW COMMITTEE (ARC)

A committee whose role is to determine if there are legitimate grounds to place an appeal of an HPC decision on the City Council agenda. The ARC consists of the Planning Director and the City Attorney.

APPLICANT

The owner of land, or the authorized representative of the landowner, applying for a permit or development approval.

APPLICATION

The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate City department, board, or commission as part of the review for a permit or development approval.

ARBORETUM OR BOTANICAL GARDEN

A garden or place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational, or passive recreational purposes, not including the harvest of plants or their produce.

ARBORIST

A person who is licensed (either a professional certification or International Society of Arboriculture Certified Arborist) to perform arboricultural work in the city.

ARCADE

A series of arches supported by piers or columns.

ARCH

A curved, semicircular opening in a wall.

ARCHITECTURAL LIGHTING

Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion.

ARENA, AMPHITHEATER, OR STADIUM

A building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings. Such uses may or may not include lighting facilities for illuminating the field or stage area, concessions, parking facilities, and maintenance areas.

ASSESSED VALUE

The monetary price that a parcel of land, portion of land, improvement on land, or other commodity is assigned by the city Tax Assessor's office for the purposes of taxation.

ASSISTED LIVING FACILITY

A building, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, health care assistance, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or proprietor. Accessory uses may include dining rooms and infirmary facilities for intermediate or skilled nursing care solely for the use of the occupants residing in the principal facility.

AUDITORIUM

A building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats.

AUTHORIZED AGENT

A person with express written consent to act upon another person's behalf.

AUTOMOBILE

Any vehicle propelled by its own motor and operating on roads. As used herein, the term includes passenger cars, trucks, motorcycles, motor scooters, motorized bicycles and the like.

AUTOMOBILE SALES OR RENTALS

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

AUTOMOBILE SERVICE STATION

See "Automotive Repair and Servicing".

AUTOMOTIVE PAINTING/BODY SHOP

Repair of automobiles, vehicles, or trailers, including bodywork, framework, welding, and major painting service.

AUTOMOTIVE PARTS AND INSTALLATION

The on-site sale and subsequent installation of various automobile parts and accessories, including but not limited to tires, mufflers, brakes, batteries, audio systems, and lubricants such as engine oil. Such uses do not include the sale of gasoline or other fuels.

AUTOMOTIVE REPAIR AND SERVICING (WITHOUT PAINTING/BODYWORK)

General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service.

AUTOMOTIVE WRECKER SERVICE

An establishment operated for the purpose of temporary storage on-site of no more than nine wrecked or inoperable vehicles for a period no longer than 90 days. If an establishment has 10 or more inoperable vehicles located on-site, stores inoperable vehicles for more than 90 days, stacks vehicles, or portions of the vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.

AWNING

A cover, entirely supported by the building to which it is attached, which has the purpose of shielding a doorway, window, porch, terrace, or platform from the elements.

AXIS

The centerline of a structure that divides the structure into two halves.

BASEMENT

A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half of its height is above the average level of the adjoining ground.

BED AND BREAKFAST INN

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

BIKE RACK

A stand used for mounting and securing bikes when not in use.

BLOCK

A parcel of land entirely surrounded by streets or by any combination of streets, parks or railroad right-of-way.

BLOCK FACE

The lands abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, railroad right-of-way, watercourse, or un-subdivided land.

BLOOD/TISSUE COLLECTION FACILITY

A facility where blood or related materials are either withdrawn or collected from patients or assembled after being withdrawn or collected elsewhere from patients for subsequent delivery to a clinical laboratory for examination. A collection facility is maintained at a separate physical location not on the grounds or premises of the main licensed laboratory or institution, which performs the testing.

BOARDER

An individual occupying a dwelling unit or part thereof who, for consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

BOARDING HOUSE

See "Rooming House or Boarding House".

BOAT AND MARINE RENTAL AND SALES

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

BODY PIERCING ESTABLISHMENT

An establishment in which body piercing takes place. For the purposes of this definition, the term body piercing means the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature, but does not include the use of a mechanized, presterilized ear piercing system that penetrates the outer perimeter or lobe of the ear, or both.

BREWERY/DISTILLERY/ WINERY/ CIDERY.

A facility for the production and packaging of alcoholic beverages/spirits of the following types and quantities for distribution, retail or wholesale, on or off the premises: beer (more than 15,000 barrels per year), distilled spirits, wine, or alcoholic cider (more than 20,000 gallons per year). Permitted accessory uses shall include retail sales, tasting rooms for beverages produced on-site, restaurants, reception halls, and live entertainment as other-wise permitted in the zoning district.

BUFFER

An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use, no part of which buffer is used for recreation or parking.

BUFFER, PERIMETER

Vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this Ordinance, including but not limited to the Type A Basic, Type B Aesthetic, Type C Semi-opaque, and Type D Opaque described in Section 40.1-5.2(E), Perimeter Buffers.

BUILDABLE AREA

The portion of the lot remaining after required yards have been provided and after the limitations of any pertinent environmental regulations are applied. Buildings may be placed in any part of the buildable area, but if there are limitations on percent of the lot which may be covered by buildings, some open land may be required within the buildable area.

BUILDING

A combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property.

BUILDING CODE

The Virginia Uniform Statewide Building Code adopted by the state legislature and any amendments thereto.

BUILDING OFFICIAL

The person appointed by the City Manager as the individual who issues the permit for the construction, alteration, reconstruction, or demolition of all or part of any building.

BUILDING PERMIT

An approval statement signed by the Building Official authorizing the construction, alteration, reconstruction, or demolition of all or part of any building.

BUILDING, HEATING, PLUMBING, OR ELECTRICAL CONTRACTOR

Offices for building, heating, plumbing, or electrical contractors, and related storage facilities.

BUILDING, PRINCIPAL

A building which contains the principal use of the lot on which it is situated.

BZA

The Board of Zoning Appeals for the City of Portsmouth, Virginia. See Section 40.1-2.1(D).

CALIPER

A horticultural method of measuring the diameter of a tree trunk for the purpose of determining size. The caliper of the trunk is measured six inches above the ground for trees up to and including four inches in diameter, 12 inches above the ground for trees greater than four inches and up to ten inches in diameter, and at breast height (4½ feet) for trees ten inches or greater in diameter.

CAMPGROUND OR RECREATIONAL VEHICLE (RV) PARK

An outdoor facility designed for overnight accommodation of persons in tents, rustic cabins, recreational vehicles, and shelters for recreation, education, naturalist, or vacation purposes. Office, retail, and other commercial uses commonly established in such facilities and related parking structures shall be allowed as accessory appurtenances.

CANOPY

A permanent structure other than an awning made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

CANOPY TREE

A tree that has an expected height at maturity of 30 feet or more.

CAR WASH OR AUTO DETAILING

An establishment providing the exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants. Automatic car wash establishments are further defined under the two following categories:

1. Full service: An establishment featuring a conveyor system to move vehicles through the wash cycle. This type of car wash may include sales of gasoline, oil and other vehicle related merchandise. On-site attendants are required. Building size is limited by lot size, parking requirements, building and landscape setbacks or other site characteristics.

2. Self service: An establishment featuring a car wash system where vehicles are manually driven through a wash cycle, or washed manually using a wand or other hose. Incidental interior cleaning and exterior drying are performed by vehicle operator. This type of car wash does not have an on-site attendant and there is no gasoline, oil or other merchandise for sale.

CASUALTY DAMAGE

Damage to a use, lot, or structure from an event that is sudden, unexpected, and unusual, such as a hurricane, earthquake, fire, flood, theft, or similar event.

CEMETERY, COLUMBARIUM, MAUSOLEUM

Uses intended for the burial of the dead and dedicated for cemetery purposes. This use type may include a funeral home or mortuary or a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.

CERTIFICATE OF APPROPRIATENESS (COA)

The development approval by the HPC, or DDC, as appropriate, in accordance with Section 20-2.3(I) that certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, or demolition of all or a part of any building within an historic district, subject to the issuance of all other relevant permits or development approvals needed for the matter sought to be accomplished.

CERTIFICATE OF OCCUPANCY

A certificate granted by the city's Building Official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the Building Permit. A building may not be occupied without the issuance of a Certificate of Occupancy.

CERTIFICATE OF ZONING COMPLIANCE

See "Zoning Compliance Certificate".

CHANGE IN USE

A change of one land use to a different land use. For the purposes of this Ordinance, a change of use shall not include change in ownership or a change from one land use to an identical land use (e.g., a change from one restaurant to another restaurant shall not be deemed a change in use.)

CHICKENS, BACKYARD

A domesticated fowl, not including turkeys, ducks, geese, or other types of poultry. Chickens (*gallus gallus domesticus*) shall be considered as livestock and not household pets under the zoning ordinance.

CHILD DAY CARE CENTER

An arrangement or program where, at any one time, either:

a. Six or more children under the age of 13 receive child care in a residence, or

b. Two or more children under the age of 13 receive child care in a building other than a residence

On a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include family child care homes, home child day care, cooperative arrangements among parents, or drop-in or short-term child care provided while parents work part-time or participate in other activities on the premises (e.g., churches, shopping malls, hotels, health spas).

CIRCUIT COURT

The Circuit Court of the City of Portsmouth, Virginia

CITY

The City of Portsmouth, Virginia.

CITY CODE

The code of ordinances of the City of Portsmouth.

CITY COUNCIL

The City Council for the City of Portsmouth, Virginia.

CIVIC, SOCIAL, OR FRATERNAL CLUBS OR LODGES

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

CLERK OF CIRCUIT COURT

The Clerk of the Circuit Court of the City of Portsmouth, Virginia.

CLOTHES LINE

A rope or wire on which clothes, linens, or other fabrics are hung for drying or airing.

COA

See "Certificate of Appropriateness".

COLD STORAGE PLANT

A building, structure, machinery, appurtenances, appliances and apparatus occupied and used in the business of freezing food products or storing frozen food products.

COLLEGE OR UNIVERSITY

A public or private, non-profit institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions. Trade or vocational schools are a different use type.

COLOCATE

To locate with another user on an existing structure such as a tower, power, phone or light pole or stanchion; water tank or stand pipe, building or steeple, billboard sign or similar structure.

COMMERCIAL RECREATION, INDOOR

A private indoor (entirely within an enclosed structure) use providing for sport and recreation activities that are operated or carried on primarily for financial gain. Examples of indoor commercial recreation uses include, but are not limited to, fitness centers, bowling alleys, dancehalls, skating rinks, and indoor commercial swimming pools and racquet and tennis courts.

COMMERCIAL RECREATION, OUTDOOR

A private outdoor use providing facilities for outdoor sport and recreation activities, which is operated or carried on primarily for financial gain. Examples of outdoor commercial recreation uses include, but are not limited to, privately owned golf driving ranges, miniature golf facilities, outdoor commercial tourist attractions, outdoor commercial swimming pools and tennis courts, and drive-in theatres.

COMMERCIAL VEHICLE

A truck, bus, or other self-propelled vehicle of any type or a container constructed for the transportation of materials used or maintained primarily for business purposes to transport goods, equipment or passengers. This definition is not applicable to a vehicle described as a pickup, van or panel truck that does not exceed one ton in manufacturer's rated capacity and does not exhibit a company name or logo.

COMMON OPEN SPACE

Portion of a proposed development required for reservation as permanent open space by Section 40.1-5.4, Open Space Standards and Set-Asides.

COMMONWEALTH

The Commonwealth of Virginia.

COMMUNITY CENTER

A public building to be used as a place of meeting, recreation, or social activity and not operated for profit.

COMMUNITY GARDEN

A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person.

COMPREHENSIVE PLAN

The City of Portsmouth's adopted Comprehensive Plan.

CONDOMINIUM

A multiple-unit residential or nonresidential development where individual units are owned, but the foundation, roof, and land are owned jointly.

CONFERENCE OR TRAINING CENTER

A facility designed to accommodate less than 500 persons and used for conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on–premise consumption.

CONNECTIVITY

The relative degree of connection between streets, sidewalks, or other means of travel.

CONSTRUCTION

The erection of any building or structure or any preparations (including land disturbing activities) for the same.

CONTIGUOUS

Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public right-of-way.

CONTINUING OFFENSE

An offense that has not been corrected after receiving notice to correct and being issued an initial penalty.

CONTINUOUS VISUAL SCREEN

Screening of vehicular use areas by vegetative material, berms, or structures (walls and fences), or a combination of these items designed to completely obstruct off-site views of the vehicular use area typically to a height three feet or 36 inches above the adjacent grade.

CONTRIBUTING PROPERTIES

Those properties which by reason of form, materials, architectural details and relation to surrounding properties contribute favorably to the general character of the part of the historic district in which they are located.

CONVENIENCE STORE WITH GAS SALES

A retail establishment which offers for sale, primarily, the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Gasoline and/or fast food may also be offered for sale but only as a secondary activity of a convenience store. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.

CONVENIENCE STORE WITHOUT GAS SALES

A retail establishment and which offers for sale, primarily, the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Gasoline is not offered for sale. Fast food may be offered, but only as a secondary activity of a convenience store. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.

CONVENTION CENTER

A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on–premise consumption. Similar structures with a capacity of less than 500 people are auditorium or conference center uses.

CORNICE

Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

CORRECTIONAL FACILITY

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

COUNTRY CLUB

A nonprofit membership club organized and operated primarily to provide recreational activities such as golf, swimming, tennis, and other outdoor recreation to its members and their guests, as well as incidental facilities such as a club house, locker rooms, and pro shop.

COUNTY

Norfolk County, Virginia.

COURT, INNER

A court other than an outer court. The length of an inner court is the minimum horizontal dimension measured parallel to its longest side. The width of an inner court is the minimum horizontal dimension measured at right angles to its length.

COURT, OUTER

An uncovered open space other than a yard, surrounded on three sides by the exterior walls of a structure. In cases where the fourth, or open side of a court is enclosed by projections exceeding 25 percent of its width, such court shall be considered an inner court.

CREMATORY

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

CROSS-ACCESS

Vehicular access provided between the vehicular use areas of two or more development sites or parcels of land intended to allow travel between the sites without the use of a public or private street.

CROSSWALK

A right-of-way dedicated to public use which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

CUL-DE-SAC

A short street having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

CULTURAL FACILITY

An establishment such as a zoological garden, conservatory, planetarium, or other similar use of an historic, educational, or cultural interest, which is not operated for profit.

CUPOLA

A domelike structure on top of a roof or dome, often used as a lookout or to admit light and air.

DECK

A structure, without a roof, directly adjacent to a principal building which has an average elevation of 30 inches or greater from finished grade.

DEMOLITION

The dismantling or tearing down of all or part of any building and all operations incidental thereto.

DEMOLITION BY NEGLECT

The neglect in the maintenance of any building resulting in the deterioration of a building to the extent that it creates or permits a hazardous or unsafe condition as determined by the department of permits and inspections and as further defined in Section 40.1-3.6(E), Historic Districts. It shall also be defined as the removal of and/or the disposal of architectural features from the interior and/or exterior to make the rehabilitation of the structure economically unfeasible.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land included in a proposed application for permit or development approval, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

DEVELOPMENT

The initiation, construction, change, or enlargement of any use or structure or the disturbance of land through the removal of trees or ground cover. "Development" shall include, but not be limited to, the following:

- Construction or enlargement of a building or structure;
- Change in the type of use of a building, structure, or land;
- Material increase in the intensity of use of land, such as an increase in the square feet of businesses, offices, manufacturing establishments, or dwelling units located in a building or structure or on the land;
- Commencement or expansion of resource extraction on a parcel of land;
- Demolition of a structure or the removal of regulated trees from a parcel of land;
- Deposition of refuse, solid or liquid waste, or fill on a parcel of land;
- Alteration, either physically or chemically, of a bank or channel of any stream, lake, or other body of water or alteration of any wetland; or

Any land disturbing activity that adds to or changes the amount of impervious or partially-impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DEVELOPMENT PLAN, TYPE I

- A permit (site plan) reviewed and approved, approved with conditions, or denied by the Planning Director in accordance with Section 40.1-2.3(C), Type I Development Plan.

DEVELOPMENT PLAN, TYPE II

A permit (site plan) reviewed and approved, approved with conditions, or denied by the Planning Commission in accordance with Section 40.1-2.3(D), Type II Development Plan.

DEVELOPMENTAL DISABILITY

A developmental disability shall be defined in the same manner as defined in the Federal Developmentally Disabled Assistance Act. For the purposes of this Ordinance, developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Title 54.1 of the Code of Virginia.

DIAMETER AT BREAST HEIGHT (DBH)

The measurement of the diameter of a tree trunk over ten inches in diameter taken at a height of four-and-one-half feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.

DINNER THEATER

An eating establishment offering food to patrons while seated at tables or through a buffet line before, during, or after a performance by one or more actors in a theatrical production.

DISTRICT

An area delineated on the official zoning map that sets forth standards and guidelines for all development within the prescribed zoning district.

DISTRICT, OVERLAY

A zoning district that encompasses one or more underlying zoning districts and that imposes additional requirements above that required by the underlying zoning district.

DOCK

A piling-mounted stationary or floating platform extending into the water and used as a landing place for boats or promenade or to protect or form a cove. The term "dock" shall include walkway, catwalk, wharf, piling, bulkhead, boat house and other similar structures.

DORMITORY

A building used principally to provide rooms for sleeping accommodations at an educational, public, or religious institution. Common kitchen, sanitary, and social gathering rooms may also be provided.

DRIPLINE

A vertical line that extends from the outermost branches of a tree's canopy to the ground around the circumference of the tree.

DRIVE-THROUGH

A facility designed to enable a person to transact business while remaining in a motor vehicle.

DRUG AND ALCOHOL TREATMENT FACILITY

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

DRUG STORE OR PHARMACY, WITH DRIVE-THROUGH SERVICE

A freestanding establishment including one or more drive through lanes for customer service that is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

DRUG STORE OR PHARMACY, WITHOUT DRIVE THROUGH SERVICE

A freestanding establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

DRY CLEANING AND LAUNDRY DROP-OFF ESTABLISHMENT

A commercial establishment maintained for the drop off and pick up of clothes for off-site laundering or dry cleaning, without the operation of any laundry or dry cleaning equipment on the premises.

DWELLING

A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING, LIVE/WORK

A structure or portion of a structure combining a residential living space for one or more persons with an integrated work space principally used by one or more of the residents.

DWELLING, MULTI-FAMILY

A dwelling containing five or more individual dwelling units, with the units often stacked one above the other in a vertical configuration, sharing common vertical walls and/or horizontal floors and ceilings.

DWELLING, SINGLE-FAMILY, ATTACHED

Two or more single-family dwelling units, each with its own outside entrance and individual lot, which are joined together by a common or party wall which is shared by two or more individual dwelling units along the lot line.

DWELLING, SINGLE-FAMILY, DETACHED

A residential building containing not more than one dwelling unit to be occupied by one family, not physically attached to any other principal structure. For regulatory purposes, this term does not include manufactured homes, recreational vehicles, or other forms of temporary or portable housing.

DWELLING, TOWNHOUSE

A type of multi-family dwelling in which five or more individual dwelling units are located on individual lots, but attached by one or more common party walls which are shared by one or more units for more than 50 percent of their total linear distance along the lot line. The habitable spaces of different dwelling units are typically arranged on a side-by-side basis rather than a stacked configuration.

DWELLING, TWO- TO FOUR-FAMILY

A residential building containing two, three, or four individual dwelling units located on a single lot. Such units may be part of a single structure, or may be attached by one or more common walls.

DWELLING, UPPER STORY

A dwelling unit located on the second floor or higher of a building with nonresidential uses located on the ground or street level.

EASEMENT

A grant by a landowner to another landowner or to the public, of a right to occupy or use designated land for specific purposes, such as access, drainage, conservation, the location of public improvements, or other specified purpose. An easement does not constitute fee simple ownership of the land.

EAVE

The projecting lower edges of a roof that overhangs the wall of a building.

EGRESS

An exit from a building or site.

ELECTRIC MOTOR REPAIR

An establishment that repairs electric motors for compensation.

ELEVATION

The front, side, or rear of a structure.

ENCLOSURE

Any roofed-over structure or attachment to a structure is enclosed if sides (other than the side or sides where a structure is attached to a main building) are more than 40 percent enclosed with any material other than customary wire or mesh screening.

ENCROACHMENT

The portion of a structure that intrudes into a required setback, or the point at which a driveway accesses a public street.

ENERGY RECOVERY PLANT

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

ENGINEER

An engineer registered by the Commonwealth of Virginia.

ENLARGEMENT

An increase in the size of an existing structure.

ENTERTAINMENT ESTABLISHMENT

Uses that offer some form of entertainment (e.g., dancing, comedy performances, amplified music, etc.) for patrons while on the premises. Entertainment establishments may serve alcohol, charge patrons a membership fee, and serve food for on-site consumption.

EXISTING TREE CANOPY

The crowns of all healthy self-supporting canopy trees with a diameter at breast height (DBH) of ten inches or greater and understory trees with a caliper size of four inches or greater at breast height.

EXPANSION

An increase in the size of an existing structure or use, including physical size of the land, building, parking, and other improvements or structures.

EXTERIOR ARCHITECTURAL FEATURES

The architectural style, general design and general arrangement of the exterior of a building, structure or object, including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs, and other appurtenant architectural fixtures, details, features, or elements.

EXTRACTIVE INDUSTRY, ALL USES

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

FAÇADE

The entire exterior wall of a building facing a lot line measured from the grade to the eave or highest point of a flat or mansard roof. Facades may be on the front, side, or rear elevation of the building.

FACADE, FRONT

See "Front Façade".

FACADE, REAR

That portion of a building which is, by either service area, secondary entry and egress or the facade directly opposite the front facade of the structure, the reverse frontage of the building.

FAMILY

An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than five persons not related by blood, marriage, or adoption living together as a single housekeeping unit,.

FAMILY CARE HOME

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than eight aged, infirm or disabled persons or resident persons with disabilities—i.e., persons with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others.

FAMILY CHILD DAY CARE HOME (6 TO 12 CHILDREN)

A program or arrangement located in a residence where, at any one time, more than six but no more than twelve children under the age of 13 receive child care on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include day care centers, home child day care, or cooperative arrangements among parents.

FENCE

A structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.

FIRST FLOOR

The floor of a building which is at, or first above, average finished grade.

FINANCIAL INSTITUTION, WITH DRIVE-THROUGH SERVICE

An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial institutions may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. These uses include drive-through facilities.

FINANCIAL INSTITUTION, WITHOUT DRIVE-THROUGH SERVICE

An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial institutions may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. These uses do not include drive-through facilities.

FIRE OR EMS FACILITY

A facility for the provision of local rapid response emergency services such as firefighting and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles, and equipment and facilities for the housing and feeding of emergency personnel while on duty.

FIRE OR POLICE SUBSTATION

Any building or part of a building that is designated by the chief of police or sheriff to be used as a police or sheriff's station or substation and at which duly authorized officers perform law enforcement functions.

FLEA MARKET

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

FLOOR

The top surface of an enclosed area in a building (including the basement), such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

FOOTCANDLE

The amount of light that falls onto a surface as emitted by an exterior lighting device.

FRATERNITY/SORORITY HOUSE

A building used as group living quarters for students of a college, university, or seminary, who are members of a fraternity or sorority that has been officially recognized by the college, university, or seminary. Such use may or may not be located within the campus it is associated with. The fraternity or sorority house may include sleeping areas, cooking facilities, and areas for meeting and socializing.

FRONT FAÇADE

The side or elevation of a structure that contains the structure's architectural front, or the portion of the structure, excluding porches, facing the street from which the structure derives its street address.

FREIGHT SHIPPING CONTAINER

A portable, weather-resistant receptacle designed for and used in multi-modal shipment of goods, wares or merchandise, including a receptacle originally designed for the transport of goods but not currently used for such purposes. Truck or tractor trailers are included in this definition.

FRONTAGE

The width in linear feet occupied by each separate business or other use or the width in linear feet of a lot which fronts on a public street. Each building or lot front shall, for purposes of sign copy area allowed, be separately calculated.

FRONTAGE BUILDING

The linear length of only that portion of a building used by an individual tenant on a separate lot or by an individual tenant in a multiple tenant development and which faces a public street or alley.

FUEL OIL STORAGE

The storage of fuel oil or kerosene for heating purposes in aboveground containers.

FUEL OIL/BOTTLED GAS DISTRIBUTOR

An establishment that distributes fuel oil or bottled gases such as propone or liquid petroleum for compensation.

FULL CUT-OFF LENS

An artificial outdoor lighting fixture designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

FUNERAL HOME

An establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home.

GABLE

A triangular area of an exterior wall formed by two sloping roofs.

GARAGE

An outbuilding or accessory structure for the purpose of parking vehicles.

GAS SALES

Buildings and premises where gasoline, oils and greases, batteries, tires and automobile accessories may be supplied and dispensed at retail (or in connection with a private operation where the general public is excluded from use of facilities), and where in addition, the following services may be rendered and sales made, and no other:

- Sale and service of spark plugs, batteries, and distributors and distributor parts;
- Tire servicing and repair, but not recapping or regrooving;
- Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- Radiator cleaning and flushing;
- Washing and polishing, and sale of automotive washing and polishing materials;
- Greasing and lubrication;
- Providing and repairing fuel pumps, oil pumps, and lines;
- Minor servicing and repair of carburetors;
- Emergency wiring repairs;
- Adjusting and repairing brakes;
- Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- Sales of drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation;
- Provision of road maps and other informational material to customers; and
- Provision of restroom facilities.

Uses permissible at a gas sales establishment do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations.

GENERAL INDUSTRIAL SERVICE

Establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that provide these services do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

GLARE

The reflection or harsh, bright light and the physical effect resulting from high luminances or insufficiently shielded light sources to cause annoyance, discomfort, or loss in visual performance and visibility.

GLAZING

The portion of an exterior building surface occupied by glass or windows

GOLF COURSE, PRIVATE

A tract of land under private ownership that is laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.

GOLF COURSE, PUBLIC

A tract of land owned by the city or other government entity that is laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.

GOLF DRIVING RANGE

A limited area on which golf players do not walk, but onto which they drive golf balls from a common driving tee. Such uses may include a concessions stand, netting, exterior lighting fixtures, putting greens, as well as maintenance and outdoor storage areas. Such uses do not include golf courses.

GOVERNMENT MAINTENANCE, STORAGE, AND DISTRIBUTION FACILITY

A facility housing government shops, maintenance and repair centers, equipment, and outdoor storage yards.

GOVERNMENT OFFICE

An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, or motor vehicle licensing and registration services.

GREENHOUSE

A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

GREENWAY

A linear greenbelt linking various types of development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and area immediately adjacent to the pathway.

GROCERY STORE

An establishment engaged in retail and/or wholesale sale of food, foodstuffs, sundries, or other common household items to members of the public.

GROUND COVER

Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

GROUP HOME

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for nine or more adult resident persons with disabilities—i.e., persons with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others. The definition does not include family care homes, hospitals, rest homes, nursing homes, boarding homes, homes for orphans or aged, sub-acute-care detoxification centers, or halfway house/mainstreaming facilities.

HALFWAY HOUSE

A licensed home for juveniles or adult persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling is provided to assist residents back into society, enabling them to live independently.

HANDICAPPED

See "Developmentally Disabled".

HAZARDOUS WASTE COLLECTION SITE

An establishment for the collection and/or transfer of hazardous waste.

HEAVY EQUIPMENT SALES, RENTAL, OR STORAGE

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

HEAVY EQUIPMENT SERVICING AND REPAIR

An establishment engaged in the repair of heavy equipment of 12,000 or more pounds gross vehicular weight (GVW).

HEDGE

A group of shrubs planted in line or in groups that forms a compact, dense, living barrier that demarcates an area from on-site or off-site views.

HELICOPTER LANDING FACILITY

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

HIGH RISK TREE

Any tree with structural defects sufficient to render the tree or part of the tree likely to fail and cause damage to persons, property, or other significant vegetation, as determined by a qualified arborist or other tree professional.

HISTORIC AND MEMORIAL MARKER

Historic or memorial markers include memorial signs or tablets indicating the names of buildings and/or date of erection, when cut into a masonry surface or made of bronze or other noncombustible material, and any historic marker approved by the city. Such markers shall not be illuminated and shall not exceed four square feet in surface area.

HISTORIC DISTRICT

A geographically definable area consisting of public and/or private property within the city, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. An historic district shall further mean an area designated by the City Council as an historic district under this Ordinance.

HISTORIC LANDMARK

A building or site of historic importance designated by the City Council as part of a historic district.

HISTORIC PROPERTY

An individual building, structure, site, or object including the adjacent area necessary for the proper appreciation thereof designated by the City Council as an historic property in accordance with the criteria established herein.

HOME CHILD DAY CARE FOR FIVE OR FEWER CHILDREN

A program or arrangement located in a residence where, at any one time, more than two but fewer than six children under the age of 13 receive child care on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include day care centers, family child day care homes, home child day care, or cooperative arrangements among parents.

HOME OCCUPATION

A business, profession, occupation, or trade which is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling, and is incidental and secondary to the residential use of the lot and which does not adversely and/or perceptively affect the character of the lot or surrounding area. Home occupation includes but is not limited to: offices; electronic and offsite retail; personal services such as physical therapy by licensed individuals, beauty parlors, pet grooming, and the like. Home occupation does not include such businesses as: automotive repair and the like; dentists or physician's offices and the like; any licensed or unlicensed practitioner who performs invasive procedures (acupuncture, tattooing, body piercing, and the like); restaurants, bars, social clubs and the like; animal kennels or hospitals and the like; or any other business which is clearly inappropriate or out of character for a residential area such that its location constitutes an adverse impact on neighboring residential properties.

HOSPITAL

An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by state law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

HOTEL OR MOTEL

Hotel and motel are to be considered synonymous uses. A hotel or motel means a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis, not including bed and breakfast establishments or a rooming house. Such uses may include microwaves and refrigerators for each guest unit.

HOUSEHOLD PET

Animals that are kept for personal use or enjoyment within the home. Household pet shall include but is not limited to dogs, cats, birds, and rodents. Household pets do not include animals classified as livestock, or exotic animals as described or defined in Chapter 4 of the City Code.

HPC

The Historic Preservation Commission for the City of Portsmouth, Virginia.

HUMAN SCALE

Spatial and architectural relationship among various building elements including height, massing, and frontage relationships that are proportional to the human figure.

IMPERVIOUS SURFACE

Buildings; parking areas; driveways; streets; sidewalks; areas of concrete, asphalt, gravel, or other compacted aggregate; and areas covered by the outdoor storage of goods or materials which do not absorb water.

INCINERATOR

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

INGRESS

Access or entry to a building or site.

INOPERATIVE VEHICLE

Any motor vehicle, trailer or semi-trailer which is not in operating condition, or which for a period of 90 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle. An inoperative vehicle shall also be considered a vehicle with an observable condition which indicates a state such that it is economically impractical to make such vehicle operative within a reasonable period of time, or which constitutes a health, fire, or safety hazard.

INTERPRETATION

A formal request, submitted in writing to the Planning Director or Zoning Administrator (as appropriate), requesting a written interpretation in accordance with Section 40.1-2.3(J), Interpretation.

KENNEL, INDOOR

A facility where more than five dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed. The facility shall be entirely indoors.

KENNEL, OUTDOOR

A facility where more than five dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed. Such a facility may have an indoor and outdoor component.

KITCHEN

A room or portion thereof containing facilities which are designed, intended or used for cooking and preparation of meals.

KIOSK

Small, freestanding structures either open or partially enclosed used to provide information or products.

LAND

The earth, water, and air, above, below, or on the surface, and includes any improvements or structures on land.

LAND-DISTURBING ACTIVITY

Any movement of earth or substrate, manually or mechanically, including but not limited to any modification of existing grade by dredging, demolition, excavation or fill, grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes, for which any permit or approval is required under the provisions of the city code.

LANDOWNER

Any owner of a legal or equitable interest in land, including the heirs, devisees, successors, assigns, and agent or personal representative of the owner.

LANDSCAPING

The improvement of a lot, parcel or tract of land with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and objects designed and arranged to produce an aesthetically pleasing effect.

LANDSCAPE STRIP, PERIMETER

Vegetative material associated with the perimeter landscaping required for a vehicular use area.

LARGE RETAIL BUILDING

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

LAUNDRY, DRY CLEANING, AND CARPET CLEANING FACILITY

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

LAUNDRY, SELF-SERVICE

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

LIBRARY

A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.

LIQUOR STORE

Any establishment, including but not limited to restaurants, entertainment establishments, convenience stores retails stores, grocery stores, gasoline stations, licensed by the state exclusively for the retail sale of alcoholic beverages, excluding beer and wine, in original packages for consumption off the premises where sold. The sales of these items are never to be considered an accessory use.

LOADING SPACE, OFF-STREET

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles, and not considered as part of the minimum required off-street surface parking.

LOT

A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in this Ordinance.

LOT OF RECORD

A lot which is part of a subdivision, a plat of which has been recorded in the office of the Clerk of Circuit Court prior to May 1, 2010, or a lot described by metes and bounds, the description of which has been so recorded prior to May 1, 2010

LOT, IRREGULAR

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

LOT, NONCONFORMING

See "Nonconforming Lot".

LUMEN

A unit of luminous flux. One footcandle is one lumen per square foot. Lumen output values shall be the initial lumen output ratings of a lamp.

MACHINE SHOP

An establishment where metal is cut and shaped by machine tools.

MAJOR RECREATIONAL EQUIPMENT

Major recreational equipment is defined for the purposes of this Ordinance as including recreational vehicles, boats and boat trailers, combinations thereof and other similar equipment, and cases and boxes used for transporting recreational equipment, whether occupied by such equipment or not.

MANSARD ROOF

A sloped roof or roof-like facade architecturally comparable to a building wall.

MANUFACTURED HOME

A factory-built single-family structure that is manufactured under the authority of the National Manufactured Housing Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent foundation, and is used as a place of human habitation. For the purposes of this ordinance, "manufactured home" also includes mobile homes, transportable, factory-built homes constructed prior to the enactment of the above Act (which became effective June 15, 1976).

MANUFACTURING, HEAVY

Manufacturing uses include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants.

MANUFACTURING, LIGHT

The mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

MARINA

A facility for the docking, mooring, berthing, or storage of watercraft. Such uses may include a wide variety of accessory uses such as boat fuel sales, sales of boating supplies and equipment, boating-related services, laundries, boat repair and rental, and dry storage of boats.

MARINA, PLEASURE BOATS ONLY

A facility for the docking, mooring, berthing, or storage of only watercraft used for personal and family recreation, including recreational fishing. Such uses may include a wide variety of accessory uses such as boat fuel sales, sales of boating supplies and equipment, boating-related services, laundries, boat repair and rental, and dry storage of boats.

MARQUEE

Any hood, canopy, awning or permanent construction which projects from a wall of a building, usually above an entrance.

MASSAGE THERAPY

An establishment other than a regularly licensed hospital or medical clinic engaged in the activity of massage or similar manipulation of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliance by practitioners licensed as massage therapists by the Commonwealth of Virginia. This definition does not include an athletic club, health club, school, spa, or similar establishment where massage or similar manipulation of the body is offered as an incidental or accessory service.

MATERIAL CHANGE IN APPEARANCE

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

- Reconstruction or alteration of the size, shape, or facade of an historic building, including relocation of any doors or windows or removal or alteration of any architectural features, details, or elements.
- Demolition or relocation of an historic structure.
- Commencement of excavation for construction purposes.
- Change in the location of advertising visible from the public right-of-way.
- The erection, alteration, restoration or removal of any building or other structure within an historic property or district, including walls, fences, steps, and pavements, or other appurtenant features.

New construction within an historic district.

MAXIMUM EXTENT PRACTICABLE

- No feasible or practical alternative exists, as determined by the Planning Director or Zoning Administrator (as appropriate), and all possible efforts to comply with the standards or regulation or minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining "maximum extent practicable."

MEDICAL OR DENTAL CLINIC

An establishment where patients are admitted for examination and treatment by one or more physicians, dentists or psychologists and where patients are not usually lodged overnight.

MEDICAL OR DENTAL LAB

Facilities and offices for performing diagnostic or therapeutic medical procedures of a nonsurgical nature.

MEDICAL TREATMENT FACILITY

A small-scale facility which may or may not be located in a converted dwelling or residence for the short term care and treatment of up to 20 chronically or terminally ill patients on an overnight basis. Such facilities may include sleeping rooms for care workers and members of patient's families.

MEMBERSHIP SPORTS OR RECREATION CLUB

A private club providing facilities to members for outdoor sports and recreation activities. Examples of membership sports or recreation clubs include swim clubs, tennis clubs, boating or yacht clubs, and soccer clubs. Examples of membership sports or recreation club facilities include swimming pools, tennis courts, ball fields, and basketball courts. This definition does not include country clubs, or golf courses.

MICROBREWERY/MICRO-DISTILLERY/MICRO-WINERY/MICRO-CIDERY.

A facility for the small-scale production and packaging of alcoholic beverages/spirits of the following types and quantities for distribution, retail or wholesale, on or off the premises: beer (not more than 15,000 barrels per year), distilled spirits, wine, or alcoholic cider (not more than 20,000 gallons per year). Permitted accessory uses shall include retail sales, tasting rooms for beverages produced on-site, restaurants, reception halls, and live entertainment as other-wise permitted in the zoning district.

MINI-WAREHOUSE

A building divided into sections for use for storage of items, either temporary or long-term, and not to be used for any other purpose (such as small offices, garages, etc.)

MIXED-USE DEVELOPMENT

A tract of land or structure developed for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public, or entertainment. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.

MODULAR HOME

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.

MONUMENT

Permanent concrete or stone markers not less than five inches in diameter and not less than 30 inches in length, with an appropriate center mark of nonferrous metal pin or plate.

MOTORCYCLE SALES

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

MULLION

The vertical member separating adjacent windows.

MUSEUM

A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food to the public.

NATURAL DISASTER

Any event in which damage to a nonconforming use or structure is caused by flooding, hail, wind event or wind storm, lighting strike, tornado damage, explosion, falling tress, or falling tree limbs.

NEW CONSTRUCTION

Any construction within an historic district that is independent and exclusive of an existing building or structure or part thereof in the historic district.

NONCONFORMING LOT

A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGNS

Any sign lawfully existing on May 1, 2010 or the effective date of an amendment to this Ordinance, that does not conform to all the standards and regulations of this Ordinance or the amendment.

NONCONFORMING SITE FEATURE

A feature of a use (other than the use or building that was lawfully existing on May 1, 2010 which does not conform with the open space set-aside, parking, loading, landscaping, screening, or signage regulations of this Ordinance.

NONCONFORMING STRUCTURE OR BUILDING

A structure or building, the size, dimensions, or location of which was lawful prior to May 1, 2010 or on the effective date of any amendment to this Ordinance, but that fails by reason of such adoption or amendment to conform to the requirements of this Ordinance.

NONCONFORMING USE

Any use lawfully being made of any land, building, or structure not otherwise abandoned, existing on May 1, 2010 or on the effective date of any amendment of this Ordinance, that does not comply with the use regulations of this Ordinance or the amendment. If land or a structure is vacant or unused on May 1, 2010 or the effective date of any amendment to this Ordinance, it shall be conclusively presumed that the land or structure is subject to the provisions of this Ordinance or any amendments thereto.

NONCONFORMITY

A nonconforming use, structure, lot of record, site feature, or sign.

NONCONTRIBUTING PROPERTIES

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

NOT-FOR-PROFIT

An organization or activity which has obtained nontaxable status from the United States Internal Revenue Service.

NOTICE OF VIOLATION

An initial notice indicating an alleged violation of this Ordinance.

NURSING HOME

Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more non-related individuals, including facilities known by varying nomenclature or designation such as rest homes, convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries. This does not include the home or residence of any individual who cares for or maintains only persons related to him or her by blood or marriage.

OBJECT

A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

OFFICES, BUSINESS SERVICES

A room, or group of rooms used for conducting the affairs of a general business establishment, other than financial services and professional services. Examples of business services office uses include offices for retail and wholesale establishments.

OFFICES, FINANCIAL SERVICES

A room or group of rooms used for conducting the affairs of a business offering financial services, such as banking services, investment banking, stock brokerage, investment services, credit card services, and the like.

OFFICES, PROFESSIONAL SERVICES

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

OFFICES, SALES (INCLUDING REAL ESTATE)

A room or group of rooms used for conducting the affairs of a business engaged in the buying and/or selling of real or personal property, services, or other products, such as real estate sales, artwork, artifacts, or other specialized services.

OFFICIAL ZONING MAP

The official zoning map of the City of Portsmouth, Virginia. See Section 40.1-1.7.

OPACITY

A measurement indicating the degree of obscuration of light or visibility.

OPEN SPACE

Space suitable for passive recreation, gardens or landscaping which may include areas left in their natural state, trails, ponds, stream banks, recreation areas, areas of excessive slopes, low-lying areas, marshland, environmentally-sensitive areas, and required landscaping areas. Such space must be free of automobile traffic and parking, and be readily accessible to all those for whom it is required.

OPEN SPACE, ACTIVE

Space suitable for active forms of recreation, including athletic fields, playgrounds, swimming pools, courts, tracks, and similar uses that are well served by streets, parking facilities, spectator areas, restroom facilities, and exterior lighting where appropriate.

OPEN SPACE, COMMON

An open space area owned privately or in common for use by all members of the public.

OPEN SPACE, PASSIVE

Required open space areas designated for passive recreation uses including walking trails, pathways, gazebos, picnic areas, fountains and pools, plazas, and similar areas. Such areas may also include undisturbed natural vegetation.

OPEN SPACE, PRIVATE

Space on each building lot that is for the private use of inhabitants.

OPEN SPACE SET-ASIDE

Portion of a proposed development required for reservation as permanent open space by Section 40.1-5.4, Open Space Standards and Set-Asides.

OTHER GOVERNMENT FACILITIES

A facility of an governmental agency—other post offices, government offices, government maintenance, storage, and distribution facilities—that provides services to the public.

OTHER RETAIL SALES ESTABLISHMENTS

Commercial enterprises—other than convenience stores, drug stores, flea markets, grocery stores, liquor stores, manufactured homes sales, and large retail establishments—that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Examples include stores selling, leasing, or renting consumer, home, and business goods such as art, art supplies, bicycles, cameras, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pets, pet food, plants, printed material, stationary, and videos.

OUTDOOR DISPLAY AND SALES

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

OUTDOOR STORAGE

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

OUTDOOR STORAGE (AS A PRINCIPAL USE)

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

OUTPARCEL OR OUTLOT

A portion of land in a subdivision, shopping center, or other development that does not contain the primary building associated with the development, and that is intended for development of one or more smaller, independent buildings usually located adjacent to a development's street frontage. Outparcels are typically smaller than the parent parcel and may not be contiguous to the parcel containing the primary building or buildings.

OUTPATIENT FACILITY

A facility where patients, who are not lodged overnight, are admitted for examination and treatment by one person or a group of persons practicing any form of the healing arts, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, or any such profession, the practice of which is regulated by the state. A public clinic is one operated by any governmental organization for the benefit of the general public.

OWNER, PROPERTY

A person having sufficient proprietary interest to seek development of land.

PARAPET

A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

PARCEL

Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or a developer as land to be used or developed as a unit, or which has been used or developed as a unit.

PARCEL SERVICES

Retail sales or business services establishment to facilitate the transmittal and receipt of parcels.

PARK AND RIDE FACILITY

A publicly owned, short-term, parking facility for commuters.

PARK, PUBLIC AND PRIVATE

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

PARKING BAY

The parking module consisting of one row of parking spaces or stalls and the aisle from which motor vehicles enter and leave the spaces.

PARKING DEMAND STUDY

An analysis of the total number of parking spaces required in order to accommodate the maximum number of vehicles for parking purposes by a particular use or site at any given time, including the parking requirements for all employees, occupants, clients, and visitors.

PARKING LOT

The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.

PARKING LOT DRIVE AISLE

A vehicular accessway located within an off-street parking or vehicular use area which serves individual parking stalls and driveways.

PARKING SPACE, ACCESSIBLE

A space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose.

PARKING SPACE, OFF-STREET

A space that is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle.

PARKING STRUCTURE

A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.

PARKING, DEFERRED

A portion of the required off-street parking associated with a use that is not installed at the time of construction, but delayed or deferred until a parking demand study can be completed to determine if the additional required parking is needed.

PARKING, OFF-SITE

An off-street parking area provided on a different parcel than the use it is intended to serve.

PARKING, ON STREET

A location or area within the right-of-way of a public or private street that is reserved for the parking of vehicles. Such areas may or may not be formally designated with signage, striping, or parking meters.

PARKING, SHARED

Off-street parking facilities shared by two or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other use(s).

PARKING, TANDEM

A parking space within a group of two or more parking spaces arranged one behind the other.

PARTY WALL

A wall separating and common to two or more buildings on individual lots that consists of noncombustible material as specified by the Virginia Uniform Statewide Building Code.

PASSENGER TERMINAL, SURFACE TRANSPORTATION

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

PATHWAYS, PEDESTRIAN

Interconnected paved walkways that provide a pedestrian passage through blocks running from street to street, vehicular use areas, or other locations.

PATIO

An area, usually paved, adjoining a building - used as an area for outdoor lounging, dining, or gathering.

PAVED SURFACE OR ROAD

Brick, concrete or asphalt placed on land as a hard dustless surface.

PEDESTRIAN

A person traveling on foot under their own locomotion.

PEDESTRIAN CONNECTION

A right-of-way intended for pedestrian movement/activity, including but not limited to, sidewalks, internal walkways, external and internal arcades, and plazas.

PENNANT

Any lightweight plastic, fabric, paper or material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PERFORMANCE GUARANTEE

Cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or installation of required private site features prior to issuance of a permit or other development approval.

PERIMETER FENCES AND WALLS

For the purposes of Section 40.1-5.10(F), Perimeter Fences and Walls Abutting Public Rights-of-Way, a fence or wall of four feet or more in height that is located adjacent to the edge of a public street right-of-way, and runs parallel to or alongside the adjacent public right-of-way for at least two linear feet.

PERMITTED USE

Use or activity, which because of it's nature and impact, is allowed to occur within a designated zoning district as a use by-right.

PERSON

Any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

PERSONAL SERVICES ESTABLISHMENT

An establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Examples include: photographic studios; mailing or packing service, photocopy and blueprint services; hair, tanning, and personal care services; psychics and mediums; martial arts schools; dance or music classes; taxidermists; and mortuaries.

PERVIOUS SURFACE

A surface that absorbs water.

PLANNING COMMISSION

The Planning Commission for the City of Portsmouth, as established in the City Code.

PLANNING DIRECTOR

The Planning Director of the city. See Section 40.1-2.1(G)(1).

PLANTING SEASON

That period during which a particular species of vegetation may be planted for maximum survivability and healthy growth as established by the local agricultural extension office.

PLANTING STRIP

Areas intended for the placement of vegetation within the interior of vehicular use areas or along street right-of-way edges, typically between the back of the curb and the inside edge of the sidewalk.

PLAYGROUND

Land which is improved with active recreation equipment and areas such as swings, gym bars, and other similar equipment.

PLAZA

An open area which is available to the public for gathering, walking, seating, and eating.

POLICE STATION

A building or part of a building that is designated by a chief of police or sheriff to be used as a police or sheriff's station and at which duly authorized officers perform law enforcement functions.

PORCH

A roofed structure not more than 75 percent enclosed by walls, attached to the main building, and not heated or cooled.

PORTABLE SHIPPING CONTAINER

A large container, typically intended for transport by large truck, train, or ship, that is used for the temporary storage and or transport of personal property.

PORTICO

A large porch usually with a pediment usually associated with an entrance, supported by columns.

POST OFFICE

A facility designated or licensed by the federal government to sell U.S. postage stamps and U.S. postal products and accept mail and packages for delivery.

POULTRY

The category of domesticated birds which some humans keep for the purpose of collecting their eggs, or kill for their meat and/or feathers.

PRIMARY DRIVE AISLE

The main aisle(s) that extends from the street right-of-way, or from the driveway entrance(s) serving a development along the front of the building it serves.

PRIMARY ENTRANCE

The place of ingress and egress to a building, parcel, or development used most frequently by the public.

PREMISES

A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

PRESIDING OFFICER

A person appointed by a commission or board to preside at public meetings or hearings.

PROCEDURES MANUAL

A document maintained by the Planning Director that serves as a user's guide to this Ordinance. The procedure manual contains copies of application forms, fees, schedule and contact information, as well as interpretations of the intent behind standards in this Ordinance.

PRODUCE STAND

A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants grown on the same parcel of land where the stand is located. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold. Such uses also include "pick your own" establishments where customers gather their own produce from the fields for purchase and off-site consumption.

PRODUCTION PLANT NURSERY

The growing, storage, and sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials for resale, typically occurring as wholesale or retail sales directly to landscaping professionals. Such uses may include limited incidental retail sales to members of the general public. Such uses may include greenhouses; outdoor storage of goods, materials, and equipment; irrigation systems; and caretaker's dwelling.

PROFFER

An offer or proposal by which the property owner, or his agent, commits himself to additional requirements or restrictions on his property (see Section 40.1-2.3(A)(7), Proffer Standards).

PSYCHIATRIC TREATMENT FACILITY

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

PUBLIC SQUARE OR PLAZA

Open space generally open and readily accessible to the public and used by pedestrians for passive recreation and as an outdoor meeting or gathering place. Such uses may be provided with amenities such as shelters, seating, fountains, art, and landscaping.

QUORUM

The minimum number of board members that must be present in order to conduct official business or take official action.

RADIO AND TELEVISION BROADCASTING STUDIO

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

RAINWATER CISTERN

A catchment device to capture rain water from a roof or other surface before it reaches the ground.

RECONSTRUCTION

Any or all work needed to remake or rebuild all or a part of any building to a sound condition, but not necessarily of original materials.

RECREATIONAL VEHICLE SALES OR RENTALS

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

RECYCLING AND SALVAGE CENTER

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

RECYCLING DROP-OFF STATION OR CENTER

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

REDEVELOPMENT

Any proposed expansion, addition, reduction, or other alteration to an existing building, structure, or other constructed feature on a lot or site. Redevelopment also includes changes in use to existing buildings, as well as modifications to site features such as parking, signage, landscaping, grading, stormwater management devices, or changes to outdoor storage.

REHABILITATION

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

RELIGIOUS INSTITUTION

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

REPAIR ESTABLISHMENT

An establishment primarily engaged in the provision of repair services for TV's, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer.

REPAIR OF SCIENTIFIC OR PROFESSIONAL INSTRUMENTS

An establishment primarily engaged in the provision of repair services for scientific or professional instruments for businesses.

REPAIRS

Any work or all work involving the replacement of existing material with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.

REPLACEMENT COST

The cost of restoring a damaged building or structure to its original condition (exclusive of foundations). 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 county assessor to determine the percentage of the cost of improvements.

REPRODUCIBLE VALUE

The cost for replacement of a structure, including all materials and labor, based upon the structure's current tax valuation from the Tax Assessor.

RESEARCH AND DEVELOPMENT

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

RESTAURANT, BREW-PUB.

A sit-down restaurant that includes a microbrewery, both as principal uses. Uses providing on-site entertainment in the form of live performances, dancing, or other entertainment activities are entertainment establishments. Performances related to the simulation of specified sexual activities or the display of specified anatomical areas are classified as Adult Uses.

RESTAURANT, WITH DRIVE-THROUGH SERVICE

An establishment where provision is made on the premises for the ordering, selling, dispensing, or serving of food, refreshments, or beverages to persons driving by the structure in their motor vehicles.

RESTAURANT, WITH INDOOR AND OUTDOOR SEATING ONLY

An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on the premises. Such a facility may include indoor and outdoor seating, but no drive-through service.

RESTORATION

Any or all work connected with the returning to or restoring of a building, or part of any building, to its original condition through the use of original or nearly original materials.

RIGHT-OF-WAY(ROW)

An area owned or maintained by the city, county, the state of Virginia, federal government, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, streets, pedestrian walkways, utilities, or railroads.

ROOFLINE

The highest point of a flat roof and mansard roof and the lowest point of a pitched roof excluding any cupolas, chimneys or other minor projection.

ROOMING HOUSE OR BOARDING HOUSE

Any building or portion thereof for providing lodging, either with meals (boarding house) or without meals (rooming house), to not more than two guests, where rent is paid to the owner or proprietor. This definition does not include the incidental provision of lodging within a dwelling by a resident owner, provided no more than 25 percent of the total floor area of the dwelling unit's living space is devoted to such lodging use.

ROOT ZONE

The area inside the dripline of a tree that contains its roots.

SALVAGE AND JUNKYARD

An establishment where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, and the like, are brought, sold, exchanged, baled, packed, disassembled, stored, or handled, including used lumber and building material yards, housewrecking yards, heavy equipment wrecking yards, and yards or places where salvaged house wrecking or structural steel materials are stored, handled, and sold. This definition shall not include automobile wrecker services and establishments for the sale, purchase, or storage of second-hand cars, clothing, salvaged machinery, furniture, radios, stoves, refrigerators, or similar household goods and appliances, all of which shall be usable, nor shall it apply to the processing of used, discarded, or salvaged materials incident to manufacturing activity on the same site where such processing occurs.

SATELLITE DISH ANTENNA

A round or parabolic antenna and its supporting structure for the purposes of sending and/or receiving radio or electromagnetic signals. Satellite dishes with a diameter up to 39 inches are considered as "small" satellite antenna dishes, while any such use with a diameter of more than 39 inches is considered as a "large" satellite dish antenna.

SCHOOL, ELEMENTARY

A public or private school offering general, technical, or alternative instruction at the elementary school level that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, HIGH

A public or private school offering general, technical, or alternative instruction at the high school level that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, MIDDLE

A public or private school offering general, technical, or alternative instruction at the middle school level that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SENIOR CENTER

A facility typically for use by citizens of 62 years of age, or older, dedicated to the provision of services, activities, or facilitation of interaction between older citizens and the community at large. Such centers may be publicly or privately-owned, but are not operated for a profit.

SHARED PARKING FACILITY

A parking lot or garage used for shared parking by two or more businesses or uses.

SHELTER

Any facility to provide emergency group living accommodations as a single housekeeping unit for up to 90 days for the maintenance and care of adults, children, and families in need of emergency housing—including, but not limited to, facilities qualified to be licensed by the city or the commonwealth.

SHIPPING CONTAINER STORAGE YARD

An operation for storage of empty shipping containers conducted as the principal use of a property.

SHOEBOX-STYLE LIGHTING FIXTURE

An exterior lighting device in the shape of a box that is typically mounted on a pole and constructed to direct illumination to a constrained area directly beneath the lighting fixture.

SHOPPING CENTER

Commercial development of more than one retail sales or service establishment on a single parcel of common ownership attached by common walls or if located in separate buildings are interconnected by walkways and/or access ways, providing common parking facilities for all establishments, having multiple tenancy of a single or several large common structures, and otherwise present the appearance of one continuous commercial area.

SHRUB

A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

SIGHT TRIANGLE

The triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the curb or a driveway).

SIGN

Any surface, fabric, display, device, figure, painting, drawing, message, placard, poster, billboard, or other structure which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any public street or from any public or private property other than the zone lot on which it is located.

SIGN INCIDENTAL

Any sign which has no independent purpose but which has a purpose incidental to the use of the zone lot. Not by way of limitation but by way of example, "no parking, entrance, loading only" and other similar signs on private property are incidental signs.

SIGN, CANOPY

Any sign that is part of or is attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy. The advertising display area shall be confined to the vertical surface of any canopy or awning and shall consist only of the name and/or logo of the business or institution sewn, painted, stenciled or otherwise placed on the surface.

SIGN, CHANGEABLE COPY

A sign that is designed so that characters, letters or illustrations can be changed or rearranged, mechanically, manually, electrically or electronically, without altering the face or the surface of the sign. Changeable copy signs shall not be considered to be animated or flashing simply because the copy is changed electrically or electronically. Changing time and temperature or stock market indicator signs shall be considered changeable copy signs.

SIGN, FREESTANDING

Any sign which is supported by a structure or supports in or upon the ground and which is independent of support from any building or other structure.

SIGN, INSTITUTIONAL CANOPY

A religious, educational or other public or quasi-public institutions shall be entitled to a certificate of compliance for one canopy sign per street frontage, subject to all other applicable requirements of this chapter, except that such signs may be up to 12 feet in height.

SIGN, MARQUEE

Any sign attached to and made a part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.

SIGN, NAME PLATE

Name plates may include the name of the building, the name of the occupants, the address and the hours of operation for any business which is operated on the premises.

SIGN, NONCOMMERCIAL

A sign that is intended to display a religious, charitable, cultural, governmental, informational, political, educational, or artistic message, that is not primarily associated with a good, product, or service offered for sale or trade. Noncommercial signs include signs advertising incidental and temporary commercial activities conducted by churches and nonprofit businesses, clubs, groups, associations or organizations.

SIGN, OFF PREMISES

Any sign that draws attention to or communicates information about a business, service, commodity, product, event or any good or activity that is conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN, ON PREMISES

Any sign which is not an off-premises, incidental or real estate sign or which does not qualify under the standards for name plates and historical markers as defined in this Ordinance.

SIGN, PERMANENTLY MOUNTED BANNER

Any sign or display constructed of cloth, canvas, fabric, paper, or other light materials, hung either with or without frames possessing characters, letters, illustrations, or ornamentations applied to paper, plastic or fabric of any kind, and installed in a permanent fashion. National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this chapter. There shall be no more than one permanent banner sign per establishment per zone lot.

SIGN, PORTABLE

Portable signs shall include:

- Any sign not permanently attached to the ground or to a permanent structure;

- Any sign designed to be transported, including, but not limited to, a sign designed to be transported by means of wheels;

- Any sign with chassis or support construction without wheels;

- Any sign converted to or constructed as an A-frame or a T-frame except as permitted as a temporary sign, defined below; or

- Any sign attached to or painted on a motor vehicle parked and visible from the public right-of-way, where said motor vehicle is left in the same area for a length of time in excess of 60 days so that said motor vehicle has ceased to be used as a means of transportation in the normal operation of the business.

SIGN, PROJECTING

Any sign other than a wall sign affixed to any building or wall having a principal function other than support of the sign whose leading edge extends beyond such building or wall.

SIGN, RESIDENTIAL FREESTANDING

Residential freestanding signs shall contain no commercial message except one advertising the premises for sale or lease. Residential freestanding signs shall not exceed three square feet per side in area.

SIGN, ROOF

Any sign erected or constructed wholly upon and over the roof of any building and supported solely on the roof structure.

SIGN, TEMPORARY

A temporary sign or display is a sign constructed of cloth, canvas, fabric, paper, plywood or other light materials.

SIGN, WALL

Any sign painted on or attached to the outside wall of any building and supported by such wall or building and which displays only one advertising surface.

SIGN, WINDOW

Any sign or letters, pictures, symbol or combination thereof to communicate information about a business, service, commodity, event, sale or other activity placed inside a window or upon window panes or glass and which is intended to be seen from the exterior.

SINGLE ROOM OCCUPANCY (SRO) FACILITY

A residential facility in which individual furnished rooms (which may or may not have kitchen or bathroom facilities) are rented on a weekly or monthly basis to one- or two-person households, and that may provide common facilities and services for laundry, cleaning, and meals.

SITE

The location of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

SITE LANDSCAPING

Required vegetative material consisting of trees and shrubs that are placed on a development site to soften built edges and provide transitions. (See Section 40.1-5.2, Landscaping and Screening.)

SINGLE ROOM OCCUPANCY

A group living residential facility with furnished rooms that are rented on a weekly or monthly basis, and which provides common facilities and services for laundry, cleaning, and meals.

SOLAR ENERGY EQUIPMENT

A system designed to convert solar radiation into usable energy for space, water heating, or other uses.

SPECIAL EVENTS HOUSE

A residence-type structure that is used for one-time social events for invited guests, such as teas, bridal showers, receptions, etc., and which may include both indoor and outdoor activities.

SPECIALTY EATING ESTABLISHMENT

Establishments selling specialty food items that normally do not constitute a full meal, including but not limited to: ice cream parlors, dessert cafes, snack shops, juice and coffee houses, and bakeries.

SPECIFIED ANATOMICAL AREAS

This means: (a) Less than completely or opaquely covered: (i) Human genitals; (ii) Buttocks; (iii) Human breasts below a point immediately above the top of the areola; and (b) Human genitals in a discernibly turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

This means: (a) Humans genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; (c) Fondling or erotic touching of human genitals, buttock, chest, or human breast.

SPECIMEN TREE

Any canopy tree with a DBH of 42 inches or more and any understory or ornamental tree with a DBH of ten inches or more that is not exempted as a specimen tree by this Ordinance.

STABILIZATION

The installation of vegetative or structural measures to establish a soil cover to reduce soil erosion by stormwater runoff, wind, ice, and gravity.

STACKING/STANDING AREA

A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development. Parking or storage of vehicles is not permitted within the stacking/standing area.

STANDARDS AND GUIDELINES (HISTORIC DISTRICTS)

A set of established standards, requirements, and guidelines adopted by City Council for each established historic district that further guides the development and redevelopment of land within the historic districts.

STATE

The Commonwealth of Virginia.

STOOP

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

STREET

A strip of land or way subject to vehicular traffic which may also serve in part as a way for pedestrian traffic and providing direct or indirect access to property, including, but not limited to, roads, lanes, drives, trails, courts, places, terraces, alleys, avenues, highways, boulevards or any other thoroughfare. For the purposes of access, frontage and setbacks, a street shall not include interstate highways and similar limited access roads, as determined by the Director of Planning.

STRUCTURE

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

STRUCTURE, HISTORIC

Any individually listed "historic property" as defined above or structure contributing to a historic district as defined above as "contributing properties."

SURVEYOR

A land surveyor or engineer certified under Sections 54.1-400 through 54.1-411, Code of Virginia, (1950), as amended.

TATTOO PARLOR

An establishment operated by individuals licensed by the Commonwealth of Virginia, whose principle business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.

TAXICAB SERVICE

A business offering transportation in passenger automobiles and vans for compensation.

TELECOMMUNICATIONS ANTENNA, COLLOCATION ON EXISTING TOWER

Any structure or device used for the purpose of collecting and/or transmitting electromagnetic waves for commercial purposes, where two or more different telecommunication service providers place communication antennas and/or other communications equipment on a common antenna-supporting structure (building, tower, or other stationary device).

TELECOMMUNICATIONS ANTENNA, PLACEMENT ON EXISTING BUILDING

Any structure or device used for the purpose of collecting and/or transmitting electromagnetic waves for commercial purposes, where a communication antenna is placed on an existing business use or multi-family building with eight or more dwelling units. The term does not include private home use of satellite dishes and television antennas.

TELECOMMUNICATIONS TOWER, FREESTANDING

Any tower or antenna structure and its appurtenances erected on the ground and used primarily for the support of communication antennas used by commercial, governmental, or other public or quasi-public users. The term includes microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term does not include private home use of satellite dishes and television antennas, or amateur radio operators as licensed by the FCC.

TEMPORARY USE PERMIT

A permit, approved, approved with condition, or denied by the Planning Director in accordance with Section 40.1-2.3(E), Temporary Use Permit.

THEATER

A building, or part thereof, which contains an assembly hall with or without stage which may be equipped with curtains and permanent stage scenery or mechanical equipment adaptable to the showing of plays, operas, motion pictures, performances, spectacles, and similar forms of entertainment.

TIRE DISPOSAL OR RECYCLING

A facility that disposes of or recycles waste tires or waste tire residuals.

TIRE/MUFFLER SALES AND MOUNTING

This use includes the on-site sale and subsequent installation of automobile parts and accessories limited to tires and mufflers. Such uses do not include the sale of gasoline or other fuels.

TOOL REPAIR

An establishment that repairs tools for compensation.

TOPPING

The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

TOURIST HOME

An establishment in a private dwelling that supplies temporary lodging accommodations to not more than five overnight guests for a fee.

TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND)

A compact, fully-integrated, mixed-use development which encourages social interaction by the use of a variety of housing types, commercial and civic spaces, landscaped streets and public areas, and a system of easily accessible neighborhood parks and greens.

TREE SAVE AREA

The area around a specimen tree that extends one linear foot around the tree's dripline.

TRUCK OR FREIGHT TERMINAL

A use where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

TRUCK STOP

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

UNDERSTORY TREE

A tree that has an expected height at maturity of no greater than 30 feet.

UNENCLOSED PORCH

A covered or uncovered porch which is open to the weather or screened on all sides except where attached to the walls of a building.

USE

The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

USE PERMIT

A permit, approved, approved with condition, or denied by the City Council in accordance with Section 40.1-2.3(B), Use Permit.

UTILITY, MAJOR

Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, solid waste facilities, and electrical substations.

UTILITY, MINOR

Infrastructure services that need to be located in or near the neighborhood or Use Type where the service is provided. Examples of Minor Utilities include water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, and surface transportation stops such as bus stops and park-and-ride facilities.

VALET PARKING

The provision of parking for vehicles whereby vehicles are parked and un-parked in a parking area, parking lot or any parking structure by a person other than the owner or operator of the vehicle.

VARIANCE PERMIT

A permit, approved, approved with condition, or denied by the BZA in accordance with Section 40.1-2.3(G), Variance Permit.

VEGETATION, NATIVE

Any indigenous tree, shrub, ground cover or other plant adapted to the soil, climatic, and hydrographic conditions occurring on the site.

VEHICULAR USE AREA LANDSCAPING, INTERIOR

Vegetative material, structures (walls or fences), berms, and associated ground cover located within the interior of a parking lot, or other vehicular use area for the purposes of providing visual relief and heat abatement. (See Section 40.1-5.2(D)(2))

VEHICULAR USE AREA LANDSCAPING, PERIMETER

Vegetative material, structures (walls or fences), berms, and associated ground cover located around the perimeter of a parking lot, or other vehicular use area when such areas are adjacent to a street right-of-way or land in a residential district or residentially developed lands, used property for the purposes of screening the vehicular use area from off-site views. (See Section 40.1-5.2(D)(3))

VENDING MACHINE

A coin-operated machine that sells and dispenses merchandise.

VETERINARY CLINIC

A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

VOCATIONAL OR TRADE SCHOOL

A public or private school offering vocational or trade instruction to students and that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

VOLUNTARY PROFFER STATEMENT

A statement submitted by an applicant that includes all the proposed proffers or conditions associated with an amendment to the zoning map Rezoning).

WALL PACKS

An exterior lighting device that is flush-mounted on a vertical wall surface.

WALL, PARAPET

A low protective or decorative wall or railing along the edge of a raised structure such as a roof or balcony.

WAREHOUSE (DISTRIBUTION)

A use engaged in distribution of manufactured products, supplies, and equipment.

WAREHOUSE (STORAGE)

A use engaged in storage of manufactured products, supplies, and equipment excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

WASTE COMPOSTING

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

WHOLESALE SALES, ALL USES

Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. Wholesale establishment does not include contractor's materials or office or retail sales of business supplies/office equipment.

YOUTH CLUB FACILITY

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

ZONING ADMINISTRATOR

The city official charged with the enforcement of this Ordinance.

ZONING COMPLIANCE PERMIT

A permit, approved, approved with condition, or denied by the Zoning Administrator in accordance with Section 40.1-2.3(F), Zoning Compliance Permit.

ZONING MAP, OFFICIAL

The official, adopted map or maps which are part of this Ordinance, and delineate the boundaries of each zoning district (See Section 40.1-1.7, Official Zoning Map).

ZONING MAP AMENDMENT (REZONING)

A zoning district change reviewed and approved or denied by the City Council in accordance with Section 40.1-1.7, Zoning Map (Rezoning) or Text Amendment.

ZONING TEXT AMENDMENT

A zoning district change reviewed and approved or denied by the City Council in accordance with Section 40.1-2.3(A), Zoning Map (Rezoning) or Text Amendment.

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APPENDIX

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APPENDIX

(A) APPENDIX A DOWNTOWN DISTRICTS AND THE D1 ZONING DISTRICT (Article 40.1-9)

SEE ATTACHED APPENDIX A

(B) APPENDIX B UPTOWN D2 District – FORM BASED CODE

SEE ATTACHED APPENDIX B

(C) Residential Mobile Home (RMH) District

PURPOSE AND INTENT

The Residential Mobile Home (RMH) district [1] is established to accommodate mobile homes and manufactured homes in parks that are developed with such amenities as recreation, open space, and landscaping, and designed in ways that are compatible with surrounding development and the neighborhood or area in which they are located.

DIMENSIONAL STANDARDS

STANDARD	ALL USES
District Size, Minimum (AC)	20
Number of Individual Dwelling Units, Minimum (#)	50
Density, Maximum (DU/AC)	N/A
Lot Size, Minimum (sf)	3,600
Lot Width, Minimum (ft)	25
Building Coverage, Maximum (%)	35 of the entire site or development
Front Yard, Minimum (ft)	15
Side Yard, Minimum	15 ft from a street; Otherwise, 10% of lot width up to 15 feet
Rear Yard, Minimum (ft)	15
Corner Side Yard, Minimum (ft)	15
Perimeter Setback	25 feet from all mobile home park boundaries
Accessory Structure, Minimum (ft)	5
Height, Maximum (ft)	36
Accessory Structure Size, Maximum (%)	33 for structures accessory to an individual unit [2]
Street Frontage Requirements	Must front on public or private street of at least 50 feet right-of-way width

NOTES: "sf" = square feet; "ft" = feet; "FAR" = floor area ratio; "DU" = dwelling units; "AC" = acre
[1] Amendments to the Official Zoning Map to enlarge an existing or establish a new RMH district are prohibited.
[2] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.

(1) Required Improvements for Mobile Home Parks

The developer of every mobile home park shall install the following improvements in locations convenient to the residents and shall maintain such improvements in good working order at all times during the operation of the mobile home park:

(a) Facilities and Recreational Areas

(i) Laundry Facilities

A minimum of one automatic washer and one automatic dryer for each 25 mobile home sites.

(ii) Storage facilities

Storage facilities shall be provided on or conveniently near each home lot:

a. For the active storage of outdoor equipment, furniture and tools;

b. For the inactive storage of such other material as is used only seasonally or infrequently by the typical tenant and cannot be conveniently stored in the typical mobile home.

c. There shall be a minimum of 200 cubic feet of storage for each mobile home. Storage facilities shall be provided on the lot or in compounds located within a reasonable distance. Storage facilities shall be designed in a manner that will enhance the appearance of the park and shall be constructed of suitable weather-resistant materials appropriate under the use and maintenance contemplated.

(iii) Play Areas for Children

Playground areas with suitable facilities and equipment shall be provided.

(iv) Adult Recreational Areas

Recreational areas with suitable facilities and equipment shall be provided for adult residents.

(b) Open Space

Within every mobile home park there shall be permanently set aside an amount of open space to be used exclusively for leisure and recreational purposes. The amount of such space shall be a minimum of 15 percent of the gross development area of the mobile home park. The open space shall be subject to the following additional requirements:

(i) All open space areas shall be reasonably accessible to residents;

(ii) Open space lands shall contain at least 6,000 square feet; and

(iii) Recreational facilities as required in this subsection may be designated as required open space.

(2) Mobile Home Parking Outside of RMH District

It shall be a violation of this Ordinance to place, keep, or maintain for more than three consecutive days any mobile home used for human habitation upon any lot or parcel of land outside a RMH district.

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APPENDIX A

DOWNTOWN DISTRICTS

AND THE

D1 ZONING DISTRICTS

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ARTICLE 40.1-9: APPENDIX

DOWNTOWN DISTRICTS AND THE D1 DISTRICT

Sec. 40.1-9.1. Specific purpose of Downtown Districts

The Downtown Districts are created for the purposes set forth in section 40.1-3.6(E) (1) and also, without limitation, for the promotion and preservation of the city's educational, cultural and economic interests, opportunities and advantages. Such districts include and bound the only significant tourist routes providing access to the many historic structures and buildings in downtown Portsmouth and to its historic waterfront and governmental center and contain many significant historic structures and buildings.

The Downtown Districts fulfill this purpose through:

(A) The preservation and protection of buildings, structures, places and areas of educational, cultural, economic and civic interest in the core area of the original community settlement;

(B) The development and maintenance of appropriate settings and environment for such buildings, structures, places and areas;

(C) The protection and enhancement of the tourist corridors leading to the historic core area, governmental center and historic waterfront;

(D) The regulation and control of construction of new buildings and structures in accordance with the City's Comprehensive Plan, the Downtown Master Plan and Waterfront Strategy, and Downtown Design Manual, adopted by the city council to protect such areas and the setting and environment found, preserved and promoted therein.

(E) In addition to the above, an additional purpose of the D2 Form Based Code District is to provide a mechanism for implementing the following specific goals, using both public and private sector investment: Capitalizing on public investment in existing infrastructure; promoting compact, mixed-use development at moderate to high densities; ensuring transit-supportive and transit-serviceable development; requiring pedestrian-oriented and transit-oriented design; and ensuring compatibility with surrounding neighborhoods.

Section 40.1-9.2. Downtown Districts – Permitted Uses

Uses permitted in the Downtown Districts shall be governed according to subdistricts, as shown on the zoning map. Table 40.1-9.2.1 in this Article of this Chapter lists the uses allowed in the various subdistricts. The designations and general purposes of the subdistricts are as follows:

(A) T3 subdistrict. The T3 (Urban Residential) subdistrict contains a mix of residential uses, but maintains a residential urban fabric. These areas, furthest from the Historic District, represent the least intense urbanism downtown. This subdistrict contains flexible dimensional requirements to allow development consistent with the design of existing downtown neighborhoods.

(B) T4 subdistrict. The T4 (General Urban) subdistrict contains a mix of uses, but maintains a predominantly residential urban fabric. These areas, nearest to the Historic District, represent moderately intense urbanism in the downtown. This subdistrict contains flexible dimensional requirements to allow development complimentary to and building upon the design of existing downtown neighborhoods.

(C) T5 subdistrict. The T5 (Urban Center) subdistrict contains a higher density mix of uses with primarily retail space at the ground floor.

(D) T6 subdistrict. The T6 (Urban Core) subdistrict is designed for high-density mixed uses. This subdistrict is the most intense land use Downtown.

(E) SD subdistrict. The SD (Special District) subdistrict is a low-density, limited mixed use district. This subdistrict is intended to provide employment with mixed-uses, including manufacturing, distribution and warehousing, as well as civic uses and supportive retail uses. In an effort to minimize land-use conflicts, this subdistrict is not generally suited for residential uses.

(F) The zoning map shall also identify those properties within the Downtown Districts where a Certificate of Appropriateness is required by the provisions of this Article.

(G) D2 District. The D2 District is a Form Based Code District designed to foster a setting for economic growth and development in a sustainable mixed-use pattern of diverse urban neighborhoods, integrating residential with employment and commercial uses (as well as recreational opportunities). All regulations and requirements concerning the D2 subdistrict can be found in Appendix B to Chapter 40.1 of the City Code.

TABLE 40.1-9.2.1. Permitted Uses

[Cross Reference the Attached Use Table for the D1 District]

Section 40.1-9.3. Downtown Districts – Certificate of Appropriateness; when required

(A) For those properties within the Downtown Districts so identified on the zoning map, a Certificate of Appropriateness shall be required by Downtown Design Committee in accordance with the provisions of this Article and the requirements of the Downtown Design Manual.

(B) For those properties within the Downtown Districts which are not required to obtain a Certificate of Appropriateness, the Certificate of Appropriateness and Downtown Design Committee provisions listed in this Article shall not be applicable, unless otherwise specifically stated.

(C) Provided however, that all applications for the proposed construction, alternation, or renovation of any structure shall be generally consistent with the City's Comprehensive Plan and the General Development Standards and Guidelines for the Downtown District and Parking Structure Standards contained within the Downtown Design Manual adopted by the city council, as determined by the Director of Planning. In addition, the following shall be adhered to:

(1) **Building form**. The following fenestration requirements shall be applicable to building facades along street frontages designated as "A" or "B" Grid Streets on the Special Requirements Map of the Comprehensive Plan:

Street-level story

(a) **Nondwelling uses**. For nondwelling uses, a minimum of 60 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of glass windows and/or glass doors that allow views to the interior of the building space. On streets designated as "B" Grid streets on the Special Requirements Map of the Comprehensive Plan, a minimum of 50 percent of the building façade between two and eight feet in height along the street frontage shall be comprised of glass windows and/or glass doors that allow views to the interior of the building space. Windows used to satisfy the requirements of the paragraph shall have a minimum height of four feet.

(b) **Dwelling uses**. For dwelling uses, windows shall comprise a minimum of 30 percent of the building façade between two and eight feet in height along the street frontage, relative to the finished floor elevation. Such windows shall be double-hung, awning, or casement type, and fixed shall be

permitted only as a component of a system including operable windows within a single wall opening.

(c) **Distance between entries**. At least one functioning street entry door shall be provided along each ground story façade at intervals not greater than 75 feet. On streets designated as "B" Grid streets on the Special Requirements Map of the Comprehensive Plan, at least one functioning street entry door shall be provided along each ground story façade at intervals not greater than 100 feet.

Upper stories

(a) **Nondwelling uses**. For nondwelling uses, windows shall comprise a minimum of 30 percent (and up to 80 percent maximum) of the building façade between two and eight feet in height above the floor level of each story above the street level story.

(b) **Dwelling uses**. For dwelling uses, windows shall comprise a minimum of 30 percent (and up to 80 percent maximum) of the building façade between two and eight feet in height above the floor level of each story above the street level story. The types of permitted windows shall be as specified in the section above.

(2) Additional building form and siting, use, and building envelope requirements for the T5 and T6 subdistricts:

(a) The building façade shall be built to the RBL within 30 feet of a block corner. However, within 7 feet of the block corner, the ground story façade may be chamfered to form a corner entry.

(b) On each lot, the building façade shall be built to the required building line for at least 75% of the RBL length.

(c) No part of any building may be located outside of the buildable area except overhanging eaves, awnings, shopfronts, bay windows, steps, handicapped ramps, or balconies.

(d) The parking setback line is generally 30 feet behind the RBL and extends vertically as a plane. Vehicle parking shall be located behind the parking setback line, except where parking is provided below grade or on-street. When structured parking is provided, all portions of such structure along a street shall not be used for parking of vehicles, but shall be devoted to other permitted principal uses or to means of pedestrian or vehicle access, provided that such vehicle access along a principal street shall be permitted only when no other secondary street or alley is available for adequate access. Provided however, this condition shall not apply to public parking decks.

(e) Corner lots and through lots shall satisfy the build-to requirements for their full/all frontages (RBL), unless otherwise specified in this Code.

(f) A street wall shall be required along any RBL frontage that is not otherwise occupied by a building. The street wall shall be located not more than 8 inches behind the RBL. The street wall shall not be less than 5 feet in height or greater than 12 feet in height.

(g) Curb cuts or driveways shall be located at least 75 feet away from any block corner or another garage entry on the same block face. These requirements are not applicable along alleys.

(h) The upper story's may only house residential or commerce uses. No restaurant or retail sales uses shall be allowed in upper storey's unless they are second story extensions equal to or less than the area of the ground story use. This provision shall not apply to property in the T6 district as non-

residential uses may be desirable on the upper or top floors to take advantage of water views.

(i) No commerce use is permitted above a residential use. This provision shall not apply to property in the T6 district as non-residential uses may be desirable on the upper or top floors to take advantage of water views.

(j) Additional habitable space is permitted within the roof where the roof is configured and approved as an attic story.

(k) Balconies and stoops shall not project within 5 feet of a common lot line.

(l) Openings in any RBL for parking garage entries shall have a maximum clear height no greater than 16 feet and a clear width no greater than 22 feet.

(m) Blank lengths of wall exceeding 20 linear feet are prohibited on all required building lines (RBL).

(n) Awnings shall project a minimum of 5 feet to a maximum of:

i. within 1 foot of back of curb where there are no street trees, or

ii. 1 foot into the tree lawn (where there are street trees).

(o) Awnings that project over the sidewalk portion of a street-space shall maintain a clear height of at least 10 feet.

(p) Awnings may have supporting posts at their outer edge provided that they:

i. Have a minimum of 8 feet clear width between the facade and the support posts or columns of the awnings, and

ii. Have between 18 and 24 inches between the support posts or columns of the awnings and the back of curb, and

iii. Provide a continuous clear walkway area at least 6 feet wide running adjacent and parallel to the awning columns/posts.

(q) Opportunities for unique architecture and signature buildings exist at intersections designated by the adopted Downtown Master Plan as Activity Nodes and should be developed accordingly.

(r) Mechanical and electrical equipment including, but not limited to, air compressors, hoods, mechanical pumps, exterior water heaters, water softeners, utility and telephone transformers, meters or boxes, garbage cans, storage tanks and similar elements may not be stored or located within any street space and shall be screened from view. Temporary placement of private garbage cans within the street-space may be allowed to accommodate scheduled pick-up. When access to these service areas and/or equipment is desired, one access gate no wider than 22 feet and one pedestrian entry gate no wider than 5 feet shall be permitted within any required street wall.

(s) Roof mounted equipment shall be placed behind and away from any RBL and be screened from view from the public right of way.

(t) Residential uses are prohibited on the ground story level on streets designated to have a "Required Retail Frontage" on the Special Requirements Map of the Comprehensive Plan.

(3) **Streetscapes**. Street trees, sidewalks and pedestrian-scaled lighting of no greater than 14 feet in height shall create a comfortable walking environment. Pedestrian amenities such as benches shall be consistent with city standards for outdoor furniture downtown and shall also be provided, as appropriate, throughout the development site.

(4) **Street trees**. Street trees shall be located by the developer in tree pits or tree lawns established between the curb and the sidewalk after approval by the Planning Department and City Arborist and in accordance with the following:

(a) Each street-space must have street trees planted along the street tree alignment line (generally 3 to 3½ feet from the back of the curb unless otherwise specified at an average spacing not greater than 30 feet on center (calculated per block face). Where necessary, spacing allowances may be made to accommodate curb cuts, fire hydrants and other infrastructure elements; however, at no location may street tree spacing exceed 45 feet on center.

(b) Required tree planting area minimum specifications are as follows:

i. Soil surface area shall not be less than 90 square feet per isolated tree or 60 square feet per tree for connected (tree lawn) situations.

ii. No dimension of the soil surface area may be less than 5 1/2 feet.

iii. These requirements may be met through the use of bridged slab, structural soil, or other techniques that clearly exceed these standards in the fostering of vital and long-lived street trees.

(c) Street tree planting areas shall be at grade or not greater than six inches in height above or below the sidewalk.

(d) At planting, street trees shall be at least 2.5 inches in diameter (at DBH) and at least ten feet in overall height. Species must be selected from the street tree list (see Tree Lists). Consult with the Planning Director for the designated tree species for a particular street-space.

(e) Any unpaved ground area shall be planted with groundcover, flowering vegetation, or climbing vines, not to exceed 12 inches in height. Street trees must be "limbed up" as they gain appropriate maturity so as to not interfere with pedestrian or truck travel (minimum 7 feet clear over the sidewalk and 14 feet over the travel lanes of the street) and to maintain visibility.

(f) The distance between street trees shall be determined by the design of the site and building to provide for an integrated landscaped theme. The Planning Department and the City Arborist shall also approve tree selection. Spacing and tree selection shall reflect the urban character and enhance the viewscapes of the waterfront and downtown areas.

(5) Open Space.

(a) Each property shall provide open space as follows:

i. T3 & T4: at least 20% of the total lot area in open space.

ii. T5: at least 15% of the total lot area in open space.

iii. T6: at least 10% of the total lot area in open space.

(b) Open space may be public and/or private and may be in the form of roof gardens, brick gardens, landscape ground level spaces and atriums. Each such space to be considered as "open space" must contain landscaping, public art form elements, or pedestrian elements and blend with the architecture of the development.

Section 40.1-9.4. Downtown Districts - Dimensional and Density Requirements

Development in the T3, T4, T5, T6 and the SD district shall reflect the urban character created by the downtown area. The design of the development shall create a vibrant, walkable place.

(A) Siting and Building Envelope Standards.

For those properties where a Certificate of Appropriateness is required, the Downtown Design Committee shall determine the setbacks for any construction project are in accordance with the requirements and provisions of the Downtown Design Manual.

For those properties where a Certificate of Appropriateness is not required, the following provisions shall apply:

(1) Front.

(a) T3 and T4: Required to be within 12 feet of property line or Right-of-Way, or the average of the existing buildings along the same block face.

(b) T5 and T6: The building shall be built to the Required Building Line (RBL). For purposes of the T5 and T6 subdistricts, the RBL shall be the property line abutting any public right of way. The RBL incorporates an offset area (or depth) of 20 inches beyond that line (into the buildable area of the property) allowing for jogs, façade articulation, etc., unless otherwise designated herein.

(c) SD: Minimum of 25 foot setback

(2) Interior Side.

(a) T3 and T4: 3 feet unless attached

(b) T5 and T6: Zero feet

(c) SD: 10 feet

(3) Rear and or Alley.

(a) T3 and T4: Zero

(b) T5 and T6: Zero

(c) SD: 25 feet minimum

(4) Street Side.

(a) T3 and T4: Required to be within 12 feet of property line or Right-of-Way, or the average of the existing buildings along the same block face

(b) T5 and T6: The building shall be built to the Required Building Line (RBL).

(c) SD: 20 feet

(B) Building Height.

(1) For those properties where a Certificate of Appropriateness is required, the Downtown Design Committee shall determine the building height for any construction projects is in accordance with the requirements and provisions of the Downtown Design Manual.

(2) For those properties where a Certificate of Appropriateness is not required, the following provisions shall apply:

(a) T3: Minimum two stories to maximum three stories. An attic story or English-basement story is not included in the height measurement. Total building height may not exceed 43 feet.

(b) T4: Minimum two stories to maximum three stories. An attic story or English-basement story is not included in the height measurement. Total building height may not exceed 43 feet.

(c) T5: Minimum two stories to maximum six stories. Total building height may not exceed 91 feet.

(d) T6: Minimum four stories

(e) SD: Minimum one story to maximum 3 story

(C) Story Height.

(a) T3: First floor 14 feet maximum; stories above the first floor maximum 12 feet.

(b) T4: First floor 14 feet maximum; stories above the first floor maximum 12 feet.

(c) T5 and T6: See below.

(d) SD: First floor 14 feet minimum, maximum 22 feet; stories above the first floor maximum 16 feet.

(e) For purposes of this section, story height shall be defined as that space within a building and above grade that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above.

(D) Additional Height and Story requirements for the T5 and T6 subdistricts.

(1) Ground Story Height: Commerce Uses.

(a) The average ground story finished floor elevation shall be equal to the exterior sidewalk elevation in front of the building, with a maximum finished floor elevation of 18 inches above the sidewalk.

(b) The ground story shall have at least 15 feet of clear interior height (floor to ceiling) contiguous to the required building line (RBL) frontage for a minimum depth of 25 feet.

(c) The maximum ground story height is 22 feet, measured from the sidewalk to the second story floor.

(2) Ground Story Height: Residential Units.

(a) The average finished floor elevation shall be no less than 3 feet above the exterior sidewalk elevation at the RBL.

(b) The ground story shall have an interior clear height (floor to ceiling) of at least 9 feet and a maximum sidewalk to second story floor height of 22 feet.

(3) Upper Story Height.

(a) The maximum clear height (floor to ceiling) for story's other than the ground story is 12 feet.

(b) At least 80% of each upper story shall have an interior clear height (floor to ceiling) of at least 9 feet.

(4) Height, Generally.

Opportunities for unique architecture and signature buildings exist at intersections designated as Activity Nodes by the adopted Downtown Master Plan. Taller buildings increase the density and activity of the space and corner buildings located at activity nodes should be taller than adjacent mid-block buildings.

(E) Residential Densities.

New development projects that include residential dwelling units, other than single family detached subdivisions, shall be developed in accordance with the following density limit ranges:

(1) T3: N/A dwelling units per acre

(2) T4: 8-12 dwelling units per acre

(3) T5: 18-24 dwelling units per acre

(4) T6: 60-96 dwelling units per acre

(5) SD: N/A

Section 40.1-9.5. Administrative Deviations

(A) Authority.

During the site plan review process, the Planning Director is authorized to approve limited administrative deviations to certain provisions of this Code, where, owing to special conditions, strict enforcement would be physically impractical. This optional process occurs only where the applicant requests an administration deviation to a standard as specified below.

(B) Permitted Deviations.

The Planning Director will review the request in light of the intent of the applicable transect requirements. The Planning Director is authorized to approve an administrative deviation for the following standards:

(1) Height.

(a) Minimum and maximum story heights - up to ten percent for any one story, limit of five percent for any cumulative increase or decrease in building height.

(b) Street wall/fence requirements – up to ten percent.

(c) Finished floor elevation – up to five percent.

(2) Siting.

(a) Required Building line – increase of up to 6 inches (from the specified 20 inches to 26 inches in width).

(b) Required building line minimum percentage built-to – reduction of up to five percent of required length.

(c) Street wall requirements – up to ten percent.

(d) Entrances (maximum average spacing) – up to five percent increase in spacing.

(3) Elements.

(a) Fenestration (minimum and maximum percent) – up to five percent.

(b) Elements (minimum and maximum projections) – up to five percent.

(4) Density (minimum and maximum dwelling units per acre) - up to ten percent.

(C) Relief from Standards.

(1) In any case where the Director of Planning and the applicant cannot agree on a proposal, the application shall be referred to the Downtown Design Committee for action.

(2) Deviations from these standards outside of those recommended by the Downtown Design Guidelines may be considered by the Planning Commission through a Type II Site Review. A written report/agenda shall accompany any application forwarded to the Committee.

The Type II site review process will give the opportunity for appropriate deviations from the Code that are consistent with the City's goals and plans to revitalize the Downtown District. Examples of these deviations may include problems related to topography or street grade, the location of alleys and streets, breaks and passages between buildings, signs, streetscape details, design issues related to the inclusion of existing buildings or mature trees as part of a development proposal.

Section 40.1-9.6. Application of Code

(A) General.

There are two review processes: By-Right (administrative review) and Use Permit. The Use Permit process is dependent upon project size. Projects approved through the Use Permit process should nonetheless meet the intent of the Code.

(1) By-Right Option. Projects of smaller building area (less than 45,000 gross square feet or less than 15,000 square feet footprint) are able to build as a matter of right when they meet all of the standards of the Code. The Director of Planning will be responsible for reviewing development proposals within 30 days of submission of a completed application. Permits will not be issued for building activity until review is completed and a determination made that the proposal is consistent with the Code.

(2) **Use Permit Option**. The Use Permit process will be required for buildings over 45,000 gross square feet or with floorplates over 15,000 gross square feet or for proposals where the minimum or maximum number of dwelling units proposed exceeds the requirements listed above by more than 10 percent. Such sites will be required to meet the intent of the Code and will be evaluated in terms of how well they conform to the Code and meet other objectives of the Master Plan. The Use Permit process also provides the opportunity for community input as well as fine tuning of a development proposal to address issues that may not have been contemplated by the Code. Provided however, no use permit shall be required in the SD district based solely on building size.

Section 40.1-9.7. Parking

No off-street parking or loading facility shall be required for those properties zoned T4, T5 or T6 and which are located downtown north of Interstate 264. Where parking or loading is provided, parking shall be designed in accordance with the requirements of Section 40.1-5 of this Ordinance, with the exception of Section 40.1-5.1(E) and (F). Parking in the T3 district and T4 district south of Interstate 264 shall be in accordance with the number of spaces required in Table 40.1-5.1(E) (2). Single family residences are exempt from the 30 foot parking setback contained in this section.

Sec. 40.1-9.8. Downtown Districts, properties; publicly-owned property

The city manager or other appropriate city official shall file an application for a certificate of appropriateness for the proposed construction, alteration, renovation, or razing of any historic city-owned building or structure, and shall adhere to all other requirements of this division. For buildings and structures owned by other governmental entities or public utilities companies, the city manager or other appropriate city official shall request that such owners submit an application for a certificate of appropriateness and adhere to all requirements of this division.

Nothing in this article or section shall be construed to prevent the construction, reconstruction, alteration, or demolition of any such elements that the authorized city officers certify as required for public safety.

For those properties within the Downtown Districts which are not required to obtain a Certificate of Appropriateness, civic use buildings are exempt from the Dimensional and Density Requirements listed above.

Sec. 40.1-9.9. Demolition by Neglect

(A) No structure within a Downtown District shall be allowed to deteriorate due to neglect. Deterioration due to neglect shall constitute demolition by neglect when**:**

(1) Deterioration of the exterior of a building occurs to the extent that it creates, or permits, a hazardous or unsafe condition; or

(2) Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, brick, plaster, or mortar occurs to the extent that it adversely affects the character of the district or could reasonably lead to irreversible damage to the structure or lead to a hazardous condition.

(B) The Committee shall monitor the condition of properties to determine if they are being allowed to deteriorate by neglect. In the event that the Committee receives a complaint or determines that a structure is being demolished by neglect, it shall notify the zoning administrator and the building official of such complaint or neglect stating the reasons for

such notice, and shall set forth the steps that it believes need to be taken to remedy the situation.

Sec. 40.1-9.10. Maintenance of Downtown Properties

Nothing in this division shall be construed to prevent the normal repair and maintenance of any exterior architectural feature or ordinary yard maintenance in the Downtown Districts to correct deterioration, decay or damage, or to sustain the existing form. Normal repair and maintenance shall not include a material change in design, material, color or outer appearance and does not require a certificate of appropriateness. In addition, this paragraph does not prohibit any repair, maintenance, painting or alteration of any such feature that the building official certifies to be required for public safety because of an unsafe or dangerous condition.

Normal maintenance and repair shall include the following and similar actions which in the sole opinion of the Committee or its designated staff will have no greater effect on the character of the district than those listed:

(A) Repainting resulting in the same color.

(B) Replacement of broken windowpanes, missing roof shingles, or missing features with matching in-kind materials.

(C) Addition or deletion of television or radio antennas, skylights or solar collectors in locations not visible from a public street.

(D) Planting of grass, trees and shrubs, but not including landscape treatment which substantially alters the contour of a site or involves landscaping or construction of parking areas, fences, walls, walkways, pools, fountains and the like which materially affect the appearance of a site and which is visible from a public street.

(E) Any changes to a structure that are not visible from a public street.

Sec. 40.1-9.11. Downtown Design Committee

For the general purposes of this chapter and specifically to preserve and protect historic places and areas in Portsmouth through the control of demolition and regulation of architectural design and uses of structures in such areas, a Downtown Design Committee is established.

(A) The Downtown Design Committee shall consist of seven members who shall be appointed by the city council and who shall serve without compensation.

(B) All members must demonstrate an interest or competence in or knowledge of historic preservation and shall include at least:

- **(1)** Two members who are registered architects or architectural historians;
- **(2)** One registered Landscape Architect;
- **(3)** Two residents or business owners;
- **(4)** Two members with professional training or equivalent experience in engineering, planning, real estate or realtors, or a contractor and;
- **(5)** Up to three alternates as defined below.

(C) The city council, in additional to the seven voting members, may appoint a non-voting liaison to the Committee from its own body.

(D) Committee members shall be appointed for terms of office of three years from the date of appointment. Members may be reappointed for consecutive terms. In order to achieve staggered terms, initial appointments shall be: one member for a term of one year, three members for terms of two years, and three members for terms of three years. No individual may serve more than six years total as a Committee member without a three-year

vacancy from the Committee, except that the initial member appointed for a one-year term may be reappointed for two additional three-year terms.

(E) The city council may appoint at least one, but up to three qualified alternate members to the Committee. The terms of the alternates shall be for three years. Alternate members shall be required to attend regular meetings and training, but shall not participate in any Committee discussions or voting pertaining to an application for a certificate of appropriateness unless so requested by the chairperson in order to create or maintain a quorum.

(F) A Committee member may be removed from office by the city council for inefficiency, neglect of duty, malfeasance, or continued absence from regular or called meetings of the Committee. Continued absence is defined as absence from three consecutive meetings or four meetings within a 12-month period.

(G) If a member representing a designated organization or profession ceases to be a member of that organization or profession, or if a Committee vacancy occurs for any other reason, the city council shall appoint a new member to fill the uncompleted portion of the term within 60 days of the vacancy.

(H) Every member of the committee shall annually attend at least one informational or educational meeting approved by the Virginia Department of Historic Resources pertaining to the work and functions of the Committee or to historic preservation.

Sec. 40.1-9.11.1. Downtown Design Committee; establishment and membership

There is hereby created and established a Downtown Design Committee.

(A) The committee's membership shall be appointed by City Council. Members of the committee shall serve without compensation.

(B) The committee shall implement the purpose and objectives of the City's Comprehensive Plan and the "Downtown Master Plan and Waterfront Strategy" hereinafter referred to as "the plans," through the Downtown Design Guidelines and issuance of certificates of appropriateness.

(C) The committee shall meet on a regular basis as provided for in the Downtown Design Guidelines or when called upon by the chairman or by at least two members of the committee.

(D) The committee shall appoint a chairman and vice-chairman from among its members and a secretary who shall be an employee of the city planning commission.

(E) The committee may employ a consultant and seek advice from any city departments as it deems it necessary.

Sec. 40.1-9.11.2. Downtown Design Committee; powers, duties, and responsibilities

The Downtown Design Committee shall have such powers, duties, and responsibilities as may be assigned to it by the city council, and in particular shall:

(A) Review and act upon each application for a certificate of appropriateness for any material change in appearance, including construction, reconstruction, exterior alteration, demolition, or relocation of contributing or noncontributing properties within the historic districts and for individually-designated downtown properties.

(B) Assist and advise the city council, the planning commission, other city departments, and property owners concerning matters involving individual historically significant sites and buildings, and those properties located either in or abutting historic districts.

(C) Request information and services from any city department, agency, board or commission related to the exercise of the Committee's powers and duties of the Committee including:

(1) a current project review, (2) development standards, and (3) the investigation of new products or materials.

(D) Periodically conduct or cause to be conducted, a survey of buildings, structures, places and areas in the city having historical, architectural, archaeological, or cultural significance, interest or value for the purpose of compiling appropriate descriptions, facts, lists and an inventory map.

(E) Administer the provisions of this article in accordance with the Committee's duties set forth therein and establish and periodically review appropriate standards and guidelines for such districts and properties subject to review and adoption by the city council.

(F) Request the opinion, advice, or other aid from any officer, employee, board, bureau or Committee of the city within the scope of that person's competence.

Sec. 40.1-9.11.3. Downtown Design Committee; rules of procedure

The Downtown Design Committee shall adopt bylaws, rules, and standards for the transaction of its business, and such bylaws, rules, and standards shall not conflict with the provisions of this Code. The Committee shall provide for the time and place of regular meetings and a method for the calling of special meetings. It shall select a chairperson and such other officers, as it deems appropriate from among its members. A quorum shall consist of a majority of the members appointed to the Committee.

Sec. 40.1-9.11.4. Downtown Design Committee; standards and guidelines

(A) The Committee shall submit to the city council proposed standards and guidelines for each district that shall govern the Committee's decisions. After the city council reviews and approves the initial standards and guidelines, the Committee, the planning director, or city council may propose modifications.

(B) The Committee shall create, adopt and maintain a procedures manual containing standards and guidelines approved by the city council. The manual shall contain, among other things:

(1) Application instructions describing the required procedures, exhibits, visual displays and other data required relative to applications for certificates of appropriateness submitted to the Committee or its designee; and

(2) Committee process standards for certificate of appropriateness review and conduct of meetings.

Sec. 40.1-9.11.5. Downtown Design Committee; meeting records

A public record shall be kept of the resolutions, proceedings, and actions of the Downtown Design Committee. Designated staff of the city planning department shall serve as administrative staff to the Committee and maintain for public review all resolutions, proceedings, and actions of the Committee.

Sec. 40.1-9.11.6. Downtown Design Committee; annual report

The Downtown Design Committee shall annually make a report by June 30th of each year to the planning commission and to the city council with recommendations concerning the operation of the Committee and the status of historic preservation downtown.

Sec. 40.1-9.12. Downtown Design Committee; Temporary screening during construction

The Downtown Design Committee shall consider the need during construction to screen from public view by means of an opaque fence or other device certain new construction projects or additions to existing buildings. Such temporary screening may be required for any site within a downtown T district and for any site in the D-2 district which abuts a street classified as an arterial street in the comprehensive plan if the screening is determined by the committee to be necessary to protect the public from construction debris or equipment, to protect the public view from a public roadway, walkway or waterway or to protect the public view from a site with architectural, historic or cultural significance.

Sec. 40.1-9.13. Downtown Design Committee; Historic markers

(A) Historic markers, as approved by the Downtown Design Committee, shall be made available to the owner of any building designated as a historic structure by the committee.

(B) The markers shall show the date of construction and the historic significance of the structure and shall be placed on the structure or adjacent to it.

(C) It shall be unlawful for anyone to display an unauthorized marker or to remove an authorized marker without the consent of the structure owner and the committee.

(D) An application to remove an official marker shall be made in writing by the building owner to the committee for investigation and report, which report shall be made within 30 days from the date on which the application was received. The report shall be forwarded to the building official.

(E) In considering the removal of a marker, the Committee shall consider the historical or architectural value and significance of the building or structure and its relationship to or congruity with the land, place and area in the historic district upon which it is erected and with other buildings or structures therein.

(F) In the event that the Downtown Design Committee recommends approval of the application to remove an official marker, the committee shall immediately so advise the owner.

(G) In the event that the committee recommends denial, the owner shall be notified immediately not to remove the marker.

(H) The applicant may appeal any committee decision in accordance with the provisions of section 40.1-9.30.

Sec. 40.1-9.14. Outdoor Retail Displays in Rights-of-Way

(A) It shall be unlawful for any person to cause an outdoor retail display area to be established in any public right-of-way of the city except as permitted by this section and shall be limited to property zoned either T5 or T6 or D2.

(B) Upon determination that an outdoor retail display area will not materially or unreasonably interfere with the use of any public right-of-way or constitute a hazard, the city council or its designee may issue an outdoor retail display area permit subject to the following conditions:

(1) That application be made in writing to the city manager for such permit, in a form satisfactory to the city manager, to which shall be attached a plat of survey or an engineering drawing depicting the area to be occupied by the outdoor retail display area.

(2) That the outdoor retail display area permit shall be revocable at the pleasure of city council or its designee.

(3) That the permit to be issued by the city manager shall provide that the permittee, for himself, his heirs, successors and assigns, shall agree to indemnify, keep and hold the city free and harmless from liability on account of injury or damage to persons or property growing out of or directly or indirectly resulting from such use and the maintenance, operation and removal thereof; and that in the event that any suit or proceeding shall be brought against the city, at law or in equity, either independently or jointly with such permittee on account thereof, the permittee will defend the city in any such suit or proceeding at the cost of the permittee; and in the event of a final judgment or decree being obtained against the city, either independently or jointly with the permittee, then the permittee will pay such judgment or comply with such decree and pay all costs and expenses of whatsoever nature and hold the city harmless therefrom.

(4) That the retail display area shall be temporary and shall be removed daily.

(5) That the retail display area shall conform to the sidewalk display standards contained with the Downtown Design Manual as approved by City Council.

(6) That the issuance of the permit shall not relieve the permittee of the obligation to obtain and maintain in full force and effect any permits required by the department of public health or other applicable state or local agencies or departments.

(7) That the permittee shall comply with all applicable codes, ordinances, policies and regulations of federal, state and local governments and shall obtain all necessary licenses and permits.

(8) That the permit shall be issued to the applicant and shall not be transferable or assignable without written approval of the city manager.

(9) That the city council or its designee may impose such other reasonable conditions, including but not limited to a reasonable rent, as may be deemed appropriate.

(10) That the application fee for each permit shall be as set forth in appendix A to this Code. Such application fee shall be nonrefundable.

Sec. 40.1-9.15. Certificate of Appropriateness; required

(A) After the designation of a Downtown District, no material change including construction, reconstruction, exterior alteration, demolition, or relocation that affects the appearance of such historic property, or of a contributing or noncontributing building, structure, site or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the Downtown Design Committee. The owner of such building, structure or property or the owner's agent, shall make an application to the designated staff of the Downtown Design Committee.

(B) A certificate of appropriateness shall be required whether or not a building permit is required. Ordinary maintenance and repair items such as those listed in 40.1-9.10 are exempt from review. Exterior alterations that do not require a building permit but which can change the exterior appearance of the building or structure such as replacement of doors and windows shall not be constructed or installed unless a certificate of appropriateness has first been obtained. No site feature or appurtenance (such as walls, fences, arbors, paved parking areas, patios, decks, garages, tool sheds, and other accessory structures) where visible from a public right-of-way shall be constructed or installed unless a certificate of appropriateness has first been obtained.

(C) No building permit shall be issued for erection, alteration or improvement of an historic structure or property within an historic district unless a certificate of appropriateness, if

required, has first been issued. A certificate of occupancy shall not be issued unless the project is constructed in compliance with the certificate of appropriateness.

(D) A certificate of appropriateness must be approved by the Committee prior to a zoning review of site plans, the site plan review process, subdivision review, board of zoning appeals review, or the processing of a use permit or rezoning application. No action by the departments, commissions, or agencies responsible for such reviews shall take place if a required certificate of appropriateness has not been approved.

Sec. 40.1-9.16. Certificate Issuance Authority

(A) Certificate of appropriateness. The Downtown Design Committee shall have the power and the duty to issue or deny a certificate of appropriateness all proposed building and development on properties within the downtown districts so designated on the zoning map. The certificate of intent shall contain specifications for use, building, height, bulk, location (including setback requirements), required parking space, landscaping, signs and other design features of all buildings and other improvements to be constructed, erected or reconstructed in the downtown districts.

(B) Limitation. Nothing in this article shall be construed to prevent the owner of such building, structure or property in the Downtown districts from performing any maintenance, alteration or painting to the external architectural features of such building, structure or property which does not involve a change in design, material, color or the outward appearance thereof and which maintenance, painting or alteration is of such nature that it may be lawfully effected without a permit from the city manager, provisions of this article to the contrary notwithstanding, nor to prevent any repair, maintenance, painting, demolition or alteration of any such feature which the building official shall certify to be required by the public safety because of any unsafe or dangerous condition.

(C) Further limitation. The committee shall not consider detailed designs, interior arrangements or features of a building or structure which are not subject to public view from a public street, public way or other public place, and shall not make any requirements except for the purpose of preventing developments incongruous to the historic aspects of the surroundings and the downtown districts.

Sec. 40.1-9.17. Certificate of Appropriateness; Committee review and approval

(A) Major actions, as defined in the standards and guidelines adopted by the city council as those projects requiring a three-step review, and any other actions not specifically exempted by the terms of this article and which constitute a major permanent change to the character of the historic district or property shall be approved only after a public meeting and favorable action by the Downtown Design Committee.

(B) In its review of an application for a certificate of appropriateness for a major action, the Committee shall be guided in its decisions by the standards and guidelines required and established by this article.

(C) In response to an application, the Committee shall either (i) approve the certificate of appropriateness as proposed, (ii) approve the application with any modifications or conditions it deems necessary if the applicant concurs with the modifications or conditions, or (iii) deny the application. The Committee may defer action on an application in order to obtain additional information necessary for its decision.

(D) The Committee shall not deny an application except with respect to the standards and guidelines in this article. The Committee shall give reasons for its decisions of denial in writing, shall act promptly on applications before it and shall coordinate its procedures with those of other agencies and individuals charged with administration of this division.

Sec. 40.1-9.18. Certificate of Appropriateness; submission of plans required

A written description, drawings, photographs, plans, and documentation as required by the Committee and as further set forth on the application for the certificate of appropriateness and in the adopted Design Guidelines Submittal Requirements Section shall accompany the application for a certificate of appropriateness.

Sec. 40.1-9.19. Certificate of Appropriateness; application fees

The application fees for a certificate of appropriateness shall be as set out in Appendix A. There shall be no fee for the administrative review or review by the Downtown Design Committee of an application for a certificate of appropriateness when the approval is obtained prior to commencement of the work described in the application.

Sec. 40.1-9.20. Certificate of Appropriateness; general criteria for approval.

(A) The Committee shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in the appearance would not have a substantial adverse effect on the aesthetic, cultural, historic, or architectural significance and value of the structure or the district in accordance with the Downtown Design Guidelines and the following:

(1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(B) In making its determination, the Committee shall further consider the compatibility of the proposed project with the standards and guidelines as adopted by city council in addition to any other pertinent factors.

(C) This section is not intended to discourage contemporary architectural expression, or to require the emulation of existing structures of historic or architectural interest in specific detail. Harmony, or incompatibility, shall be evaluated in terms of the appropriateness of the architectural features, materials, scale, size, height, and placement of a new structure in relationship to existing structures and to the setting.

Sec. 40.1-9.21. Certificate of Appropriateness; action required on application

(A) Upon receipt of a complete application for a certificate of appropriateness, the designated staff shall review the application to determine if a one, two, or three step approval process is required, as defined in the standards and guidelines adopted by the city council.

(B) For those reviews by the committee, staff shall place the application on the agenda for the next regularly scheduled Committee meeting for which it meets the deadline pursuant to the procedures manual. During the public hearing portion of the Committee meeting the Committee will confer with the applicant for the certificate of appropriateness and other parties that appear to voice an opinion on the project. After the public comment portion of the meeting has ended, the Committee members shall vote to either approve or disapprove such plans and specifications based on architectural compatibility and in accordance with the Committee's adopted standards and guidelines.

(C) If the application is approved, the Committee shall issue a certificate of appropriateness therefore with or without conditions or with such modifications of the plans and specifications as the Committee deems necessary and the applicant accepts to fulfill the purposes and objectives declared in section 40.1-9.1 and to require compliance with the regulations and restrictions set out in this chapter and the standards and guidelines as adopted by the city council.

(D) If issued, a certificate of appropriateness shall be valid for a period of one year from date of issuance. All work approved and initiated under a certificate of appropriateness shall be completed within one year of issuance. Without an extension, after one year from issuance of a certificate of appropriateness, an owner shall obtain a new certificate in order to commence any previously approved work or to complete any work. Once begun, no project or work shall be left partially completed. On written request from the applicant, the Committee may grant a single extension of its approval for a period of up to one additional year if, based upon submissions from the applicant, the Committee finds that conditions on the site and in the area of the proposed project are essentially the same as when approval was originally granted.

(E) Any certificate of appropriateness shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced, or at such time the building permit issued for such work becomes no longer valid. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article shall be excluded from the computation of the 12 months.

(F) During construction or installation, the certificate of appropriateness shall be posted on the property in a location where it shall be visible from the public right-of-way. A complete set of the approved plans shall be retained on the premises and shall be made available to designated staff.

(G) If the plans do not meet the Committee's adopted standards and guidelines or the applicant does not agree to the proposed conditions, the Committee shall deny the

application. The Committee shall not under any circumstances issue a certificate of appropriateness containing conditions if the applicant does not consent to the conditions.

(H) In the event that the Committee rejects an application, it shall state its reasons for doing so, and shall transmit notification of such reasons and actions to the applicant in writing. The Committee may suggest any alternative courses of action it deems appropriate if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application.

(I) Where an application covers a material change in the appearance of a historic structure that would require the issuance of a building permit, the denial of the application shall be binding upon city staff charged with issuing building permits. In such a case, a building permit shall not be issued.

(J) The failure of the Committee to approve or disapprove such plans and specifications within 60 days from the date of application for the certificate, unless the applicant agrees to an extension of time in writing, shall be deemed to constitute approval of the plans and specifications as submitted, and the building official shall issue any required permit, unless the planning director requests that the city council make a determination on the application pursuant to the appeal procedures established by this article.

Sec. 40.1-9.22. Certificate of Appropriateness; administrative review and approval

Administrative review of an application for a certificate of appropriateness is permitted in accordance with the following provisions:

(A) The designated staff of the Downtown Design Committee may issue a certificate of appropriateness if authorized by standards and guidelines approved by the city council.

(B) The Committee's designated staff shall be guided by the standards and guidelines established for the Committee and shall have the authority to request of the applicant modifications of a specific proposal in order that such proposal may comply with said standards and guidelines.

(C) In any case where the designated staff is uncertain of his/her authority to act on a particular application, or in any case where the designated staff and the applicant cannot agree on changes in the proposal, or if the designated staff otherwise fails to issue such certificate within 30 days, the application shall be referred to the Committee for action. A written report/agenda shall accompany any application forwarded to the Committee.

(D) The designated staff shall report, in writing, to the Downtown Design Committee at each regular meeting on all certificates so issued.

(E) Not withstanding the above, the building official, the zoning administrator, or their designees may order that work be stopped and that an appropriate application be filed for Committee review upon determination that the action being undertaken surpasses ordinary maintenance as defined in section 40.1-9.10 and a certificate of appropriateness is not displayed, or the work being performed is not in conformance with the approved action for which a certificate of appropriateness has been issued.

Sec. 40.1-9.23. Certificate of Appropriateness; undue hardship exception

The Committee shall have the power to reduce or suspend any of the requirements of this article, if it finds that the application presents special circumstances whereby strict compliance will produce an undue hardship or if the spirit of the chapter has been met and deviation has been deemed to be in the best interest of the city.

In granting a hardship the Committee shall make the following findings of fact in writing:

(A) Strict compliance with the regulation will deprive the property owner of all reasonable use of the property.

(B) The hardship results from application of the regulation to the property.

(C) The hardship is one that affects the property directly.

(D) The hardship is not the result of the property owner's own actions or omissions.

(E) The hardship is unique to the property and is not commonly shared by other similarly situated properties.

(F) Any financial considerations greatly decrease or destroy the property's value.

(G) 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 this ordinance.

Sec. 40.1-9.24. Certificate of Appropriateness; demolitions

(A) The owner of an historic property or the owner of a building, structure, site, or object in any historic district, shall, as a matter of right, be entitled to raze or demolish such building, or structure in accordance [with] of the Code of Virginia (1950), § 15.2-2306 A.3, as amended; provided, however, the owner must first have applied to the Committee for a certificate of appropriateness for the demolition. If the Committee denies the demolition request, the owner may appeal such denial to the city council.

(B) In the case of an application for demolition, if the Committee finds that it is physically or economically unfeasible to preserve an historic structure according to the above criteria, it shall issue the certificate of appropriateness. If preservation is found to be both physically and economically feasible, the Committee shall take or promote the taking of whatever public or private action that it deems likely to lead to such preservation, either on the site on which the historic structure is located or on another site to which it might appropriately be moved. Where preservation is feasible but the applicant still seeks demolition, the city may take any of the actions authorized by Code of Virginia (1950), § 15.2-2306 A.4, as amended.

(C) A decision by the Committee concerning a certificate of appropriateness for the demolition of historic structures, sites, or objects shall be guided by:

(1) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object.

(2) The importance of the historic structure, site, or object to the ambiance of a district.

(3) The difficulty or the impossibility of reproducing such a building, structure, site, or object because of its design, texture, material, detail, or unique location.

(4) Whether the historic structure, site, or object is one of the last remaining examples of its kind in the neighborhood or the city.

(5) Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be.

(6) Whether reasonable measures can be taken to save the historic structure, site, or object from collapse.

(7) Whether the historic structure, site, or object is capable of earning reasonable economic return on its value.

Sec. 40.1-9.25. Certificate of Appropriateness; relocation of historic structure or object

A decision by the Downtown Design Committee concerning a certificate of appropriateness for the relocation of a historic structure, or object shall be guided by:

(A) The historic, scenic, cultural, aesthetic or architectural significance of the building, structure, site, or object.

(B) The importance of the historic structure, site, or object to the ambiance of a district.

(C) Whether there are definite plans for the property to be vacated and what the effect of those plans on the character of the surrounding area will be.

(D) Whether the historic structure or object can be moved without significant damage to its physical integrity.

(E) Whether the proposed relocation area is compatible with the scenic, cultural, aesthetic, historical, and architectural character of the building, structure, site, or object.

Sec. 40.1-9.26. Certificate of Appropriateness; enforcement and remedies

(A) Any violation or attempted violation of this article or of any condition or requirement adopted pursuant hereto may be restrained, corrected or abated by injunction or other appropriate proceeding pursuant to the Code of Virginia.

(B) After the issuance of a certificate of appropriateness, city zoning inspectors shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or in violation of any ordinances of the city. If violations are not corrected in a timely manner, the certificate and building permit may be revoked.

(C) The zoning administrator, building official and designated city staff are authorized to order that work be stopped and that an appropriate application be filed or reviewed in any case where, in the inspector or designated staff's opinion, the work being performed is inconsistent with the character of the present structure or the prevailing character of the surroundings and the historic district or when it appears that the work exceeds the scope of an approved certificate of appropriateness. The Committee, upon review of the application may require the property owner to remedy such violations by restoring the affected property to its previous appearance.

Sec. 40.1-9.27. Certificate of Appropriateness; violations; civil penalties

(A) In accordance with Code of Virginia, § 15.2-2209, the following uniform schedule of civil penalties for violations of specified provisions of the zoning ordinance is adopted. The offenses does not include any zoning violation resulting in injury to any persons, and the existence of these civil penalties shall not preclude action by the zoning administrator under Code of Virginia, § 15.2-2286(4) or action by the governing body under Code of Virginia, § 15.2-2208.

(1) Failure to obtain a certificate of appropriateness for the removal and/or installation of roofing materials:

- **i.** Initial offense . ……..... $100.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense . . ……..$500.00

(2) Failure to obtain a certificate of appropriateness for the removal and/or installation of wall siding materials:

- **i.** Initial offense . ……..... . $100.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense . . …….. $500.00

(3) Failure to obtain a certificate of appropriateness for the removal and/or installation of windows:

- **i.** Initial offense $200.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense $500.00

(4) Failure to obtain a certificate of appropriateness for the removal and/or installation of exterior doors:

- **i.** Initial offense $100.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense $500.00

(5) Failure to obtain a certificate of appropriateness for the removal and/or installation of fences:

- **i.** Initial offense $100.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense $500.00

(6) Failure to obtain a certificate of appropriateness for the painting of any exterior surfaces:

- **i.** Initial offense $50.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense $500.00

(7) Failure to obtain a certificate of appropriateness for the removal and/or installation of driveways and/or sidewalks:

- **i.** Initial offense $100.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense $500.00

(8) Failure to obtain a certificate of appropriateness for the demolition of part or all of any structure:

- **i.** Initial offense $200.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense $500.00

(9) Failure to obtain a certificate of appropriateness for the construction of any addition:

- **i.** Initial offense $200.00
- **ii.** Continuing offense $500.00
- **iii.** Repeat offense $500.00

(B) For the purpose of these penalties, the following terms shall apply:

(1) Initial offense. The first offense committed by this individual at this or any other property in the historic districts.

(2) Continuing offense. An offense that has not been corrected after receiving notice to correct and being issued an initial civil penalty.

(3) Repeat offense. An offense committed by an owner, agent and/or contractor after receiving a violation notice for failure to obtain a certificate of appropriateness at any other property within any of the historic districts.

(C) Each day during which the violation is found to have existed shall constitute a separate offense. Violations enumerated in paragraph (a) above arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a

series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $5,000.00. Designation of a particular zoning ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions. Except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

(D) The zoning administrator or his/her deputy may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the Portsmouth City Treasurer prior to the date fixed for trial. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such person shall be informed of his/her right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the city's burden to show the liability of the violator by a preponderance of the evidence. An admission of liability or a finding of liability shall not constitute a criminal conviction.

Sec. 40.1-9.28. Certificate of Appropriateness; violations; criminal penalties

Failure to either obtain a required certificate of appropriateness prior to commencement of work or failure to proceed with a project as approved or failure to complete a project with one year after work has commenced shall be a violation of this article and shall be punishable as provided in article 40.1-7.

Sec. 40.1-9.29. Exemptions

Nothing in this chapter shall prevent the owner of a building, structure or property in the Downtown Districts from performing any maintenance, alteration or painting to the external architectural features of such building, structure or property which does not involve a change in design, material, color or the outward appearance thereof and which maintenance, painting or alteration is of such nature that it may lawfully be effected without a permit from the building official, provisions of this article to the contrary notwithstanding.

This chapter shall not prevent any demolition, repair, maintenance, painting or alteration of any such feature which the building official shall certify to be required by the public safety because of unsafe or dangerous condition.

Sec. 40.1-9.30. Appeals

(A) Either an applicant or the planning director may appeal to the city council any final decision of the Downtown Design Committee regarding a certificate of appropriateness, provided such appeal is filed in writing with the Committee secretary within 30 days of the Committee's decision. The written appeal shall set forth any alleged error in the Committee's action or decision. The appeal shall state with specificity the nature of the error allegedly committed by the Committee in finding that the proposed erection, alteration, reconstruction or restoration of a structure would not be architecturally compatible with the historic properties, buildings or structures within the historic district. A conclusory statement of error without any allegations of specific facts shall be insufficient to meet the requirements of this paragraph.

(B) An appeal review committee consisting of the planning director and the city attorney or their designees shall initially review the written appeal. In the event that the planning director initiates an appeal, the city manager shall designate a city employee not employed in the department of planning to serve on the committee in place of the

planning director. The committee shall determine whether the written appeal meets the requirements of paragraph (a) above. If the appeal fails to meet the requirements, the committee will deny the appeal on the grounds of insufficiency and so notify the applicant in writing. The notification shall provide the reasons for the denial. The applicant may appeal the committee's decision to the circuit court. If the committee finds that the applicant's appeal has stated sufficient grounds for an appeal, the appeal shall be forwarded to the city clerk who shall place it on the city council's agenda. The applicant shall be notified in writing when an appeal is forwarded to the city clerk.

(C) The filing of an appeal shall stay the Committee's decision pending the outcome of the appeal, except that such filing will not stay the Committee's decision if such decision denies the right to raze or demolish a building or structure.

(D) The city council shall reverse the Committee's decision only upon a finding of error in the Committee's actions or findings. If the city council affirms the Committee's decision, the applicant may appeal the city council's decision to the circuit court within 30 days after the final decision is rendered by the city council.

(E) The timely filing of appeal in the circuit court shall stay the city council's decision pending outcome of the appeal to the court, except that the filing of such petition shall not stay the decision if such decision denies the right to raze or demolish a building or structure.

TABLE 40.1-9.2.1: USE TABLE
P = PERMITED USE U = USE PERMIT REQUIRED A= ALLOWED BLANK CELL or SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
RESIDENTIAL USE CLASSIFICATION							
Household Living	Dwelling, live/work	/	P	P	P	/	
	Dwelling, multi-family	P	P	P	P	/	
	Dwelling, single-family attached	P	P	/	/	/	
	Dwelling, single-family detached	P	/	/	/	/	
	Dwelling, townhouse	P	P	/		/	
	Dwelling, two- to four-family	P	P	/	/	/	
	Dwelling, upper story	/	P	P	P	/	
Group Living	Dormitory	/	U	/	/	/	
	Family care home	/	U	/	/	/	
	Fraternity or sorority house	/	/	/	/	/	
	Group home	P	P	P	/	/	8 or less mentally handicapped dependent persons
	Individual and Family Social Services	/	/	/	/	/	
	Rooming or boarding house	/	/	/	/	/	
	Single room occupancy (SRO) facility	/	/	/	/	/	
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION							
Community Services	Community center	/	/	/	/	/	
	Cultural facility	U	U	P	/	/	
	Library	U	U	U	U	/	
	Museum	U	U	U	U	/	
	Senior center	/	/	/	/	/	
	Youth club facility	/	/	/	/	/	
Day Care	Adult day care center	/	/	/	/	/	
	Child day care center	/	/	U	U	/	
	Family child day care home (6 to 12 children)	/	U*	U*	U*	/	See 40.1-4.3(B)(1)(b) *See additional requirements for administrative approval.
	Home child day care for 5 or fewer children	P	P	U	U	/	
Educational Facilities	College or university	/	P	P	P	/	
	School, elementary	/	P	P	P	/	
	School, middle	/	P	P	P	/	
	School, high	/	P	P	P	/	
	Vocational or trade school	/	P	P	P	/	

TABLE 40.1-9.2.1: USE TABLE
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USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
Government Facilities	Government maintenance, storage, or distribution facility	/	/	/	/	/	
	Government offices	/	P	P	P	P	
	Other Government Facilities	/	P	P	P	/	
	Post office	/	P	P	P	/	
Health Care Facilities	Blood/tissue collection facility	/	/	/	/	/	
	Drug or alcohol treatment facility	/	/	/	/	/	
	Hospital	/	/	P	P	/	
	Medical or dental clinic	/	P	P	P	/	
	Medical or dental lab	/	P	P	P	/	
	Medical treatment facility	/	/	/	/	/	
	Outpatient facility	/	/	/	/	/	
Institutions	Assisted living facility	/	P	U	U	/	
	Auditorium	/	P	P	P	/	
	Convention center	/	/	/	P	/	
	Halfway house	/	/	/	/	/	
	Nursing home	/	/	/	/	/	
	Psychiatric treatment facility	/	/	/	/	/	
	Religious institution	/	P	P	P	/	
	Civic, social or fraternal clubs or lodges	/	U	P	/	/	
	Shelter	/	/	/	/	/	
Parks and Open Areas	Arboretum or botanical garden	/	/	/	/	/	
	Cemetery, columbaria, mausoleum	/	/	/	/	/	
	Community garden	/	/	/	/	/	
	Equestrian facility	/	/	/	/	/	
	Golf course, public	/	/	/	/	/	
	Park, public	P	P	/	/	/	
	Park, private	P	P	/	/	/	
	Public square or plaza	/	P	P	P	/	
Public Safety	Correctional facility	/	/	/		/	
	Fire or EMS facility	/	P	P	P	P	
	Fire or police substation	/	P	P	P	P	
	Police station	/	P	P	P	P	
Transportation	Airport	/	/	/	/	/	
	Helicopter landing facility	/	U	P	P	/	
	Water Transportation/Charters	/	/	/	P	P	
	Passenger terminal, surface transportation	/	/	P	P	/	

TABLE 40.1-9.2.1: USE TABLE
P = PERMITED USE U = USE PERMIT REQUIRED A= ALLOWED BLANK CELL or SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
Utilities	Telecommunications antenna, collocation on existing tower	/	P	P	P	P	
	Telecommunications antenna, placement on existing building	/	P	P	P	P	
	Telecommunications tower, freestanding	/	U	U	U	U	
	Utility, major	/	U	U	U	U	
	Utility, minor	/	P	P	P	P	
COMMERCIAL USE CLASSIFICATION OTHER THAN RETAIL SALES AND SERVICE							
Adult Uses	Adult bookstore	/	/	/	/	/	
	Adult Novelties	/	/	/	/	/	
	Adult entertainment establishment	/	/	/	/	/	
	Adult motion picture theater	/	/	/	/	/	
Animal Care	Animal grooming	/	P	P	/	/	
	Animal shelter	/	/	/	/	/	
	Kennel, indoor	/	/	/	/	/	
	Kennel, outdoor	/	/	/	/	/	
	Veterinary clinic	/	P	P	/	/	
Conference and Training Centers	Conference or training center	/	/	P	P	P	
Food Service	Dinner theater	/	/	P	P	/	
	Eating Establishments	/	P	P	P	P	
	Eating Establishment with Drive-thru	/	U	U	U	U	
	Restaurant, Brewpub		U	P	P		
	Restaurant, with indoor or outdoor seating	/	P	P	P	/	
	Restaurant, with drive-through service	/	U	U	U	/	
	Restaurant, without drive-through service	/	P	P	P	/	
	Entertainment establishment	/	U	U	U	/	
Offices	Offices, business services	/	P	P	P	P	
	Offices, financial services	/	P	P	P	P	
	Offices, professional services	/	P	P	P	P	
	Offices, sales (including real estate)	/	P	P	P	P	
	Contractor Office only	/	P	P	P	P	Limited Interior display area allowed

TABLE 40.1-9.2.1: USE TABLE
P = PERMITED USE U = USE PERMIT REQUIRED A= ALLOWED BLANK CELL or SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
	Radio and television broadcasting studio	/	P	P	P	P	
Parking, Commercial	Parking lot	/	P	P	P	P	
	Parking structure	/	P	P	P	P	
Recreation/ Entertainment, Indoor	Fitness Facility	/	P	P	P	P	
	City Recreation Facility	P	P	/	/	/	
	Non profit Recreation Center	/	U	U	U	/	
	Bowling Alley	/		P	P	/	
	Pool Hall	/		P	P	/	
	Video Arcade	/		P	P	/	
	Commercial recreation, indoor theater	/	P	P	P	/	
Recreation/ Entertainment, Outdoor	Public Arena, amphitheater, or stadium	/	/	/	P	/	
	Private Arena, amphitheater, or stadium	/	/	/	/	/	
	Commercial recreation, outdoor	/ /	/	/	/	/	
	Country club	/	/	/	/	/	
	Golf course, public	/	/	/	/	/	
	Golf driving range	/	/	/	/	/	
	Marina	/	/	/	P	P	
	Marina, pleasure boats only	/	/	/	P	P	
	Membership sports or recreation club(e.g., swimming pools, tennis courts)	/	P	P	P	/	
Retail Sales & Services							
	Gasoline sales	/	U	/	/	/	
	Crematory	/	/	/	/	/	
	Dry cleaning and laundry drop-off establishment	/	P	P	P	/	
	Financial institution, without drive-through service	/	P	P	P	/	
	Financial institution, with drive-through service	/	/	U	U	/	
	Funeral home	/	/	/	/	/	
	Laundry, self-service	/	/	/	/	/	

TABLE 40.1-9.2.1: USE TABLE
P = PERMITED USE U = USE PERMIT REQUIRED A= ALLOWED BLANK CELL or SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
	Liquor Store		U	U	U		
	Microbrewery/Micro-distillary/Micro-Winery/Micro-Cidery		U	P	P		
	Convenience store, without gas sales	/	P	P	P	/	
	Convenience store, with gas sales	/	/	U	U	/	
	Drug store or pharmacy, without drive-through service	/	P	P	P	/	
	Drug store or pharmacy, with drive-through service	/	/	U	U	/	
	Flea market	/	/	P	P	/	on publically owned land
	Farmers Market	/	/	P	P	/	
	Second Hand Sales	/	P	P		/	
	Grocery store	/	P	P	P	/	
	Liquor store	/	U	U	U	/	
	Retail sales establishment, large	/	/	U	U	/	
	Small Retail/Eating Establishment	/	P	P	P	P	Gross square footage less than 2500 square feet
	Other retail sales establishments	/	P	P	P	/	
Personal Services	Massage Therapy	/		P	P	/	
	Personal services establishment	/	/	P	P	/	
	Barber Shop	/	P	P	P	/	
	Beauty Salon	/	P	P	P	/	
	Special events house	/	/	/	U	/	
	Tattoo parlor/body piercing establishment	/	/	/	/	/	
	Repair establishment	/	/	/	/	P	
Self–Service Storage	Mini-warehouse	/	/	/	/	/	
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance	/	/	/	/	P	
	Automotive painting/body shop	/	/	/	/	/	
	Automotive wrecker service	/	/	/	/	/	
	Transmission shop	/	/	/	/	/	
	Boat and marine rental,. service and sales	/	/	/	P	P	
	Truck stop	/	/	/	/	/	

TABLE 40.1-9.2.1: USE TABLE
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USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
Vehicle Sales and Services, Light	Automotive parts and installation	/	/	/	/	/	
	Automobile repair and servicing (without painting/bodywork)	/	/	/	/	/	
	Automobile sales or rentals	/	/	/	/	/	
	Automotive wrecker service	/	/	/	/	/	
	Car wash or auto detailing	/	/	/	/	/	
	Motorcycle sales	/	/	/	/	/	
	Recreational vehicle sales or rentals	/	/	/	/	/	
	Tire/muffler sales and mounting	/	/	/	/	/	
Visitor Accommodations	Bed and breakfast inn	/	P	/	/	/	
	Campground or recreational vehicle (RV) park	/	/	/	/	/	
	Hotel or motel	/	P	P	P	U	Full service only
	Tourist Home	/	/	/	/	/	
INDUSTRIAL USE CLASSIFICATION							
Industrial Services	Building, heating, plumbing, or electrical contractor	/	/	/	/	P	
	Electric motor repair	/	/	/	/	P	
	Fuel oil/bottled gas distributor	/	/	/	/	/	
	Fuel oil storage	/	/	/	/	/	
	General industrial service	/	/	/	/	P	
	Heavy equipment sales, rental, or storage	/	/	/	/		
	Heavy equipment servicing and repair	/	/	/	/	P	
	Laundry, dry cleaning, and carpet cleaning plants	/	/	/	/		
	Machine shop	/	/	/	/	P	
	Repair of scientific or professional instruments	/	/	/	/	P	
	Research and development	/	/	P*	P*	P	* no manufacturing
	Tool repair	/	/	/	/	P	
Manufacturing and Production	Manufacturing, heavy	/	/	/	/	/	
	Manufacturing, light	/	/	/	/	P	
	Brewery/Distillary/Winery/ Cidery					P	
	Bulk fuel sales and storage	/	/	/	/	/	

TABLE 40.1-9.2.1: USE TABLE
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USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
Warehouse and Freight Movement	Cold storage plant	/	/	/	/	/	
	Outdoor storage (as a principal use)	/	/	/	/	/	
	Parcel services	/	P	P	P	P	
	Shipping container storage yard	/	/	/	/	/	
	Truck or freight terminal	/	/	/	/	/	
	Warehouse (distribution)	/	/	/	/	P	
	Warehouse (storage)	/	/	/	/	P	excluding hazardous, petroleum and nuclear materials
Waste-Related Services	Energy recovery plant	/	/	/	/	/	
	Hazardous waste collection sites	/	/	/	/	/	
	Incinerator	/	/	/	/	/	
	Recycling and salvage center	/	/	/	/	/	
	Recycling drop-off center	/	/	/	/	/	
	Salvage and junkyard	/	/	/	/	/	
	Tire disposal or recycling	/	/	/	/	/	
	Waste composting	/	/	/	/	/	
Wholesale sales	All uses	/	/	/	/	P	
ACCESSORY USE CLASSIFICATION							
	Accessory Dwelling Units single-family detached dwellings only	/	/	/	/	/	
	Amateur Radio/TV Antenna	/	P	P	P	P	
	Canopies	/	P	P	P	P	
	Clothes line	/	/	/	/	/	
	Community Garden	/	P	/	/	/	
	Fences or Walls	A	P	P	P	P	
	Garages	/	P	/	/	/	
	Greenhouses	/	P	/	/	/	
	Home Occupations	P	P	P	P		
	Outdoor Display/Sales	/	/	P	P	/	
	Rainwater Cisterns	/	P	/	/	/	not visible from the street
	Satellite Dish	/	P	/	/	/	not visible from the street
	Recycling Drop-off Stations	/	/	/	/	/	
	Solar Energy Equipment	P	P	P	P	P	not visible from the street

TABLE 40.1-9.2.1: USE TABLE
P = PERMITED USE U = USE PERMIT REQUIRED A= ALLOWED BLANK CELL or SLASH = PROHIBITED USE

USE CATEGORY	USE TYPE	DISTRICTS					CONDITIONS
		T3	T4	T5	T6	SD	
	Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Home	/	/	/	/	P	
	Swimming Pools	/	/	/	/	/	not visible from the street
	Spas, and Hot Tubs	A	P	P	/	/	not visible from the street
	Vending Machines	/		P	P	P	not visible from the street
TEMPORARY USE CLASSIFICATION							
	Outdoor Seasonal Sales	P	P	P	P	/	Such sales are limited to a maximum of 30 days per calendar year and no more than three occurrences per parcel per year.
	Garage and /or Yard Sales	P	P	/	/	/	Such sales are limited to a maximum of three occurrences per parcel per year, for a maximum duration of two days per occurrence, unless expressly stated otherwise in this Ordinance.
	Special Events	P	P	P	P	/	Such events are limited to 14 total days per calendar year, per parcel, unless expressly stated otherwise in this Ordinance.

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APPENDIX B

UPTOWN D2 DISTRICT

FORM-BASED CODE

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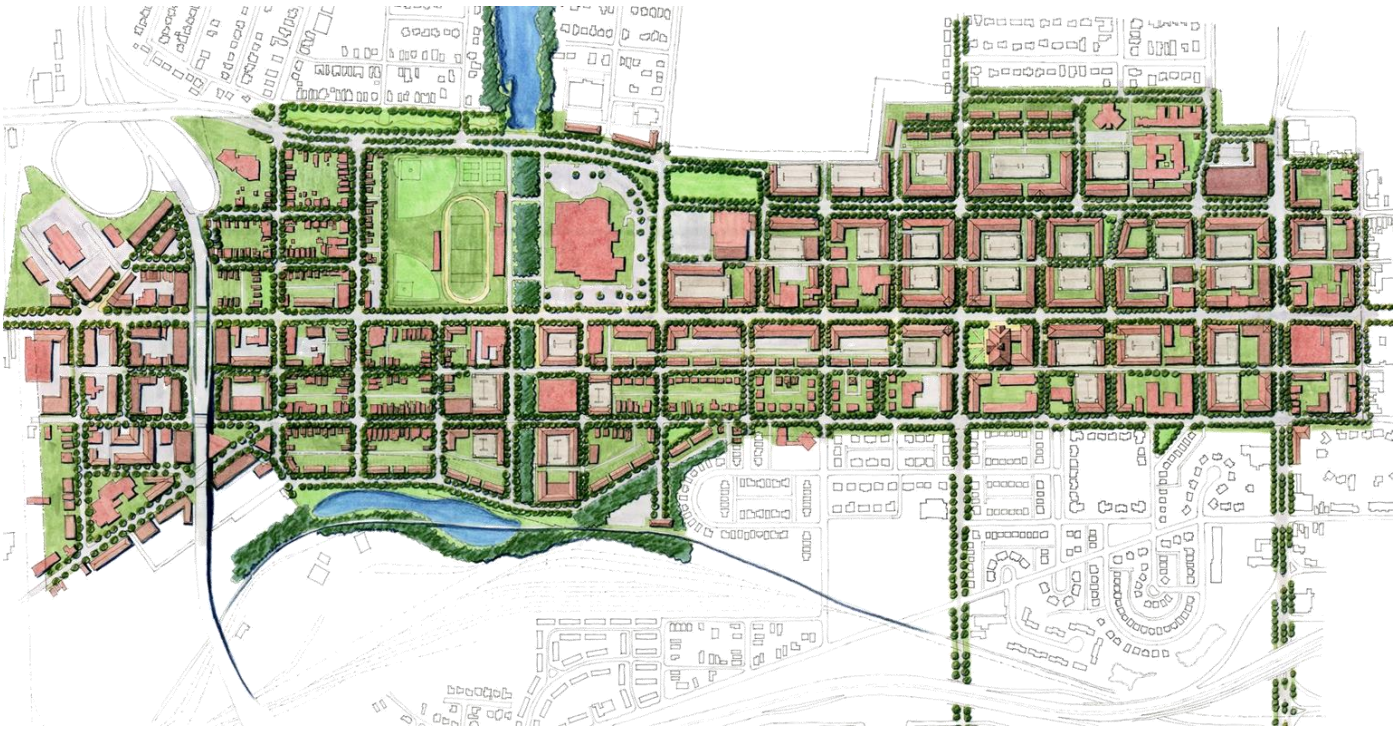

UPTOWN D2 DISTRICT FORM-BASED CODE

Portsmouth, Virginia

REVISED
December 9, 2014

How to Use the Code

1. Determine if property in question is located within the Uptown D2 District.
2. Look at the adopted regulating plan. Find the property in question. Note the required building line and the parking setback line. Note the color of the fronting street-space—this determines the applicable building envelope standard (see the key located on the regulating plan).
3. Find the appropriate building envelope standards pages in Part 4. Building Envelope Standards. The building envelope standards will tell you the parameters for building on the site in terms of height, siting, elements, and use.
4. Additional information regarding streets and other public spaces surrounding the property are found in Part 5. Urban Space Standards, Part 6. Architectural Standards, and Part 7. Parking and Loading Standards. These sections establish the general parameters for the character of the street-space including vehicular traffic lane widths, curb radii, sidewalk and tree planting area dimensions, and on-street parking configurations; basic parameters and palettes for architectural elements and building materials; and parking requirements.

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Part 1. General Provisions

101. Title

This Code is known as the Uptown D2 District Form-Based Code.

101. Purposes

A. The *City of Portsmouth Comprehensive Plan* Destination 2025 (adopted April 29, 2005) identifies High Street as a FOCUS (Fulfilling Our Comprehensive Urban Strategy) Revitalization Corridor between Effingham and Airline Boulevard. This Code is intended to meet the goals of the Comprehensive Plan by providing strong implementation tools for this area.

B. The Code is designed to foster a setting for economic growth and development in a sustainable mixed-use pattern of diverse urban neighborhoods, integrating residential with employment and commercial uses (as well as recreational opportunities), within the Uptown D2 District.

C. The Code shall be applied to new, infill development, and re-development in the designated locations both in order to achieve the vision set forth for the Uptown D2 District and to provide a mechanism for implementing the following specific goals, using both public and private sector investment:

1. Capitalize on public investment in existing infrastructure
2. Promote compact, mixed-use development at moderate to high densities
3. Ensure transit-supportive and transit-serviceable development
4. Require pedestrian-oriented and transit-oriented design
5. Ensure compatibility with surrounding neighborhoods

D. The creation of transit- and pedestrian-oriented development is dependent on three factors: density, diversity of uses, <u>*and*</u> design. The Code places greatest emphasis on the third element (design, or physical form) because it is of greatest importance when creating the places that attract jobs and economic vitality. Density and uses can be expected to change over time as the district grows and matures.

102. Other Applicable Regulations

A. All development must comply with relevant Federal, State and City regulations. Whenever any provision of this Code imposes a greater requirement or a higher standard than is required in any State or Federal statute or other City ordinance or regulation, the provisions of this Code shall govern unless preempted by State or Federal law.

B. Where apparent conflicts exist between the provisions of this Code and other existing ordinances, regulations, or permits, or by easements, covenants, or agreements the Code Administrator shall determine, based on which promotes the intent of this Code and Masterplan, which provisions shall govern.

103. Minimum Requirements

In interpreting and applying the provisions of the Code, they are the minimum requirements for the promotion of the purposes of this Code.

104. Territorial Application

The Code is in effect for that part of the City of Portsmouth, Virginia, designated on the Zoning Map as the D2 District.

105. Severability

Should any provision of this Code be decided by the courts to be unconstitutional or invalid, that decision shall not affect the validity of the Code other than the part decided to be unconstitutional or invalid.

106. Components of the Code

This Code places a primary emphasis on physical form and placemaking, with a secondary focus on land uses. The principal regulatory sections of this Code are described below.

A. Administration

Administration covers applications for development plan approval.

B. The Regulating Plan

1. A regulating plan is the application key for the Code. It provides a public space master plan with specific information on development parameters for each parcel within the district. The regulating plan includes the specific details necessary to create the physical form and character of a mixed-use, pedestrian-oriented place and allow expedited development approvals.
2. The regulating plan shows how each lot relates to the street-space (streets, squares/civic greens, pedestrian pathways, etc.) and the surrounding neighborhood. The regulating plan may identify additional regulations for lots in specific locations.

C. The Building Envelope Standards

1. The primary intent of the building envelope standards (BES) is to shape the street-space—its specific physical and functional character—through placement and form controls on buildings as they frame the street-space or public realm. The secondary intent of the building envelope standards is to ensure that the buildings cooperate to form a functioning, sustainable, block structure. These BES aim for the minimum level of control necessary to meet those goals. Regulating by street frontage produces a coherent and integrated street-space with less interference in the private activities within the lots.

2. The building envelope standards establish basic parameters governing building form, including the buildable envelope (in three dimensions) and certain permitted and/or required elements, such as storefronts, balconies, and street walls. The building envelope standards establish both the boundaries within which things <u>may</u> be done and specific things that <u>must</u> be done. The applicable standard for a building site is determined by the street frontage designated on the regulating plan.

D. The Street Type Specifications

The street type specifications illustrate typical configurations for streets within the district. They address vehicular traffic lane widths, curb radii, sidewalk and tree planting area dimensions, and on-street parking configurations.

E. The Urban-Space Standards

The purpose of the urban-space standards is to ensure coherent street-space and to assist builders and owners with understanding the relationship between the public space of the district and their own building. These standards set the parameters for the placement of street-trees and other amenities or furnishings (e.g., benches, signs, street lights, etc.) within the street-space.

F. The Architectural Standards

The goal of the architectural standards is a coherent and quality building character that is complementary to the best traditions of Portsmouth. The architectural standards govern a building's exterior elements regardless of its BES and set the parameters for allowable materials, configurations, and techniques. Materials and products that are 'equivalent or better' than those specified are always encouraged and may be submitted for approval to the Code Administrator.

G. Building Function Standards

The building function standards provide for the uses allowed on ground floors and in upper floors, correlated with each building envelope standard. Because the Code emphasizes form more than use, it includes fewer, broader categories than those provided in the zoning ordinance. True civic uses, in civic use buildings, are narrowly defined (see Part 9, Definitions, and exempt from many of the BES requirements.

H. Parking and Loading Standards

Parking and loading standards provide goals and requirements to promote a "park once" environment through shared parking and encourage a pedestrian-friendly district.

I. Definitions

Certain terms in the Code are used in very specific ways, often excluding some of the meanings of common usage. Wherever a word is in small capitals format, consult the definitions for its specific and limited meaning. Where there is an apparent contradiction between the definitions in this Code and those in the Zoning Ordinance, this Code definition shall prevail.

Part 2. Administration

201. Applicability

This section, Part 2, Administration, sets forth the provisions for reviewing and approving development applications within the Downtown D2 District where a landowner or developer chooses to develop pursuant to this Code. This is to ensure that all development occurring under the Form-Based Code is consistent with the provisions of this Code. All four elements of the Form Based Code - the Regulating Plan, the Building Envelope Standards, the Urban Space Standards, and the Architectural Standards - will be applied during review.

There are two review processes for the Code option: Type I Development and Type II Development. The Type II Development process is dependent upon site size and/or the need for deviations from the Code. Projects approved through the Type II Development process shall nonetheless meet the intent of the Code.

202. Code Administrator

A. Authority

The Code Administrator is responsible for planning staff working on the day-to-day administration and enforcement of this Code and is specifically authorized to review and approve applications for development plan approval, administrative adjustments, and D2 Certificates of Compliance (COC).

B. Delegation of Authority

The Planning Director may designate any Planning staff member to represent the Code Administrator in any function assigned by this Code. The Code Administrator remains responsible for any final action.

203. Application of Code

The Uptown D2 District Form-Based Code process is intended to provide an incentive to property owners and developers to develop in a particular form. This Code is applicable to the Uptown D2 District as shown on the official Zoning Map and the D2 District Regulating Plan.

204. Uptown D2 Development Plan Application

A. Pre-Application Conference

1. Prior to submitting a formal application for development plan review, an applicant must schedule a pre-application conference with the Code Administrator to discuss the requirements of this Code.
2. A request must be accompanied by preliminary project plans and designs.
3. The Code Administrator will inform the applicant of requirements as they apply to the proposed project, discuss issues of concern that may arise during formal application review, suggest possible modifications to the proposed application, and identify any technical studies that may be necessary for the review process when a formal application is submitted.
4. Any discussion held is not to be binding on either the applicant or the city.

B. Code Administrator Action

Upon submission of a completed application, the Code Administrator will review the development plan for consistency with the requirements of this Code. The appropriate review process of a development plan is determined by the size of the proposed development.

1. **Uptown D2 Type I Development Option**: Projects of building area less than or equal to 60,000 gross square feet (with or without Administrative Adjustments) shall be able to build as a matter of right when they meet all of the standards of the Code in accordance with Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals, Subsection (C): Type I Development Plan and the requirements in this subsection. During the review of the application, the Code Administrator will be responsible for reviewing Administrative Adjustments. A D2 Certificate of Compliance will be issued upon approval of the application by the Code Administrator. Permits will not be issued for building activity until review is completed and a determination made that the proposal is consistent with the Code
   (i) The Code Administrator will forward the application to appropriate city departments and agencies for review and recommendation.
   (ii) Upon completion of the staff and agency review, the applicant may choose to meet with the Code Administrator to discuss any required changes or conditions to the development plan.
   (iii) Within 30 days after the application has been determined complete, the Code Administrator must approve, approve with conditions, or disapprove the Uptown D2 Type I development plan, and state the reasons for such action. Upon approval of the application, a D2 Certificate of Compliance will be issued in accordance with Section 205.
2. **Uptown D2 Type II Development Option**: The Uptown D2 Type II Development process will be required for buildings over 60,000 gross square feet or with floorplates over 30,000 gross square feet and as defined by Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals Subsection (D): Type II Development Plan. Such sites will be required to meet the intent of the Code and will be evaluated in terms of how well they conform to the Code and meet other objectives of the *High Street and London Boulevard Corridors Charrette Report*. The Type II Development process will give the opportunity for appropriate deviations from the Code that are consistent with the City's goals and plans to revitalize the Uptown D2 District. The justifications for these deviations may include problems related to topography or street grade, the location of alleys and streets, breaks and passages between buildings, signs, streetscape details, design issues related to the inclusion of existing buildings or mature trees as part of a development proposal. The Uptown D2 Type II Development process also provides the opportunity for community input as well as fine tuning of a development proposal to address issues that may not have been contemplated by the Code. The public hearing is to address the project's compliance with the Code and the extent of any minor deviations from the Code requirements – not to revisit or redesign aspects of the project that are within the parameters of the Code.

C. Approval Criteria

The Code Administrator shall review the application in accordance with the following:

(i) Compliance with this Code; and
(ii) Compliance with the Uptown D2 District Regulating Plan.

D. D2 Certificate of Compliance Issuance

Upon approval of the application, the Code Administrator shall issue a D2 Certificate of

Compliance in accordance with the provisions Section 205 (below).

E. Modifications to Approved Uptown D2 Development Plans

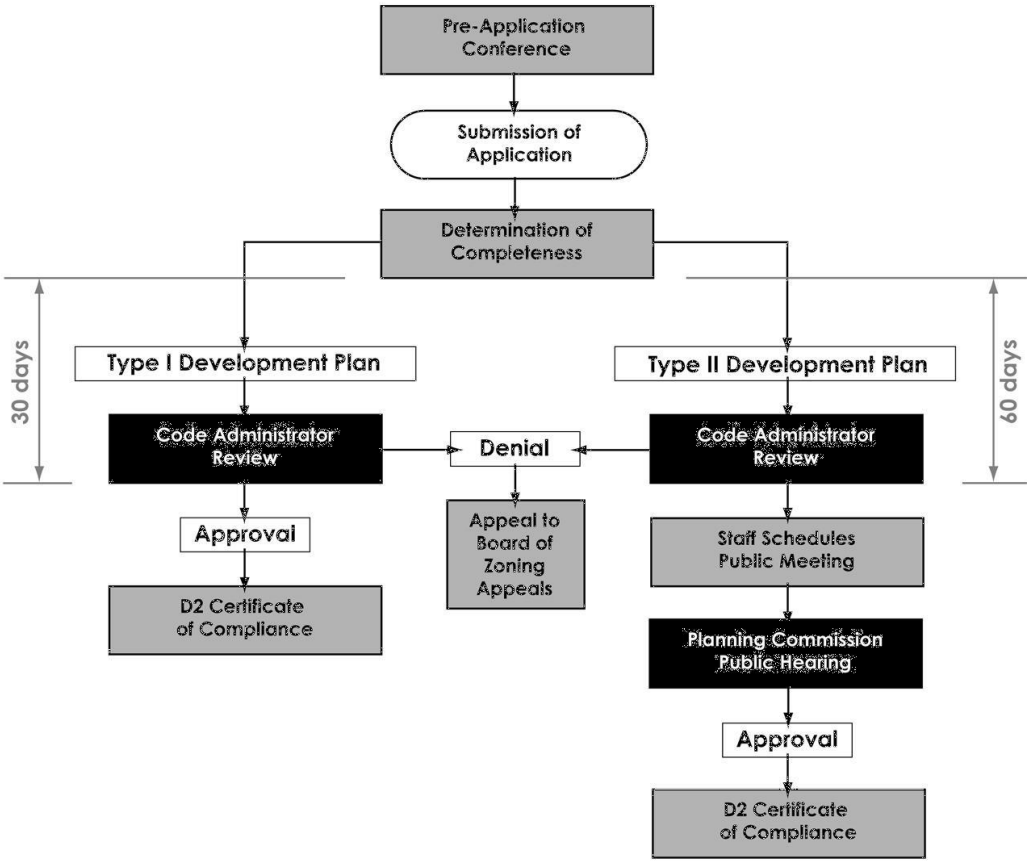
The Code Administrator has the authority to grant modifications to Uptown D2 Development plans, approved under this Code, in accordance with the procedures and standards that governed its original approval.

F. Effect of Uptown D2 Development Plan Approval

Approval of an Uptown D2 Development plan and issuance of a D2 Certificate of Compliance by the Code Administrator allows an applicant to apply for other permits and approvals including, but not limited to, those permits and approvals required by the building code.

G. Appeal

An appeal from the Code Administrator's decision on an Uptown D2 Development Plan application shall be reviewed and decided by the BZA in accordance with Article 40-2: Administration, Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals, Subsection (M): Appeal.



205. D2 Certificate of Compliance

A. Purpose and Intent

The purpose and intent of this section is to establish procedures and standards for D2Certificates of Compliance (COC) for development under this Code.

B. Authority

The Code Administrator shall approve all COCs upon compliance with the provisions of this Code.

C. Applicability

	BES - Height	BES - Siting	BES - Elements	BES - Uses	Architectural Standards, Doorway&PrivateOpenSpace&Plantings	Architectural Standards - Materials	Architectural Standards - Signs	Urban Standards - Street Trees
General, General Shopfront, Workshop, or Townhouse/Small Apartment								
New Construction	X	X	X	X	X	X	X	X
Change of Use, Expansion of Use in an existing structure				X				
Expansion of Building Area								
0%-25% expansion of building area and/or increase in building value or area	X		X	X				CA
26%-50% expansion of building area and/or increase in building value or area [1]	X	X	X	X	X	X	X	X
51% expansion of building area and/or increase in building value or area [2]	X	X	X	X	X	X	X	X
Expansion of Parking Area Only (not in conjunction with a use/building)								
Up to 10 spaces		X			X	X		CA
11 or more additional spaces		X	X		X	X	X	X
Façade Changes (increase/decrease in fenestration, awnings)			CA					
Detached								
New Construction	X	X	X	X	X	X	X	X
Change of Use, Expansion of Use in an existing structure				X	X			
Expansion of Building Area								
[illegible]		X	X	x	x			
[illegible]	x	X	X	x	x	x	X	
[illegible]			CA					

Notes:
CA CODE ADMINISTRATOR'S discretion
1 _____*a*atorbelowthe50%level shall,____inthemselves, comply with the Code (will not require the retrofitting of existing elements).
2 _____*a*abovethe50%levelshall require____complete compliance with the Code (will require the retrofitting of any remaining existing elements).

D. Administrative Adjustments

The purpose and intent of this section is to provide an administrative mechanism for allowing minor adjustments, to the requirements of this Code based on specific standards, with the intent of providing relief where the absolute application of a standard creates practical difficulties in allowing development to proceed. These adjustments are primarily intended to provide contingency relief for construction/survey errors – within strictly limited parameters. These adjustments are not intended for designed deviations from the Code. This process occurs only where the applicant requests an Administrative Adjustment to a standard as specified below in the Uptown D2 Development Type application process.

1. Basic Procedures
   (i) Except as modified below in subsection ii, the procedures and requirements for the initiation, submission, completeness determination, review, and decision on applications for D2 Certificates of Compliance and Administrative Adjustments are as established in

Section 40-2.2, Common Review Procedures.

(ii) No staff report, no public notification, and no public hearing is required for Administrative Adjustments in the Uptown D2 District.

2. Review and Action by the Code Administrator
   Upon receipt of a complete application, the Code Administrator shall review the application in accordance with the Approval Criteria and the Administrative Adjustment Standards (below), and take one of the following actions:
   (i) Approval of the application as submitted; or
   (ii) Approval of the application with conditions (See Section 40-2.2(M), Conditions of Approval); or
   (iii) Denial of the application.

E. D2 Administrative Adjustment Standards

The Code Administrator will review the request in light of the intent of the applicable requirements. The Code Administrator is authorized to approve Administrative Adjustments for the following standards:

1. Height
   (i) Minimum and maximum story heights - up to ten percent for any one story, limit of five percent for any cumulative increase or decrease in building height.
   (ii) Street wall/fence requirements – up to ten percent.
   (iii) Finished floor elevation – up to five percent.
2. Siting
   (i) Required Building line – increase of up to 6 inches (from the specified 20 inches to 26 inches in width).
   (ii) Required building line minimum percentage built-to – reduction of up to five percent of required length.
   (iii) Mezzanine floor area – up to ten percent additional area.
   (iv) Street wall requirements – up to ten percent.
   (v) Entrances (maximum average spacing) – up to five percent increase in spacing.
3. Elements
   (i) Fenestration (minimum and maximum percent) – up to five percent.
   (ii) Elements (minimum and maximum projections) – up to five percent.
4. Architectural Standards
   (i) Primary and accent materials – up to ten percent.
   (ii) Window and pane dimensions – up to five percent.
   (iii) Shopfront entry geometry – up to ten percent.
   (iv) Materials – acceptable equivalent or better material.
5. Streets, Blocks and Alleys
   (i) Street center lines may be moved up to 50 feet in either direction, as long as:
      - the street connectivity is maintained (cul-de-sacs
      - no street intersection occurs within 100 feet of an

F. Relief from Unlisted Standards

Any request for relief from a required standard other than those listed above, will be reviewed as a Variance by the Zoning Administrator.

G. Effect

Issuance of a COC shall authorize only the particular Administrative Adjustment that is approved in accordance with this section. The Administrative Adjustments shall run with the land and not be affected by a change in ownership.

H. Expiration

1. Unless otherwise specified in the COC, an application for a building permit shall be applied for and approved within one year of the date of the approval; otherwise, the COC shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.
2. Upon written application submitted at least 30 days prior to the expiration of the COC by the applicant, and upon a showing of good cause, the Code Administrator may grant one extension not to exceed six months. The approval shall be deemed extended until the Code Administrator has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the COC null and void, and the development approval shall automatically expire.

206. Text Amendment

Any written amendment or change to this Code will be a Text Amendment that must follow the procedure set forth in Article 40-2: Administration, Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals, Subsection (A): Zoning Map Amendment (Rezoning) or Text Amendment.

207. Zoning Map Amendment

Any amendment or change to the Regulating Plan will be a Zoning Map Amendment of this Code that must follow the procedure set forth in Article 40-2: Administration, Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals, Subsection (A): Zoning Map Amendment (Rezoning) or Text Amendment.

208. Subdivision

Where Subdivision of parcels is desired, without the submission of an Uptown D2 Development Plan Application, approval of the Subdivision by the Planning Director must occur in accordance with Article 40-2: Administration, Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals, Subsection (E): Subdivision.

209. Variances

Any Variance from the requirements of this Code that cannot be accommodated by following the Uptown D2 Development Plan Application (section 204 above) must follow the procedure set forth in Article 40-2: Administration, Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals, Subsection (I): Variance Permit.

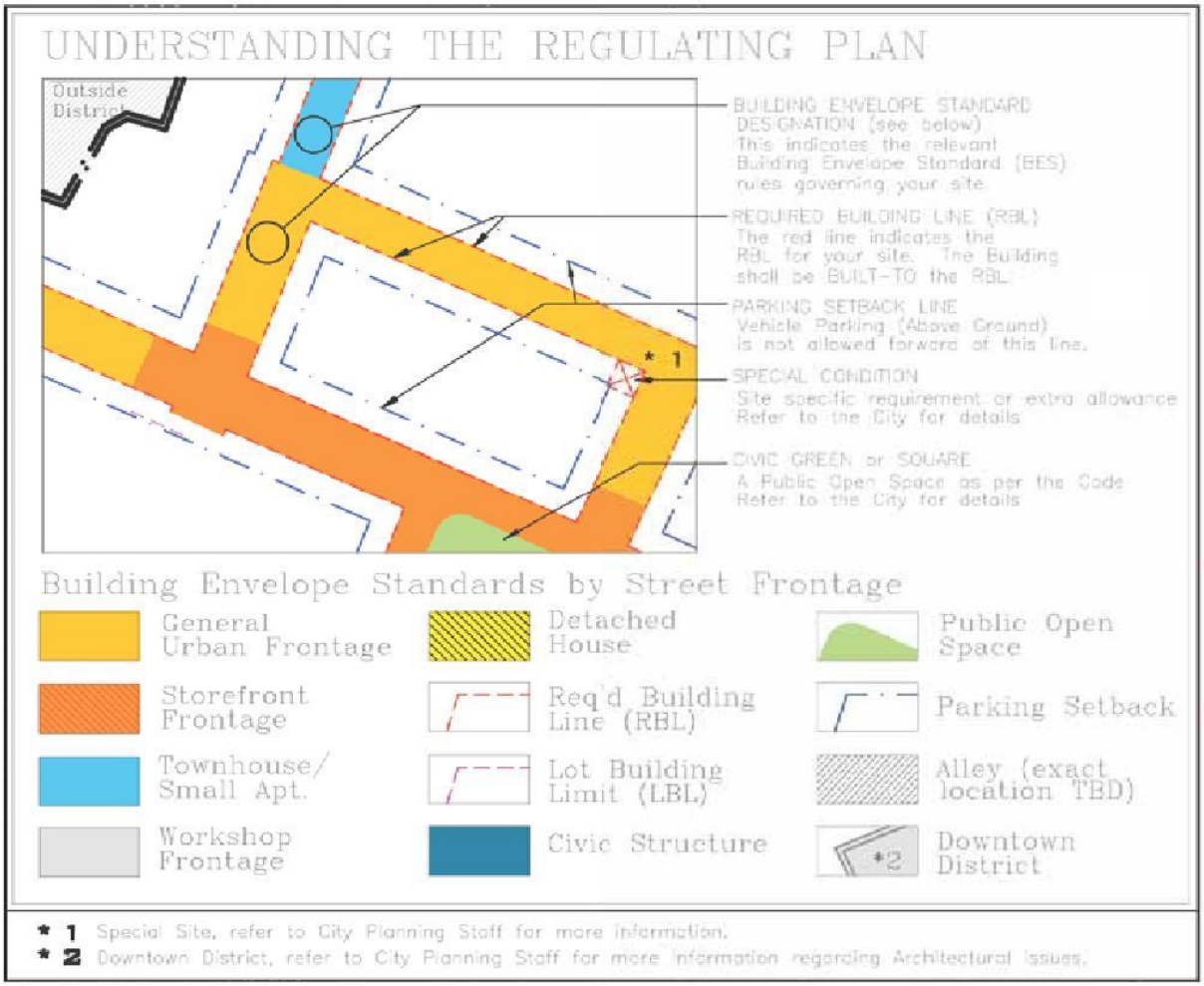
Part 3. Regulating Plans

301. Rules for Regulating Plans

A. Purpose and Intent

1. A regulating plan is the controlling document and principal tool for implementing this Code.
2. The regulating plan makes the development standards place-specific, by allocating the building envelope standards (BES) and delineating the public spaces. A regulating plan identifies: the boundaries for the district; new and existing streets; the required building line and parking setback line, and the street-type designation throughout the plan area.
3. A regulating plan may identify specific characteristics assigned to a lot or building site and may identify additional regulations (and opportunities) for lots in specific locations, as well as exceptions to the BES or other standards.

B. Regulating Plan/Key



C. Building Envelope Standards (BES)

1. General

a. Building envelope standards are designated on the regulating plan by street frontage.

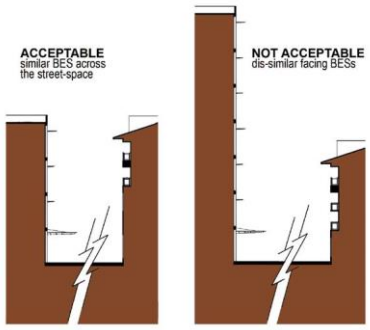
b. In determining the allocation, and thereby the form and mixed-use character of the district, attention must be paid to both the physical context (what goes next to what) and diversity of allowed/required uses. When creating or amending a regulating plan, the following standards apply.

2. Consistency of Application

a. Consistent building envelope standards (of a similar intensity) shall face across streets. Within the following hierarchy, building envelope standards in the same group are considered to be consistent and may face each other across streets:

Group 1	Storefront General / General
Group 2	General / Small Apartment -Townhouse / Workshop
Group 3	Small Apartment -Townhouse
Group 4	Townhouse / Detached
Exception	

301.C.2.a illustrative intent



b. When separated by an alley (or common access easement), or when fronting different streets (i.e. a corner lot and its adjacent lot), building envelope standards from any group may sit adjacent to one another.

c. When separated by a square, plaza, civic green, or park, consecutive building envelope standards (one group different) may front one another. For example, buildings from Group 1 may face buildings from Group 2 but not Group 3.

d. Building envelope standards from consecutive groups (one group number different) may share a common lot line and/or sit directly beside one another. For example, buildings from Group 1 may sit beside buildings from Group 2 but not Group 3. Such changes must be consistent on both sides of the street and must not occur more than once per 100 linear feet of the street length.

e. Civic use buildings (designated on the regulating plan) are not restricted by these standards.

D. Streets, Blocks & Alleys

1. Streets

a. New streets shall be designated and designed in accordance with street type specifications.

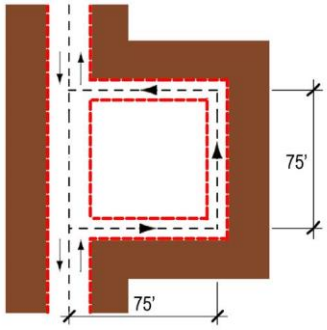
b. New streets shall be public.

c. No street-space shall be gated.

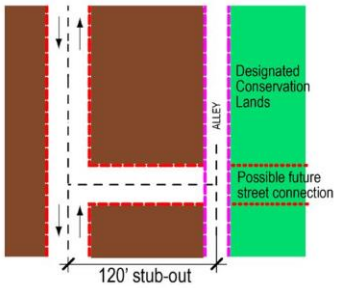
d. All lots shall share a frontage line with a street-space.

e. Connectivity of the street grid and intersection alignment throughout, is established and regulated by the regulating plan and street specifications and as specified in Part 2. Administration, Administrative Adjustments.

301.D.1.f(i)



f. Streets that do not connect to other streets, as part of an interconnected network, are not permitted except as below:
   (i) Where streets are configured with a one-way loop around the perimeter of a central green area, having a maximum depth (perpendicular to the primary street centerline) of 75 feet and a minimum width (dimension parallel to the primary street) of 75 feet;
   (ii) Where streets are less than 120 feet long (measured from the street intersection centerline) and configured as a stub-out designed for connection to future streets/development;
   (iii) Where streets are less than 120 feet long (measured from the intersection centerlines) and connected to alleys or common drives giving rear lot access, and ending at designated conservation lands



301.D.1.f(ii, iii)

g. Additional streets may be added to the regulating plan to create a smaller block pattern.

2. Blocks

a. No block face shall have a length greater than 300 feet without an alley, common drive or access easement, or pedestrian iding through-access to another street-space, alley or common access easement, or conservation restricted land. Individual lots with less than 100 feet of frontage are exempt from the requirement to interrupt the block face; those with over 200 feet of frontage shall meet the requirement within their lot, unless already satisfied within that block face.

b. Unless otherwise specified on the regulating plan, no curb cuts are permitted within 75 feet of another curb cut, intersection, or driveway. Driveways into or from alleys are not restricted by this measure.

3. Alleys

a. Alleys or common access easements must provide access to the rear of all lots, except where lots are on a perimeter common to non-developable or conservation lands or where a lot has streets on three sides and the absence of an alley would not deprive an adjacent neighbor of rear lot access.

b. New alleys (or common access easements) may be public or private, but public access must be dedicated via an easement.

c. Alleys may be incorporated into (rear) parking lots as standard drive aisles. Access to all properties adjacent to the alley shall be maintained. Access between parking lots across property lines is required.

d. Where an alley does not exist and is not feasible to construct at the time of redevelopment of any property, the applicant is required to dedicate the alley right-of-way within the rear setback to the City and maintain the area within the rear setback by, at a minimum:
   (i) Providing routine landscape maintenance to the area.
   (ii) Keeping the area clear of debris, stored materials, and vehicles.

E. New Streets, Designated on Regulating Plan

1. Streets

a. Where new streets (not in existence as of 2009) are shown on the regulating plan with an asterisk (*), they shall be considered optional and at the discretion of the property owner(s).

b. Where new streets are designated on the regulating plan without an asterisk, they are critical to the working of the larger community and shall be considered mandatory. While the street infrastructure may not be constructed until some point in the future, the RBL, and other regulations of the regulating plan shall be respected.

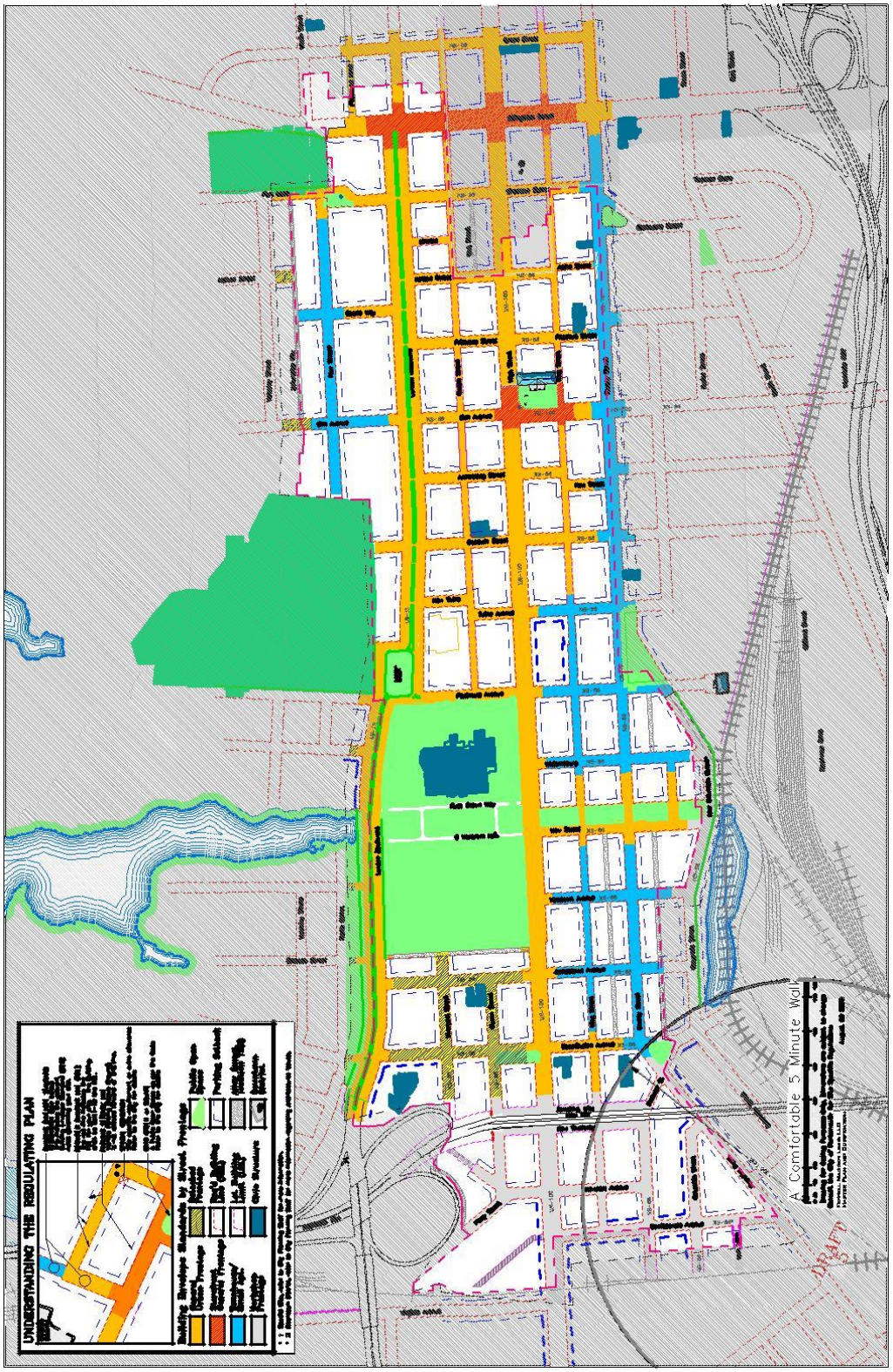
302. Regulating Plan Amendment

Any amendment or change to the regulating plan, beyond those specified above, will be a zoning map amendment of this Code and must follow the procedure set forth in 40-2: Administration, Section 40-2.3 Standards and Requirements for Applications for Permits and Development Approvals, Subsection (A): Zoning Map Amendment (Rezoning) or Text Amendment.

303. Required Building Line Adjustment

In the event that a designated RBL is within an existing right-of-way, the code administrator and the property owner shall make best efforts to resolve such conflict in order that the development may occur and meet the goals and objectives of the D2 Form-Based Code. Following such efforts, the code administrator may designate the front property line, or other line, as the RBL.

For Illustrative Purposes Only, refer to the City for Regulating Plan Information.



Part 4. Building Envelope Standards

401. Intent

A. The goal of the building envelope standards (BES) is the creation of a vital, and coherent public realm through the creation of good street-space. The intent of these form standards is to shape the street-space—the specific physical and functional character—of the District. The form and function controls on building frontages work together to frame the street-space while allowing the buildings greater latitude behind their facades. The building envelope standards aim for the minimum level of control necessary to meet this intent.

B. The BES set the basic parameters governing building construction, including the building envelope (in three dimensions) and certain required or permitted functional elements, such as fenestration (windows and doors), stoops, balconies, front porches, and street walls.

C. The BES establish the rules for development and redevelopment on private lots, unless otherwise indicated on the regulating plan.

D. The regulating plan identifies the building envelope standard for all private building sites within the Uptown District.

402. General Provisions

The following apply to all BES, unless expressly stated otherwise within an individual BES or otherwise designated on the regulating plan.

A. Transitions: When the BES designation shown on the regulating plan changes along a property's required building line (RBL), that property owner has the option, for his property's street frontage only, of applying either BES for a maximum additional distance of 50 feet in either direction along the RBL.

B. Façade Composition: For each block face, facades along the RBL shall present a complete and discrete vertical façade composition (i.e., integral architectural articulation to maintain and protect human-scale for the street-space) at an average street frontage length of no greater than 60 feet for Storefront General frontage sites; 75 feet for General and Townhouse frontage sites; and 100 feet for Workshop and Detached frontages.

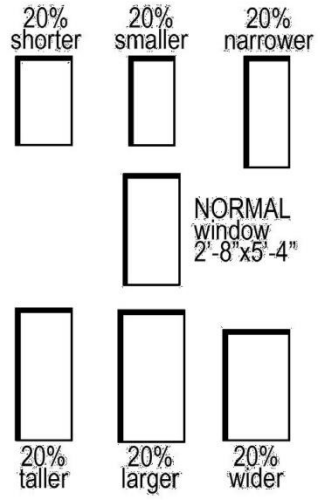
Each façade composition shall include a functioning street entry door. This requirement may be satisfied through the use of liner shops for large footprint buildings. Individual infill projects on lots with frontage of less than 100 feet are exempted from the overall façade composition requirement, but shall still include a functioning street entry.

"Façade composition" is the arrangement and proportion of facade materials and elements (windows, doors, columns, pilasters, bays). "Complete and discrete" is much like a new façade for a new building. To achieve B, above, within a building frontage requires, at a minimum, item 1. below and two additional items:

1. Clearly different ground story façade composition (both framing materials and fenestration proportions).
2. Window proportions (minimum difference 20 percent in height or width or height:width ratio).

3. Façade composition (clearly different 'bay' rhythm, e.g. 'ABA' – 'ABBA' – 'BAAB' – 'ABCBA').
4. Wall Material (clearly different external wall material – color changes do not suffice).
5. Change in fenestration percentage (minimum difference 12 percent; ground floor facades are not included).

402.B.3 Illustrative intent

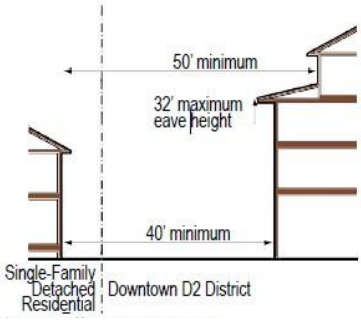


C. Building Size: Projects

The maximum footprint for a building is 60,000 gross square feet; beyond that limit the Type II Development Review option is required (see Part 2. Administration). This shall not limit parking structures built according to this Code.

D. Neighborhood Manners: For any BES frontage except Detached and Townhouse, the following rules apply:

1. Where a site has a common lot line with a single-family detached residential structure, there shall be a 40 foot setback for any structures.
2. Where a site abuts a single-family residential property, a garden wall/street wall, 4 to 6 feet in height, shall be constructed within one (1) foot of the common lot line or alley.
3. Where a site is located within 40 feet of an existing single-family detached residential lot, the maximum eave or parapet height for that portion of the site shall be 30 feet. This requirement supersedes the minimum story height requirement.



402.D Illustrative intent

E. Height

1. The height of all buildings is measured in stories, with an ultimate limit in feet, measured from the eaves to the fronting sidewalk elevation, unless otherwise designated herein.
2. An attic story is not included in the height measurement.
3. If an individual story exceeds the maximum floor-to-floor height, it shall be counted against another story, and no individual building height may exceed the BES prescribed ultimate height.
4. Where a parking structure is within 30 feet of any building (constructed per this Code and after approval of the regulating plan) that portion of the structure shall not exceed the building's primary ridge or parapet height.
5. Mezzanines that have a floor area greater than 1/3rd of the floor area of the story in which they are located shall count as an additional full story in the story height measurement.
6. The prescribed minimum story clear-height shall be met by at least 80 percent of the specified story area.

F. Siting

1. The building façade shall be built-to the RBL within 30 feet of a block corner.
2. A street wall shall be required along any RBL frontage that is not otherwise occupied by a building. The street wall shall be located not more than 8 inches behind the RBL.
3. The RBL, designated on regulating plan as an absolute line, incorporates an offset area (or depth) of 20 inches beyond that line (into the buildable area) allowing for jogs, facade

articulation, etc. unless otherwise designated herein.

4. Buildings may only occupy that portion of the lot specified as the buildable area—the area behind the RBL as designated by the BES.
5. No part of any building may be located outside of the buildable area except overhanging eaves, awnings, shopfronts, bay windows, steps, handicapped ramps approved by the Code Administrator, or balconies.
6. No part of any building may be located outside of any designated lot building limit except steps, overhanging eaves, or awnings.
7. There is no required setback from alleys except as otherwise indicated on the BES. On lots without alley access, there shall be a minimum 25-foot setback from the rear lot line.
8. There are no side lot setbacks, except as specified in the Neighborhood Manners (above) or in the BES.
9. The parking setback line is generally 30 feet behind the RBL and extends vertically as a plane unless otherwise indicated on the regulating plan or in the BES. Vehicle parking shall be located behind the parking setback line, except where parking is provided below grade, on-street, or otherwise indicated on the regulating plan.
10. Corner lots and through lots shall satisfy the build-to requirements for their full/all frontages (RBL), unless otherwise specified in this Code.

G. Elements

1. Fenestration is measured as a percentage of the façade between floor levels.
2. No window may face or direct views toward a common lot line within 25 feet unless:
   a. That view is contained within the lot (e.g. by a privacy fence or garden wall), or
   b. The sill is at least 6 feet above its finished floor level.
3. Balconies and stoops shall not project within 5 feet of a common lot line.
4. No part of any building except overhanging eaves, awnings, balconies, bay windows, stoops, and storefronts as specified by the code may project beyond the RBL. Additionally, steps are permitted within the dooryard area.
5. At least one functioning entry door shall be provided along each ground story façade at intervals not greater than 75 feet.
6. Privacy fences may be constructed along that portion of a common lot line not otherwise occupied by a building.

H. Civic Use Buildings: When designated on the regulating plan, civic use buildings are exempt from the BES standards, excepting any provisions that concern adjacent single-family detached districts.

I. Storefront General Frontages: Where designated on the regulating plan, these frontages shall use the General Urban BES standard, excepting that the ground story configuration shall be for commerce - that of a storefront. (See 606.D.3 Storefront Windows for specific requirements.)

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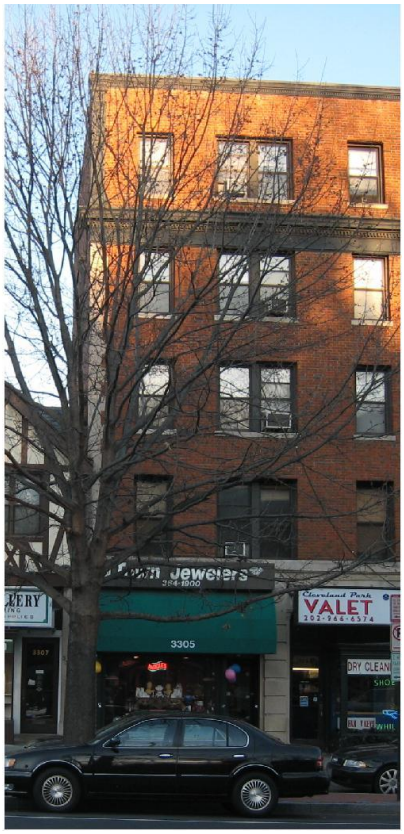
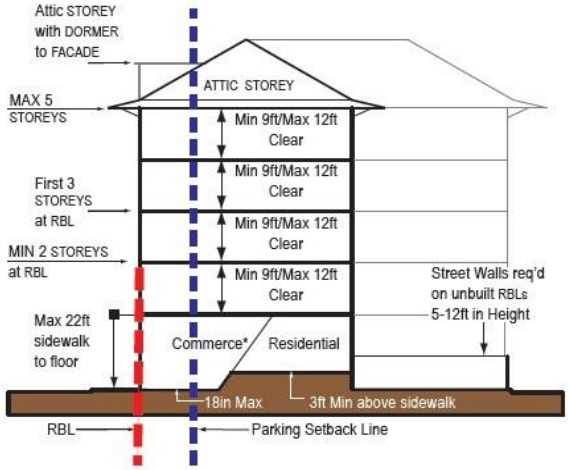
403. General Urban Frontage

ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescriptions and restrictions of the Building Envelope Standard.

The General building envelope standard is the basic urban street frontage, once common across the United States. The uses are not specific, ranging from commercial to residential, retail to municipal—and combinations of all of the above. The primary form is that of a multi-story building placed directly at the sidewalk, with windows across the facade. There could be several buildings lined up shoulder to shoulder, filling out a block, or on smaller blocks, a single building might fill the frontage line. Where designated on the regulating plan, these frontages shall use the General Urban BES standard, excepting that the ground story configuration shall be for commerce - that of a storefront.





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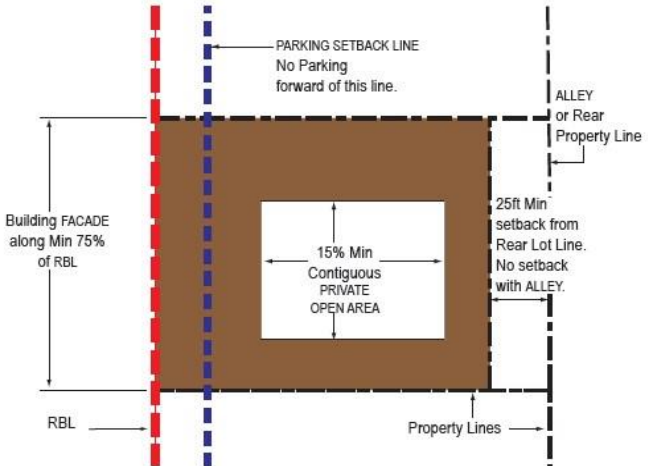


SITING

Building Height
The building shall be at least 2 stories in height, but no greater than 5 stories and 79ft in height.

Ground Story Height: Commerce Uses
1. The average ground story finished floor elevation shall be equal to the exterior sidewalk elevation in front of the building, with a maximum finished floor elevation of 18 inches above the sidewalk.
2. The ground story shall have at least 15 feet of clear interior height (floor to ceiling) contiguous to the required building line (RBL) frontage for a minimum depth of 25 feet.
3. The maximum ground story height is 22 feet, measured from the sidewalk to the second story floor.

Ground Story Height: Residential Units
1. The average finished floor elevation shall be no less than 3 feet above the exterior sidewalk elevation at the RBL.
2. The ground story shall have an interior clear height (floor to ceiling) of at least 9 feet and a maximum sidewalk to second story floor height of 22 feet.

Upper Story Height
1. The maximum clear height (floor to ceiling) for stories other than the ground story is 12 feet.
2. At least 80% of each upper story shall have an interior clear height (floor to ceiling) of at least 9 feet.

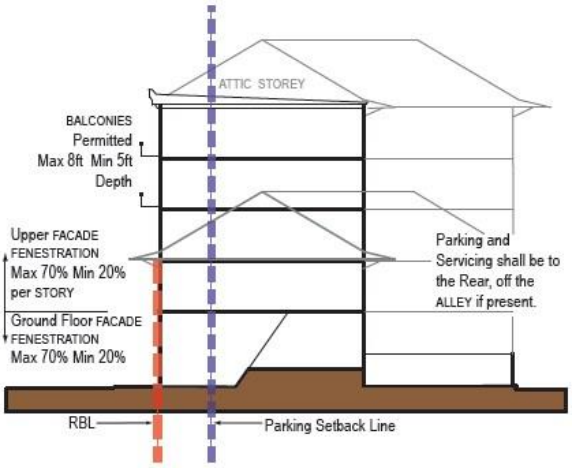
Street Wall Height
A street wall not less than 5 feet in height or greater than 12 feet in height shall be required along any RBL frontage that is not otherwise occupied by a building on the lot.

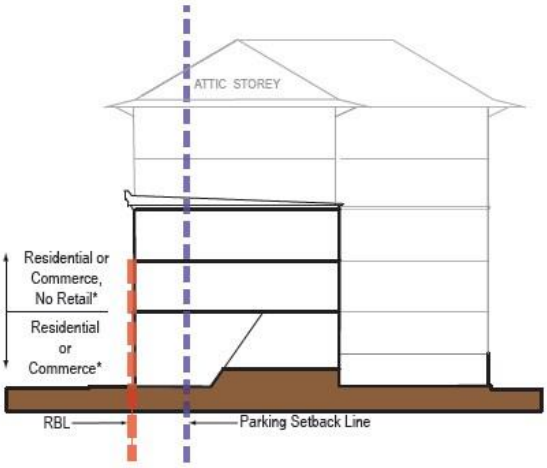
Facade

1. On each lot the building façade shall be built to the required building line for at least 75% of the RBL length.
2. Within 7 feet of the block corner, the ground story façade may be chamfered to form a corner entry.

Buildable Area
A contiguous private open area equal to at least 15% of the total buildable area shall be preserved on every lot. Such contiguous private open area may be located anywhere behind the parking setback line, at or above grade.

Garage and Parking
1. Curb cuts or driveways shall be located at least 75 feet away from any block corner or another garage entry on the same block face. These requirements are not applicable along alleys.
2. Openings in any RBL for parking garage entries shall have a maximum clear height no greater than 16 feet and a clear width no greater than 22 feet.





ELEMENTS

FENESTRATION

1. Blank lengths of wall exceeding 20 linear feet are prohibited on all required building lines (RBL).
2. Ground story fenestration shall comprise between 20% and 70% of the facade. Where designated as Storefront General the ground story fenestration shall comprise between 40% and 90% of the facade.
3. Upper story fenestration shall comprise between 20% and 70% of the facade area per story.

Building Projections

1. Awnings shall project a minimum of 5 feet to a maximum of:
   - within 1 foot of back of curb where there are no street trees, or
   - 1 foot into the tree lawn (where there are street trees).
2. Awnings that project over the sidewalk portion of a street-space shall maintain a clear height of at least 10 feet.
3. Awnings may have supporting posts at their outer edge provided that they:
   - Have a minimum of 8 feet clear width between the facade and the support posts or columns of the awnings, and
   - Have between 18 and 24 inches between the support posts or columns of the awnings and the back of curb, and
   - Provide a continuous clear walkway at least 4 feet wide running adjacent and parallel to the awning columns/posts.

STREET WALLS

One access gate no wider than 22 feet and one pedestrian entry gate no wider than 5 feet shall be permitted within any required street wall.

USE

GROUND STORY

The ground story may only house commerce or residential uses. See height specifications above for specific requirements unique to each use.

Upper STORIES

1. The upper stories may only house residential or commerce uses. No restaurant or retail sales uses shall be allowed in upper stories unless they are second story extensions equal to or less than the area of the ground story use.
2. No commerce use is permitted above a residential use.
3. Additional habitable space is permitted within the roof where the roof is configured as an attic story.

STOREFRONT GENERAL Frontages

Where designated on the regulating plan as storefront general these frontages shall use this General Urban BES standard, excepting that the ground story configuration shall be for commerce - that of a storefront. (See 606.D.3 Storefront Windows for specific requirements.)

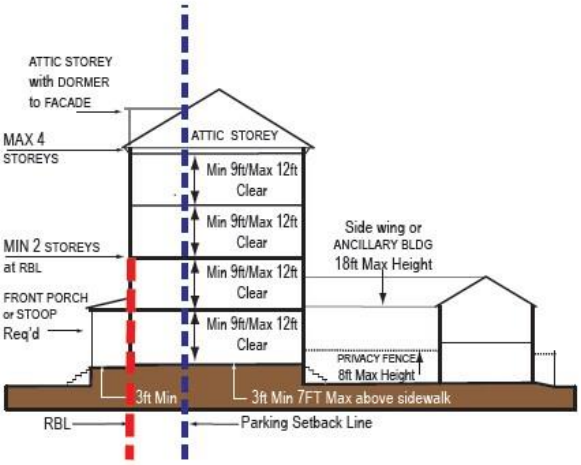
404. Townhouse/Small Apartment Frontage

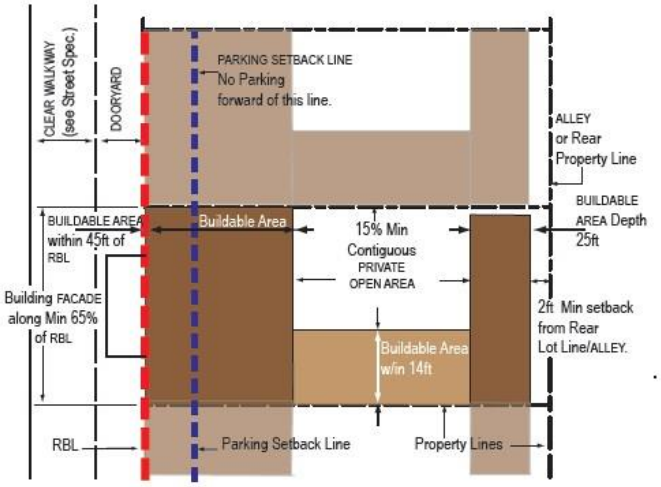
ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescription and restrictions of the Building Envelope Standard.

The townhouse/small apartment building envelope standard is of moderate intensity, often created by a series of smaller attached structures, most commonly single-family residential, but potentially also stacked flats, service commercial, or live-work arrangements. This standard has regular entrances, as frequently as **18** feet. The character and intensity of this frontage varies (as designated on the regulating plan) with the siting/location of the required building line—the buildings may be placed at the rear of the sidewalk with stoops, or may be arranged with front porches and small dooryards. Similarly, the tree lawns may be found uncovered and continuous or partially covered in the street-space, depending on the street type.

Similar to the scale of the townhouse and row house, a small apartment can also be used to transition the urban form and intensity to abutting single-family neighborhoods.





HEIGHT

Building Height

1. Each building shall be at least 2 stories in height, but no greater than 4 stories and 58 feet in height.
2. A side wing or ancillary structure shall be no higher than 18 feet, measured to its eaves or parapet.

Ground Story Height

1. The average finished floor elevation shall be no less than 3 feet and no more than 7 feet above the exterior sidewalk elevation at the required building line (RBL).
2. At least 80% of the ground story shall have an interior clear height (floor to ceiling) of at least 9 feet.
3. The maximum ground story floor to ceiling story height is 12 feet.

Upper Story Height

1. The maximum clear height (floor to ceiling) for stories other than the ground story is 12 feet.
2. At least 80% of each upper story shall have an interior clear height (floor to ceiling) of at least 9 feet.

Street Wall Height

A street wall not less than 4 feet in height or greater than 8 feet in height shall be required along any RBL frontage that is not otherwise occupied by a building on the lot.

SITING

Facade

1. On each lot the building façade shall be built to the required building line (RBL) for at least 65% of the RBL length.
2. For buildings with front porches the dooryard/clear walkway line shall serve as the RBL and the front porch shall be built-to the dooryard line. For this situation only, the facade will sit behind the RBL, as determined by the required front porch depth.
3. The building façade (or front porch as per #2 above) shall be built to the RBL within 20 feet of a block corner.

Buildable Area

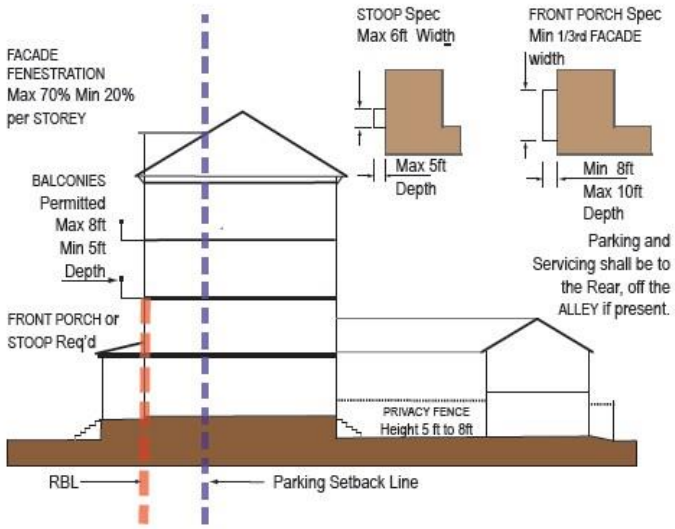
A contiguous private open area equal to at least 15% of the total buildable area shall be preserved on every lot. This area may be located anywhere behind the parking setback, at grade.

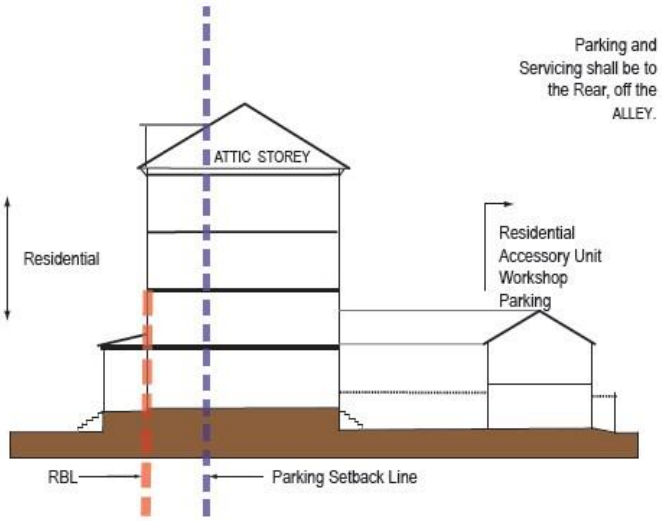
Garage and Parking

1. Curb cuts or driveways shall be located at least 75 feet away from any block corner or another garage entry on the same block face. These requirements are not applicable along alleys.
2. Garage doors/entries shall not be permitted on the RBL/facade.

Frontage Widths

1. The minimum lot width is 18 feet.
2. Although there are no individual side lot setbacks, no building/set of townhouses may exceed 120 feet of continuous attached building frontage. A gap of 10 feet to 20 feet is required between each such attached structure.





ELEMENTS

FENESTRATION

1. Blank lengths of wall exceeding 15 linear feet are prohibited on all required building lines (RBL).
2. Fenestration shall comprise between 20% and 70% of the fa- cade.
3. No window may face or direct views toward a common lot line within 20 feet unless:
   - that view is contained within the lot (e.g. by a privacy fence/ garden wall) or,
   - the sill is at least 6 feet above the finished floor level.

Building Projections

1. Each lot/ground story unit shall include:

- a stoop of not more than 5 feet deep and 6 feet wide (not including steps), or
- A front porch, between 8 feet and 10 feet deep with a width not less than 1/3rd of the facade, at the dooryard/clear walkway line.

Doors/Entries

Each RBL/facade ground story unit shall provide a functioning entry door with direct street-space access.

Street Walls

One access gate no wider than 18 feet and one pedestrian entry gate no wider than 5 feet shall be permitted within any required street wall.

USE

GROUND STORY

The ground story may only house residential uses.

Upper STORIES

1. The upper stories may only house residential uses.
2. Additional habitable space is permitted within the roof where the roof is configured as an attic story.

Accessory Unit

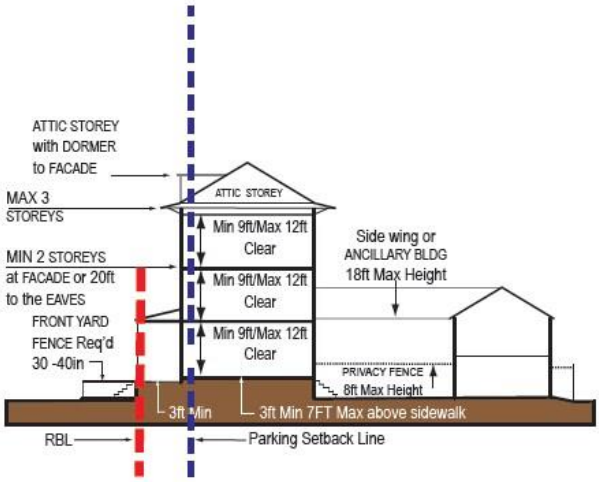
1. One english basement unit or one accessory unit is permitted per lot.
2. Parking and accessory unit (maximum 650 square feet) uses are permitted in the buildable area at the rear of the lot.

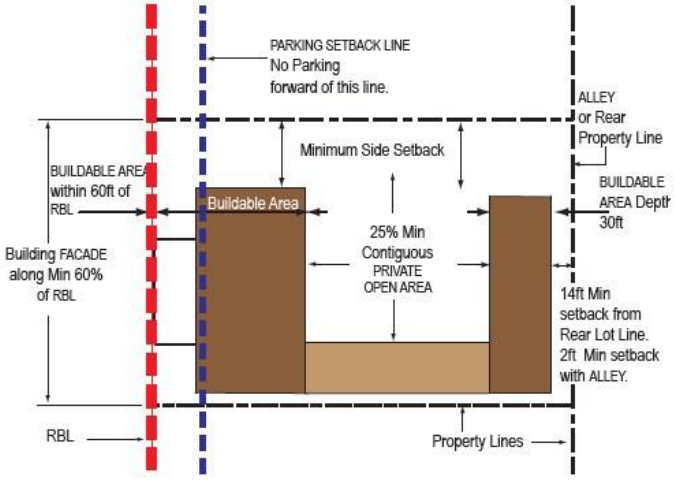
405. Detached Frontage

ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescription and restrictions of the Building Envelope Standard.

The small lot single-family detached frontage standard is represented by the traditional single family house with small front, side and rear yards along a tree-lined street. Structures are typically 2 to 3 stories in height with pitched roofs and front porches.





HEIGHT

Building Height

1. Each building shall be at least 2 stories in height, but no greater than 3 stories and 43 feet in height.
2. A sidewing or ancillary structure shall be no higher than 18 feet, measured to its eaves.

GROUND STORY Height

1. The average finished floor elevation shall be no less than 36 inches and no more than 60 inches above the exterior sidewalk elevation at the required building line (RBL).
2. At least 80% of the first story shall have an interior clear height (floor to ceiling) of at least 9 feet.
3. The maximum ground story floor to floor height is 16 feet.

Upper STORY Height

1. The maximum clear height (floor to ceiling) for stories other than the ground story is 12 feet.
2. At least 80% of each upper story shall have an interior clear height (floor to ceiling) of at least 9 feet.

FRONT YARD FENCE

A front yard fence if installed shall have a minimum height of 30 inches and a maximum height of 40 inches.

SITING

FACADE

1. On each lot the facade shall be built parallel to the required building line (RBL) for at least 60% of the building width. The front porch shall be built to the RBL.
2. Within 20 feet of a block corner the building façade shall be 8 to 10 feet behind the RBL.

BUILDABLE AREA

A contiguous private open area equal to at least 25% of the total buildable area shall be preserved on every lot. Such contiguous area may be located anywhere behind the parking setback, at grade.

Lot Size

1. Each lot has a minimum width at the RBL of 24 feet and a minimum depth of 85 feet.
2. Each lot has a maximum width of 75 feet. The maximum depth is 120 feet.

FRONT YARD

The front yard/dooryard shall not be paved.

Side Lot Setbacks

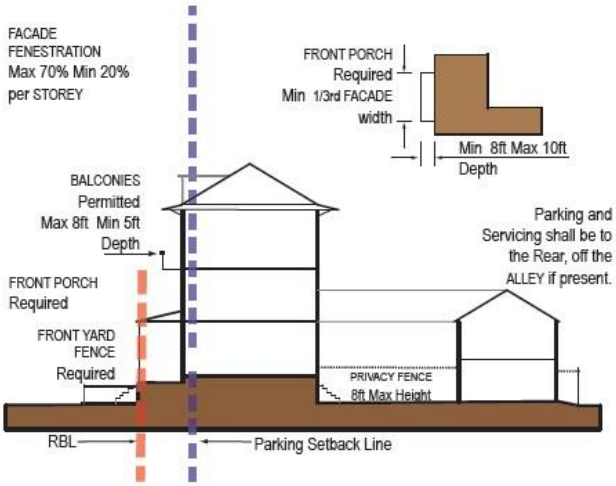
The minimum side lot setback is 5 feet or as otherwise designated on the regulating plan.

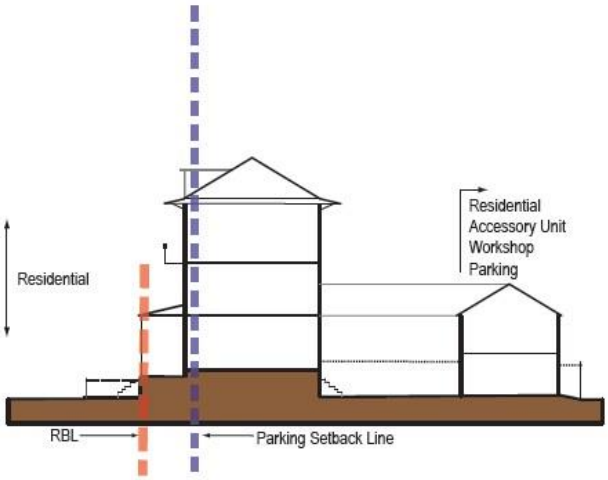
Garage and Parking

1. Curb cuts or driveways shall be located at least 75 feet away from any block corner or another garage entry on the same block face. These requirements are not applicable along alleys.
2. Garage doors shall not be located on the RBL/façade.

Alleys

There is a 2 foot required setback from alleys.





FENESTRATION

1. Blank lengths of wall exceeding 15 linear feet are prohibited on all required building lines (RBL).
2. Fenestration shall comprise at least 25%, but not more than 70%, of all facades.
3. No window may face or direct views toward a common lot line within 20 feet unless:
   - that view is contained within the lot (e.g. by a privacy fence/ garden wall), or
   - the sill is at least 6 feet above the finished floor level.

Building Projections

1. Each lot shall include a front porch at the RBL, between 8 feet and 10 feet deep with a width not less than 1/3rd of the facade width.
2. No part of any building except the front porch roof (overhanging eaves) and steps may encroach beyond the RBL into the dooryard.

Doors/Entries

At least one functioning entry door shall be provided along the ground story facade of each building.

STREET WALLS and Fences

1. There is no street wall requirement.
2. A front yard fence is required within one foot of the clear walkway/dooryard line parallel to the RBL.
3. A privacy fence may be constructed along a common lot line behind the RBL.

GROUND STORY

The ground story and any accessory unit may only house residential uses.

UPPER STORIES

1. The upper stories may only house residential uses.
2. Additional habitable space is permitted within the roof where the roof is configured as an attic story.

Accessory Uses

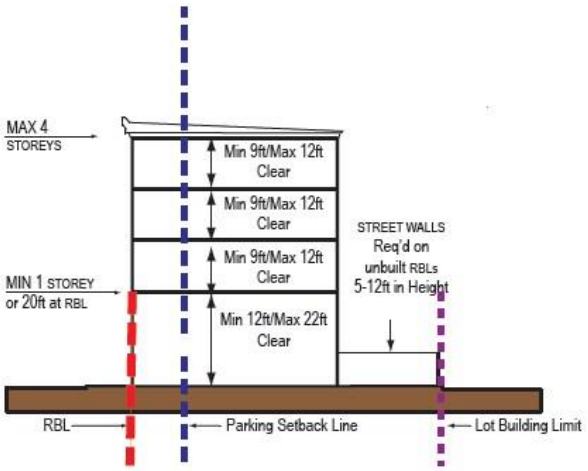
Parking and accessory unit (maximum 650 square feet) uses are permitted in the buildable area at the rear of the lot.

406. Workshop Frontage

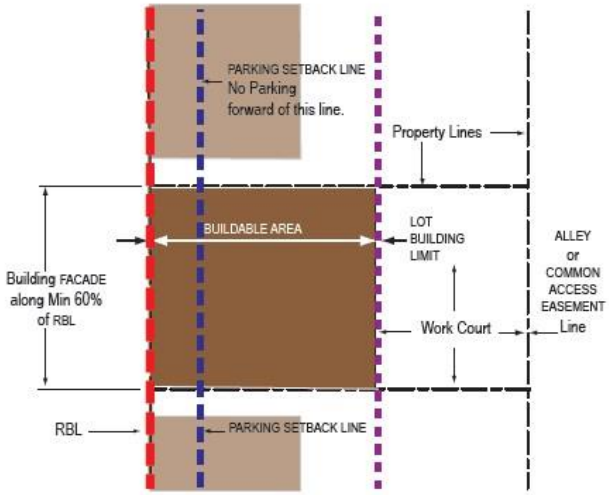
ILLUSTRATIONS AND INTENT

Note: These are provided as illustrations of intent. The illustrations and statements on this page are advisory only and do not have the power of law. Refer to the standards on the following pages for the specific prescriptions and restrictions of the Building Envelope Standard.

The Workshop form standard accommodates small scale manufacturing and repair— including artisans—within the city. These structures are of limited height and are built to the fronting sidewalk. Exterior work areas are confined to work courts and/or at the center of the block.



HEIGHT



SITING

Building Height
The building shall be at least 20 feet to the eaves or parapet in height, but no greater than 4 stories and 64 ft in height.

GROUND STORY Height
1. The average ground story finished floor elevation shall be equal to the exterior sidewalk elevation in front of the building to a maximum elevation of 18 inches above the sidewalk (excepting as may be required for flood plain requirements).
2. The ground story shall have at least 12 feet of clear interior height (floor to ceiling) contiguous to the required building line (RBL) frontage for a minimum depth of at least 25 feet.
3. The maximum story height for the ground story is 25 feet.

Upper STORY Height
1. Upper stories shall have an interior clear height (floor to ceiling) maximum height of 12 feet.
2. At least 80% of each upper story shall have an interior clear height (floor to ceiling) of at least 9 feet.

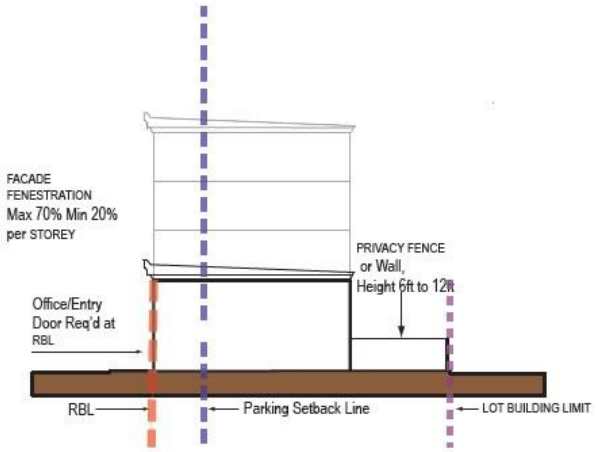
STREET WALL Height
A street wall not less than 5 feet in height or greater than 12 feet in height shall be required along any RBL frontage that is not otherwise occupied by a building on the lot.

FACADE
1. On each lot the building façade shall be built to the RBL for at least 60% of the RBL length.
2. The ground story façade, within 7 feet of the block corner, may be chamfered to form a corner entry.

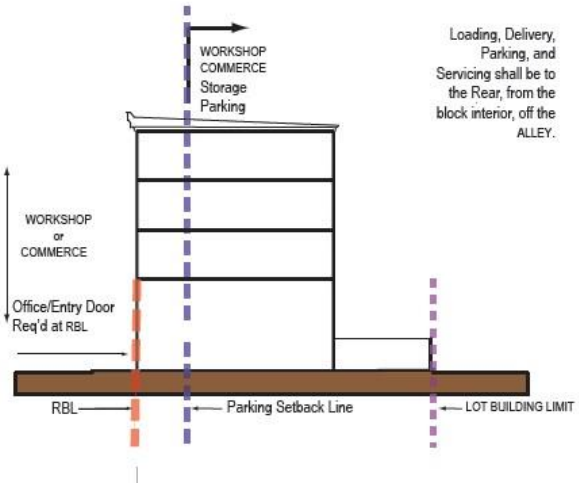
Buildable Area
1. No part of any building, except overhanging eaves, or awnings shall occupy the area behind the lot building limit. The area may be used for loading, circulation and/or as a work yard.

Alleys
There is no required setback from alleys, except as provided by the lot building limit.

Garage and Parking
Driveways shall be located at least 75 feet away from any block corner or another driveway or garage entry on the same block. This requirement does not apply along alleys.



ELEMENTS



USE

FENESTRATION

1. Blank lengths of wall exceeding 35 linear feet are prohibited on all required building lines (RBL).
2. Fenestration shall comprise between 20% and 70% of the facade.

Building Projections

1. Awnings shall project a minimum of 5 feet and a maximum of:
   - Within 1 foot of back of curb where there are no street trees, or
   - 1 foot into the tree lawn (where there are street trees).
2. Awnings that project over the sidewalk portion of a street-space shall maintain a clear height of at least 10 feet.

Doors/Entries

At least one functioning pedestrian entry door shall be provided along each ground story facade at intervals not greater than 80 linear feet.

STREET WALLS

One access gate no wider than 25 feet and one pedestrian entry gate no wider than 5 feet shall be permitted within any required street wall.

GROUND STORY

The ground story may only house workshop or commerce uses.

Upper STORIES

The upper stories may only house workshop or commerce uses. No residential, restaurant or retail uses shall be allowed in upper stories.

407. Martin Luther King Highway Frontage

A. General Intent

1. This section provides for the unique circumstance of facades fronting the Martin Luther King Highway Extension where certain relaxations and exceptions to elements of this Code may be granted.
2. The exemptions allow building facades that face such Limited Access Highway Frontages to respond to the roadway at an appropriate scale. They provide more leeway for signage and allow non-'street-wall' buildings above the ground story level (including curved and/or open courtyard/"alphabet" configurations).
3. Frontages on streets intersecting with the Limited Access Highway Frontage are subject to the full standards for those street frontages.

B. Building Envelope Standards

1. **Height**
   The height limit may be increased by 33 percent.
2. **Siting**
   The minimum build-to may be reduced to 50 percent (street wall requirements still apply).
3. **Elements**
   a. The requirements for upper story fenestration do not apply.
   b. The ground story minimum fenestration requirement may be reduced to 20 percent.

C. Blocks/ALLEYS

1. There are no requirements to provide through-access along block faces via an alley, access easement, or pedestrian pathway.
2. There are no limits on curb cuts on the frontage road.

D. Architectural Standards

1. **Windows and Doors**
   a. **Materials**
   The requirements for upper story window light transmission do not apply.
   b. **Configurations and Techniques**
   The requirements for upper story windows do not apply.
2. **Signage**
   For upper stories:
   a. Wall signs are allowed anywhere above the second story floor level.
   b. The maximum limits on lettering size, blade sign size are increased by a factor of three (3).
   c. There is no limit on the size and location of blade signs.
   d. Marquee signs are permitted

Part 5. Urban Space Standards

501. Applicability

A. The urban space standards apply to new development as well as the reconstruction of existing streets and other public (and publicly accessible) spaces.

B. The urban space standards establish the rules and standards for the street-space/ public realm (especially streets and sidewalks).

502. Intent

A. Although commonly thought of as just squares, greens, plazas or parks, the urban space (or public realm) is much more; it includes the complete street-space—the public domain between the building facades: the travel lanes between the curbs as well as the sidewalks; the public plazas as well as urban parks and civic greens.

B. The urban space standards are directly related to that goal. Specifically:

1. They establish an environment that encourages and facilitates pedestrian activity. "Walkable" streets that are comfortable, efficient, safe, and interesting.
2. They ensure the coherence of the street-space, serving to assist residents, building owners, and managers with understanding the relationship between the street-space and their own lots.
3. They contribute to ultimate sustainability. Native trees and plants contribute to privacy, the reduction of noise and air pollution, shade, maintenance of the natural habitat, conservation of water, and rainwater management.

C. Property frontages and facades are part of the public realm, literally forming the walls of the public street-space and are therefore subject to more regulation than the other portions of the private property.

D. The private, interior portions of the lots (toward the alley or rear lot lines) are much less controlled to allow commercial operators to utilize these spaces as efficient working environments unseen by the public and allow residents to have private (semi-private for apartment and condominium dwellers) gardens and courtyards.

503. Street Type Specifications

The street type specifications illustrate typical configurations for street-spaces within the Downtown D2 District. The plans and sections specify vehicular travel lane widths, curb radii, sidewalks, tree planting areas, and on-street parking configurations. They also provide a comparative pedestrian crossing time as a gauge of relative pedestrian crossing-comfort between the various street types.

A. Intent and Principles

1. General Intent

a. Streets are a community's first and foremost public spaces and should be just as carefully designed and planned as any park or public building. The character of the street-space—both its scale and its details—plays a critical role in determining the pedestrian quality of a given location.

b. Streets must balance the needs of all forms of traffic—auto, transit, bicycle and pedestrian—to maximize mobility and convenience for all City residents and users. Their character will vary depending on their location: some streets will carry a large volume of traffic and provide a more active and intense urban pedestrian experience while others will provide a less active and more intimately scaled street-space.

c. These are streets—not highways, arterials, or collectors—and must be developed as such to create pedestrian-oriented places balancing all transportation modes. The neighborhood street type is designed primarily for walkability and pedestrian comfort, with automobile movement as a secondary focus. The other types balance pedestrian and auto movements.

d.

2. Principles

a. The appropriate design of streets is one of the most important design elements for an urban neighborhood.

b. To design for continuous free-flowing traffic creates situations where vehicles will travel at speeds greater than desirable for pedestrians.

c. With appropriate design techniques, drivers will choose slower speeds and less aggressive behavior, a feat typically not achieved through basic speed limit signage/postings.

d. Scale is a threshold design consideration for street design elements (from signage to crossing distances)—in a Neighborhood, Town or City it should be that of the pedestrian.

e. An interconnected street network allows traffic capacity to be diffused and maintained across numerous streets.

f. Emergency vehicle access must be maintained, but with an interconnected street network, there will always be at least two routes of access to any lot or parcel.

g. Differences between "requirements" and "preferences" can be significant— increased lane width and the accompanying increased vehicle speed more often than not decrease the overall safety for pedestrians.

h. On-street parking slows passing vehicular traffic and acts as a buffer between moving vehicles and pedestrians.

i. Overall function, comfort, safety and aesthetics of a street are more important than efficiency alone.

j. In a pedestrian-oriented area, non-vehicular traffic should be provided with every practical advantage so long as safety is not adversely affected.

l. Street design should take into consideration what is reasonably foreseeable, not every situation that is conceivably possible.

m. Designing a street to facilitate (rather than accommodate) infrequent users may actually be the wrong design for the frequent users of the space.

n. When the street design creates a conflict between the vehicular and non- vehicular user, it should be resolved in favor of the non-vehicular user unless public safety will be truly jeopardized by the resolution.

B. Street Types

1. These are the permitted types and configurations are permitted within the district.

a. London Boulevard, LB-12

b. London Boulevard, LB-11

c. Uptown High Street UH-100

d. Neighborhood Street NS-66

e. Elm Street NS-100

f. King/Queen Street NS-40/50

g. Alley-24

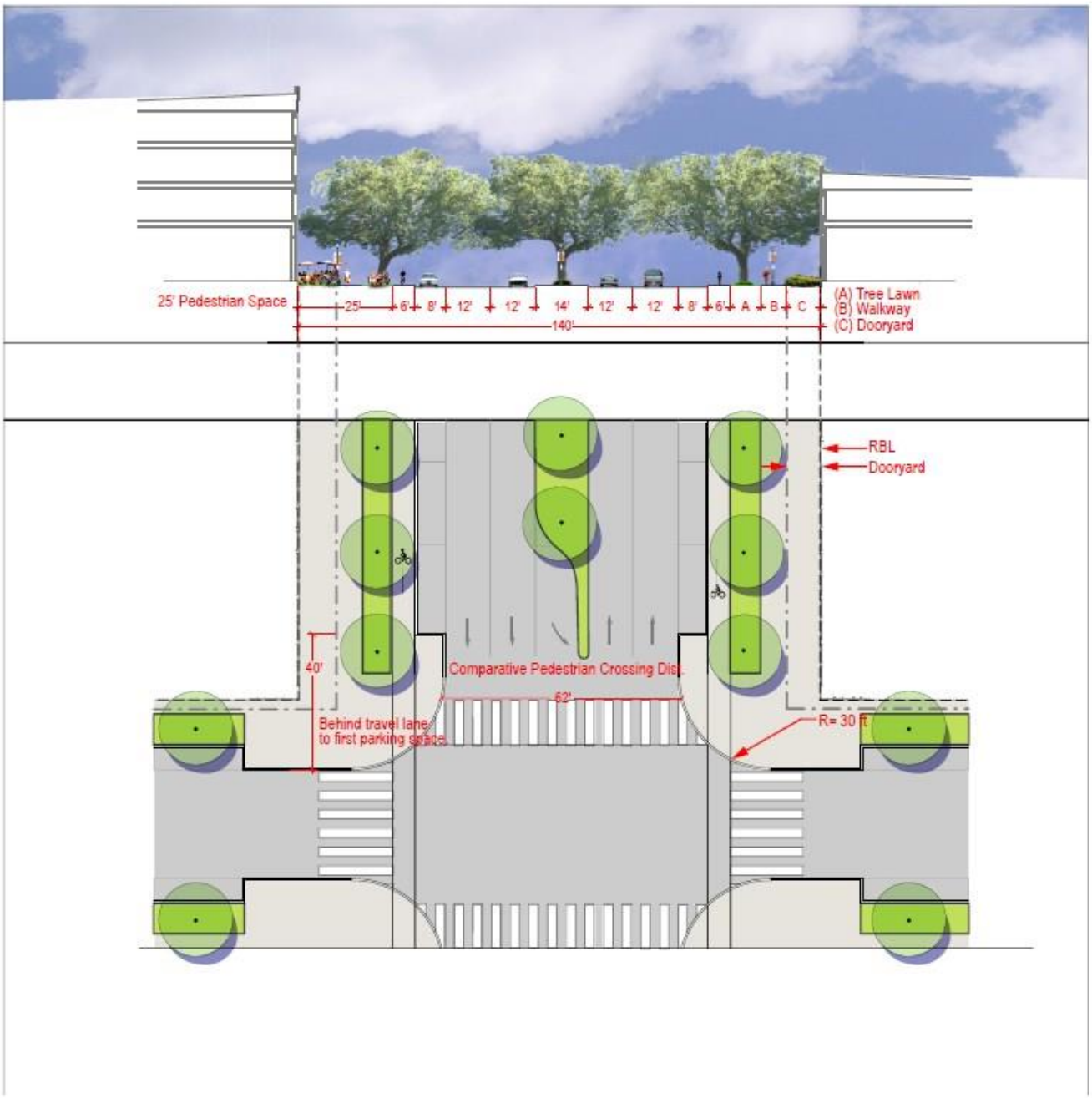
h. Alley-30

2. Within neighborhoods, intersections configured as roundabouts are discouraged. They are encouraged at the edges of and between neighborhoods, where their ability to break up and distribute traffic flow is most appropriate and least disruptive to pedestrian comfort.

3. On the London Boulevard and Uptown High Street specifications, designated bike lanes are shown. The other street types are configured such that in-lane bicycle travel is encouraged and appropriate.

4. Both London Boulevard and Uptown High Street have the potential for transit- rail as an option. These are shared lane configurations and allow rail lines to be added in the future.

A. London Boulevard: LB-12



London Boulevard 12 : LB 12

STREETSPACE: 140 feet (per Regulating Plan). Sidewalk Area Elements: (A)Treelawn 8 ft, (B) Clear Walkway 7 ft, (C) Dooryard 10 ft.

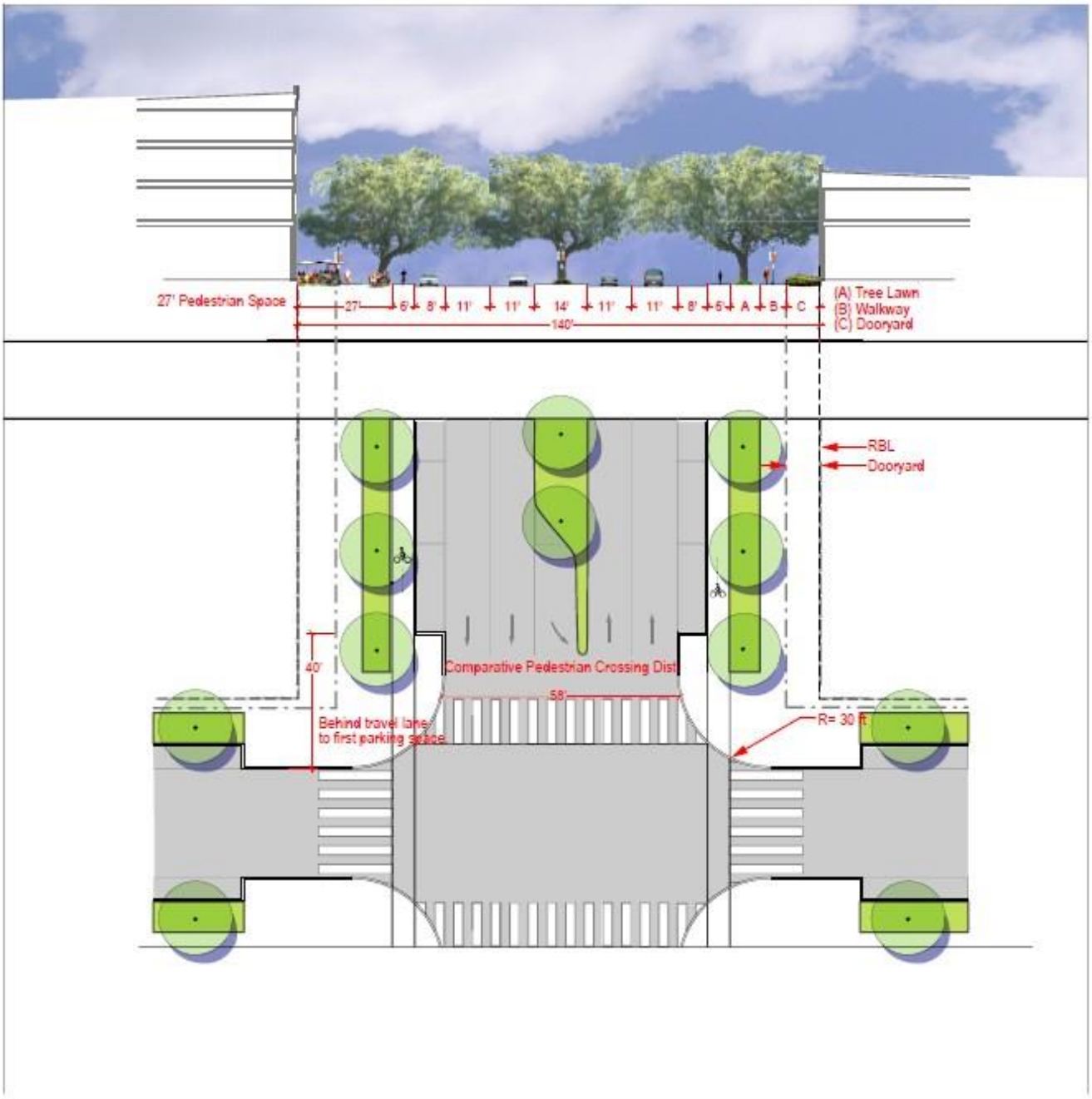
Total Pedestrian Area Width, 25 ft. Travel Lanes: 2 through @ 12 feet, Center Turn Lane: 11 feet (Median optional. This width may be increased, see URBAN-SPACE STANDARDS). Design Speed 25 to 30 mph.

Comparative Pedestrian Crossing Distance 62 feet, Time 17 seconds.

(All dimensions to face of curb.)

Note: These drawings are for Illustrative Purposes Only. Refer to the Regulating Plan for the Situation Specific to your Site.

B. London Boulevard: LB-11

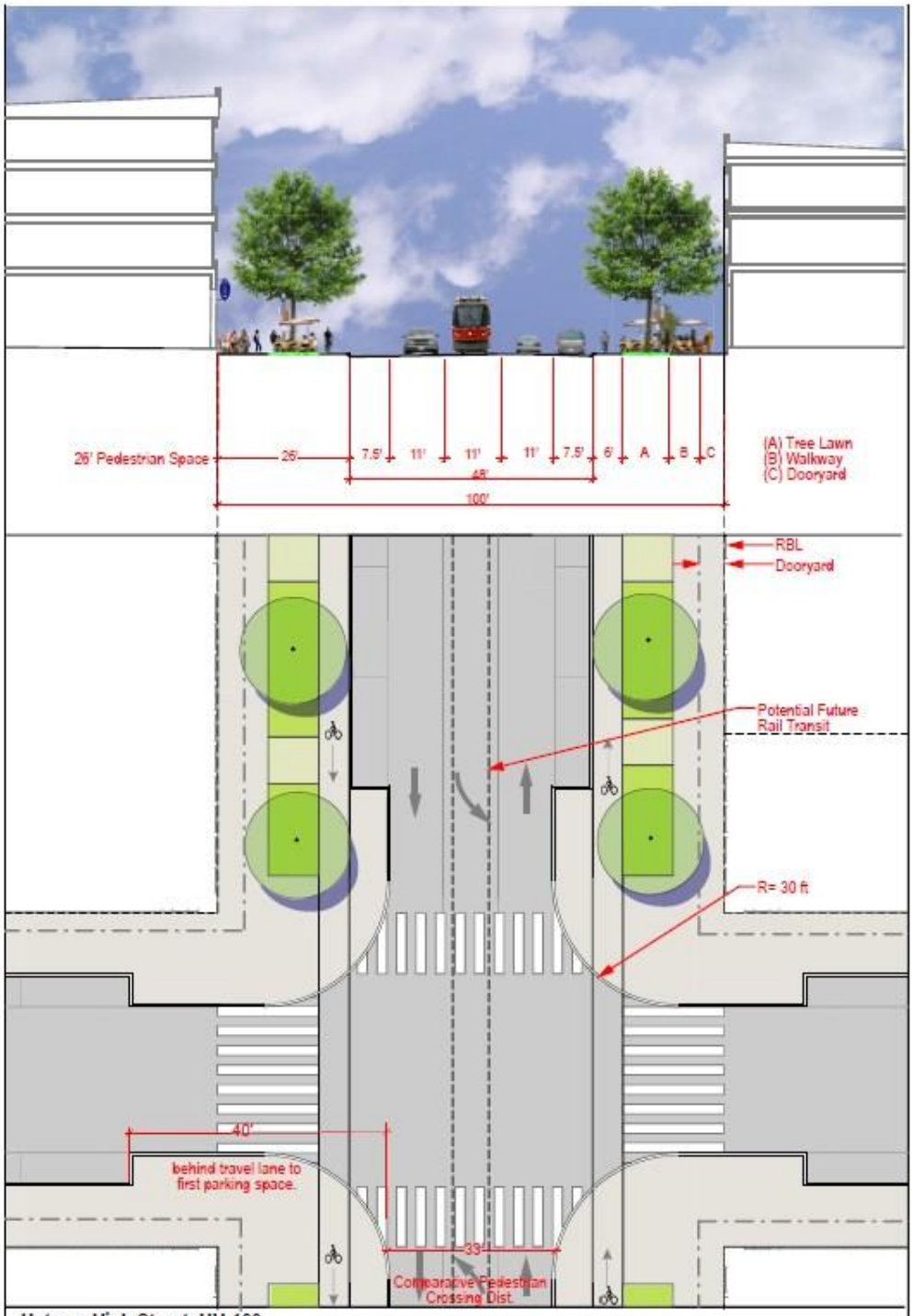


London Boulevard 11 : LB 11

STREETSPACE: 140 feet (per Regulating Plan). Sidewalk Area Elements: (A)Treelawn 8 ft, (B) Clear Walkway 7 ft, (C) Dooryard 12 ft.
Total Pedestrian Area Width, 25 ft. Travel Lanes: 2 through @ 12 feet, Center Turn Lane: 11 feet (Median optional. This width may be increased, see URBAN-SPACE STANDARDS). Design Speed 25 to 30 mph.
Comparative Pedestrian Crossing Distance 58 feet, Time 16 seconds.
(All dimensions to face of curb.)

Note: These drawings are for Illustrative Purposes Only. Refer to the Regulating Plan for the Situation Specific to your Site.

C. Uptown High Street: UH-100



Uptown High Street: UH-100

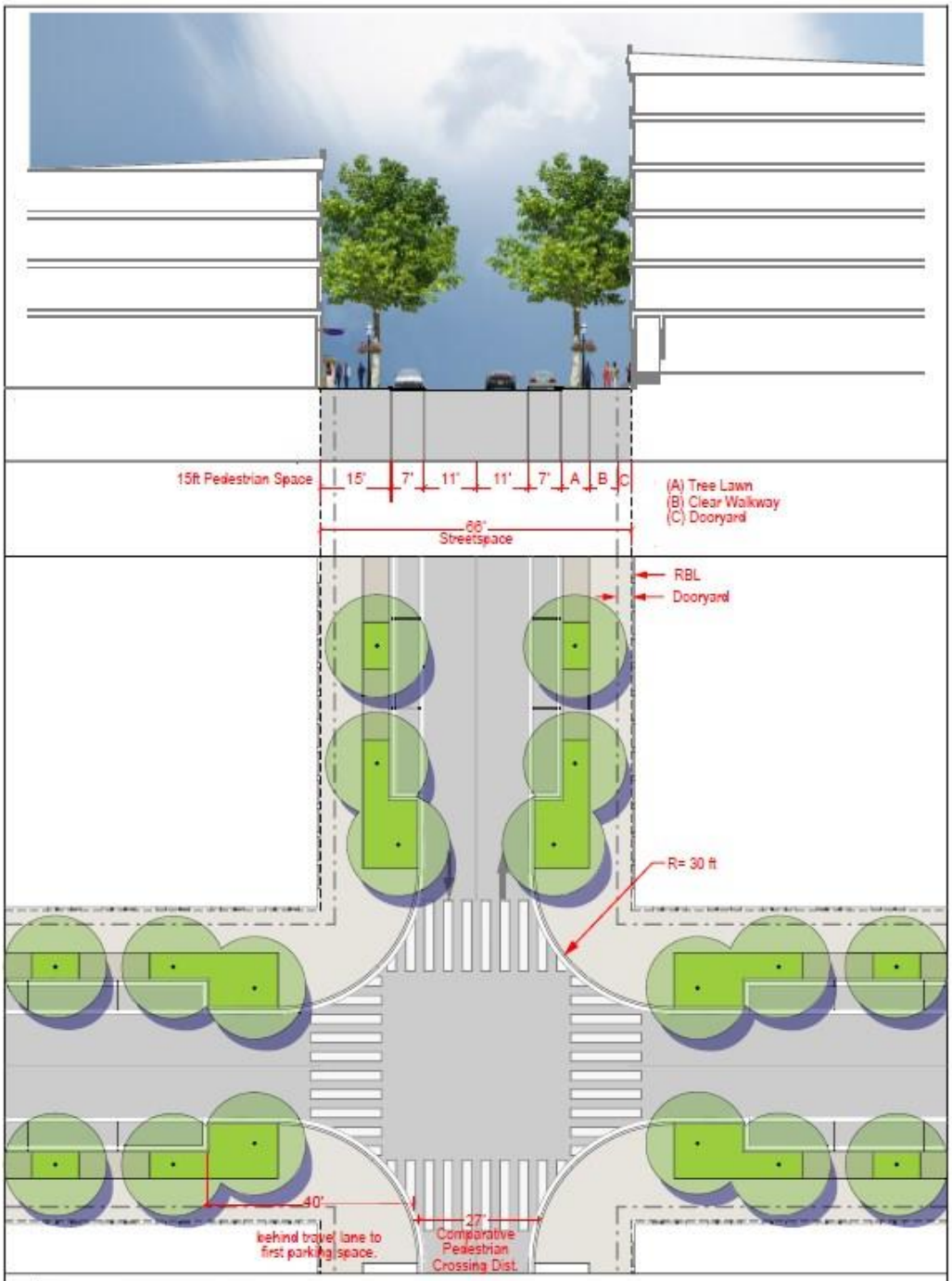
STREETSPACE: 100 feet (see Regulating Plan). Sidewalk Area Elements: (A)Treelawn 8 ft, (B) Clear Walkway 7 ft, (C) Dooryard 5 ft and Curbside Bike Lane 6 ft. Total Pedestrian Area Width, 26 ft. On-street parking 7.5 feet.

Travel Lanes: 2 Through @ 11 feet, Center Turn Lane: 11 feet. Design Speed 20 to 25 mph.

Comparative Pedestrian Crossing Distance 33 feet, Time 9 Seconds

(All dimensions to face of curb.)

D. Neighborhood Street: NS-66



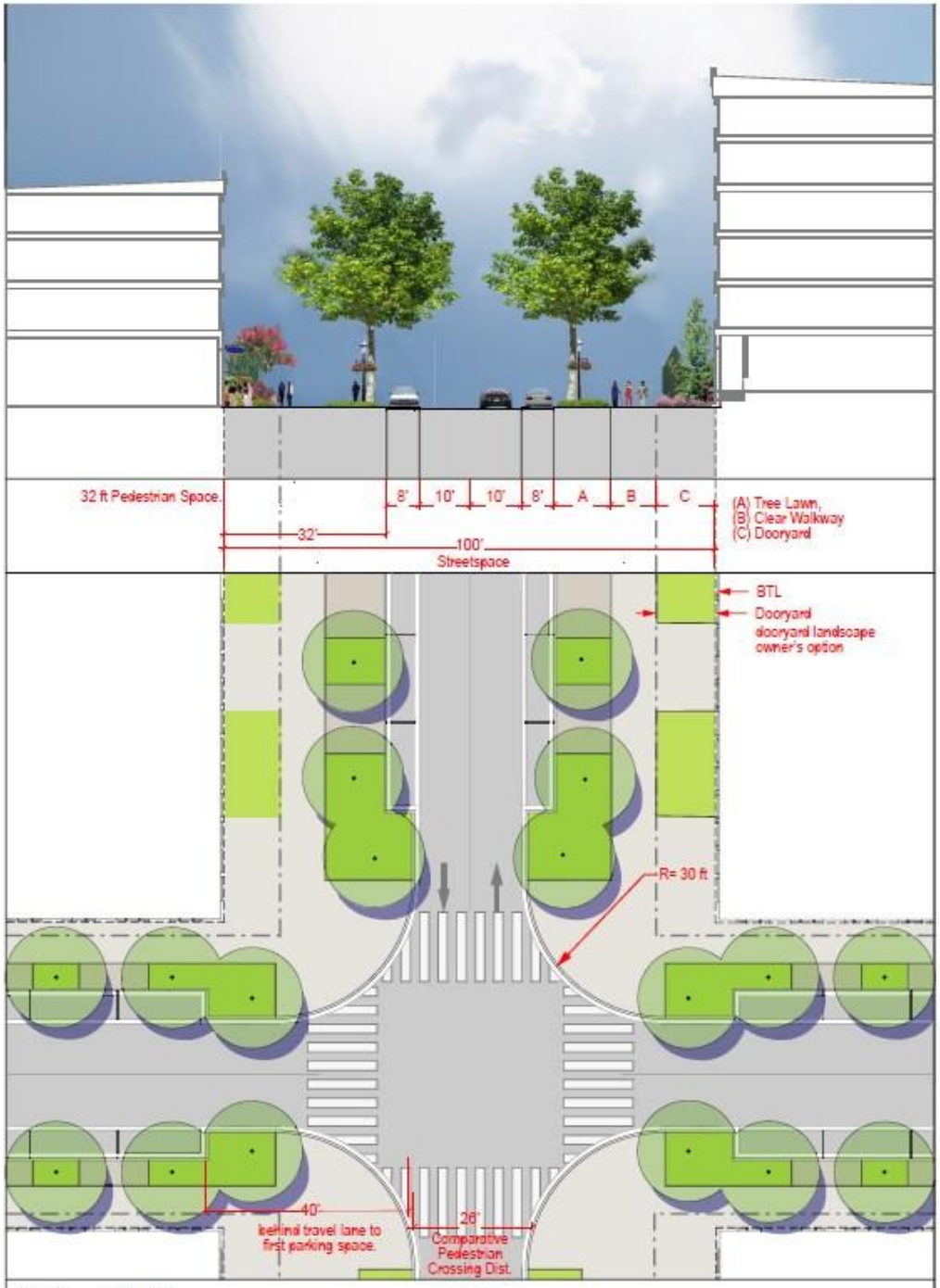
Neighborhood Street: NS -66

STREETSPACE: 66 feet (per Regulating Plan). Sidewalk Area Elements: (A) Treelawn 7 ft, (B) Clear Walkway 6 ft, (C) Dooryard 2 ft.
Total Pedestrian Area Width, 15 ft. Travel Lanes: 2 through @ 11 feet. Intended Speed 20 mph.

Comparative Pedestrian Crossing Distance 27 feet. Time 7 seconds.
(All dimensions to face of curb.)

Note: These drawings are for illustrative Purposes Only. Refer to the Regulating Plan for the Situation Specific to your Site.

E. Elm Street: NS-100



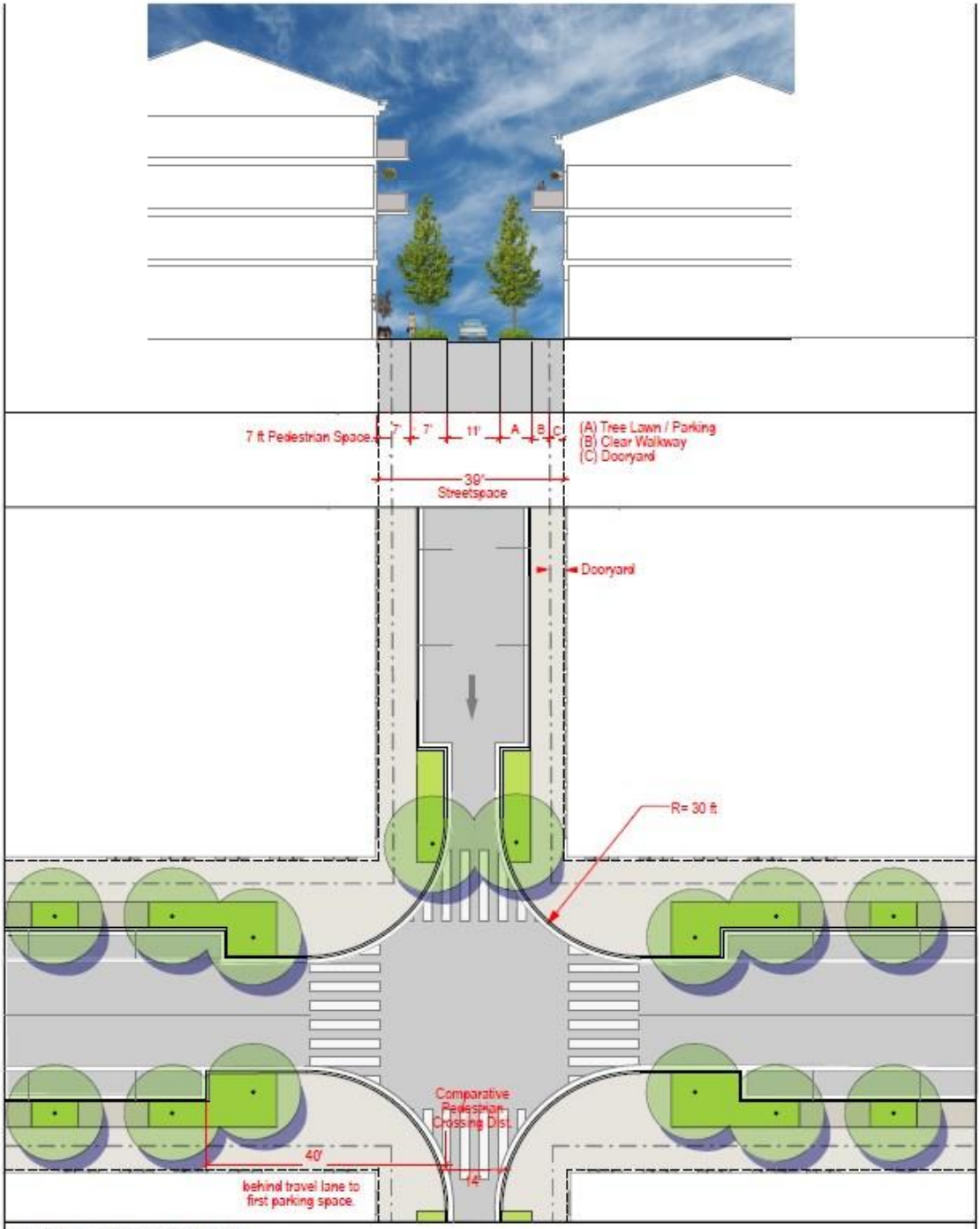
Elm Street: NS-100

STREETSPACE: 100 feet (per Regulating Plan). Sidewalk Area Elements: (A) Treelawn 12 ft, (B) Clear Walkway 8 ft, (C) Dooryard 12 ft. Total Pedestrian Area Width, 32 ft. Travel Lanes: 2 through @ 10 feet. Intended Speed 20 mph.

Comparative Pedestrian Crossing Distance 26 feet. Time 7 seconds.
(All dimensions to face of curb.)

Note: These drawings are for Illustrative Purposes Only. Refer to the Regulating Plan for the Situation Specific to your Site.

F. King/Queen Alley-Streets: NS-40/50



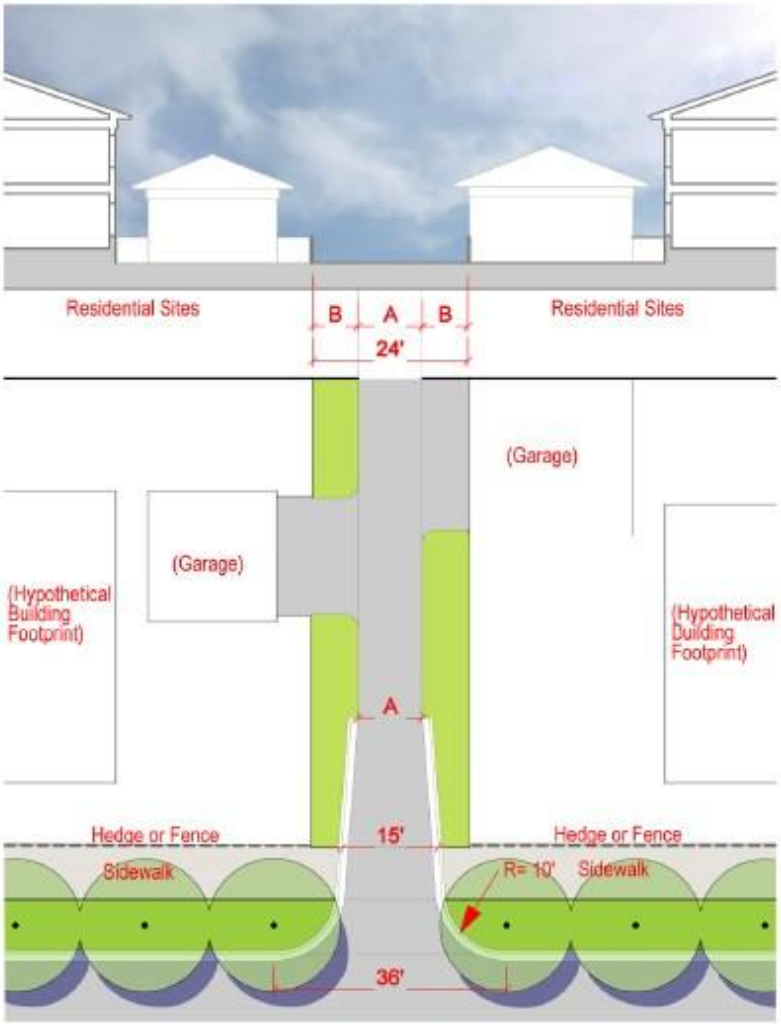
King / Queen Street: NS 40-50

STREETSPACE: 39 - 50 feet (per Regulating Plan). Where greater than 39 feet the extra dimension shall go to the Dooryard or the Clear Walkway width, at the Planning Directors discretion. Sidewalk Area Elements: Tree lawn/Parking 7ft, (B) Clear Walkway 5 ft, (C) Dooryard 2 ft.
Total Pedestrian Area Width, 7 ft. Design Speed 20 mph or less.

Travel Lanes: 1 through @ 11 feet. Comparative Pedestrian Crossing Distance 14 feet, Time 3 seconds.
(All dimensions to face of curb.)

Note: These drawings are for Illustrative Purposes Only. Refer to the Regulating Plan for the Situation Specific to your Site.

G. Alley 24



Alley: A-24

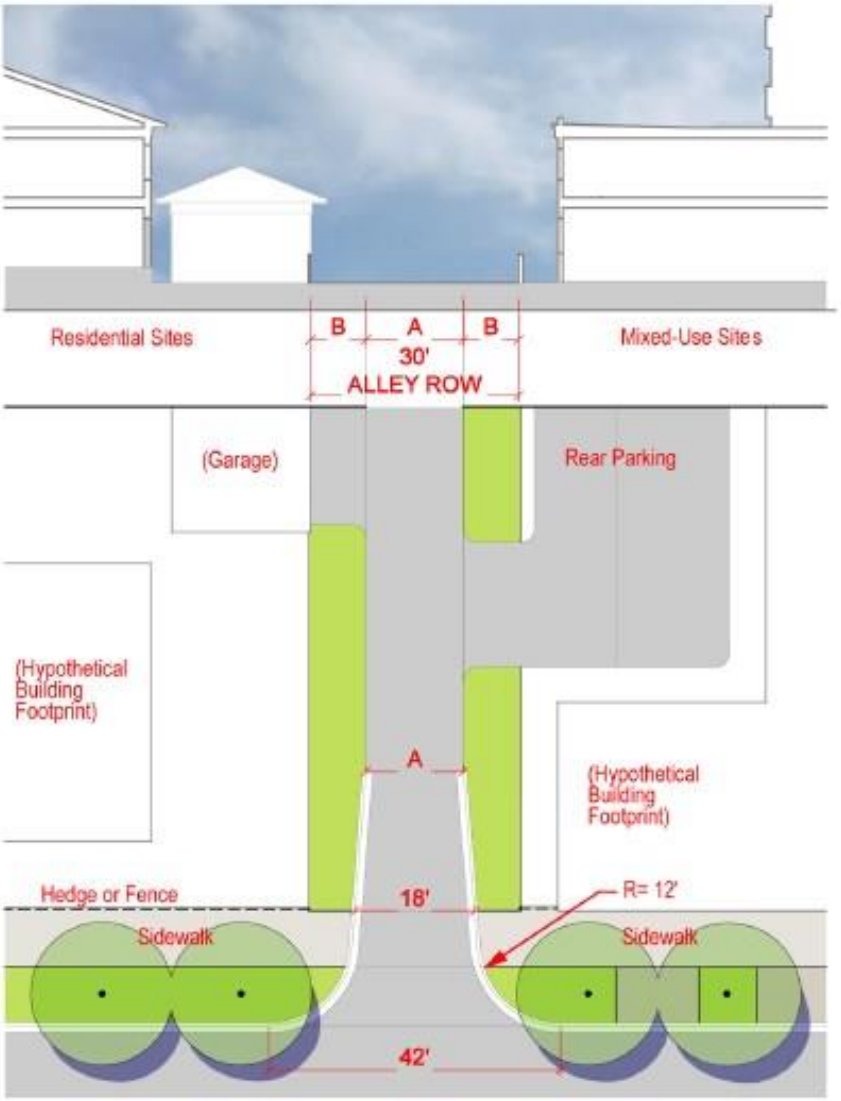
ROW: 24 feet. Paved Area: (A) 10-18 feet, Pervious Side Areas (B) 3-7 feet. Throat Width (at ROW) 15 feet, Curb Radius 10 feet. Curb extends 20 feet into Block to the (A) pavement width.

Comparative Pedestrian Crossing Distance 16 feet.

(All dimensions to face of curb.)

Note: These drawings are for Illustrative Purposes Only. Refer to the Regulating Plan for the Situation Specific to your Site.

H. Alley 30



Alley: A-30

ROW: 30 feet. Paved Area: (A) 14-22 feet, Pervious Side Areas (B) 4-8 feet (turf or pervius paving). Throat Width (at ROW) 18 feet, Curb Radius 12 feet. Curb extends 20 feet into Block to the (A) pavement width.
Comparative Pedestrian Crossing Distance 18 feet.
(All dimensions to face of curb.)

504. Streetscape Standards

A. General Provisions

1. All plant material (including trees) shall pass any inspections required under State regulations.
2. All turf grass shall be solidly sodded at installation—not seeded, sprigged, or plugged. Vegetative groundcovers may be used in place of turf grass.
3. In addition to the lot, the owner must maintain the following areas:
   a. The portion of the street-space between their lot line and the back of the curb.
   b. The portion of the alley between the lot line and the edge of the alley pavement.
4. Mechanical and electrical equipment including, but not limited to, air compressors, pumps, exterior water heaters, water softeners, private garbage cans (not including public sidewalk waste bins), and storage tanks may not be stored or located within any street-space. (Water pumps not visible are not included in this prohibition). Temporary placement of private garbage cans within the street-space may be allowed to accommodate scheduled pick-up.)

B. Street Trees

1. Each street-space must have street trees planted along the street tree alignment line (generally 3 to 3½ feet from the back of the curb unless otherwise specified in the regulating plan or Street Type Specification) at an average spacing not greater than 30 feet on center (calculated per block face). Where necessary, spacing allowances may be made to accommodate curb cuts, fire hydrants and other infrastructure elements; however, at no location may street tree spacing exceed 45 feet on center. Required street tree planting area configurations are specified in the street type specifications and below.
2. Required tree planting area minimum specifications are as follows:
   (i) Soil surface area shall not be less than 90 square feet per isolated tree or 60 square feet per tree for connected (tree lawn) situations.
   (ii) No dimension of the soil surface area may be less than 5 1/2 feet.
   (iii) These requirements may be met through the use of bridged slab, structural soil, or other techniques that clearly exceed these standards in the fostering of vital and long-lived street trees.
   a. Street tree planting areas shall be at grade or not greater than six inches in height above or below the sidewalk
   b. At planting, street trees shall be at least 2.5 inches in diameter (at DBH) and at least ten feet in overall height. Species must be selected from the street tree list (see Tree Lists). Consult with the Code Administrator for the designated tree species for a particular street-space.
   c. Any unpaved ground area shall be planted with groundcover, flowering vegetation, or climbing vines, not to exceed 12 inches in height. Street trees must be "limbed up" as they gain appropriate maturity so as to not interfere with pedestrian or truck travel (minimum 7 feet clear over the sidewalk and 14 feet over the travel lanes of the street) and to maintain visibility.

3. Streetscape Elements

a. Street lights shall be installed on both sides of streets, aligned with the street trees, and unless otherwise designated on the regulating plan, at intervals of not more than 80 feet, measured parallel to the street.

b. Street lights shall be between 9 and 16 feet above ground in height.
c. At the time of development, the developer is required to install street lights and sidewalks, as illustrated in Street Type Specifications, on the side of the street-space being developed.
d. Sidewalks not otherwise designated in the regulating plan or Street Type Specifications shall be a minimum of six feet wide and be constructed to meet all City (and ADA) specifications.
e. Street furniture is an element of the overall street-space design—not an afterthought. Street furnishings should be simple, functional, and durable.

4. On-Street Parking

a. On-street parking spaces shall count towards parking requirements. (See Part 7. Parking and Loading.)
b. The parking space/tree planting pattern may be interrupted by existing or new driveways designated in the regulating plan, streets, alleys, and transit stops or stations, but at no time may spacing exceed forty-five (45) feet on center.
c. Parking spaces must be constructed in a manner that allows proper drainage (generally a "w" profile, having a gutter pan between the travel and parking lanes).
d. On-street bicycle parking shall be provided forward of the dooryard area, the racks shall be located in alignment with the street trees. (The "U" rack is recommended as the standard rack.)

505. SQUARES AND CIVIC GREENS

A. Intent

1. These standards apply to those spaces that are either publicly owned or publicly accessible, as designated on the regulating plan.
2. Squares, civic greens and plazas should be situated at prominent locations within each urban neighborhood and should be dedicated to important events or citizens. The green plants and trees of squares and civic greens provide a landscape and civic architecture that complement the surrounding private building architecture.
3. Squares are active pedestrian centers. Civic greens are spaces intended for less intensive foot traffic. Surface treatment is regulated accordingly.
4. Pervious paving materials (to allow oxygen for tree roots and absorb stormwater run-off) are encouraged in both squares and civic greens, and the percentage of impervious paving material is limited. (see C. Materials and Configurations.)

B. Standards

Squares and civic greens must be designed, planted and maintained according to the following requirements.

1. Squares and civic greens shall have at least 60 percent of their perimeter fronting rights-of-way. Both types of spaces shall be surrounded by street trees. Their dimensions shall be no narrower than a 1:5 ratio and no square or civic green width or breadth dimension shall be less than 25 feet.

2. Appropriate to their high (pedestrian) traffic level they must be designed with a higher percentage of paved surface area.
3. A clear view through the square or civic green (from two to eight feet in height) is

required, both for safety and urban design purposes.

4. Squares and civic greens may not include active recreation structures such as ball fields and courts.

C. Materials and Configurations

1. General

a. Street trees shall be planted along the alignment shown in the street type specification, and in accordance with Sec. 504, B. Street Trees. They may be of a different species than the connecting street.

b. The ground surface level elevation must be between 0 and 18 inches above the top of the adjacent curb.

c. The maximum slope across any square or civic green may not exceed ten percent.

d. Except for tree trunks, street lights, civic buildings, public art or monuments, there must be a clear view between two and eight feet above grade. The foliage of newly planted trees may intrude into this area until the tree has sufficient growth to allow such a clear trunk height.

e. Trees within a square or civic green may also be selected from the public space tree lists (see Sec. 507. Tree Lists).

f. Asphalt is prohibited within a square or civic green.

2. Squares

Appropriate to their high (pedestrian) traffic level, squares shall incorporate a higher percentage of paved surface area. Surface treatment and materials (within the area back-of-curb to back-of-curb, excluding any civic use building, public art or monument footprint) shall be a minimum 20 percent and maximum 35 percent unpaved pervious surface (turf, groundcover, gravel, soil or mulch).

3. Civic Greens

Appropriate to their less intensive character, civic greens shall be designed with a lower percentage of paved surface area. Surface treatment and materials (within the area back-of-curb to back-of-curb excluding any civic use building, public art or monument footprint) shall be a minimum 50 percent unpaved pervious surface area (such as turf, groundcover, gravel, soil or mulch).

4. Pedestrian Pathway

The area within a pedestrian pathway shall be a public access easement or public right of way. The easement width for these pathways must not be less than 20 feet with a paved walkway not less than ten feet wide and must provide an unobstructed view straight through its entire length, except where otherwise specified on the regulating plan.

506. PRIVATE OPEN AREA

A. At least 1 tree per 800 square feet of any at-grade required private open area shall be planted in the rear lot area and located no closer than five feet to any common lot line. Exceptions: General and Workshop frontages; and sites that are reusing existing structures with no ground level open area are exempt from this requirement.

B. Trees must be at least two inches in diameter at DBH and eight feet in overall height (at time of

planting). Species must be selected from these Tree Lists). Exceptions: General and Workshop frontages; and sites that are reusing existing structures with no ground level open area are exempt from this requirement.

507. TREE LISTS

A. General

1. The following lists contain all approved tree species for use in an urban neighborhood. The lists include native and acceptable adapted species. Other species may be used for planting within a private lot.
2. Invasive exotic species may not be used anywhere on private lots or other areas.

B. Street Trees

1. Species in the street tree list are for placement as shown in street type specifications, or as specified in the regulating plan for placement along the street tree alignment line. The use of alternate species may be permitted, but only if approved by Code Administrator.
2. Street trees are part of an overall street-space plan designed to provide both canopy and shade and to give special character and coherence to each street-space. The desired aesthetic must be achieved through the use of native and/or proven hardy adapted species. Appropriate street tree list species may grow and change over time. Inclusion in this list must be based on the following criteria:
   a. Structural – street trees shape and subdivide the street-space, increasing pedestrian comfort and adding (literal) value to the street/ community. "Canopy Shade Tree" species grow to heights in excess of 60 feet and have a broad canopy—enabling them to clear auto traffic and pedestrians, form a ceiling-like enclosure, and open a clear view of the street-space and storefronts at eye-level.
   b. Pragmatic – Life as a typically placed street tree is nasty, brutish, and typically short. Few species are tough enough to survive and grow. Appropriate species have special tolerance to salt and soil compaction. Street tree planting techniques and configurations provide a healthy environment in which the tree can thrive—this will ensure that the trees increase the community value as they grow.

   c. Design – Species are planted consistently along a given street-space to provide a special form and character. This provides species diversity at the same time it provides a specific street character by planting different street-spaces with different trees.

Street Tree List

(Large Canopy Trees – mature height above 70 feet)

Acer rubrum	Red Maple
Betula nigra	River Birch
Fraxinus americana 'Autumn Purple'	White Ash
Fraxinus excelsior	Blue Ash
Fraxinus pennsylvanica 'Marshall's Seedless'	Green Ash
Ginkgo biloba	Ginkgo (male only)
Japanese Zelkova	
Quercus coccinea	Scarlet Oak
Quercus falcata	Southern Red Oak
Quercus muhlenbergii	Chinquapin Oak
Quercus phellos	Willow Oak
Quercus rubra	Red Oak
Quercus velutina	Black Oak
Sophora japonica 'Regent'	Japanese Pagoda Tree
Tilia Americana	Basswood/American Linden
Tilia cordata 'Greenspire'	Greenspire Littleleaf Linden
Tilia euchlora	Crimean Linden
Tilia tomentosa	Silver Linden
Ulmus hollandica 'Groenveldt'	Groenveldt Elm
Ulmus parvifolia	Chinese/Lacebark/Drake Elm
Yoshino Cherry	
Zelkova Serrata	

3. Public Space Trees

In addition to the above trees, the following trees may be placed within dooryards, squares or civic greens.

Acer palmatum cultivars	Japanese Maple
Cerus canadisis	Redbud
Cornus florida cultivars	Dogwood
Cornus kousa	Kousa Dogwood
Lagerstroemia indica	Crepe Myrtle
Magnolia spp.	Magnolia
Malus spp. (improved varieties)	Crabapple
Prunus spp.	Flowering Cherry and Plum
Taxodium distichum	Bald Cypress
Acer nigrum	Black Maple
Carya laciniosa	Shellbark Hickory
Carya ovata	Shagbark Hickory
Ilex vomitoria	Yaupon Holly
Liriodendron tulipifera	Tulip Poplar
Pistacia chinensis	Chinese Pistache
Taxodium ascendens	Pond Cypress
Zelkova serrata	Japanese Zelkova

Part 6. Architectural Standards

601. Intent

A. These architectural standards establish basic parameters regarding functional building element configuration and palettes for building materials.

B. The architectural standards serve to establish a coherent character and encourage a high caliber, lasting quality of development. Buildings shall be reviewed by the Code Administrator to verify that they meet the architectural standards (as well as the balance of this Code). The Code Administrator may also work with the developer or designer to show them how to work within these requirements.

C. In order to establish and maintain a sense of place, these standards specify an architectural aesthetic of load-bearing walls and regional materials. Buildings should reflect and complement the traditional materials and techniques of the Virginia Tidewater Region. The standards also specify details, such as window proportions, roof or cornice configurations, storefronts, and overhangs.

602. General Principles

A. All building materials to be used shall express their specific properties. For example, stronger and heavier materials (masonry) support lighter materials (wood).

B. Equivalent or Better.
   1. While only materials, techniques, and product types prescribed here are allowed, equivalent or better practices and products are encouraged. They may be submitted to the Code Administrator for review.
   2. Additional products may be added to the list through a text amendment (administration) to this Code or may be allowed on a case by case basis through a departure from a design standard approved in accordance with Part 2, Administration.

C. Where Clearly Visible from the Street-Space.
   1. Many of these standards apply only in conditions where clearly visible from the street-space. Note that the definition of street-space includes parks, plazas, squares, and civic greens but not alleys.
   2. These controls therefore concentrate on the public space/views from the public space and minimize interference in the private realm. For example, an architectural element that is visible only through an opening in a street wall is not clearly visible from the street-space. A building element that is more than 30 feet behind the required building line does not meet the definition of where clearly visible from the street-space.

603. Building Walls

A. Applicability

Where clearly visible from the street-space.

B. Intent

Building walls should define the public realm - the street-space. All walls should express the construction techniques and structural constraints of traditional, long-lasting, building materials. Simple configurations and solid craftsmanship are favored over complexity and ostentation in building form and the articulation of details.

The illustrations and statements on this page are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

C. Primary Materials

Only the following materials are permitted (for 75 to 100 percent of the building wall surface area - per facade):

1. Brick and tile masonry.
2. Native stone (or synthetic equivalent).
3. Wood – clapboard or shingles.
4. Hardie-Plank™ equivalent or better siding.
5. Stucco (cementitious finish).

D. Secondary Materials

Only the following materials are permitted (maximum ten percent or less of building wall surface area - per facade):

1. Pre-cast masonry (for trim and cornice elements only).
2. Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only).
3. Metal (for beams, lintels, trim elements and ornamentation only).
4. Urethane Fypon™ equivalent or better (for lintels, trim elements and ornamentation only).
5. Split-faced block (only for piers, foundation walls and chimneys).
6. Glass block (no closer than 30 inches to building corners).

E. Configurations and Techniques

The following configurations and techniques are permitted.

1. Walls

a. Wall openings: the horizontal dimension of the opening may not exceed the vertical dimension except where otherwise prescribed in this Code (*no more squat than square*).
b. Wall openings may not span vertically more than one story.
c. Wall openings shall correspond to interior space and may not span across building structure such as floor structural and mechanical thickness.
d. Material changes shall be made with appropriate construction details for each abutting material—as where an addition (of a different material) is built onto the original building.

2. Wood Siding and Wood Simulation Materials

a. Siding shall be in a lap (horizontal) configuration.
b. Siding shall be smooth or rough-sawn finish (no faux wood grain).

3. Brick, Block and Stone

All masonry shall be appropriately detailed and in load-bearing configurations commensurate with local building traditions.

4. Stucco (cementitious finish)

Finish coat shall be smooth or sand only, no roughly textured finish.

604. Roofs and Parapets

A. Applicability

Where clearly visible from the street-space.

B. Intent

Roofs and parapets should demonstrate common-sense recognition of the climate by utilizing appropriate pitch, drainage, and materials in order to provide visual coherence to the district. Roof forms are not interchangeable. The roof type is integral to the design of the building and its architectural character.

The slope of a pitched roof is determined by local climatic conditions (such as the ability to shed snow loads) and physical properties of the roofing material. Roof types that have overhanging eaves, such as gabled or hipped roofs, should be of a dimension suitable for sun shade.

Parapets are low guarding walls at the edge of roofs (usually flat) and are formed by extensions of the building facades. This type is typically found on mixed use buildings and will likely be the prominent roof found in the downtown.

Cornices are crowning (trim) projections on a parapet wall. While the code requires certain horizontal dimensions, these elements should be designed to be appropriate for the style of the building and proportionate for the dimensions of the façade.

The illustrations and statements on this page are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

C. Materials

Only the following materials are permitted:

1. Clay or concrete (faux clay).
2. Tile (beavertail or flat roman).
3. Slate (equivalent synthetic or better).
4. Metal (standing seam, equivalent or better).
5. Dimensional Asphalt shingles.
6. Cornices and soffits may be a combination of wood, vinyl, and/or metal.
7. Gutters and Downspouts may be PVC, vinyl, and/or metal.

D. Configurations and Techniques

The following configurations and techniques are permitted.

1. Parapet Roofs

Allowed for Storefront, General, Workshop, and Small Apartment/Townhouse frontage sites where the roof material is not visible from any adjacent street-space.

2. Pitched Roofs

Pitch (exclusive of roofs behind parapet walls):

a. Simple hip and gable roofs shall be symmetrically pitched between 5:12 and 10:12.
b. Shed roofs, attached to the main structure, shall be pitched between 3:12 and 8:12.

3. Overhang Requirements

a. Eaves shall overhang 18 to 30 inches on the primary structure for the initial four stories. For each additional story; four inches shall be added to the minimum and 12 inches shall be added to the maximum, up to a maximum projection of six feet.
b. Eaves and rakes on accessory buildings, dormers, and other smaller structures shall overhang at least eight inches.
c. Timber eaves and balcony brackets shall be a minimum of four inches by four inches in dimension.

4. Cornices and Other Features

a. Buildings without visible roof surfaces and overhanging eaves may satisfy the overhang requirement with a cornice or similar form projecting from the top of the building wall horizontally between 6 and 12 inches beyond the building walls on the primary structure for the initial four stories. For each additional story, three inches shall be added to the minimum and 12 inches shall be added to the maximum, up to a maximum projection of five feet.

b. Skylights and roof vents are permitted only on the roof plane opposite the street-space (or required building line) or when shielded from street-space view by the building's parapet wall.

605. Street Walls and Garden Walls

A. Applicability

Where clearly visible from the street-space.

B. Intent

Property lines are physically defined by buildings, walls, or fences. Land should be clearly public or private—in public view and under surveillance or private and protected.

Street walls and garden walls establish a clear edge to the street-space where the buildings do not. These requirements include masonry walls or pedestrian scale fencing that define outdoor spaces and separate the street-space from the private realm (e.g. parking lots, trash cans, gardens, and equipment). All street wall and garden wall faces shall be as carefully designed as the building façade, with the finished side out (i.e. the "better" side facing the street-space).

A street wall is a masonry wall set back not more than eight inches from the required building line or adjacent building façade and built to the height specified in the building envelope standards or a metal fence not to exceed 5 feet in height.

The illustrations and statements on this page are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

C. Materials

Only the following materials are permitted:

1. Native/regional stone and equivalent imitation stone.
2. Metal (e.g., wrought iron and/or electro-statically plated black aluminum) - may be used for gates and fences.
3. Brick.
4. Stucco on concrete block or poured concrete (only when a brick or stone coping is provided).
5. A combination of materials (e.g. stone piers with brick infill panels).
6. Wood - may be used for gates only.

   Exception: In the Detached Frontage District fences as required in the front yard fences may be wood picket style fences.

D. Configurations and Techniques

The following configurations and techniques are permitted.

1. Street walls along any unbuilt required building line shall be built to the height and length specified in the building envelope standard.
2. Metal work may additionally be treated to imitate a copper patina.
3. Copings shall project between one inch and four inches from the face of the street wall.
4. Street walls and garden walls taller than 4 feet shall be subject to the fenestration requirements of their BES.

606. Windows and Doors

A. Applicability

Where clearly visible from the street-space.

B. Intent

The placement, type, and size of windows and doors on the facade largely establishes the scale and vitality of the street-space. For commercial buildings, they allow interplay between the shop interiors and the street-space. Commercial uses (especially restaurants and retail establishments) benefit from exposure to the passers-by and the street-space benefits from the visual activity.

For residences, they form the "eyes on the street" surveillance which provides for the security and safety for the area.

Windows should be divided by multiple panes of glass. This helps the window hold the surface of the façade, rather than appearing like a "hole" in the wall (an effect produced by a large single sheet of glass).

The illustrations and statements on this page are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

In commerce/retail frontages, the public space of the STREET-SPACE *and the interior space of the shop intermingle. For residential frontages the interior space should not intermingle with the* STREET-SPACE *but rather overlook and provide surveillance for it.*

C. Materials

Only the following materials are permitted:

1. Window frames shall be of anodized aluminum, wood, clad wood, vinyl, or steel.
2. Window glass shall be clear, with light transmission at the ground story at least 90 percent and for the upper stories 75 percent (modification as necessary to meet any applicable building and energy code requirements). Specialty windows (one per façade maximum) may utilize stained or opalescent glass, or glass block.
3. Window screens shall be black or gray.
4. Screen frames shall match the window frame material or be dark anodized.
5. Doors shall be of wood, clad wood, or steel and may include glass panes.
6. Shutter materials may be painted wood or clad wood.

D. Configurations and Techniques

The following configurations and techniques are permitted:

1. All Windows

The following requirements apply to all windows:

a. The horizontal dimension of the opening may not exceed the vertical dimension except where otherwise prescribed in this Code (*no more squat than square*).

b. Windows may be ganged horizontally if each grouping (maximum five per group) is separated by a mullion, column, pier or wall section that is at least seven inches wide.

c. Windows (not doors) may be no closer than 30 inches to building corners (excluding bay windows and storefronts).

d. Exterior shutters, if applied, shall be sized and mounted appropriately for the window (one-half the width), even if inoperable.

e. Window panes shall be recessed behind the wall surface a minimum of three inches, except for bay windows and storefronts.

f. Snap-in mullions and muntins are permitted but not considered in any proportion calculation/measurement.

2. Upper-Story Windows

The following requirements apply to all upper-story windows:

a. Windows may be double-hung, single-hung, awning, or casement windows.

b. Fixed windows are permitted in commercial buildings. In residential buildings fixed windows are permitted only as a component of a system including operable windows within a single wall opening.

(i) Residential buildings/floors: panes of glass no larger than 36" vertical by 30" horizontal.

(ii) The maximum pane size for office uses is 48" vertical by 42" horizontal.

(iii) Egress windows may be installed according to the appropriate building code.

3. Storefront Windows

The following apply to storefront (ground story) windows and doors:

a. Single panes of glass shall not be permitted larger than eight feet in height by four feet in width.

b. Ground story windows may not be made opaque by window treatments (excepting operable sunscreen devices within the conditioned space). (See section 607. Signage.)

c. A minimum of 80 percent of the window surface shall allow a view into the building for a depth of at least 15 feet.

d. Storefronts may extend up to 24 inches beyond the façade or required building line into the street-space.

4. Doors

a. Double-height entryways (those that span more than one story) shall not be permitted.

b. A door may not be recessed more than three feet behind its facade or its shopfront and, in any case, shall have a clear view and path to a 45-degree angle past the perpendicular from each side of the door.

607. Signage

A. Applicability

Where clearly visible from the street-space.

B. Intent

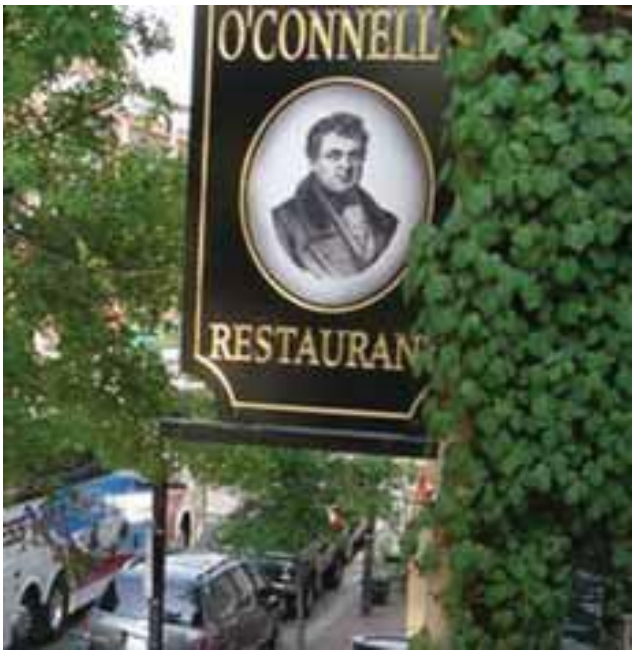
Signs along commercial frontages should be clear, informative to the public and durable.

Signs should be scaled and detailed for this mixed-use, pedestrian-oriented area and not for high speed automobile traffic.

Signage that is glaring or too large creates distraction, intrudes into or lessens the urban experience, and creates visual clutter.

The illustrations and statements on this page are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

C. General Design and Materials



1. Wall signs are permitted within the area between the second story floor line and the first floor ceiling, within a horizontal band not to exceed three feet in height. In no case may this band be higher than 24 feet or lower than 12 feet above the adja-cent sidewalk.
2. Letters may not exceed 24 inches in height or width and 3 inches in relief. Signs may not come closer than two feet to an adjacent common lot line.
3. Company logos may be placed within the horizontal sign band or placed or painted within ground story windows.
4. A single masonry or bronze plaque bearing an owner's or building's name may be placed in the building's cornice/parapet wall or under the eaves, and above the upper story windows. Any such plaque shall be no larger than a rectangle of 18 square feet in size. Company logos or names in this position shall not be larger than a rectangle of eight square feet in size.
5. Blade signs (not more than two feet by three feet, vertical or horizontal with a minimum nine feet clear height above the sidewalk) may be hung within the permitted wall sign area, perpendicular to the required building line or from a ground story overhang or awning.
6. Prohibited Signs: Billboards, free-standing pole signs, marquees, any kind of animation, and roof signs are prohibited. No internally lit, flashing, traveling, animated, or intermittent lighting may be mounted on the exterior of any building whether such lighting is of temporary or long-term duration. Portable or wheeled signs and advertising devices located outside any building shall not be permitted, pursuant to City regulations (excepting as provided in this Code for the dooryard area). Signs painted on facades are prohibited (excepting those existing prior to July 2009) but are permitted, subject to approval by the code administrator, on the other exterior walls (side, rear, and courtyard).
7. Martin Luther King Highway Frontages, are exempted from some of the standards above (see Sec. 407).

8. Monument signs shall be allowed as a replacement for existing freestanding signs along frontages only where the building or structures and sign existed on January 1, 2014, and where the building or structures are located fifty (50) feet or greater from the public right-of-way. Such monument signs shall be no greater than 8 feet in height and shall contain no more than 40 square feet, based upon the area allowed under Section 40.1-5.11 H. (1) (c). There shall be no visible space between the base and the sign contact of a monument sign. Should an addition(s) to the existing building be constructed closer that 50 feet to the right-of-way the monument sign must be completely removed.

D. Awnings/Sidewalk Overhangs

1. Any sidewalk overhangs shall have a minimum of ten feet clear height above the sidewalk and be minimum of five feet deep from the building façade (maximum depth is to back-of-curb or tree lawn, whichever is less).
2. Only the following materials are permitted: canvas or equivalent (no shiny or reflective materials), metal or glass.
3. Internal illumination through the awning/overhang are not permitted.
4. Lettering on awnings shall be limited to 6 inches in height on the vertical face of the curb side of the awning maximum.
5. One-quarter cylinder configurations are not permitted.

608. Lighting & Mechanical Equipment

A. Applicability

District wide.

B. Intent

Appropriate lighting is desirable for nighttime visibility, crime deterrence, and decoration. However, lighting that is too bright or intense creates glare, hinders night vision, and creates light pollution. Every attempt should be made to preserve the ambiance of the night by applying the appropriate fixtures in the correct locations – street lights are pedestrian-scaled and should occur along all streets but "cobra-head" highway fixtures should only occur at intersections if absolutely
necessary. All materials and equipment chosen for lighting fixtures should be durable to age well without demanding maintenance requirements.

Mechanical equipment is generally any Heating Ventilation and Air Conditioning (HVAC) or electrical machinery but also includes air compressors, hoods, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, garbage cans, storage tanks, and similar elements. These elements should not be located in any public areas or be visible from the street. Mechanical equipment should not detract or interfere with the pedestrian space or block the sight triangle.

The illustrations and statements on this page are advisory only. Refer to the Code standards on the following page for the specific prescriptions of this section.

The illustrations below are examples of mechanical equipment arrangements that are only acceptable away from and/ or not visible from a STREET-SPACE (e.g. within an ALLEY or hidden from view).

C. Lighting

1. Street lights shall be located between 9 feet and 16 feet above grade with a maximum average spacing (per block face) of 50 feet on center on Storefront General frontages and General frontages, and 75 feet on all other frontages along the street tree alignment line on each side of the street-space and travel lanes (unless otherwise indicated on the regulating plan).
2. At the front of the building, exterior lights shall be mounted between 6 feet and 14 feet above the adjacent grade.

3. All lots with alleys shall have lighting fixtures within five feet of the alley. These fixtures shall illuminate the alley, be between 9 and 16 feet in height, and not cause glare in adjacent lots.
4. Lighting elements shall be specified to proscribe those that cast a clearly/perceptively unnatural spectrum of light (such as low pressure sodium). LED, metal halide or halogen elements with a spectrum of light more perceptively natural are preferred. HID or fluorescent lights (excepting compact fluorescent bulbs that screw into standard sockets) shall not be used on the exterior of buildings. These standards may be updated by the Code Administrator as technologies advance and produce additional equivalent or better elements.

5. Floodlights or directional lights (maximum 100-watt bulbs) may be used to illuminate alleys, parking garages and working (maintenance) areas, but shall be shielded or aimed in such a way that they do not shine into other lots, the street-space, or direct light out of the district.
6. Flood or uplighting may not be used to illuminate private building walls. Accent lighting may be permitted on civic use buildings, historic buildings, or monuments to highlight architectural features (such as church steeples or courthouse domes).
7. Site lighting shall be of a design and height and be located so as to illuminate only the lot. An exterior lighting plan shall be approved as consistent with these standards by the Code Administrator.
8. Flashing, traveling, animated, or intermittent lighting shall not be mounted on the exterior of any building whether such lighting is of temporary or long-term duration.
9. Lighting for parking garages shall consider general Crime Prevention Through Environmental Design (CPTED) intent and guidelines.
10. Holiday Lighting is exempt.

D. Mechanical Equipment

1. The following shall be placed behind and away from any required building line, may not be stored or located within any street-space, and shall be screened from view from the street-space: air compressors, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, garbage cans, storage tanks, and similar equipment.
2. Roof mounted equipment shall be placed behind and away from any required building line and be screened from view from the street-space.

Part 7. Parking and Loading Standards

701. Intent

A. Promote a "park once" environment that will enable people to conveniently park and access a variety of commercial and civic enterprises in pedestrian friendly environments by encouraging shared parking.

B. Reduce fragmented, uncoordinated, inefficient, reserved single-purpose parking.

C. Avoid adverse parking impacts on neighborhoods adjacent to redevelopment areas.

D. Maximize on-street parking.

E. Provide flexibility for redevelopment of small sites and for the preservation of historic buildings.

F. Increase visibility and accessibility of parking.

G. Promote early prototype projects using flexible and creative incentives.

702. Other Applicable Regulations

A. The requirements of Chapter 32, Streets, Sidewalks and Local Improvements, apply to all parking and loading areas under this Code.

B. Pervious surfaces approved by the City Engineer are encouraged for surface parking lots.

703. Scope of Regulations

A. Sites under 8,000 square feet in commercial floor area have no minimum parking requirements.

B. Sites over 8,000 square feet in land area (and all residential uses) have the following requirements.

1. A minimum of 1 and 1/4 parking space per residential unit, of which a minimum of 1/4 parking space per residential unit shall be provided as shared parking. There are no maximum limits on shared parking.

2. A minimum of one and 1/4 spaces per 1,000 square feet of non-residential Gross Floor Area (GFA) shall be provided as shared parking; there are no set maximum limits on shared parking. New on-street parking spaces created in conjunction with the development, which did not previously exist, may be counted toward the minimum requirement for shared parking. Any limitations on the shared parking (time limits or hours of the day) shall be subject to approval by the code
administrator which shall be given upon a finding that at least 12 hours of public parking are provided in any 24-hour period and that at least 8 of those hours are provided during either business or nighttime hours depending on whether the code administrator determines that the primary public use will be for commercial or residential uses.

3. Reserved parking above the maximum (see Section 704 below) may be provided upon payment to the City. Reserved parking includes all parking that is not shared parking. The code administrator shall establish the amount of payment annually based on the approximate cost to build structured parking.

C. Achieving parking requirements:

1. Parking requirements may be met either on-site or within an 800 foot walking distance of the development.
2. In lieu of minimum parking requirements, the City may accept a one-time payment per each space of shared parking. The code administrator shall establish the amount of payment annually based on the approximate cost to build structured parking.

D. Shared parking shall be designated by appropriate signage and markings as determined by the code administrator

E. Sites over 10,000 square feet in land area have the following requirements for bicycle parking:

1. For COMMERCE development, the developer must provide 1 employee bicycle parking rack (2-bike capacity) per 5,000 square feet of GFA and 1 visitor/customer bicycle parking rack (2-bike capacity) per 18,000 square feet of GFA.
2. For residential development, the developer must provide 1 tenant bicycle parking rack (2-bike capacity) per 10 units and 1 visitor bicycle parking rack (2-bike capacity) per 25units.
3. Bicycle parking facilities are to be highly visible to intended users. The bicycle parking facilities shall not encroach on any area in the public right of way intended for use by pedestrians, nor shall they encroach on any required fire egress.
4. On-street bicycle parking spaces may be counted toward the minimum customer/ visitor bicycle parking requirement.

E. *Existing parking and loading facilities.* Required off-street parking and loading facilities in existence on the effective date of this ordinance and located on the same lot as the building or use served or located elsewhere shall not hereafter be reduced below or, if already less than, shall not be further reduced below, the requirements for a similar new building or use under the provisions of this ordinance.

F. *Permissive parking and loading facilities.* Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, in accordance with all regulations herein governing the location, design, and operation of such facilities.

G. *Submission of site plan.* Any application for a building permit, or for a business license where no building permit is required and there is a change in use, shall be accompanied by a site plan, drawn to scale and fully dimensioned, showing off-street parking or loading facilities to be provided in compliance with this ordinance. For parking facilities providing more than twenty (20) parking spaces or more than two loading spaces, the plans shall be prepared by a certified engineer licensed by the Commonwealth of Virginia.

704. Maximum Parking Spaces

A. Reserved Parking

1. Surface and structured parking spaces may be reserved for a specific tenant or unit, provided that the following standards are not exceeded:

Use	Reserved (non-shared) Spaces (maximum)
Residential	2.0 per single-family unit 1.0 per one-bedroom multifamily unit 1.0 per two-bedroom multifamily unit 2.0 per three-bedroom multifamily unit
Nonresidential	1.0 per 1,000 SF

B. Maximum Surface Parking

Surface parking may not exceed 110 percent of the required parking. Structured or underground parking may exceed the required quantity of parking without the imposition of maximum standards.

705. Special Parking Standards

1. Joint Parking

a. Sites abutting one another shall physically connect their surface parking areas at the lot line to create connecting drive aisles where such surface parking areas lie within 50 feet of one another, provided a mutual access easement acceptable to the Code Administrator has been executed. Uses existing pre-Code (2009) are exempt from this requirement.

b. The agreement must ensure that maneuvering space for required parking spaces in both parking areas is preserved.

2. On-Street Parking

a. A parking space located on a public street may be included in the calculation of parking requirements if it is adjacent to the building site (where more than 50% of the space is fronting).

b. Each on-street parking space may only be counted for one use, except that an on-street parking space may be used to reduce the combined total parking requirement of a mixed use project.

3. Off-Site Parking

a. Off-site parking must be located within a walking distance of 800 feet from the site served by the off-site parking.

b. The off-site parking shall be located within the Uptown D2 District.

c. The off-site parking must be the subject of a long-term lease approved as to form by the City Attorney, or permanently dedicated for off-site parking use.

3. Tandem Parking

a. Tandem parking is allowed for:

(i) Single-family projects; and

(ii) Multifamily projects and the residential component of mixed-use projects.

b. Two parking spaces in tandem shall have a combined minimum dimension of 9 feet in width by 34 feet in length.

c. Up to 75 percent of the total off-street parking spaces provided for residential projects may incorporate tandem parking. For residential projects, both tandem spaces shall be assigned to the same dwelling unit. Tandem parking may not be used to provide guest parking.

706. Surface Parking Lot Plantings

1. New Development

a. The edge of any surface parking lot adjacent to a single family (detached or attached) lot shall have be planted with canopy shade trees from the Tree List in Part 5, Urban Standards, planted at an average distance not to exceed 40 feet on center and aligned three to seven feet behind the common lot line.

b. Edges along a common lot line shall have a street wall, garden wall or privacy fence.

707. Loading Facilities

A. No loading facilities are required.

B. Where loading facilities are provided, they shall be located to the rear and alley side of buildings.

Part 8. Building Function

801. General Provisions

A. Permitted Uses

In order to regulate use, categories of uses have been established. Use categories provide a systematic basis for assigning land uses to appropriate category with other, similar uses. Use categories classify land uses and activities based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, likely impact on surrounding properties, site conditions and site conditions.

1. **Principal Uses**
   Principal uses are grouped into categories of uses. Permitted principal uses by frontage are shown in Sec. 802. The use categories used in the use chart are listed in Sec. 804.

2. **Accessory Uses**
   Accessory uses are allowed in conjunction with a permitted principal use as set forth in Sec. 805.

B. Use Determination

1. **Administrator Responsibility**
   The Code Administrator is responsible for categorizing all uses. If a proposed use is not listed in a use category, but is similar to a listed use, the Code Administrator shall treat the proposed use as a use under that category. If a proposed use is not listed in a use category, and is not similar to any other listed use, the use shall be prohibited.

2. **Uses Not Specifically Listed**
   When determining whether a proposed use is similar to a use listed in Sec. 804, the Code Administrator shall consider the following criteria:
   a. The actual or projected characteristics of the proposed activity in relationship to the stated characteristics of each use.
   b. The relative amount of site area or floor space and equipment devoted to the activity.
   c. Relative amounts of sales from each activity.
   d. The customer type for each activity.
   e. The relative number of employees in each activity.
   f. Hours of operation.
   g. Building and site arrangement.
   h. Types of vehicles used and their parking requirements.
   i. The relative number of vehicle trips generated.
   j. Signs.
   k. How the use is advertised.
   l. The likely impact on surrounding properties.
   m. Whether the activity is likely to be found independent of the other activities on the site.

802. Use Table

The use table identifies the uses allowed in the respective frontages (building envelope standards).

USE TABLE
Form Based Code District

P = Permitted Use; U = Allowed with a Use Permit; Blank Space = Prohibited							
USE CATEGORY	USE TYPE						
		General Urban Frontage	Storefront Frontage	Townhouse Small Apt Frontage	Workshop Frontage	Detached House	Conditions
RESIDENTIAL USE CLASSIFICATION							
Household Living	Dwelling, live/work	P*	P*	P	P		* Above Ground Floor
	Dwelling, multi-family	P*	P*	P			*Provided ground story ceiling height is designed for future commercial use.
	Dwelling, single-family attached			P		P	
	Dwelling, single-family detached			P		P	
	Dwelling, townhouse			P		P	
	Dwelling, two- to four-family			P		P	
	Dwelling, upper story	P	P	P			
Group Living	Dormitory						
	Family care home						
	Fraternity or sorority house						
	Group home	P		P		P	8 or less mentally Handicapped dependent persons
	Individual and Family Social Services	U		U	U		
	Rooming or boarding house						
	Single room occupancy (SRO) facility						
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION							
Community Services	Community center	P	P	P	P	P	
	Cultural facility	P	P	P		P	
	Library	P	P	P	P	P	
	Museum	P	P	P	P	P	
	Senior center	P	P	P	P	U	
	Youth club facility	P	P	P	P	P	
Day Care	Adult day care center	U	U				
	Child day care center	U	U				
	Family child day care home (6 to 12 children)			U		U	
	Home child day care for 5 or fewer children			P		P	
Educational Facilities	College or university	P	U	P	P		
	School, elementary	P	U	P	P	P	
	School, middle	P	U	P	P	P	
	School, high	P	U	P	P	P	
	Vocational or trade school	P	U	P	P		
Government Facilities	Government maintenance, storage, or distribution facility				P		
	Government offices	P	P*	P	P		* Above Ground Floor
	Other Government Facilities	P	P*		P		* Above Ground Floor
	Post office	P	P*	P	P		* Above Ground Floor
Health Care Facilities	Blood/tissue collection facility						
	Drug or alcohol treatment facility						
	Hospital	P	P		P		
	Medical or dental clinic	P	P		P		
	Medical or dental lab	P	P		P		
	Medical treatment facility	P	P		P		
	Outpatient facility	P	P		P		
Institutions	Assisted living facility			U			
	Auditorium	P	P				
	Convention center	P	P				
	Halfway house						
	Nursing home			U		U	
	Psychiatric treatment facility						
	Religious institution	P	P	P	P	P	
	Civic, social or fraternal clubs or lodges	P	P				
	Shelter						
Parks and Open Areas	Arboretum or botanical garden						
	Cemetery, columbaria, mausoleum						
	Community garden			P		P	
	Equestrian facility						
	Golf course, public						
	Park, public	P	P	P		P	
	Park, private			P			
	Public square or plaza	P	P	P		P	
Public Safety	Correctional facility						
	Fire or EMS facility	P	P	P	P	P	
	Fire or police substation	P	P	P	P		
	Police station	P	P	P	P		
Transportation	Airport						
	Helicopter landing facility	P			P		
	Water Transportation/Charters						

USE TABLE
Form Based Code District

P = Permitted Use; U = Allowed with a Use Permit; Blank Space = Prohibited							
USE CATEGORY	USE TYPE						
		General Urban Frontage	Storefront Frontage	Townhouse Small Apt Frontage	Workshop Frontage	Detached House	Conditions
	Funeral home	P					
	Laundry, self-service		P				
	Convenience store, without gas sales	P	P		P		
	Convenience store, with gas sales	U	U				
	Drug store or pharmacy, without drive-through service	P	P		P		
	Drug store or pharmacy, with drive-through service	U	U				
	Any use not mentioned above that utilizes a drive thru	U	U				
	Flea market						
	Farmers Market	P			P		
	Second Hand Sales	P	P		P		
	Grocery store	P	P		P		
	Liquor store	U	U		U		
	Retail sales establishment, large	U	U		U		
	Small Retail/Eating Establishment	P	P		P		Gross square footage less than 2500 square feet
	Other retail sales establishments	P	P		P		
Personal Services	Massage parlor	P			P		
	Personal services establishment	P	P		P		
	Barber Shop	P	P		P		
	Beauty Salon	P	P		P		
	Special events house	P	P				
	Tattoo parlor/body piercing establishment				U		
	Repair establishment				P		
Self–Service Storage	Mini-warehouse				P		
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance				P		
	Automotive painting/body shop				P		
	Automotive wrecker service						
	Transmission shop				P		
	Boat and marine rental and sales				P		
	Truck stop						
Vehicle Sales and Services, Light	Automotive parts and installation				P		
	Automobile repair and servicing (without painting/bodywork)	P			P		
	Automobile sales or rentals	P			P		
	Automotive wrecker service						
	Car wash or auto detailing				P		
	Motorcycle sales	P			P		
	Recreational vehicle sales or rentals						
	Tire/muffler sales and mounting				P		
Visitor Accommodations	Bed and breakfast inn		P	P			
	Campground or recreational vehicle (RV) park						
	Hotel or motel	P	P				Full service only
	Tourist Home						
INDUSTRIAL USE CLASSIFICATION							
Industrial Services	Building, heating, plumbing, or electrical contractor				P		
	Electric motor repair				P		
	Fuel oil/bottled gas distributor				P		
	Fuel oil storage				P		
	General industrial service				P		
	Heavy equipment sales, rental, or storage				P		
	Heavy equipment servicing and repair				P		
	Laundry, dry cleaning, and carpet cleaning plants				P		
	Machine shop				P		
	Repair of scientific or professional instruments				P		
	Research and development				P		
	Tool repair				P		
Manufacturing and Production	Manufacturing, heavy						
	Manufacturing, light				P		
	Bulk fuel sales and storage						

USE TABLE
Form Based Code District

P = Permitted Use; U = Allowed with a Use Permit; Blank Space = Prohibited							
USE CATEGORY	USE TYPE						
		General Urban Frontage	Storefront Frontage	Townhouse Small Apt Frontage	Workshop Frontage	Detached House	Conditions
Warehouse and Freight Movement	Cold storage plant						
	Outdoor storage (as a principal use)						
	Parcel services	P	P		P		
	Shipping container storage yard						
	Truck or freight terminal						
	Warehouse (distribution)						
	Warehouse (storage)						
Waste-Related Services	Energy recovery plant						
	Hazardous waste collection sites						
	Incinerator						
	Recycling and salvage center						
	Recycling drop-off center						
	Salvage and junkyard						
	Tire disposal or recycling						
	Waste composting						
Wholesale sales	All uses				P		
ACCESSORY USE CLASSIFICATION							
	Accessory Dwelling Units single-family detached dwellings only						
	Amatuer Radio/TV Antenna		P	P	P	P	
	Canopies	P	P	P			
	Clothes line			P		P	
	Community Garden			P		P	
	Fences or Walls						
	Garges			P		P	
	Greenhouses						
	Home Occupations	P	P	P	P	P	
	Outdoor Display/Sales						
	Rainwater Cisterns			P		P	not visible from the street
	Satelite Dish	P	P	P	P	P	not visible from the street
	Recycling Drop-off Stations						
	Solar Energy Equipment						not visible from the street
	Storage or Parking of Heavy Trucks, Trailers, Major Recreational Equipment, or Mobile Home				P		
	Swimming Pools	P	P	P		P	not visible from the street
	Spas, and Hot Tubs	P	P	P		P	not visible from the street
	Vending Machines	P	P	P	P		not visible from the street
TEMPORARY USE CLASSIFICATION							
	Outdoor Seasonal Sales	P	P				Such sales are limited to a maximum of 30 days per calendar year and no more than three occurances per parcel per year.
	Garage and /or Yard Sales			P		P	Such sales are limited to a maximum of three occurrences per parcel per year, for a maximum duration of two days per occurrence, unless expressly stated otherwise in this Ordinance.
	Special Events	P	P	P	P		Such events are limited to 14 total days per calendar year, per parcel, unless expressly stated otherwise in this Ordinance.

803. Additional Regulations

A. General

No civic, commerce or workshop use is permitted above a residential use.

B. Household Living

1. A lobby serving an upper store residential use is permitted on the ground story of a Storefront General site.
2. Household living is permitted on top floor or upper most floor only of a Workshop site and shall not exceed 25 percent of the gross floor area of the entire building.

C. Civic

Buildings that house civic uses located on sites specifically designated on the regulating plan are not subject to Part 4, Building Envelope Standards.

D. Personal Service

Outdoor runs in association with an animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, kennel, or doggy day care facility shall not be permitted.

E. Overnight Lodging

A lobby serving an upper story overnight lodging use is permitted on the ground story of any Storefront General site.

F. Restaurant/Bar, Retail Sales

1. A restaurant/bar or retail use is permitted in the upper story of a Storefront General or General site provided it is a second story extension equal to or less than area ofthe same ground story use.
2. Only merchandise or commodity manufactured on premise may be sold in the ground story of a Workshop site.

804. Accessory Uses

A. Unless otherwise expressly stated, accessory uses are permitted in conjunction with allowed principal uses. Accessory uses shall be accessory and clearly incidental and subordinate to a permitted principal use.

B. No accessory use may be established on a site prior to the establishment of a permitted principal use.

C. The Code Administrator is authorized to determine when a structure or use meets the definition of an accessory use. In order to classify a structure or use as accessory, the Code Administrator shall determine that the use:

1. Is subordinate to the principal use in terms of area, extent and purpose;
2. Contributes to the comfort, convenience or necessity of occupants of the principal use served;
3. Is located on the same lot as the principal structure or use, or on a contiguous lot in the same ownership;
4. Does not involve operations not in keeping with the character of the principal use served; and Is not of a nature likely to attract visitors in larger numbers than would normally be expected.

Part 9. Definitions

901. Defined Terms

The following terms are defined for the purpose of this Code. Terms not defined here may be defined elsewhere in the City of Portsmouth Zoning Ordinance. In such case, the definition contained in the Zoning Ordinance shall be used. Certain terms in this Code are used in very specific ways, often excluding some of the meanings of common usage. Where there is an apparent conflict or contradiction, the definition herein shall prevail.

Accessory Unit. A building or addition for living purposes (maximum footprint of 650 square feet—or the footprint of the main structure for english basement type accessory units) that is not the primary structure or principal dwelling unit on a lot, that can be used as additional residential or home occupation space.

Alley/Alley Access Easement. The public right-of-way or easement for vehicles and pedestrians within a block that provides access to the rear or side of properties, vehicle parking (e.g., garages), utility meters, recycling containers, and garbage bins.

Attic Story. Habitable space situated within the structure of a pitched roof and above the uppermost story. They are permitted for all BES sites and do not count against the maximum story height or ultimate height limits of their BES. Attic stories may have only dormers as windows on the RBL side of the roof-pitch.

Awning. A cantilevered, projected or suspended cover over the sidewalk portion of the street-space. Also a roof-like coverings, usually of canvas or metal, and often adjustable, placed over the sidewalk, windows, or doors to provide protection from sun and rain.

Balcony. An exterior platform attached to the upper floors of the building facade (forward of the required building line).

Bay Window. Generally, a U-shaped enclosure extending the interior space of the building outward of the exterior building wall/required building line (along its street-space side). The minimum interior clear width at the main wall shall be four feet. Bay windows shall not project more than 36 inches beyond the required building line; and walls and windows shall be between 90 degrees (perpendicular) and 0 degrees (parallel) relative to the primary building wall from which they project.

Block Corner. The outside corner of a block at the intersection of any two streets. Inside corners, where the resulting angle formed by the block face is less than 180 degrees (concave) are not considered block corners for the purposes of this Code.

Building Lot Limit. A line delineating the outer edge of the buildable area, generally to the rear of a lot away from the required building line. Where designated on the regulating plan, this shall supersede the building envelope standards minimum setbacks.

Building Corner. The outside corner of a building where the primary building mass is within an angle less than 180 degrees. Inside corners, where the exterior space of the building mass forms an angle of more than 180 degrees are not considered building corners for the purposes of this Code.

Building Envelope Standards (BES). The part of this Code that establishes basic parameters regulating building form, including the envelope (in three dimensions), placement and certain

permitted/required building elements, such as storefronts, balconies, and street walls. The building envelope standards establish both the boundaries within which things may be done and specific things that must be done. The applicable building envelope standards for a site is determined by its street frontage as per the regulating plan. This produces a coherent street-space and allows the building owner greater latitude behind its facade.

Building Face. See Facade.

Required Building Line (RBL). A line or plane indicated on the regulating plan, defining the street frontage which extends vertically and generally parallel to the street, at which the building shall be placed. The façade shall occur on the
required building line - this is a requirement, not a permissive minimum. The minimum length and height of frontage that is required at the RBL is shown on the appropriate building envelope standard.

Civic Green or Square. A public open space designated on the regulating plan. The term square is generally used to describe spaces that have more paved surface area. The term civic green is generally used to describe a formally configured small public lawn or park that is primarily unpaved. Civic greens and squares do not include active recreation structures such as ballfields and courts. See the urban space standards for the specific controls on squares and civic greens.

Civic Use Buildings. Those buildings that house strictly civic uses located on sites designated on the regulating plan. Civic use buildings and publicly-owned public art are not subject to the building envelope standard prescriptions of this Code. See also Use, Civic.

Clear Walkway. An area within the sidewalk that must allow public passage and remain clear of obstructions. The clear walkway width is designated in the street type specifications.

Code Adminstrator. The Director of Planning or their designee shall serve as code administrator. The code administrator shall excercise the authority and perform the duties as set forth herein.

Common Lot Lines. Lot lines shared by adjacent private lots.

Comparative Pedestrian Crossing. The measured distance, shown on the street type specifications, that a pedestrian would be within an automobile travel lane (or turning movement) while crossing a street. A crossing time is calculated based on a pedestrian speed of 3.7 feet per second (a generally accepted average). This distance/time is calculated in order to provide a relative gauge of the pedestrian crossing comfort level.

Conservation Line. A line established to guarantee the preservation of designated areas. Land beyond the conservation line shall not be built upon paved, driven on, re-graded or otherwise disturbed, except as specified in an Master Plan.

Covered Sidewalk. A roofed or built structure attached to the façade and extending beyond the required building line and over the sidewalk or square, open to the street-space except for supporting columns, piers, or arches. Covered sidewalks shall have a minimum clear height of 13 feet (signage or lighting may encroach) and a minimum clear width (from façade frontage or required building line) to inside column face of ten feet. The area within a covered sidewalk shall include a clear walkway. (See building envelope standards for complete specifications.)

Detached Frontage Building. Building form and functions resulting from/as determined by the building envelope standard regulations indicated on the regulating plan.

Dooryard. The area within the street-space between the façade of the building (generally the

required building line) and the clear walkway area of the sidewalk. Stoops, balconies, bay windows and, for appropriate commerce uses, temporary displays or café seating, and other encroachments as specified by the Code Administrator may be placed within the dooryard area. The dooryard area is designated in the street type specifications.

Dormers. Roofed ancillary structures with windows providing light and air to habitable space within the roof. Dormers are permitted and do not constitute a story (for height measurement purposes) so long as: they do not break the primary eave line, are individually less than 15 feet wide, and are collectively not more than 60 percent of their required building line façade length.

Eave Height. Eave height shall be measured at the bottom of the top layer of roofing material at its outermost point from the building wall.

English Basement Unit. A habitable floor level below the first floor that is partially above and below grade. The ceiling of an english basement is at least 3 feet above sidewalk grade with windows and an entry with direct street-space access.
English basement units do not count against the story height limit but do count against the ultimate height measurement.

Equivalent or Better. A building material or construction technique that has been determined, by the Code Administrator, to be at least equal to, in appearance, durability, etc., or surpassing those expressly permitted herein.

Fenestration. Openings in the building wall, including windows and doors, allowing light and views between interior (private realm) and exterior (public realm). Fenestration is measured as glass area (excluding mullions and similar window frame elements with a dimension greater than one inch) and/or as open area.

First Floor. See Ground Story.

General Frontage Building. Building form and functions resulting from/as determined by the building envelope standards indicated on the regulating plan.

General Storefront Frontage Building. Building form and functions resulting from/ determined by the appropriate building envelope standards indicated on the regulating plan.

Front Porch. The ground floor platform attached to the front or required building line side of the main building. Required front porches, where specified in the building envelope standards, must be roofed and enclosed by balustrades
(railings) and posts that extend up to the roof and shall not be otherwise enclosed, above a height of 42 inches, except with insect screening. A front porch may have a single ground floor platform or two to three platforms stacked at the ground and upper story levels.

Front Yard. An open space required by certain building envelope standards types extending across the entire width of the lot between the facade and the sidewalk. Where double frontage or corner lots exist, any required front yard shall be provided on both streets. This area is contiguous with the street, and includes any front porch.

Front Yard Fence. The wood (picket), wrought iron fence, or masonry wall, between 30 and 40 inches in height, located along and surrounding the front yard (generally 1 foot behind and parallel to the dooryard/sidewalk area of private lots and also along common lot lines to a point at least ten feet back from the required building line.

Garden Wall. A masonry wall defining a property line or delineating a private area. Shall be set back (or forward) not more than eight inches from the specified required building line in the

regulating plan or building envelope standards. (For height and gate specifications, see the building envelope standards.) A garden wall may serve as a front yard fence.

Ground Story. The first habitable level of a building at or above grade. For commerce uses, at least two-thirds of the finished floor elevation within 30 feet of the required building line shall be within 18 inches of the adjacent fronting sidewalk level. When a residential use occupies the ground story, the finished floor elevation shall be at least three feet above the fronting sidewalk elevation, unless otherwise specified in the building envelope standards. The next story above the ground story is the second floor or second story.

Open Area See Private Open Area.

Parapet Height. Where used to limit building height in this Code, parapet height shall be measured at the top of the parapet, including any coping. An additional three feet in height by 12 feet in width or 15 percent of the façade, whichever is greater, is permitted for a section of the parapet to emphasize the building's primary street entry or a block corner.

Parking Setback Line. A line or plane indicated on the regulating plan which extends vertically (unless otherwise noted) and is generally parallel to the required building line. The parking setback is typically 30 feet behind the required building line unless otherwise designated on the regulating plan. All parking shall be set-back behind this line, excepting where it is below grade. The parking setback line is a permissive minimum distance from the required building line and parking may be placed anywhere within the lot behind this line, except where otherwise specified in this Code.

Pedestrian Pathway. An interconnecting paved way that providing pedestrian and bicycle passage through blocks running from a street-space to another street-space, an alley or an interior block parking area. The area within a pedestrian pathway shall be a public access easement or public right-of-way. The easement width for these pathways shall not be less than 20 feet with a paved walkway not less than 10 feet wide, except where otherwise specified on the regulating plan, and shall provide an unobstructed view straight through their entire length.

Privacy Fence. An opaque fence made of wood or masonry (not chain link or any other type of rolled fence) along alleys and common lot lines (where more than ten feet behind the required building line). See the building envelope standards for height specifications.

Private Open Area. An area within the buildable area and behind the parking setback line, accessible only to occupants of the particular building or site, and (primarily) open to the sky. Additional specifications for the private open area may be included in each building envelope standard. Private open area shall not be built-upon, used to satisfy minimum stormwater BMP area, parked or driven upon (except for emergency access).

Regulating Plan. The implementing plans for the development of the district under this Code. Regulating plans allocate the building envelope standards and street types and provide specific information for the disposition of each building site. The regulating plan also shows how each site relates to adjacent street-spaces, the overall district, and the surrounding neighborhoods.

Sidewing. The portion of a building extending along a common lot line toward the alley or rear of the lot.

Stoop. An entry platform on the facade of a building. Stoops may be roofed, but they shall not be enclosed. (See the individual building envelope standards for specifications.)

Storefront (Shopfront). Ground story facade fenestration for retail and commerce uses. For regulating plan designated General and Storefront General frontages the storefront may

encroach up to two (2) feet into the dooryard area. Storefronts have a minimum 40 % fenestration level.

Story (Story Height). That space within a building and above grade that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above. Story height parameters are as specified by the appropriate building envelope standard.

Street Frontage. That portion of the lot or building that is coincident with the required building line as required by this Code.

Street Light. A luminaire installed on both sides of the street-space, along the street tree alignment line, unless otherwise designated on the regulating plan. Street lights shall be between 9 and 16 feet above ground in height. Lighting standards for street-spaces and alleys should be developed to meet the minimum standards of the *Illumination Engineering Society of North America (IESNA),* with the design criteria giving equal weight to the lighting of the pedestrian areas and the automobile areas.

Street-Space. All space between fronting required building lines (streets, squares, plazas, pedestrian pathways, civic greens, sidewalks, parks)—including any transit service operator passenger platform—but not garage entrys or alleys.

Street Tree. A tree required per this code and listed in the Street Tree List located in urban space standards that is of a proven hardy and drought tolerant species and large enough to form a canopy with sufficient clear trunk to allow traffic to pass under unimpeded.

Street Tree Alignment Line. A line along which street trees shall be planted and street lights and other such infrastructure are to be placed. It is generally parallel with the street-space and, unless otherwise specified in the regulating plan, is:

- for tree lawns of 7 feet or less, 3 feet from the back-of-curb.
- for tree lawns greater than 7 feet, 4 feet from the back-of-curb or the tree lawn centerline, whichever is closer to the street-space centerline.
- the street tree alignment line for center medians is their centerline.

Street Wall. A masonry wall set back not more than eight inches from the required building line which assists in the definition of the street-space in the absence of a building. See the building envelope standard for height and gate specifications.

Townhouse/Small Apartment Frontage Building. Building form and functions resulting from/as determined by the building envelope standards indicated on the regulating plan.

Tree Lawn. A continuous strip of soil area—typically covered with grass, other vegetation, bridging pavement, or sometimes porous pavers—located between the back of curb and the sidewalk, and used for planting street trees and configured to foster healthy street tree root systems. Tree lawn dimensions are specified in the street type specification.

Use, Civic. Community uses including: meeting halls; libraries; schools; police and fire stations; post offices (retail operations only, no primary distribution facilities); places of worship; museums; cultural, visual and performing art centers; transit centers; government functions open to the public; and, other similar uses.

Use, Retail. Includes the following:

Retail Service. Establishments providing services, as opposed to products, to the general public, including restaurants, hotels and motels, finance, real estate and insurance, travel agencies,

health and educational services, and galleries; as well as personal services as defined in the City of Portsmouth Zoning.

Retail Sales. Establishments wherein the primary use is the sale of merchandise for use or consumption by the immediate purchaser.

Where Clearly Visible from the Street-Space. Many requirements of this Code apply only where the subject is "clearly visible from the street-space." (Note that the definition of street-space includes squares, civic greens, parks, and all public space except alleys and common drives.) A building element more than 40 feet from a required building line or street-space is by definition not clearly visible from the street-space (such as elements facing a common lot line). Also, common or party walls are by definition *not* clearly visible from the street-space. This does not exempt vehicle parking lots or parking structures from any building envelope standard requirements.

Workshop Frontage Building. Building form and functions resulting from/as determined by the building envelope standards indicated on the regulating plan.