

## **ARTICLE IIIIX. — ZONING DISTRICTS GENERALLY APPLICABLE REGULATIONS**

### **DIVISION 3.51. — GENERALLY APPLICABLE ZONING DISTRICT REGULATIONS PURPOSE**

#### **Sec. 34-960. - Purpose.**

The purpose of this ~~division article~~ is to set forth general zoning regulations applicable to land, buildings or structures, and the uses thereof, within all of the city's zoning districts. The provisions set forth within this division are hereby deemed to be part of the regulations for each and every zoning district classification, the same as if these provisions were set forth verbatim within such regulations. ~~several categories of regulations that apply to certain uses, structures and lots, wherever they may be located.~~

### **DIVISION 2. — OFF-STREET PARKING**

#### **Sec. 34-970. Purpose.**

~~The purpose of these regulations is to set forth off-street parking and loading requirements for permitted uses, in accordance with the intensity of such uses; and to provide adequate parking for the traveling public, in order to reduce traffic hazards and conflicts between motor vehicles and alternate methods of transportation; to allow flexibility in addressing vehicle parking, loading, and access issues; to present a variety of strategies to solve parking issues; to encourage walking and alternate modes of transportation; and to maintain and enhance a transportation system that is consistent with environmental goals and clean air.~~

~~(9-15-03(3))~~

#### **Sec. 34-971. — Off-street parking Applicability.**

- (a) ~~Land, buildings and structures, and the uses thereof, shall comply with the requirements of this division when established, constructed, reconstructed, erected, demolished, altered, enlarged or changed. Off-street parking and loading spaces shall be provided in accordance with the provisions of this division, at the time of construction, erection, alteration, enlargement or change in use of any building, structure or use. Thereafter, such spaces shall be maintained and kept available for such use, to the extent of the minimum number of spaces required hereunder, unless there is a change of use or floor area.~~
- (b) Any use for which the required amount of parking was approved as of December 15, 1975 shall be considered as conforming as to the parking requirements, so long as the use remains unchanged. ~~Otherwise, only those uses for which parking or loading space was approved and provided prior to the effective date of this chapter shall be considered in conformance with this division, provided the intensity of such use remains unchanged.~~
- (c) For buildings or uses for which parking requirements are based on floor area:
  - (1) ~~If the floor area of a building or use is enlarged by For enlargements of existing structures equal to or greater than 25% or more of the structure's gross floor area,~~ required parking must equal the

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**Comment [RL1]:** This is inconsistent with non-conforming use provisions

sum of ~~the these~~ spaces required prior to the enlargement and the number of spaces required by ~~this division for these regulations for the any additional floor use area, unless waived by city council. If the floor area of a building or use is enlarged by~~ Where the enlargement is less than 25% of structure's gross floor area no additional parking shall be is-required.

Comment [RL2]: This only works if the parking is based on SF, instead of use

(2d) For a change of use ~~or the establishment of a new use~~ within an existing ~~building structure, on-site parking requirements shall be updated and all parking spaces required by sec. 34-XXX shall be provided. However, if there~~ ~~where there~~ is no enlargement of the existing ~~building structure, and the new use does not individually, or in the aggregate with other uses within the same building require additional parking spaces per sec. 34-XXX, then~~ no additional parking is required.

(de) The following three (3) parking zones shall be subject to the specific requirements set forth hereunder:

(1) The Urban Core Parking Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking shall not be required for a development in the Urban Core Parking Zone unless such development requires a special use permit for increased residential density above that allowed by right. Parking required pursuant to Article IX shall be provided for all additional units allowed as a result of the increased density, unless such requirement is waived by council. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below.

(2) The Corner Parking Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking shall not be required for a development in the Corner Parking Zone unless such development requires a special use permit for increased residential density above that allowed by right. Parking required pursuant to Article IX shall be provided for all additional units allowed as a result of the increased density, unless such requirement is waived by council. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below.

(3) The Parking Modified Zone is established as designated on the most recently approved City of Charlottesville Zoning Map. Provision of parking for a development in the parking modified zone shall be computed using the provisions of sections 34-984 and 34-985. Only if a development requires more than twenty (20) parking spaces pursuant to section 34-984 of this Code shall parking be required as follows: non-residential developments shall provide 50% of the required parking, and residential developments shall provide one (1) space per unit. Parking requirements may be fulfilled by the property owner or developer through any of the alternatives outlined in subsection (4) below. Affordable housing units (as defined by city council in its adopted affordable housing policy) created in any development shall not be included in the parking calculation, and parking shall not be required as a result of any such units as long as they remain affordable.

(4) Required parking in the Urban Core Parking Zone, Corner Parking Zone, and the Parking Modified Zone shall be provided either:

- a. On site reserved parking;
- b. On-site shared parking, and off-site parking (including shared parking) Within one thousand (1,000) feet of the site, subject to the requirements of all other conditions of section 34-973 and 34-974, as applicable;
- c. By payment into a city parking fund in a standard amount per space established by city council;
- d. By making a one-time contribution for transit improvements equivalent to the cost of each required parking space in a standard amount per space established by city council; or by
- e. Implementation of alternative transportation improvements equivalent to the cost of each required parking space in a standard amount per space established by city council, as approved by planning commission.

Comment [RL3]: Staff review

- (5) In addition to provision of parking as required herein, all developments ~~requiring a site plan~~ within the Urban Core Parking Zone, Corner Parking Zone, and the Parking Modified Zone shall provide bicycle storage facilities, other than bicycle racks, in accordance with section ~~34-881~~.

**Sec. 34-972. — ~~Off-street parking, additional regulations, by building types~~ Location, yard areas, and driveways.**

- (a) For lots:
- (i) containing a single-family detached dwelling or a two-family dwelling, parking may be located within any yard; or
  - (ii) For lots containing a single-family attached dwelling, parking may be located within any yard. Driveways and off-street parking spaces, except those off-street parking spaces provided in a garage or carport, shall not exceed a maximum of twenty-five (25) percent of the lot area between the right-of-way and building setback line. This does not prohibit a lot from having one (1) one-way driveway entrance of a maximum width of twenty (20) feet
- (b) Driveways and ~~off-street parking areas~~ spaces, regardless of zoning district, shall be subject to the following ~~location and dimensional requirements, with such requirements applying to the portion of the driveway and off-street parking spaces located between the right-of-way and the building line.~~
- (1) No driveway entrance or exit shall intersect with a street at a location closer than fifteen (15) feet to any street intersection;
  - (2) No driveway ~~within a residential district, or used for residential purposes,~~ shall be located within three (3) feet from the line of an adjacent property;
  - (3) ~~For driveways and off-street parking spaces, except for those off-street parking spaces provided in a garage or carport, the portion of the driveway and off-street parking area located within any yard between the right-of-way and the building setback line shall not exceed a maximum of twenty-five (25) percent of the lot area of the yard between the right-of-way and building line.~~ This does not prohibit a lot from having one (1) one-way driveway entrance of a maximum width of twenty (20) feet;
  - (4) ~~Each driveway shall be The above language notwithstanding, all driveway entrances shall meet a minimum width requirement of twenty (20) feet wide, minimum and shall not exceed a maximum width of thirty (30) feet, except as allowed by subsection (5) of this section.~~
  - (5) For off-street parking areas in Architectural Design Control Districts and Historic Conservation Districts, ~~(see as defined in Article II-X of this chapter),~~ the city traffic engineer may approve a modification in the required driveway entrance width on properties zoned for multi-family residential, commercial, industrial or mixed-use development following a recommendation from the Board of Architectural Review for such modification. Specific factors to be considered by the city traffic engineer include, but are not limited to, expected traffic volumes, internal site circulation, volume of truck traffic, speed limit of the adjacent roadway, and the presence of turn lanes.
  - (6) Notwithstanding the provisions of section 34-984, no parking shall be required for a single-family detached dwelling, if (i) the dwelling is not located on a corner lot, (ii) the lot on which the dwelling is located has no access to an public alley, and (iii) the dwelling is located on an existing lot that has less fewer than thirty (30) feet of front yard street frontage.
  - (7) Notwithstanding the provisions of section 34-984, no parking shall be required for a single-family attached dwelling or and a two-family dwellings, if (i) the landowner demonstrates the availability of adequate on-street parking; or (ii) the lot on which such dwelling will be located is a nonconforming lot and cannot accommodate any of the required parking spaces within any yard.
- (b) Regulations for other building types:

~~Driveways and common parking areas, except for single-family detached or two-family dwellings, shall also be subject to the following location and dimensional requirements, with such requirements applying to the portion of the driveway located between the right-of-way and the building line:~~

- (1) No driveway entrance or exit shall intersect with a public street at a location closer than fifteen (15) feet to any street intersection, or less than five (5) feet from the end of a curb radius;
  - (2) The total width of driveway entrances (curb cuts) shall not exceed thirty-three (33) percent of the lot frontage. This does not prohibit a lot from having one (1) two-way driveway entrance of a maximum width of thirty (30) feet;
  - (3) Parking ~~may shall~~ be located in side or rear yards, except that: (i) Parking may not be located within any yard ~~adjacent to that faces~~ a public street; and (ii) Parking may be located within any yard in the following districts: Urban Corridor, Highway Corridor, and Industrial Corridor. If a lot faces more than one (1) public street, parking shall be prohibited in the yard that fronts on the public street with the highest functional classification rating. If all ~~streets roads adjoining abutting~~ the ~~lot~~ yard have the same functional classification, parking shall be prohibited in the yard serving as ~~the~~ front yard ~~for the parcel~~.
  - (4) ~~In any zoning district where the following uses are permitted~~ Parking ~~for the such uses~~ may be located in any yard ~~for the following uses~~:
    - a. Gas stations and other automobile service related uses;
    - b. Motor vehicle dealerships;
    - c. Industrial uses.
  - (5) ~~No parking space shall encroach into a public right-of-way. Parking may be located underground, or on one (1) or more floors of a building served by such parking (for example, in townhouse developments, parking may be located under each individual unit); or within common areas;~~
  - (6) No ~~off-street~~ parking ~~area~~ shall be located closer than three (3) feet to any side or rear ~~lot property~~ line. No driveway within a residential ~~zoning~~ district, or ~~on a lot containing any residential use used for residential purposes~~, shall be located within three (3) feet from ~~any adjacent lot~~ the line of an adjacent property.
  - (7) Any parking established in ~~a~~ yards that faces ~~any~~ public street~~(s)~~ shall ~~(i) be subject to the street buffer provisions of section 34-873(b), and (ii) shall also, in addition must include be screened from view from the street by a masonry or similar type wall constructed to a height of at least between the parking area and the public street(s). The wall shall be no less than thirty-two (32) inches in height between the parking area and the public right-of-way.~~
  - (8) ~~For a multifamily dwelling, or a non-residential building, when (i) the building is not located on a corner lot, (ii) the lot on which the building is located has no access to an alley, and (iii) the building is located on an existing lot that has less than forty (40) feet of front yard street frontage.~~
- (c) ~~For lots containing a single-family attached dwelling, parking may be located within any yard. Driveways and off-street parking spaces, except those off-street parking spaces provided in a garage or carport, shall not exceed a maximum of twenty-five (25) percent of the lot area between the right-of-way and building setback line. This does not prohibit a lot from having one (1) one-way driveway entrance of a maximum width of twenty (20) feet.~~
- (d) ~~No lot shall have. When more than one (1) driveway, unless adequate separation and curbing is provided in accordance with the Standards and Design Manual. is provided along a frontage in a single ownership, there shall be a separation of at least twenty (20) feet at the curb line between each driveway, and a six-inch raised protective curb parallel to the street extending not less than two-thirds (2/3) the length of the island shall be placed inside the property line between the driveways.~~

Comment [RL4]: It's not necessary to specify this.

Comment [RL5]: Move this to SDM

- (e) ~~Parking spaces must be designed and used in such a manner as to prevent cars parked in a driveway from encroaching into the public right-of-way.~~
- (f) ~~For zoning purposes, driveways begin at the boundary separating a property from the right-of-way. Driveways and entrances shall be designed and constructed to specifications set forth within Driveways may only be constructed using materials permitted by section 34-982. Entrances must conform to designs listed in the most recent version of the City of Charlottesville The Standards and Design Manual.~~
- (g) ~~The location and design of entrance and exit driveways shall be approved by the director of neighborhood development services to ensure a safe and convenient means of ingress and egress, using current access management principles.~~

**Sec. 34-973. — Off street parking, additional regulations for location of Off-site parking locations permitted, subject to conditions.**

~~(a) On-site parking—off All off-street parking spaces shall be located on the same lot as the building or use or structure to be served, except as set forth within paragraph (b), below follows:~~

(b) Off-site parking--

- (1) ~~Off-site spaces shall be within one thousand four hundred (1,400 feet) feet of the building or use or structure to be served. For the purpose of this requirement, distance from parking spaces to the use or structure served shall be measured in a straight line from the nearest parking space to the use served.~~
- (2) ~~Off-site parking must be a type (surface lot, parking garage, etc.) permitted within the zoning district in which such parking is located. Off-site parking spaces may be located in a different zoning district than the use or structure served, if permitted by right or by special use permit in such zoning district.~~
- (3) ~~A landowner proposing to satisfy parking requirements at an off-site location must demonstrate that such off-site spaces will be and remain available for the life of the use(s) to be served, as evidenced by an easement or other legal instrument recorded in the land records of the circuit court. An off-site location must either: (i) be located on land in the same ownership as that of the use or structure served, or in the case of cooperative provision of parking space, in the ownership of at least one (1) of the participants in such provisions, or (ii) be subject to arrangements (such as long-term lease, recorded easement, etc., providing the required parking arrangements for a period of at least twenty-five (25) years) as will assure the availability of such space for the duration of the use or structure to be served. Within a mixed-use development consisting of multiple buildings and lots, the legal instrument may be a declaration of covenants and restrictions, or similar document, establishing parking spaces within common areas of the development and containing provisions for shared ownership and maintenance of those common areas.~~
- (4) ~~No changes shall be made to any off-site parking lot that would reduce the parking available for a building or use or structure served by such parking lot, unless alternate parking arrangements are made to provide an equivalent number of spaces, or there is a change in the building(s) or use(s) thereof that reduces the number of required spaces.~~
- (6) The use or structure must supply at least 40% of its required spaces on-site.
- (7) All required handicapped parking spaces must be located on site unless space limitations do not permit the provision of the required handicapped spaces, and the owner of the use or structure to be served by such spaces demonstrates that the proposed use can be adequately served by existing designated on-street handicapped space(s) within seventy-five (75) feet of such use or structure.
- (8) All required loading spaces for a building or use or structure must be located on site, except as provided in section 34-983 (off-street loading area requirements).

Comment [RL6]: Staff review/recommendations needed for the substantive provisions of this section

**Sec. 34-974. — Shared parking Cooperative parking arrangements.**

- (a) ~~With the approval of the director of neighborhood development services, R~~required off-street parking may be ~~shared by provided cooperatively for two (2) or more uses of the same or different types, provided that arrangements are made (a long-term lease, recorded easement, etc.) such as will assure the availability of the required number of parking spaces are satisfied for each individual use such space for the duration of the such use use to be served, and provided further that, unless reduced by the director as set forth below, the number of spaces provided shall not be less than the sum of the individual requirements. The landowner(s) shall establish the ongoing availability of the required parking spaces, in the same manner as provided in section 34-973(b)(3), above.~~
- (b) The combined parking requirements for two (2) or more uses participating in a cooperative parking arrangement may be ~~partially reduced by the NDS D~~director of neighborhood development services, provided that the ~~director determines that the following criteria are satisfied: (i) uses will not conflict in time of operation or need for the parking spaces, and (ii) provided that the parking needs of each use at a given time of day will may~~ be adequately met through the ~~proposed~~ parking arrangements.
- (c) ~~Shared Cooperative~~ parking arrangements shall provide off-street parking spaces within ~~fourteen~~ hundred (1400) feet of each use served.
- (d) For the purpose of this division, all ~~parking spaces~~ located within a ~~shared cooperative~~ parking arrangement shall be deemed to be on-site parking for each use served by such arrangement.
- (e) ~~Once approved by the director, a~~ny subsequent change to a cooperative parking arrangement ~~that reduces affects~~ the availability ~~or location and convenience~~ of ~~the any~~ shared space(s), ~~without approval by the Zoning administrator pursuant to (b), above,~~ shall constitute grounds for revocation of the occupancy certificates for the uses served.

**Comment [RL7]:** Most people are referring to this as "shared parking" these days.

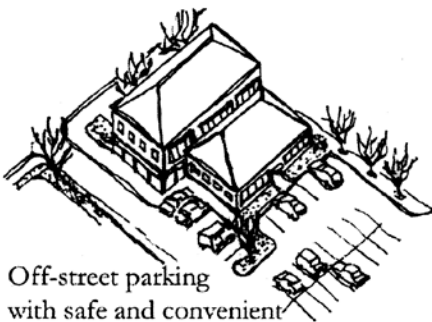
**Comment [RL8]:** Need to give a specific standard: "reduced by not more than 10%"

Administrators must have criteria on which to base decisions.

**Sec. 34-975. — Off-street parking, aAccess and circulation.**

- (a) Parking areas shall be designed to minimize on-site and off-site traffic hazards and conflicts.
- (b) Parking areas shall be designed to reduce or prevent congestion in the public streets.
- (c) All off-street parking and loading spaces shall be provided with safe and convenient access to a street ~~or to an alley, or, with the approval of the director of neighborhood development services, to a recorded easement that connects to~~ connected to a public street or alley. ~~The required access shall not subsequently be reduced or encroached upon.~~

**Off-Street Parking**



**Off Street Parking**

- (d) Vehicular access points shall be designed to encourage unimpeded traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Distance between street access and on-site points of conflict (such as parking spaces and turning and other maneuvers) shall be adequate to accommodate unimpeded traffic flow from and to such street.
- (e) One-way paths of ingress and egress are prohibited, except that:
  - (1) ~~The planning commission or director may approve such paths when necessitated by the peculiar character of the proposed use or site. When approved, the commission or director shall require installation and maintenance of control devices, such as signs, pavement markings, etc., as may be reasonably necessary to provide direction and control of vehicular movements; and~~
  - (2) ~~One-way paths of ingress and egress shall be allowed for single-family attached, townhouses, single-family detached dwellings and two-family dwellings. One way paths of ingress and egress to and from other building types are permitted if such paths are designed and constructed in accordance with applicable engineering and safety standards.~~
- (f) Parking areas shall be designed to facilitate unimpeded flow of on-site traffic in circulation patterns readily recognizable and predictable to motorists and pedestrians. Parking areas shall be arranged in a fashion to encourage pedestrian access to buildings, and to minimize internal vehicular movements. Facilities and access routes for deliveries, service and maintenance shall be separated, when practical, from public access routes and parking areas. Except for spaces serving single family, two-family and townhouse dwellings, no parking space shall be designed that will require backing into a public street; however, ~~with the approval of the traffic engineer,~~ parking spaces may be designed to allow backing into an alley.
- (g) ~~Access~~ Direct access for emergency vehicles shall be provided in accordance with applicable engineering and safety standards ~~as required by the city's fire department. Emergency vehicle access shall be free of bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction, except as approved by the city's fire code official.~~
- (h) Interior circulation aisles:
  - (1) Where circulation aisles are adjacent to parking, such aisles shall have the following minimum widths, with appropriate turning radii:

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Comment [RL9]: The degrees and width specifications seem like details that should go into the SDM

	Parking Angle (Degrees)				
Direction	0 (parallel)	30	45	60	90
One-way	12 ft.*	12 ft.	12 ft.	16 ft.	20 ft.
Two-way	19 ft.*	20 ft.	20 ft.	20 ft.	20 ft.

\*Where any circulation aisles serve parallel parking immediately adjacent to any building(s), such aisles shall be not less than sixteen (16) feet in width. All aisles serving parallel parking

may be required by the director or planning commission to provide such additional width as may be necessary for curvilinear streets and/or to assure adequate access for emergency vehicles.

- (2) Where there is no parking adjacent to circulation aisles, minimum aisle width shall be twenty (20) feet for one-way travel aisles, and twenty-four (24) feet for two-way travel aisles. Where there is 90-degree parking adjacent to both sides of a circulation aisle, the aisle width shall be no less than twenty (20) feet, and no more than twenty-four (24) feet, as minimally necessary to provide a total aisle parking width of no more than sixty (60) feet.
- (3) The commission or director may require additional travel width for any circulation aisle, upon a determination that such additional width is necessary to accommodate access for emergency vehicles, or curvilinear streets.
- (4) One-way circulation aisles shall include control devices, such as signs, pavement markings, etc., to provide for the direction and control of vehicular movements.

**Sec. 34-976. Reserved.**

**Sec. 34-977. ~~Off-street parking, p~~ Parking space dimensions.**

Comment [RL10]: Details for SDM??

(a) The dimensions for each individual parking space shall conform to the following requirements:

Type of space	Min. Width	Hatched Apron	Min. Length
Parallel	8 feet	N/A	20 feet
Compact car	8 feet	N/A	16 feet
Handicapped (car)	8 feet	5 feet	18 feet
Handicapped (van)	8 feet	8 feet	18 feet
Standard	8.5 feet	N/A	18 feet

- (b) All required off-street parking spaces shall be designed to the dimensions of a standard parking space, or of a parallel space (when such spaces are located at a zero (0) degree angle to an adjacent curb), except that:
  - (1) Required handicapped spaces shall be designed to the dimensions indicated in paragraph (a), above, for car- or van-accessible spaces;
  - (2) When located within parking lots with ten (10) or more parking spaces, the director or the planning commission may allow up to thirty (30) percent of the required off-street parking spaces to be designed to the dimensions indicated in paragraph (a), above, for compact cars. All compact spaces shall be clearly marked as such; and
  - (3) ~~The director or planning commission may permit a~~ reduction of up to three (3) feet in the paved length of required spaces will be allowed, for where such spaces ~~are~~ adjacent to a planting island or other physical separation (but not a sidewalk) that permits the overhanging of vehicles parked in such spaces.



(c) Off-street parking shall comply with the requirements of the federal Americans with Disabilities Act, if applicable. Of any spaces required to be handicapped-accessible, not less than one (1) such space shall be van-accessible. Two (2) adjacent handicapped-accessible parking spaces may share a common apron area. Required spaces for persons with disabilities shall be identified with signs and markings identifying such spaces as being reserved for the handicapped. Handicapped accessible parking spaces and associated apron areas shall be level, with surface slopes not exceeding 1:50 (2%) in any direction.

**Sec. 34-978. -- Off-street parking, lighting required.**

Adequate lighting shall be provided for off-street parking facilities ~~used at night~~, in accordance with the requirements of Division 3 of this article (section 34-1000, et seq.), except that lighting for off-street parking spaces serving a single-family attached dwelling, or single-family detached dwelling, two-family dwelling, or a multifamily dwellings containing no more than up to four (4) dwelling units, shall not be required.

Comment [RL11]: Are there really any parking spots which won't potentially be usable at night?

**Sec. 34-979. -- Off-street parking, separation from sidewalk.**

Off-street parking shall be separated from walkways, sidewalks and streets by bumpers or curbs. Each space shall be clearly marked and pavement directional arrows or signs shall be provided. The requirements of this section shall not apply to off-street parking required for a single-family detached dwelling, single-family attached dwelling, or a two-family dwelling units.

Comment [RL12]: Details for DSM?

~~Sec. 34-980. -- Compliance with ADA.~~

~~Off-street parking shall comply with the requirements of the federal Americans with Disabilities Act, if applicable.~~

Comment [RL13]: Moved

**Sec. 34-981. -- Drainage of off-street parking facilities.**

(a) ~~Off-street~~ All off-street parking areas facilities, including spaces provided for a new facilities for single-family dwelling or and two-family dwellings, shall be constructed, improved and maintained in a manner that will provide adequate drainage for the prevention of drained in a manner to prevent damage to adjacent abutting properties-lots and public streets. In no case shall drainage be directed in a manner that will cause stormwater to cross a sidewalk. Every landowner The owner of the parking facility shall be responsible for maintaining drainage in accordance with this paragraph maintenance of such drainage.

(b) Parking areas shall be constructed with a slope (i) compliant with ADA requirements, if applicable, or up to of five (5) percent or less. The director of neighborhood development services may, however, permit slopes of up to ten (10) percent where necessary for reasons of topography, and where he determines that adequate drainage will be to ten (10) percent so long as adequate drainage is provided in accordance with paragraph (a) provided.

Comment [RL14]: Details for SDM?

**Sec. 34-982. -- Off-street parking, improved surfaces.**

~~Off-street~~ All off-street parking areas facilities shall be constructed with of an improved, erosion-resistant surface. The City's Standards and Design Manual specifies surfaces acceptable to the city as being erosion-resistant of hard asphalt topping, or other surface resistant to erosion and acceptable to the city engineer, and shall be graded, drained and/or improved so as to properly dispose of all surface water, in accordance with sound engineering practices and standards. In no case shall drainage be authorized to cross sidewalks, and the owner of the parking facility shall be responsible for maintenance of drainage facilities and improvements.

Comment [RL15]: Moved

**Sec. 34-983. - Off-street loading areas.**

(a) In addition to any required off-street parking spaces, every lot containing any non-residential use shall contain there shall be provided adequate off-street areas space for loading and unloading of vehicles ("loading space") owned or leased and regularly used in the operation of any commercial (business or industrial) use, and for parking of such vehicles when they are not engaged in loading or unloading activities. In addition, when any such vehicles are to be parked on-site when not loading

Comment [RL16]: Do we need this? How are we holding SFDs to this requirement? Are we requiring a maintenance agreement/obligation to be recorded?

~~or unloading, there shall be provided adequate parking spaces to accommodate the maximum number of vehicles that may be reasonably expected to be parked on the site of such use at any one (1) time.~~

- (b) Each loading space shall have a minimum dimension of twelve (12) by thirty-five (35) feet, and a minimum vertical clearance of at least fourteen (14) feet.
- (c) ~~Loading space is not required - requirements shall not apply if under the following circumstances: (i) space limitations do not permit the provision of off-street loading areas, and (ii) a landowner the owner of the use of structure demonstrates that a land use the proposed use can be adequately served by an existing designated on- or off-street loading area facility within two hundred (200) feet of the use served.~~
- (d) ~~Loading area spaces may be shared by provided cooperatively for two (2) or more uses, subject to the approval by the director of neighborhood development services of the appropriate legal instruments (a long-term lease, recorded easement, etc.) to ensure the permanent availability of off-street loading for all such uses, subject to the requirements of section 34-973(b)(3).~~

Comment [RL17]: Detail for SDM?

Comment [RL18]: What keeps a developer from simply designing a development specifically to provide for everything OTHER than loading areas?

**Sec. 34-984. - Off-street parking requirements—Specific uses.**

Off-street parking shall be provided for each land use, in accordance with Table X.

Comment [RL19]: Staff to review/recommend any updates

**Table X:**

Use	Size or Type	Required Spaces
<b>Residential uses</b>		
Single-family (attached or detached) and two-family dwellings		1 space/dwelling unit
Townhouse dwellings		
	1—3 bedrooms	1 space/dwelling unit
	4+ bedrooms	1 space/dwelling unit
Multifamily dwellings (See special provisions of section 34-353(d)(2))		
	Efficiency; 1 bedroom unit	1 space/unit
	2 bedroom unit	1 space/unit

	3 bedroom unit	2 spaces/unit
	4 bedroom unit	2 spaces/unit
	Each bedroom in excess of 4	1 additional space per bedroom for each 10 units with more than 4 bedrooms
	<u>MFD located in R-UMD or R-UHD district</u>	<u>1 space per 2 bedrooms</u>
Rooming house, boarding house, bed and breakfast		0.3 space/per bedroom
Fraternities, sororities		2.5 spaces per 3 bedrooms
Residential treatment facilities	1—8 beds	2 spaces/facility, plus 1 space/non-resident employee
Family day homes	1—5 children	1 space/non-resident employee, plus parking required for the dwelling
Adult care	Nursing homes	1 space/4 beds; plus 1 space/employee, based on largest shift
	Assisted living	1 space/3 beds, plus 1 space/employee, based on largest shift
<b>Non-Residential Uses, Institutional, Educational or Civic in Nature</b>		
Assembly—theaters, auditoriums, stadiums, amphitheaters, places of worship, etc.	With fixed seats	1 space/6 seats—On street parking within 1,000 feet of the building except in residential area, may be used toward fulfilling this requirement
	No fixed seats	1 space/200 sq. ft. of assembly space
Clinics	Medical or dental	1 space/400 sq. ft. of GFA
	Veterinary	1 space/examination room, plus 1

		space/employee, based on largest shift
Clubs, private		1 space/4 persons allowed at maximum occupancy
Day care		1 space/per 1.5 employee
Funeral homes and ambulance service companies, private		1 space/5 persons, based on maximum occupancy of assembly space; plus 1 space/employee, based on largest shift; plus 1 space/company vehicle stored on-site
Hospitals		1 space/5 beds, plus 1 per emergency or out-patient exam table
Museums, art galleries, libraries or similar uses		1 space/400 sq. ft. of GFA
<b>Educational Facilities</b>		
Preschool, playschool, nursery school, kindergarten		1 space/classroom
Elementary schools		1 space/classroom
High schools		1 space/employee, based on largest shift, plus 1 space per 5 students
Colleges and universities		1 space/2 students
Arts		1 space/2 students
Vocational/training		1 space/2 students
<b>Recreational Uses</b>		
Amusement arcades		1 space/4 persons, based on maximum occupancy

Bowling alleys		2 spaces/alley
Golf course		2 spaces per hole
Indoor recreation facilities (e.g., health/sport club, tennis club, swimming club, yoga studio, dance studio, etc.)		1 space/4 persons based on maximum occupancy
Outdoor recreation facilities (parks, playgrounds, ball courts, etc.)		1 space/600 sq. ft. of usable recreational area
<b>Office Uses</b>		
General office use		1 space/500 sq. ft. of GFA
Medical		7 spaces/practitioner, or 1 space/200 sq. ft. of GFA, whichever is greater 3 spaces per examination or treatment room, plus 1 space per employee on largest shift including doctor
Financial institutions		3.5 spaces/1,000 sq. ft. of GFA
<b>Retail Commercial</b>		
Antique shop		1 space/600 sq. ft. of GFA
Bakery	Without tables/seating	1 space/350 sq. ft. of GFA
	With tables/seating	1 space/250 sq. ft. of seating area
Communications equipment sales (mobile/wireless telephones, satellite television dishes, computers, etc.)		1 space/500 sq. ft. of GFA, plus 1 space/employee, based on largest shift
Convenience store		1 space/400 sq. ft. of GFA. Storage space may be deducted from

		GFA
Fuel sales, service stations	Without convenience store; no servicing of vehicles	1 space per 400 sq. ft. of office space
	With convenience stores; no servicing of vehicles	1 space/400 sq. ft. of GFA
Furniture sales	Without storage/stockroom	1 space/1,000 sq. ft. of GFA of showroom
General, retail sales (applicable where no other specific standard is set forth)		3.5 spaces/1,000 sq. ft. of GFA. Storage space may be deducted from square footage.
Grocery stores and pharmacies		1 space/250 sq. ft. of GFA. Storage space may be deducted from GFA
Hardware, paint store		1 space/1,000 sq. ft. of GFA. Storage may be deducted from gross floor area.
Home improvement center		1 space/1,000 sq. ft. of GFA; plus 1 space for every 2 employees, based on largest shift, minimum 2 spaces
<b>Motor Vehicle Uses</b>		
Motor vehicles, sales of	With service facilities	1 space/300 sq. ft. of GFA; plus 2 spaces per service bay
	Without service facilities	1 space/300 sq. ft. of GFA
Motor vehicles, parts and equipment sales	Without service facilities	3.5 spaces/1,000 sq. ft. of GFA
Motor vehicle service bays		3 spaces per service bay
<b>Consumer Services</b>		
General standard		1 space/275 sq. ft. of GFA of the use

Car washes	All	1.5 spaces/bay; plus 1 space per employee, based on largest shift
Hotel, motel, motor lodge	Generally	1 space/guest room; plus additional spaces as required for other uses within the facility (e.g., restaurants, convenience stores, etc.)
Motor vehicles, repair and servicing of	Without sales	1 space per 400 sq. ft. of office space. Spaces for cars to be repaired need not be striped. 2 spaces per service bay
Restaurants	Generally	1 space/250 sq. ft. of seating area
	Restaurant, drive-in (with seats)	1 space per 125 sq. ft. of public floor area, 1 space per 400 sq. ft. of space not open to public; plus required stacking spaces
	Restaurants, drive-in (without seats)	1 space per 60 sq. ft. of GFA; plus required stacking spaces
<b>Industrial Uses</b>		
Generally		1 space/400 sq. ft. of GFA devoted to office space; plus 1 space/2 employees; plus 1 space for each company vehicle stored on site
	Industrial uses—75% or more devoted to long term storage (storage for periods longer than 30 days)	General standards apply; plus 1 space/2,500 sq. ft. of GFA
<b>Additional Requirements</b>		
Outdoor sales, display or service area for any use	In combination with all other requirements	1 space per 2,000 sq. ft. of area devoted to such use
Outdoor storage; warehousing,	In combination with all other	1 space per 5,000 sq. ft. of area

for any use	requirements	devoted to such use
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**Sec. 34-985. — Off-street parking, rRules for computing required spaces.**

(a) The number of required spaces shall be computed as follows:

- (1) ~~The terms "Floor area" and "area" shall each mean gross floor area of the referenced use, building or structure, unless otherwise specified.~~
- (2) ~~Where fractional spaces result, the number of required parking spaces required shall be computed to the nearest whole number.~~
- (3) ~~If a proposed use is not specifically listed within section 34-984, then the parking requirements for a use not specifically listed within this chapter shall be the same as required for the most similar use mentioned listed in 34-984.~~
- (4) ~~When any lot or building contains is used for two (2) or more listed uses purposes, or when contains two (2) or more methods apply to calculation of required spaces for multiple uses, types of spaces for which separate parking requirements are specified (e.g., areas with tables versus areas without tables; areas with service facilities versus areas without service facilities, etc.), the number of parking spaces required shall be the sum of all applicable the requirements for the various individual uses or areas, computed separately in accordance with this division, except as provided in section 34-974 (cooperative parking arrangements).~~

(b) ~~The number of parking spaces calculated pursuant to (a), above, may be reduced~~Certain reductions in the number of required parking spaces for a particular use shall be allowed, under the following circumstances:

- (1) ~~When cooperative parking arrangements are shared by two (2) or more uses, a~~As set forth within section 34-974 (shared cooperative parking arrangements).
- (2) Where a use is located within three hundred (300) feet of a bus stop on an existing city bus route, the number of parking spaces required for such use shall be reduced by: (i) four (4) spaces for uses located within the Downtown North, Downtown South, High Street, Central City, Neighborhood, and Cherry Avenue Corridor Mixed Use Districts, and within the McIntire/Fifth Street Residential Corridor District; or (ii) two (2) spaces for uses located within any other zoning districts. Where a use is located within three hundred one (301) to six hundred (600) feet of a bus stop on an existing city bus route, a similar reduction of spaces shall be granted, in an amount equal to one-half (½) of the number(s) specified in clauses (i) and (ii), above. Upon finding that a use is more than three hundred (300) feet away from a bus stop in an existing bus route, but that such use is located on the same block as the bus stop, the director of neighborhood development services may grant the reduction specified within clause (i), above.
- (3) Where bicycle lockers are provided on-site, the number of required off-street parking spaces shall be reduced by: (i) two (2) spaces for every five (5) lockers, for uses located within the Downtown North, Downtown South, High Street, Central City, Neighborhood, and Cherry Avenue Corridor Mixed-Use Districts, and within the McIntire/Fifth Street Residential Corridor District; or (ii) one (1) space for every five (5) lockers for uses located within any other zoning districts.
- (4) Where parking lots provide for clearly marked spaces for vans with three (3) or more occupants, such spaces shall count as three (3) parking spaces. These spaces shall be marked with a sign containing the conditions of the space use.
- (5) For non-residential uses, where on-site showers and locker rooms are available for use by employees, the number of required parking spaces may be reduced by four (4) spaces, for uses located within the Downtown North, Downtown South, High Street, Central City, Neighborhood,



and Cherry Avenue Corridor Mixed-Use Districts, and within the McIntire/Fifth Street Residential Corridor Districts; or two (2) spaces for uses located within any other zoning districts.

- (6) The total number of required parking spaces may not be reduced as a result of any bonus(es) listed in paragraphs (1) through (5), above, by more than: (i) thirty-five (35) percent, for uses located within the Downtown North, Downtown South, High Street, Central City, and Neighborhood Commercial, Corridor Districts, and within the McIntire/Fifth Street Residential Corridor District; or (ii) twenty (20) percent, for uses located within any other zoning districts, provided that none of the bonuses listed in paragraphs (1) through (5) above may be applied to reduce the parking requirement specified within Article VI, Division 7, section 34-662(c) (reduced parking requirements for the Cherry Avenue Corridor District).

**Sec. 34-986. — Other off-street parking regulations.**

**Comment [RL20]:** The provisions of this section have been moved to 34-972

**~~Off-street parking requirements shall not apply in the following circumstances:~~**

- ~~(1) For a single-family detached dwelling, if (i) the dwelling is not located on a corner lot, (ii) the lot on which the dwelling is located has no access to a public alley, and (iii) the lot has fewer than thirty (30) feet of front yard street frontage.~~
- ~~(2) For single-family attached and two-family dwellings, if (i) the owner of the property has demonstrated the availability of adequate on-street parking; or (ii) the lot on which such dwelling is located cannot accommodate the required number of parking spaces.~~
- ~~(3) For multi-family dwellings, commercial and industrial uses, and mixed-use developments, if (i) the use or structure is not located on a corner lot, (ii) the lot on which the use or structure is located has no access to a public alley, and (iii) the lot has fewer than forty (40) feet of front yard street frontage.~~

**DIVISION 3. — OUTDOOR LIGHTING**

**Sec. 34-1000. — Purpose and intent.**

~~The purpose of outdoor lighting regulations is to protect the general welfare by controlling the spillover of light onto adjacent properties, and to protect the public safety by preventing glare from outdoor luminaires. These regulations regulate the direction of light emitted from certain luminaires, and limit the intensity of light on certain adjacent properties.~~

**Sec. 34-1001. — Applicability.**

~~Except as provided in section 34-1005 (Exemptions), these outdoor lighting regulations shall apply to outdoor luminaires installed or replaced after the date of the adoption of these regulations, where such luminaire is:~~

- ~~(1) Is associated with a use for which a site plan is required, and is equipped with a lamp which emits three thousand (3,000) or more maximum lumens;~~
- ~~(2) Located on property within a low-density residential zoning district and is associated with a use for which a site plan is not required, but is equipped with a high-intensity discharge lamp, regardless of its maximum lumens.~~

**Sec. 34-1002. — Definitions.**

~~For definitions of special terms utilized within this division, refer to Article X (Definitions), section 34-4200.~~

**Comment [RL21]:** This doesn't need to be specially stated for this division.

**Sec. 34-1003. — Outdoor lighting requirements for outdoor luminaires Standards.**

~~The following standards shall apply to each outdoor luminaire:~~

- (a) Each outdoor luminaire ~~subject to these outdoor lighting regulations~~ shall be a full cutoff luminaire.

(b) Each outdoor luminaire used for or in connection with a non-residential land use, or within a residential development for which a site plan is required, shall be of a type and size that will adequately illuminate a land use or outdoor area for its safe use, consistent with the recommended practices adopted by the Illuminating Engineering Society of North America for that facility.

Comment [RL22]: Is this currently the applicable standard/ best practices model?

(c) No outdoor luminaire within a low-density residential district shall contain a high-intensity discharge lamp. However, when necessary to provide illumination minimally necessary for safe use of an outdoor recreation facility within a low-density residential district, high-intensity discharge lamps may be used if such use is recommended by the Illuminating Engineering Society of North America for that type of facility and activity.

Comment [RL23]: Verify standard

(d) The spillover light from an outdoor luminaire onto any street, or onto any lot within a low-density residential district, shall not exceed one-half (½) foot candle.

(e) Each outdoor luminaire shall be arranged or shielded to reflect light away from adjacent low density residential districts.

(f) Measurement of lumens

(1) ~~For each outdoor luminaire subject to these outdoor lighting regulations, the~~ maximum number of lumens emitted by an outdoor such luminaire shall be determined from the information provided by the manufacturer of the lamp including, but not limited to, information on the lamp or on the lamp's packaging materials.

(2) The following ~~rated lamps wattages~~ shall be deemed to be a high-intensity discharge lamp ~~emit three thousand (3,000) or more maximum lumens~~, unless the zoning administrator determines, based upon information provided by the a lamp manufacturer, that the rated wattage of a lamp emits less than three thousand (3,000) maximum lumens:

- a. Incandescent lamp, with ~~:-~~ one hundred sixty (160) or more watts.
- b. Quartz halogen lamp, with ~~:-~~ one hundred sixty (160) or more watts.
- c. Fluorescent lamp, with ~~:-~~ thirty-five (35) or more watts.
- d. Mercury vapor lamp, with ~~:-~~ seventy-five (75) or more watts.
- e. Metal halide lamp, with ~~:-~~ forty (40) or more watts.
- f. High pressure sodium lamp, with ~~:-~~ forty-five (45) or more watts.
- g. Low pressure sodium lamp, with ~~:-~~ twenty-five (25) or more watts.

(3) If an outdoor luminaire is equipped with more than one lamp, the ~~lumens of the characteristics of the~~ lamp with the highest maximum lumens shall be used to determine ~~compliance with this division~~ the lumens emitted.

(4) Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standards spectral luminous efficiency curve adopted by the Internal Commission on Illumination

Comment [RL24]: Are we actually doing this?

(5) Spillover light shall be measured horizontally and vertically at the property line closest to the light source.

(c) Height.

~~(1) No outdoor luminaire situated on private property outside of a public right-of-way and within or immediately adjacent to any low density residential district shall be mounted or placed at a location more than twelve (12) feet in height. No other outdoor luminaire shall be mounted or placed at a location that is more than twenty (20) feet in height.~~

~~(2) No outdoor luminaire shall be mounted or placed at a location that is more than twenty (20) feet in height.~~

~~(d) The spillover light from luminaires onto public roads and onto property within any low-density residential district shall not exceed one-half (½) foot candle. A spillover shall be measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source.~~

Comment [RL25]: Moved

~~(e) All outdoor luminaires, regardless of the number of lumens, shall be arranged or shielded to reflect light away from adjoining low-density residential districts.~~

Comment [RL26]: Moved

~~(f) Within developments subject to the requirement of a site plan, all outdoor luminaires shall be of a type and size to provide sufficient illumination of a facility for its safe use, consistent with the recommended practices adopted by the Illuminating Engineering Society of North America for that facility.~~

Comment [RL27]: Moved.

#### **Sec. 34-1004. - Lighting for recreational facilities, outdoor.**

~~An outdoor luminaire or system of outdoor luminaires required for an athletic facility may exceed the lumens and height standards in section 34-1003 to the minimum extent necessary to provide sufficient illumination of the facility for its safe use as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity.~~

Comment [RL28]: Moved

#### **Sec. 34-1005. - Outdoor lighting, eExemptions from outdoor lighting regulations.**

~~The following outdoor lighting and related acts shall be exempt from the requirements of this division these regulations:~~

- ~~(1) Outdoor luminaires Lighting which is excluded from local regulation by state or federal law, or required by state or federal law.~~
- (2) Construction, emergency or holiday decorative lighting, provided that outdoor luminaires associated with such lighting the lighting is temporary, and is discontinued within seven (7) days of completion of the construction project, emergency or holiday for which the lighting was provided.
- ~~(3) Lighting of the United States of America or Commonwealth of Virginia flags and other non-commercial flags expressing constitutionally protected speech.~~
- (4) Security lighting controlled by sensors and which provides illumination for no more than fifteen (15) minutes ~~or less~~.
- (5) The replacement of an inoperable lamp within an inoperable outdoor luminaire lamp or component, which part of a luminaire that was installed prior to the date of adoption of this ordinance.
- (6) The replacement of a failed or damaged outdoor luminaire, which is one (1) of a matching group serving a common purpose.

### **DIVISION 4. - SIGN**

#### **Sec. 34-1020. - Applicability.**

- ~~(a) The regulations set forth in this article or set forth elsewhere in this chapter and referred to in this article shall apply to all existing signs as well as to new signs and their alteration or modification.~~
- ~~(b) For the purposes of this article, changing the message or content of an approved marquee, or other approved changeable copy sign, shall not be deemed an alteration or modification of such sign.~~

#### **Sec. 34-1021. - Purpose.**

- ~~(a) The purpose of this article is to establish reasonable regulations pertaining to the time, place and manner in which outdoor signs and window signs may be erected and maintained, in order to:~~

- ~~(1) Promote the general health, safety and welfare, including the creation of an attractive and harmonious environment;~~
- ~~(2) Protect the public investment in the creation, maintenance, safety and appearance of its streets, highways and other public areas;~~
- ~~(3) Improve pedestrian and vehicular safety by avoiding saturation and confusion in the field of vision that could otherwise result if signs were not regulated as provided herein; and~~
- ~~(4) Protect and enhance the city's attractiveness to residents, tourists and other visitors as sources of economic development.~~

~~(b) The city council finds that the regulations in this article advance the significant government interests identified herein, and are the minimum amount of regulation necessary to achieve those interests.~~

**Sec. 34-1022. -- Sign regulations, Interpretation—Conflicting laws or regulations.**

Where this article differs in any manner from the provisions of the current Virginia Uniform Statewide Building Code, other provisions of this Code or any other ordinance or regulation of the city, the ordinance, code or regulation imposing the greatest restriction upon the use of any sign shall control.

**Sec. 34-1023. -- Sign regulations, Building code compliance.**

The structural components of a sign (including, without limitation, lighting fixtures) shall be constructed, installed and maintained in accordance with the requirements of the current Virginia Uniform Statewide Building Code.

**Sec. 34-1024. -- Signs, Definitions.**

For definitions of the ~~different types of signs referenced terms utilized~~ within this division, refer to Article ~~5X~~ (Definitions), section 34-~~XXXX4200~~.

**Sec. 34-1025. -- Signs, general Permit requirements—Generally.**

- (a) No person shall erect, install, alter, modify, reface, re-hang or replace any sign within the city, without obtaining a permit pursuant to this article, provided that a permit shall not be required for the performance of regular maintenance.
- (b) An application for such a permit shall specify the type of sign to be constructed and the zoning district in which this sign is to be located and shall be accompanied with plans and specifications showing the location, dimensions, materials, lighting and details of construction. The application shall contain photographs and sizes of all existing signs on the building or parcel and the written consent of the owner or lessee of the land or building upon which the sign is to be erected.
- (c) Applications for sign permits shall be submitted to the city's zoning administrator, and shall be accompanied by the required application fee, as set forth within the most recent zoning fee schedule approved by city council. Permits are issued as followed:
  - (1) For new construction within any of the city's architectural design control and entrance corridor districts, such permit shall take the form of a certificate of appropriateness issued by the board of architectural review and the planning commission, respectively, within the time period(s) required for action by those bodies.
  - (2) For all other signage within any of the city's architectural design control and entrance corridor districts, such permit shall take the form of a certificate of appropriateness issued administratively by the NDS Deirector, within the time period(s) required for such action. Appeals from decisions of the NDS Deirector shall be taken to the board of architectural review or and the planning commission, respectively.
  - (3) Within all other districts, the ~~required permit shall be issued by the zoning administrator. No permit shall approve a requested sign permit within ten (10) working days, unless the zoning administrator determines in writing that be issued by the zoning administrator except upon a determination that a proposed sign does not comply is in conformity with:~~ (i) the requirements of this ~~division~~ article and, where applicable, in conformity with (ii) the requirements of an approved

site plan for the property upon which the sign is to be placed, (iii) the USBC, or (iv) any other applicable laws, regulations or ordinances. Appeals from decisions of the zoning administrator shall be taken to the city's board of zoning appeals.

- (d) A sign permit shall become null and void if the use to which it pertains is not commenced within six (6) months after the date the sign permit is issued. Upon written request and for good cause shown, the zoning administrator may grant one (1) six-month extension.
- (e) The zoning administrator shall revoke a sign permit ~~if the sign does not comply with applicable regulations of this article.~~
  - (1) the zoning administrator determines that information in the application for the permit was materially false or misleading;
  - (2) the sign as installed does not conform to the sign permit application; or
  - (3) the sign violates requirements of the zoning ordinance, USBC, or other applicable law, regulation or ordinance.

**Sec. 34-1026. — Signs, Public liability insurance.**

- (a) A person shall not erect, install, alter, modify, reface, re-hang or replace over public property any sign for which a permit is required under the provisions of this article until the sign owner presents satisfactory evidence that a public liability insurance policy with a minimum of three hundred thousand dollars (\$300,000.00) single limit coverage is in force during the term of this permit.
- (b) Such insurance policy shall protect and save the jurisdiction members from any and all claims or demands for damages by reason of any negligence of the sign hanger, contractor or agents, or by any reason of defects in the construction or damages resulting from the collapse, failure or combustion of the parts thereof.
- (c) The obligation herein specified shall remain in force and effect during the life of every sign and shall not be cancelled by the principal or surety until after a thirty-day notice to the zoning administrator, after which time the sign must be immediately removed.

**Sec. 34-1027. - Signs permitted in all districts without permits.**

Regardless of the zoning district in which they are located, no permit shall be required for the following signs, if they are erected, installed, and maintained in accordance with applicable requirements of this article:

- (1) Signs not exceeding four (4) square feet in area ~~which advertise for sale or rental the land or building upon which such signs are located~~ on any property for sale or rent. Such signs shall not be illuminated and shall not be more than four (4) feet in height.
- ~~(2) Professional name plates or plaques, not exceeding one (1) square foot in area, affixed to the wall of a building.~~
- ~~(3) Signs not over twenty five (25) feet in area identifying municipal or governmental buildings and offices or buildings used for religious purposes, when erected upon the building or land upon which such building is located.~~
- ~~(4) Commemorative plaques, historical markers, memorial signs, monumental inscriptions or tablets as approved by the city's board of architectural review where required. No such sign shall exceed fifteen (15) square feet.~~
- ~~(25) One (1) sign located on proerpty where a bulding permit is active. Such sign shall not be illuminated and shall not exceed an area of sixteen (16) square feet. Signs denoting the architect, engineer or contractor when placed at a construction site. Such signs shall not be illuminated and shall not exceed an area of sixteen (16) square feet, nor shall they remain standing after construction has been completed.~~
- ~~(36) Signs erected by a governmental body or required by law. Traffic, utility, municipal, legal notice, directional, informational signs, railroad crossing signs, danger, safety, temporary or emergency~~

~~signs and holiday decorations or signs/banners across a public right-of-way when erected, established or required by a public authority or by the city manager.~~

~~(7) Signs not exceeding six (6) square feet in area designating entrances, exits or conditions of use for parking lots (including, without limitation, any handicapped parking spaces), or providing similar, non-commercial information, when such signs are required by any public authority.~~

~~(8) Subdivision or housing development signs, provided that such signs do not exceed six (6) feet in height and are less than twenty five (25) square feet in area. No such sign shall contain information other than the name of the residential development.~~

~~(9) On a property used for residential purposes, signs identifying a single-family dwelling, its occupant, or its location, or a home professional office (but not a home occupation) not exceeding one (1) square feet in area.~~

~~(10) "No trespassing" signs, and similar signs posted for security or warning purposes, not exceeding one (1) square foot.~~

~~(11) Political signs.~~

~~(112) Flags flying from a flagpole, where no more than three (3) flags are displayed at any one (1) time, no individual flag exceeding fifty (50) square feet in area.~~

~~(13) Signs indicating the hours of operation for a business (other than a home occupation), where located in the window of a business and not in excess of two (2) square feet.~~

~~(14) Signs containing the words "Private drive," not exceeding two (2) square feet, limited to one (1) sign per entrance drive.~~

~~(145) Signs requested and approved as part of a provisional use permit.~~

~~(16) Official notices or advertisements posted according to statutory notice or other advertising requirements imposed by law by any public, local or state official, or court officer or any trustees under deeds of trust or other similar instruments.~~

~~(17) No more than two (2) "entrance" or "exit" signs at each vehicular entrance to and exit from a parking lot, not to exceed two (2) square feet each. Signs specifying parking restrictions, not to exceed three (3) square feet each, may be affixed to a wall and located no less than twenty five (25) feet apart. The signs may be freestanding if no larger than two (2) square feet, located on the perimeter of a parking lot no less than twenty five (25) feet apart, and at a height no greater than four (4) feet.~~

~~(18) Window signs, provided they do not obscure more than fifty (50) percent of the total glazed area on each facade of the building.~~

~~(19) Café signs, used for the purpose of café identification or the display of menus, may be located within the boundaries of an outdoor café or attached to the café bollards or supports. Café signs shall be no taller than five (5) feet in height and the sign face shall have an area no greater than three (3) square feet in area per side. A business may be permitted to have a café sign or a sandwich board sign, but not both.~~

~~(7) Not more than two (2) minor signs per parcel. Additional minor signs are permitted in certain districts with a sign permit.~~

~~(8) On residential property, one or more temporary signs, with a total area of no more than twelve (12) square feet, and which are removed within 90 days after being erected.~~

### **Sec. 34-1029. - Prohibited signs.**

The following signs and sign characteristics are prohibited in all zoning districts, unless otherwise provided within this article:

- (a) Signs that violate state or federal law are prohibited, including, but not limited to:

- (1) Signs that violate any law of the Commonwealth of Virginia related to outdoor advertising, including, but not limited to Virginia Code §§ 33.1-351 to 33.1-381, inclusive, and § 46.2-831, related to Virginia byways or scenic highways; or related to the state building or fire codes.
  - (2) Signs that violate any law of the United States related to the control of outdoor advertising, including, but not limited to 23 U.S.C. § 131.
- (b) Signs that create safety hazards or are contrary to the general welfare are prohibited, as follows:
- (1) Any sign that is nailed, tacked, painted or in any other manner attached to any tree, cliff, fence, utility pole or support, utility tower, telecommunications or radio tower, curbstone, sidewalk, lamp post, hydrant, bridge, or any kind of public property; provided that this provision will not affect ~~traffic, parking or informational~~ signs placed by a public authority.
  - (2) Any sign on public land or right-of-way, other than those erected at the direction of a public authority, or by an official of the state or county pursuant to statute or ordinance, and those otherwise authorized by this article.
  - (3) Any sign attached to, rather than printed on, an awning which is not a marquee.
  - (4) Any sign that moves or contains or consists of a searchlight, beacon, strobe light, flashing lights or similar form(s) of illumination; provided that this provision will not affect ~~traffic, parking or informational~~ signs placed by a public authority.
  - (5) Any off-premises sign, whether commercial or non-commercial. Where the owner or lessor of the premises is seeking a new tenant, signs relating to the activities of the previous tenant may remain in place for not more than thirty (30) days from the date of vacancy.
  - (6) Any sign that creates a public safety hazard, as determined by the fire code official, the building code official, a law enforcement officer, the city engineer, the zoning administrator, or the city's traffic engineer including, without limitation: signs erected in a location so as to be unsafe or an obstruction to vehicular, bicycle or pedestrian traffic; a sign that prevents egress or ingress from a required door, window or fire escape; a sign that obstructs ventilation; or a sign that imitates an official traffic sign, signal or road name sign.
  - (7) Any sign that obscures a sign displayed by a public authority.
  - (8) Any sign that produces sound, odor, liquid or visible matter such as smoke or vapor.
  - (9) Roof signs.
  - (10) Any portable sign.
  - (11) Any sign consisting of a moored balloon, or other type of tethered floating sign or inflatable sign.
  - (12) Window signs that obscure more than fifty (50) percent of the total glazed area on each facade of the building.
  - (13) Any vehicle or trailer signs.
- ~~(c) Signs on or within a vendor stand, other than a price sign and a sign or logo identifying the name of the vendor or the product being sold. No sign permitted on a vendor stand shall be greater than two (2) square feet in area.~~
- (cd) Any sign erected, posted or maintained in violation of subsection (b)(2) above is hereby declared and deemed to be a public nuisance, subject to immediate removal by City employees authorized by the Director of Neighborhood Development Services.

**Sec. 34-1030. - Noncommercial signs.**

Any sign authorized in this chapter is allowed to contain noncommercial copy in lieu of other copy.

**Sec. 34-1031. -- Signs, mMaximum number of signs allowed.**

- (a) A principal establishment may have no more than two (2) signs per primary street frontage, and one (1) additional sign for each linking street frontage, except where district regulations are more restrictive, or if these limits are varied by an approved comprehensive signage plan (section 34-1045). For purposes of calculation of the number of signs permitted per establishment, only one (1) street frontage shall be designated as primary street frontage. Signs for which a permit is not required shall not be counted in calculating the number of allowed signs.
- (b) ~~Within the city's mixed use zoning districts, Shopping centers shall be permitted~~ one (1) freestanding sign ~~shall be allowed per non-residential establishment street frontage, for placement within such establishment's abutting street frontage. Additionally, each establishment within such districts, in addition, individual shops and businesses in shopping centers~~ may have one (1) wall sign per establishment equal to one (1) square foot of signage per linear foot of ~~the~~ establishment's street frontage, maximum fifty (50) square feet.

**Sec. 34-1032. -- Signs, mMaximum sign-permitted area.**

- (a) *Aggregate area limitations:* The total area of all signs allowed on one (1) parcel shall not exceed the following, unless as otherwise approved within a comprehensive signage plan:

Zoning District	Aggregate Area Limitation
Residential (non-dwelling uses)	12 square feet
ADC Districts: N. Downtown; Wertland St; Ridge St; Oakhurst Circle; Rugby Road	12 square feet
ADC Districts: Downtown; the Corner	50 square feet
ADC Districts: West Main Street	75 square feet
Entrance Corridors	75 square feet
Mixed Use Corridors	100 square feet
B1, B2, B3, M1, IC	150 square feet

- (b) Any signs erected, installed or maintained in accordance with section 34-1027 and any temporary signs placed pursuant to section 34-1038(h) shall not be included in the calculation of the aggregate area limitation for each parcel.

**Sec. 34-1038. -- Sign General sign-regulations, by type.**

- (a) *Awning or canopy sign.* ....
- (b) *Freestanding signs.* .....
- (c) *Marquee signs.*



- (1) Signs on marquees for establishments other than theaters shall not exceed twenty (20) square feet on any side or front section of the marquee. Signs may extend above the top of the marquee on which they are located, provided that the vertical dimension of the marquee and sign, together, does not exceed five (5) feet. If such signs are illuminated, exposed light sources shall not be used.
- (2) Signs may be mounted or located underneath a marquee, subject to the following restrictions:
  - a. There shall be only one (1) sign for each entrance to an establishment.
  - b. Such signs shall not exceed twelve (12) inches in depth, with not more than an additional three (3) inches in depth to include the supports and hangers attaching the sign to the marquee.
  - c. If such signs are illuminated, the illumination shall be by interior lighting only, subject to the interior lighting restrictions as set forth in this chapter.
- (3) ~~Theatre m~~Marquees including readerboards shall not exceed five (5) feet in the vertical dimension. Such signs may extend above the top of the marquee; provided, the vertical dimension of the structure, including both marquee and sign, shall not exceed five (5) feet. If such signs are illuminated, exposed light sources shall not be used.
- (4) Unless otherwise provided within this article:
  - a. No marquee sign shall exceed an area of sixty (60) square feet including all faces of the sign.
  - b. No part of any marquee shall be lower than ten (10) feet from grade.
- (5) The height standards set forth in this section for marquees located within architectural design control or entrance corridor districts may be modified by the BAR or ERB, as appropriate.

(d) *Monument signs.* ....

(e) *Pole mounted signs.*....

(f) *Projecting signs.*

(g) *Sandwich board signs.* ....

(h) *Temporary signs.* Temporary signs not over thirty-two (32) square feet (not over ten (10) square feet in an ADC District) are permitted. ~~Signs for temporary events, sales or special promotions may not be erected more than one month before the event or activity and shall be removed within forty-eight (48) hours of its conclusion.~~ In no case shall any establishment display temporary signs for a cumulative period of time longer than ~~three (3) two (2)~~ months in any calendar year. There shall be no more than one (1) temporary sign per establishment at any time.

(i) *Wall signs.* ....

**Sec. 34-1039. - Reserved.**

**Sec. 34-1040. — Signs, special regulations for Mixed-use corridor zoning districts—**  
**Special regulations.**

In addition to other applicable regulations set forth within this article, the following regulations shall govern signs within any mixed-use corridor district, except as otherwise approved with an optional comprehensive sign plan:

(a) *Number and type of signs.*....

(b) *Size limitations, by sign type.*....

(c) *Mixed-use buildings:*

- (1) Where fifty (50) percent or more of the gross floor area of a building consists of residential uses:
  - a. One (1) ~~development~~ sign shall be allowed, not to exceed an area of twenty-five (25) square feet, and the aggregate area of all signs for ancillary non-residential uses or establishments shall not exceed sixty (60) square feet.
  - b. No wall sign may exceed thirty (30) square feet.
- (2) Where less than fifty (50) percent of the gross floor area of a building consists of residential uses:
  - a. No lot or parcel of land may contain both a projecting sign and a monument sign, or more than one (1) monument sign.
  - b. Only one (1) sign per non-residential use shall be allowed. In addition, there may be one (1) wall-mounted directory sign for each mixed-use building, not to exceed fifteen (15) square feet.
  - c. No wall sign may exceed fifty (50) square feet.
  - d. The aggregate area of all signs for one (1) building shall not exceed one hundred (100) square feet.
  - e. For buildings subject to review by the board of architectural review or ERB (pursuant to Article II, Divisions 2 or 3), the reviewing authority may, as part of an application for a certificate of appropriateness, require a single wall-mounted building sign in lieu of individual wall signs. No such building sign shall exceed one hundred (100) square feet. (3) Where a single building or parcel contains a mixture of commercial and industrial uses, one (1) monument sign may be located at each major entrance, ~~to identify the name and street address of the building or development.~~ No such sign shall exceed an area of forty (40) square feet.

**~~DIVISION 5. – TELECOMMUNICATIONS FACILITIES~~**

**~~DIVISION 6. – BUILDINGS AND STRUCTURES GENERALLY~~**

**~~Sec. 34-1100. Delete - Height—Application of district regulations.~~**

**~~Height—Application of District Regulations~~**

- ~~(a) The term "height," when applied to a building or structure shall refer to the distance measured from grade level to the highest point on such building or structure.~~
- ~~(b) In any zoning district where minimum or maximum permitted height is expressed in building stories rather than feet, the maximum permitted height of a building with the specified number of stories shall not exceed the following:~~
  - ~~Two (2) stories: Thirty five (35) feet.~~
  - ~~Three (3) stories: Forty five (45) feet.~~
  - ~~Four (4) stories: Fifty (50) feet.~~
  - ~~Five (5) stories: Sixty (60) feet.~~

**Comment [RL29]:** Recently updated.

No changes recommended with this Draft; however, changes may be necessary as a result of legislation from the 2017 General Assembly.

**Comment [RL30]:** Moved to Article I (Interpretations)

**Comment [RL31]:** Moved to Article I (Interpretations)

~~Six (6) stories: Seventy (70) feet.~~

~~Seven (7) stories: Eighty (80) feet.~~

~~Eight (8) stories: Ninety (90) feet.~~

~~Nine (9) stories: One hundred one (101) feet.~~

~~(c) All communications facilities shall be subject to the height regulations set forth within section 34-1074. For the purposes of measuring the height of a telecommunications facility, all antennas or other equipment or attachments mounted on an attachment structure or support structure shall be included in measurements to determine overall (i.e., combined) height.~~

~~(d) No accessory building or structure shall exceed the height of the principal building or structure on a lot.~~

**Comment [RL32]:** Moved to Article I (Interpretations)

**Comment [RL33]:** Moved to 34-1105

### **Sec. 34-1101. -- Exemptions from height requirements**~~Appurtenances.~~

(a) ~~The following An appurtenance to a building or structure shall not be counted in measuring the height of a building or structure.:-~~

**Comment [RL34]:** I recommend getting rid of the word "appurtenances". Instead, we should just substitute a list of the types of things that won't be counted as part of building height.

(1) ~~Heating, electrical, and mechanical equipment (including, without limitation, elevator returns) which are necessary for or in connection with the proper operation of the building in accordance with USBC requirements, provided that: no such equipment~~~~No rooftop appurtenance shall, as installed: (i) itself measure extend more than eighteen (18) feet above the highest point of the building or structure in height above the building, or (ii) cover more than twenty-five (25) percent of the area of the roof area of a building.~~

(2) ~~Telecommunications equipment, subject to the provisions of Sec. X.~~

(3) ~~Chimneys constructed or attached to the side of a building, which extend above the level of the roof deck of a building to a height required by the USBC or Fire Prevention Code.~~

~~(2)(4) Other structures or equipment constructed or installed above the roof deck, so long as (i) they contain no Within a rooftop appurtenance, no enclosed space shall be designed or used as any type of enclosed, occupable or habitable residential space, and (ii) they comply with the height and area requirements set forth in (1), above.~~ The provisions of this paragraph shall not preclude open-air space on a building rooftop from being used accessory to the primary use of the building.

### **Sec. 34-xxxx. Permitted yard encroachments**

~~(d) The following appurtenances may encroach into minimum required yards, to the extent as specified:~~

- (1) Window sills, roof overhangs, belt courses, cornices and ornamental features may encroach into a required yard by no more than twelve (12) inches.
- (2) Open lattice-enclosed fire escapes, fireproof outside stairways, and the ordinary projections of chimneys and flues may encroach into a required rear yard by no more than five (5) feet.
- (3) Chimneys or flues being added to an existing building may encroach into a required side yard, but not closer than five (5) feet to the side lot line.
- (4) Elevator shafts and mechanical equipment which are screened in accordance with the requirements of section 34-872 ~~may encroach into a required side or rear yard.~~
- (5) Handicapped ramps meeting ADA standards may encroach into a required yard.
- (6) Except as otherwise provided above:

a. Uncovered ~~appurtenances-structures~~ which have a maximum floor height of three (3) feet above the finished grade may encroach into any required yard, but not closer than five (5) feet to any lot line and no more than ten (10) feet into a required front yard; however, no such appurtenance shall occupy more than thirty (30) percent of a rear yard.

**Comment [RL35]:** As a practical matter, what features does this permit?

- b. A ~~front porch by appurtenance to~~ of a single- or two-family dwelling, having a height greater than three (3) feet above finished grade, may encroach into a required front yard by up to ten (10) feet, but no closer than five (5) feet to a front lot line; however, such ~~appurtenance~~ shall be in compliance with the applicable side yard setback.
- c. No enclosed ~~structure appurtenance~~, regardless of height (including but not limited to a screened-in porch), shall encroach into any required yard.

**Comment [RL36]:** As a practical matter, what if any features other than a porch does this permit?

**Sec. 34-1102. -- ~~Delete. Required building separation.~~**

~~Except where otherwise expressly provided, wherever a separation is provided between any two (2) buildings or structures, the distance between them shall be a minimum of eight (8) feet.~~

**Comment [RL37]:** We've had some issues with this—landowners and staff are getting confused as to the purpose of this provision (unknown) versus the provisions of the USBC (which generally do not require any building separation)

**Sec. 34-1103. -- ~~Principal buildings~~ **Two or more principal buildings or structures on one lot.****

- (a) No ~~more than one principal building or structure~~ lot or parcel of land shall be constructed on any lot within a low-density residential zoning district. ~~contain more than one (1) principal building or structure, except where such lot or parcel is used for a multifamily, mixed-use, commercial, or industrial development.~~
- (b) ~~Except as provided in (a), a lot may contain more than one principal building or structure. In circumstances where more than one (1) principal building or structure is authorized, as set forth above, all buildings and structures must conform to required yard and other lot requirements for the district in which the lot or parcel is located.~~

**Formatted:** Font: 11 pt, Bold

**Sec. 34-1104. - Compliance with building code.**

- (a) No building or structure shall be ~~demolished, erected, constructed, reconstructed, altered, used or occupied~~ except in accordance with a valid ~~permit certificate of occupancy~~ issued by the city's building code official.
  - (1) ~~Upon receipt of a zoning application proposing a change in use of the property, the employee or official receiving the application shall forward it to the city's building code official for review. The building code official will determine whether the property in question has previously been issued a certificate of occupancy and whether any certificate of occupancy or equivalent approval is required by the state building code.~~
  - (2) ~~The zoning administrator's signature on a certificate of occupancy shall constitute his certification that the use that is the subject of the certificate is lawful under the provisions of the city's zoning ordinance.~~
- (b) ~~Within any development containing more than one (1) building or structure, where any buildings or structure have been completed, and are ready for occupancy, prior to the completion of all of the improvements required by the approved site plan for the development, the owner may provide a bond with surety adequate to guarantee the completion of the remaining improvements by a date certain. Upon the provision of such bond, and upon payment of any fee required by the most recent fee schedule adopted by city council, then a certificate of occupancy may be issued by the city's building code official to allow occupancy of buildings or structures already completed.~~
  - (1) ~~The city attorney may approve any of the following substitutes for the required surety bond: letter of credit, joint savings account or other like surety.~~
  - (2) ~~In any case in which any other escrow agent (such as an attorney for a mortgage lender) is holding funds to ensure compliance with the terms of other regulations or agreements, and such funds are in an amount sufficient to ensure compliance both with the terms of this chapter and such other regulations or agreements, the developer shall make arrangements for the city attorney to become a party to such other escrow agreement, as escrow agent for the city; provided, that such other escrow agreement must contain provisions satisfactory to the city attorney to ensure compliance with the requirements of this chapter.~~

**Comment [LR38]:** Moved to new section in Article 1, re zoning verification

**Comment [LR39]:** I am not aware of an instance in which it's been used in the past 3 years, at least. Recommend deletion

(be) The ~~NDS Director of neighborhood development services~~ may require a public infrastructure maintenance bond ~~from the developer and property owner of in conjunction with the construction of a single-family or two-family dwelling, home at the time of issuance of a certificate of occupancy in instances where such construction is not part of a development subject to the the home is (1) not subject to the provisions of Chapter 29 of this Code, and other (2) all other required performance and maintenance bonds posted have been fully released.~~ A public infrastructure maintenance bond required shall not exceed an amount reasonably necessary to maintain and repair publicly owned streets, sidewalks, and infrastructure ~~depicted or provided for in the approved plan, plat, permit application, or similar document for which such bond is applicable,~~ on site or immediately adjacent to the construction, and shall not be used for the purpose of repairing infrastructure damage that preexisted the construction, unless otherwise agreed upon by the developer, ~~landowner property owner,~~ and the city. ~~In , but in no case shall such public infrastructure maintenance the bond requirement exceed five thousand dollars (\$5,000.00).~~ Upon notification from the developer or ~~landowner property owner~~ that all bonded improvements are complete, an inspection will be conducted by the ~~city's representative department of neighborhood development services~~ within five (5) business days, ~~and the bond . Any remaining portion of the performance guarantee shall be released within five (5) business days of a satisfactory results of inspection.~~

**State Law reference**— Code of Virginia § 15.2-2209.2.

**Sec. 34-1105. - Accessory buildings and structures.**

(a) No accessory building or structure shall:

- (1) ~~be~~ constructed upon a lot ~~prior to commencement of the principal building to be served by such structure until the construction of the main building has been actually commenced;~~
- (2) ~~be~~ used for ~~any residential occupancy dwelling purposes (except where for accessory apartments, where such accessory apartments are otherwise permitted within a residential zoning district);~~
- (3) ~~be~~ located within any front yard; or, on a corner lot, project into ~~any the~~ required yard ~~adjacent to a street adjacent to any public street frontage;~~ or
- (4) ~~exceed the height of any principal building or structure on a lot. Within a low-density residential district, no accessory building or structure shall exceed Exceed twenty-five (25) feet in height or the highest point of the roof of the principal primary dwelling unit's roof surface building or structure on the lot, whichever is less, and the eave of the accessory structure shall not be higher than the eave of the primary principal building or structure.~~

(b) Accessory buildings ~~and structures~~ may be erected in a required rear yard, provided that in any residential zone, accessory buildings and structures ~~(when located within a required rear yard):~~

- (1) ~~Shall not, in the aggregate Cumulatively shall not~~ occupy more than thirty (30) percent of a ~~required~~ rear yard, and
- (2) Shall not be nearer than five (5) feet to any side or rear lot line, ~~except that. However, when a garage serving a single- or two-family dwelling, having its entrance from an alley, situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley.~~

(c) Fences may be located within any required yard, ~~subject to the requirements of Sec.X (historic districts) and Sec. X (sight distance).~~

**Sec. 34-1106. Delete - Side yards for dwelling units above commercial buildings.**

~~No side yards shall be required when dwelling units are erected above commercial buildings, unless a side yard is required for the commercial building.~~

**Comment [RL40]:** Within a low-density zoning district, only one principal building/structure is allowed on a lot, and that will be a dwelling unit of some type. See 34-1103(a)

**Comment [LR41]:** Review. This seems overly complicated; can the wording/ rule be simplified?

**Comment [LR42]:** If dwelling units are in the same building as a commercial use, then that's a mixed use building. Delete this, and Use the required yard provisions for the applicable zoning district.

**Sec. 34-1107. - Portable storage containers.**

~~Notwithstanding any contrary provision of this ordinance, portable storage containers located outside of a fully enclosed building or enclosed structure shall be allowed only in residential, commercial or mixed use districts subject to the following restrictions:~~

- ~~(1) In residential districts and mixed-use districts, a maximum of two (2) portable storage containers may be allowed on a lot for a period no longer than fifteen (15) days in any consecutive twelve-month period. A maximum of one (1) portable storage container may be allowed on a lot for a period no longer than sixty (60) days in any consecutive twelve-month period. In any case where there is a change in ownership of the lot, the date upon which title to the lot is conveyed shall begin a new 12-month period. The portable storage container must be placed a minimum of five (5) feet from the property line, or on the driveway of the lot. One (1) portable storage container may be placed in a legal parking place on the street with the purchase of a permit from Neighborhood Development Services when space is not available on site. No portable storage container located in a residential or mixed-use district shall have dimensions greater than twenty (20) in length, eight (8) feet in width or eight (8) feet in height.~~
- ~~(2) Any resident with one (1) portable storage container on their lot for less than fifteen (15) calendar days shall not be required to obtain a permit if neighborhood development services has advance notice of placement. A permit issued by the zoning administrator is required for any portable storage container located on a lot for more than fifteen (15) calendar days. The fee for such permit shall be in the amount set forth in the most recent zoning fee schedule approved by city council. The permit shall be displayed on the exterior of the portable storage unit at all times.~~
- ~~(3) Other than the required city permit, no sign shall be attached to a portable storage container except as authorized by the sign regulations set forth within section 34-1026(7) of the City Code (Signs).~~
- ~~(4) All portable storage containers shall be maintained in a condition free from rust, peeling paint and other visible forms of deterioration.~~

**DIVISION 7. ~~DELETE DIVISION HEADING- LOTS AND PARCELS-~~ DEVELOPMENT; GENERAL REGULATIONS**

**Sec. 34-1120. – Lot requirements ~~Lot regulations, general.~~**

- ~~(a) **Frontage requirement.** No building to be used for residential occupancy shall be constructed on any lot, unless and until (i) the lot has frontage on an improved street that has been accepted by the city for maintenance, or (ii) the lot fronts on a dedicated public right-of-way in which a street is to be constructed by a person who has provided a public improvement bond guaranteeing completion of construction of such street for acceptance and maintenance by the city. The minimum length of such frontage shall be as specified in City Code sec. 29-161. Every lot shall have its principal frontage on a street or place (i) that has been accepted by the city for maintenance, or (ii) that a subdivider or developer has been contractually obligated to install as a condition of subdivision or site plan approval and for which an adequate financial guaranty has been furnished to the city. Except for flag lots, stem lots, and cul-de-sac lots, or other circumstances described within the city's subdivision ordinance, no lot shall be used, in whole or in part, for any residential purpose unless such lot abuts a street right-of-way for such subdivision ordinance for a residential lot.~~
- ~~(b) **Building site required.** No construction shall be conducted except within the area of a building site, and no building or structure shall be constructed on a lot except within the area of a building site. This building site requirement shall not apply to construction on a lot created prior to January 17, 2012. Every newly created lot shall contain at least one (1) building site. For purposes of this section, the term building site refers to a contiguous area of land in slopes of less than 25%, as determined by reference to the most current city topographical maps maintained by the department~~

**Comment [LR43]:** Move (Add to Temporary Uses regulations)

**Comment [RL44]:** This is the date the building site requirement was first enacted.

**Comment [LR45]:** Move the "newly created lot" requirement to subdivision ordinance.

~~of neighborhood development services or a source determined by the city engineer to be of superior accuracy, exclusive of such areas as may be located in the flood hazard overlay district or under water.~~

**Comment [LR46]:** Move "building site" definition to Article X (Definitions)

~~(1) *Building site area and dimensions.* Each building site in a residential development shall have adequate area for all buildings, structures and improvements to be constructed within applicable building envelope standards, as follows: (i) for construction of a building containing one or two dwelling units, and no other principal building(s) or use(s), the building site shall have adequate area for construction of such single- or two-family dwelling and for all driveways and parking areas; or (ii) for all other construction, dwelling unit(s) outside of all required yard areas for the applicable zoning district and all parking areas. Within all other developments subject to the requirement of a site plan, each the required building site shall have adequate area for all buildings, and structures, parking and loading areas, storage yards, and other improvements, and all associated land earth-disturbing activity-related to the improvements.~~

~~(2) *Location of structures and improvements.* The following shall apply to the location of any building or structure for which a permit is required under the Uniform Statewide Building Code and to any improvement shown on a site plan pursuant to Article VII of this chapter:~~

~~No building, structure or improvement shall be located on any lot or parcel within any area other than a building site.~~

(c) ~~*Critical slopes.* No building, structure or improvement, nor any earth disturbing activity to establish such building, structure or improvement, shall be located on or within a critical slope, except as may be permitted by a modification or waiver approved by city council.~~

~~(1) *Purpose and intent.* The provisions of this subsection (hereinafter, "critical slopes provisions") are intended to protect topographical features that have a slope in excess of the grade established and other characteristics in the following ordinance for the following reasons and whose disturbance could cause one (1) or more of the following negative impacts:~~

- ~~a. Erosion affecting the structural integrity of those features.~~
- ~~b. Stormwater and erosion related impacts on adjacent properties.~~
- ~~c. Stormwater and erosion related impacts to environmentally sensitive areas such as streams and wetlands.~~
- ~~d. Increased stormwater velocity due to loss of vegetation.~~
- ~~e. Decreased groundwater recharge due to changes in site hydrology.~~
- ~~f. Loss of natural or topographic features that contribute substantially to the natural beauty and visual quality of the community such as loss of tree canopy, forested areas and wildlife habitat.~~

~~These provisions are intended to direct building locations to terrain more suitable to development and to discourage development on critical slopes for the reasons listed above, and to supplement other regulations and policies regarding encroachment of development into stream buffers and floodplains and protection of public water supplies.~~

~~(2) *Definition of critical slope.* A critical slope is any slope whose grade is 25% or greater and:~~

- ~~a. A portion of the slope has a horizontal run of greater than twenty (20) feet and its total area is six thousand (6,000) square feet or greater; and~~
- ~~b. A portion of the slope is within two hundred (200) feet of any waterway as identified on the most current city topographical maps maintained by the department of neighborhood development services.~~

**Comment [LR47]:** Moved critical slope definition to Article X (Definitions)

~~Parcels containing critical slopes are shown on the map entitled "Properties Impacted by Critical Slopes" maintained by the department of neighborhood development services. These critical~~

~~slopes provisions shall apply to all critical slopes as defined herein, notwithstanding any subdivision, lot line adjustment, or other action affecting parcel boundaries made subsequent to the date of enactment of this section.~~

(6) *Modification or waiver.*

- a. ~~A landowner, any person who is the owner, owner's agent, or contract purchaser (with the owner's written consent) of property~~ may request a modification or waiver of the requirements of these critical slopes provisions. Any such request shall be presented in writing to the Zoning administrator, and shall address how the proposed modification or waiver will satisfy the ~~purpose and intent requirements of this section~~of these provisions.
- b. The NDS Director ~~director of neighborhood development services~~ shall post on the city website notice of the date, time and place that a request for a modification or waiver of the requirements of these critical slopes provisions will be reviewed and cause written notice to be sent to the applicant ~~or his agent~~ and to the owner or agent for the owner of each lot property located within five hundred (500) feet of the land that is the property subject of the requested to the waiver. Notice sent by first class mail to the last known address of a landowner such owner or agent as shown on the current real estate tax assessment books, postmarked not less than five (5) days before the meeting, shall be deemed adequate. An employee of representative of the department of neighborhood development services shall make affidavit that such mailing has been made ~~and file the affidavit with the papers related to the site plan application.~~
- c. All modification or waiver requests shall be ~~submitted to the department of neighborhood development services, to be reviewed by the planning commission, and the planning commission shall transmit its recommendation on each request to city council.~~ In ~~reviewing~~ considering a requested modification or waiver the planning commission shall consider the analysis presented by recommendation of the NDS Director director of neighborhood development services or their designee, and any other information the planning commission deems relevant.
- d. The ~~NDS Director~~director, in formulating his recommendation, shall consult with the city engineer, the city's environmental manager, and other appropriate officials, and shall prepare a written report analyzing the requested waiver or modification. The ~~NDS Director's~~ director's analysis shall ~~provide the planning commission with an evaluation of the proposed modification or waiver that considers~~ (i) the potential for soil erosion, sedimentation and water pollution, in accordance with current provisions of the Commonwealth of Virginia Erosion and Sediment Control Handbook and the Virginia State Water Control Board best management practices, and, where applicable, the provisions of Chapter 10 of the City Code; (ii) potential. ~~The director may also consider other negative impacts of disturbance of the critical slope; as defined in these critical slope provisions.~~
- ~~d.~~ The planning commission shall make a recommendation to city council in accordance with the criteria set forth in this section, and city council may thereafter grant a modification or waiver upon making a finding that:
  - (iii) whether ~~t~~ The public benefits of allowing disturbance of a critical slope outweigh the public benefits of the undisturbed slope (public benefits include, but are not limited to, stormwater and erosion control that maintains the stability of the property and/or the quality of adjacent or environmentally sensitive areas; groundwater recharge; reduced stormwater velocity; minimization of impervious surfaces; and stabilization of otherwise unstable slopes); or
  - (iv) whether, ~~d~~ Due to unusual size, topography, shape, location, or other unusual physical conditions, or existing development of a property, one (1) or more of these critical



slopes provisions would effectively prohibit or unreasonably restrict the use, reuse or redevelopment of such property or would result in significant degradation of the site or adjacent properties; ~~and~~.

~~(v) whether the requested~~ No modification or waiver ~~would granted shall~~ be detrimental to the public health, safety or welfare, detrimental to the orderly development of the area or adjacent properties, or contrary to sound engineering practices.

- e. In granting a modification or waiver, city council may allow the disturbance of a portion of the slope, but may determine that there are some features or areas that cannot be disturbed. These include, but are not limited to:
- (i) Large stands of trees;
  - (ii) Rock outcroppings;
  - (iii) Slopes greater than 60%.

~~City council shall consider the potential negative impacts of the disturbance and regrading of critical slopes, and of resulting new slopes and/or retaining walls. City council may impose conditions as it deems necessary to protect the public health, safety or welfare and to insure that development will be consistent with the purpose and intent of these critical slopes provisions. Conditions shall clearly specify the negative impacts that they will mitigate.~~ Conditions may include, but are not limited to:

- (i) Compliance with the "Low Impact Development Standards" found in the City Standards and Design Manual.
- (ii) A limitation on retaining wall height, length, or use;
- (iii) Replacement of trees removed at up to three-to-one ratio;
- (iv) Habitat redevelopment;
- (v) An increase in storm water detention of up to 10% greater than that required by city development standards;
- (vi) Detailed site engineering plans to achieve increased slope stability, ground water recharge, and/or decrease in stormwater surface flow velocity;
- (vii) Limitation of the period of construction disturbance to a specific number of consecutive days;
- (viii) ~~Special provisions for Requirement that~~ reseeded ~~of disturbed areas occur in less days than otherwise required by City Code.~~

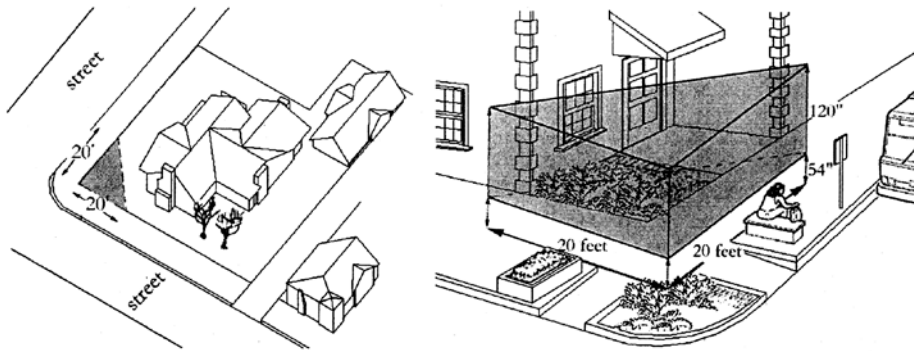
(7) ~~Exemptions. A lot, structure or improvement may be exempt from the requirements of these critical slopes provisions, as follows:~~

- a. Any ~~building or~~ structure which was lawfully ~~constructed in existence on a lot~~ prior to ~~January 17, 2012~~ the effective date of these critical slopes provisions, and which is nonconforming ~~only as to solely on the basis of the requirements of these critical slopes provisions, may be expanded, enlarged, extended, modified and/or reconstructed as though such structure were a conforming structure. For the purposes of this section, the term "lawfully in existence" shall be deemed to include also apply to any building or structure depicted within a valid site plan that for which a site plan was approved or a building permit was issued prior to the effective date of these provisions, provided such plan or permit has not expired.~~
- b. Any ~~vacant lot or parcel of record~~ created prior to January 17, 2012 which was lawfully a lot of record on the effective date of this chapter shall be exempt from the requirements of these critical slopes provisions for the establishment of the first single-family dwelling unit on such lot ~~or parcel, upon a determination by the NDS Director that such lot does not;~~

however, subparagraph (5)(b) above, shall apply to such lot or parcel if it contains an adequate land building site outside any area(s) of critical area in and steep slopes of less than 25% for the location of such structure.

- c. Driveways, public utility lines and appurtenances, stormwater management facilities and any other public facilities necessary to allow the use of the parcel shall not be required to be located within a building site and shall not be subject to the building site area and dimension requirements set forth above within these critical slopes provisions, provided that the applicant demonstrates that no reasonable alternative location or alignment exists. The city engineer shall require that protective and restorative measures be installed and maintained as deemed necessary to insure that the development will be consistent with the purpose and intent of these critical slopes provisions.

**Sec. 34-1121. - Sight distance—Lots, rRequired sight triangle.**



**Sight TriangleDistance**

- (a) For purposes of this section, the term "sight triangle" shall mean:
  - (1) The triangular area formed at a corner intersection of public right of way and a driveway, at a corner intersection of an alley public right of way and a street right of way, or at a corner intersection of two (2) public rights of way, where
  - (2) The two (2) equal sides are twenty (20) feet long, measured along:
    - a. The right of way line of the street and the edge of the driveway, or
    - b. The lines of each of the two (2) intersecting public rights of way; and where
  - (3) The third side of the triangle is a line connecting the two (2) equal sides.
- (b) Where a driveway intersects a public right of way, or where property abuts the intersection of two (2) public rights of way, no person shall place or maintain any ~~No building, structures, fences, landscaping, plant or any other object shall be erected, constructed or installed~~ on a lot, within a triangular corner yard area ("sight triangle") measured along the property lines extending within a distance of 20 feet from the corner created by the intersection of any two public street rights of way, except as follows: any sight triangle area, where any such object(s) obstruct or obscure sight distance visibility by more than twenty five (25) percent of the total view in the vertical plane above the sight triangle area between a height of fifty four (54) inches and one hundred twenty (120) inches above the roadway surface, except for the following:
  - (1) Landscaping, structures or fences that protrude no more than fifty-four (54) inches above the adjacent roadway surface ~~are permitted~~ may be permitted within the sight triangle area; and

**Comment [RL48]:** On a couple of occasions, developers have tried to avoid the sight-distance requirements of the SDM/ City Engineer, by claiming that the "sight distance" requirements of this section apply. I recommend revising this language to refer only to a "sight triangle" and implement it as a type of required yard area.

- (2) ~~Trees presenting no visual obstruction (other than the tree trunk) between the level of the established street grade and a height of 10 feet, may be planted and maintained within the sight triangle area,~~ if all branches are trimmed to maintain a clear vision for a vertical height of one hundred twenty (120) inches above the roadway surface and the location of the trees planted (based on the tree species' expected mature height and size) does not create a safety hazard, in the determination of the traffic engineer~~obstruct sight visibility by more than twenty-five (25) percent of the sight triangle area.~~
- (3) United States mail boxes, police and fire alarm boxes, public utility poles, street name markers, official traffic signs and control devices, fire hydrants, ~~and trees having no visual obstruction (other than the tree trunk) up to the height of ten (10) feet above the established street grade.~~
- (4) When zoning district regulations require a building to be placed within such area; or
- (5) With approval of the city's traffic engineer, upon a determination that the object, as erected, installed or constructed, will not present an unacceptable safety hazard.

**Comment [LR49]:** Moved up to paragraph (2), so that all of the provisions relating to trees in one place

**Sec. 34-1122. Delete**

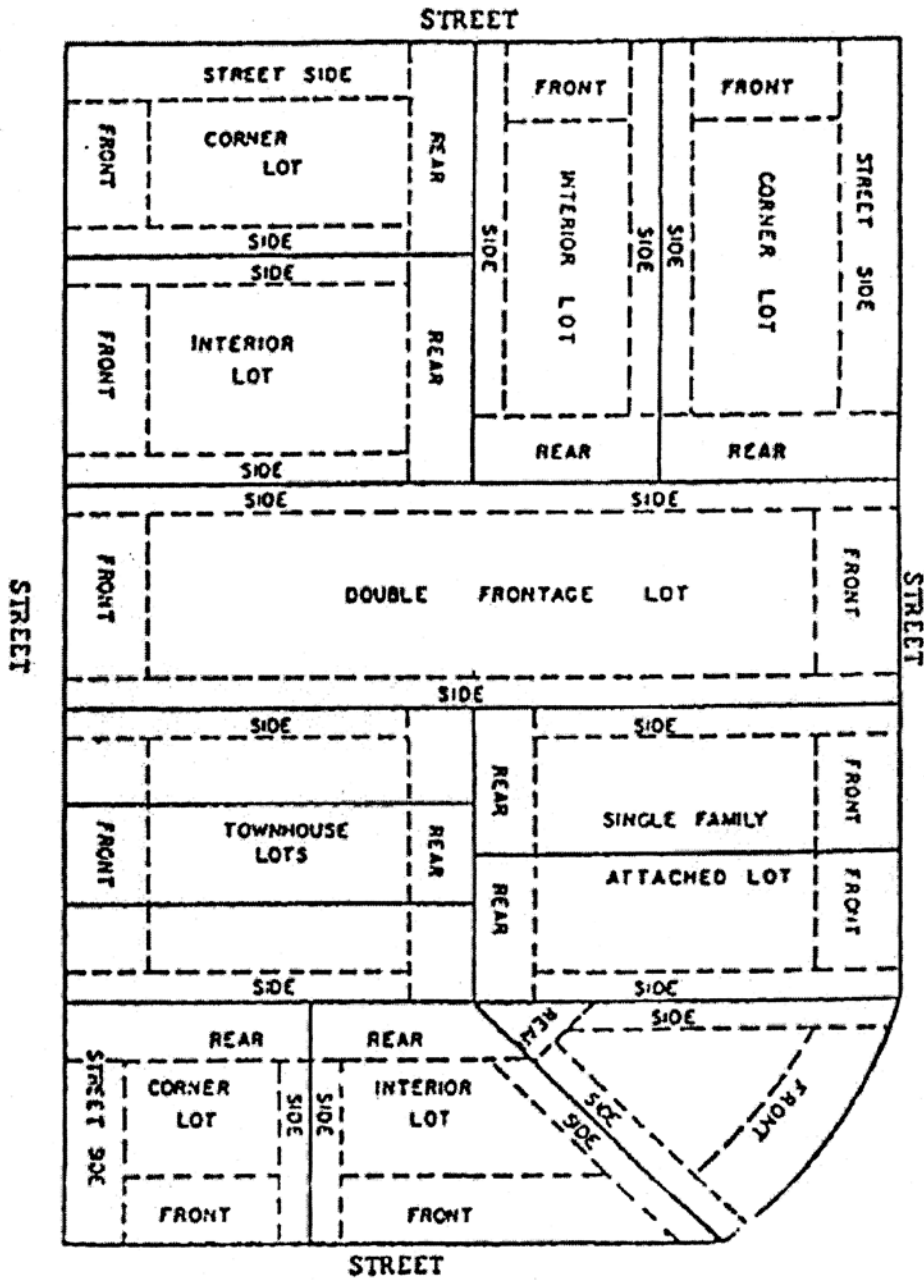
~~Sec. 34-1122. Interpretation of lot and yard designations:~~

**Comment [LR50]:** Review for accuracy;

Moved to new division (Interpretations) of Article I (Administration)

**Diagram XX. Interpretation of Lot and Yard Designations**

**Comment [RL51]:** This diagram contains an error; staff needs to provide an updated diagram



Interpretation of Lot and Yard Designations

**Sec. 34-1123 Delete**

**Sec. 34-1123. - Lot area requirements—Certain residential uses:**

When located on a lot containing fewer than three (3) total dwelling units, and where permitted within the applicable zoning district, the following residential uses shall be subject to the specified minimum (min.) and average (avg.) lot area requirements, according to the zoning district in which such uses are located:

**Comment [LR52]:** Moved to Residential zoning district regulations

**Lot Area Requirements—Residential Uses**

	Single-Family Detached (SFD)	Single-Family Attached (SFA)	Two-Family (TFD)	Townhouse (TH)
R-1	8,125 SF min.	NA	NA	NA
R-1S	6,000 SF min.	NA	NA	NA
R-1U	8,125 SF min.	NA	NA	NA
R-1US	6,000 SF min.	NA	NA	NA
R-2, R-2U, and McIntire/5th St. Res. Corridor	6,000 SF min.	Per dwelling unit: 2,000 SF, min., 3,600 SF, avg.	7,200 SF, min.; 6,000 SF, min. for lots of record prior to 08/03/64	2,000 SF, min.
All other districts	6,000 SF min.	Per dwelling unit: 2,000 SF, min., 3,600 SF,	7,200 SF, min.; 6,000 SF, min. for lots of record prior to 08/03/64	2,000 SF, min.

		avg.		
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**Sec. 34-1124. - Vacant lot construction—Required sidewalks, curbs and gutters.**

- (a) The planning commission shall, from time to time, promulgate criteria by which the utility and necessity (i.e., high-priority versus low-priority, taking into account public necessity versus cost to the property owner) of community sidewalks may be assessed ("sidewalk criteria"). These criteria shall guide the city's expenditure of funds within the sidewalk improvement fund referred to in paragraph (b), below. A copy of these sidewalk criteria shall be maintained within the department of NDS neighborhood development services.
- (b) For the protection of pedestrians and to control drainage problems, when not more than two (2) dwelling units are to be constructed upon a previously unimproved lot or parcel, or when any single-family detached dwelling is converted to a two-family dwelling, sidewalk, curb and gutter (collectively, "sidewalk improvements") shall be constructed within public right-of-way dedicated along the adjacent public street frontage for that purpose. No certificate of occupancy shall be issued for the dwelling(s) until the sidewalk improvements have been accepted by the city for maintenance, or an adequate financial guaranty has been furnished to the city conditioned upon completion of the sidewalk improvements within a specific period of time. The requirements of this paragraph shall not apply, if (i) the landowner of the lot or parcel obtains a waiver of the required sidewalk improvements from city council, or (ii) the landowner of the lot or parcel, at the landowner's sole option, elects to contribute funds to a sidewalk improvement fund in an amount equivalent to the cost of dedication of land for and construction of the required sidewalk, curb and gutter.
- (c) Sidewalks, curbs and gutters required by this section shall be constructed in accordance with the standards set forth within the city's subdivision ordinance and standards within the city's Standards and Design Manual.
- (d) Nothing within this section shall in any way affect the city's authority to require sidewalks, curb and gutter to be bonded and constructed by a developer on any newly constructed public street. The provisions of paragraph (b), above, shall not apply to any lot or parcel of land within a "development," as that term is defined within section 34-1200.

**Sec. 34-1125. Delete**

~~Sec. 34-1125. Required plans and approvals—Residential dwellings:~~

~~Except in the case of construction in developments pursuant to an approved site plan, along with each application for a building permit for constructing, enlarging, altering, or demolishing a single or two-family dwelling, an applicant shall provide the following information and materials, to enable the zoning administrator to review the application to determine compliance with the requirements of this article:~~

- ~~(1) Construction or reconstruction of a residential dwelling, on a vacant lot:
 
  - ~~a. A survey plat, showing (without limitation) the boundaries of the lot, and the area of the lot (indicated in square feet and/or acreage)~~
  - ~~b. Construction plans, showing the location of the proposed building in relation to lot lines, required yards, required sidewalk, curb and gutter, etc.~~
  - ~~c. A drawing identifying trees to be removed during the construction process, and specifying the diameter, location and condition of those trees.~~~~
- ~~(2) Proposed additions/modifications of an existing building:~~

**Comment [LR53]:** Incorporated into new division/ section ("zoning verifications") in Article I (Administration)

- a. ~~A construction plan, showing the location and footprint of each proposed addition, in relation to lot lines, required yards, sidewalks, etc.~~
- b. ~~A plan indicating the number, location, and materials to be used in construction of additional off-street parking spaces required in connection with, or as a result of, the proposed addition/modification;~~
- c. ~~A drawing identifying trees to be removed during the construction process, and specifying the diameter, location and condition of those trees.~~
- d. ~~A written certification indicating the existing use(s) of the building which is the subject of the application, and of all other buildings located on the same lot.~~

~~(9-15-03(3))~~

**Sec. 34-1126. Delete**

**Sec. 34-1126. Mixed use development.**

~~(a) With respect to any mixed use development residential density may be calculated using the area of the entire development site, even if one (1) or more residential components is or will be situated on an individual lot not subject to ownership in common with other lots comprising the development site. For the purpose of this section, the term "development site" shall mean and refer to all the lots or parcels of land containing, or proposed to contain, any component(s) of a mixed use development, where all such lots or parcels have been included within and are subject to the requirements of a single (1) site plan.~~

~~(b) Notations shall be included on all subdivision plats, site plans, building permits and certificates of occupancy for a mixed use development, identifying the component uses and density limitations applicable to the mixed use development.~~

Comment [LR54]: Move this into list of details required for site plans

**DIVISION 8. -- DELETE DIVISION HEADING NONCONFORMING LAND, BUILDINGS, STRUCTURES AND USES, LOTS AND STRUCTURES**

**Sec. 34-1140. -- Nonconformities, generally Purpose.**

~~Except as otherwise provided in this division,~~

Comment [LR55]: Va Code 15.2-2307

~~(1) land, buildings and structures, and the uses thereof which do not conform to the requirements of this chapter may be continued only so long as the existing use, or a more restricted use, continues and such use is not discontinued for more than two (2) years, or the buildings or structures are maintained in their existing structural condition. The purpose of this division is to regulate nonconforming uses, lots and structures in a manner consistent with sound planning and zoning principles. The general intent is that over time, nonconforming uses, lots and structures will be discontinued in favor of uses, lots and structures conforming to this chapter and the zoning map. However, it is also recognized that nonconforming uses, lots and structures need not be entirely static, and that under certain circumstances nonconforming uses, lots and structures may change according to law and the provisions of this chapter.~~

~~(2) Buildings or structures, and the uses thereof, shall be brought into compliance with the requirements of this chapter whenever the square footage of building or structure is enlarged, or the building or structure is structurally altered as provided in the USBC. No nonconforming building or structure may be moved on the same lot, or to any other lot on which the zoning would not permit the construction or installation of such building or structure.~~

~~(3) No nonconforming use may be expanded on any lot, or within any building or structure.~~

(4) Nonconforming uses and structures within the city's flood hazard protection overlay district may be altered or replaced only in accordance with the provisions of Article XXX.

**Sec. 34-1141. — Nonconformities conforming use, lot and structure defined.**

- (a) For the purposes of this chapter, the term "nonconforming use" shall mean a ~~lawful~~-principal use of ~~land, lawfully established a lot, existing on prior to~~ the effective date of ~~this chapter~~~~the zoning regulations applicable to the district in which the use is located, or a more restricted use,~~ that does not comply with applicable use regulations of ~~this chapter~~~~that district~~. A nonconforming use may have accessory uses; however, an accessory use shall not be eligible for "nonconforming use" status. A use that is casual, intermittent, or temporary on the effective date of this chapter shall not be eligible to be a nonconforming use.
- (b) For the purposes of this chapter, the term "nonconforming lot" shall mean a ~~lawful~~-lot of record ~~lawfully created prior existing on to~~ the effective date of ~~this chapter, which does not conform to the size, shape, building site, or other lot requirements set forth within this chapter~~~~the zoning regulations applicable to the district in which the lot is located, that does not comply with the minimum applicable size or other lot requirements of that district.~~
- (c) For the purposes of this chapter, the term "nonconforming structure" shall mean a ~~building or lawful~~ structure ~~lawfully established prior to existing on~~ the effective date of ~~this chapter~~~~the zoning regulations applicable to the district in which the structure is located,~~ that does not comply with the ~~minimum~~-applicable bulk, height, setback, floor area, or other dimensional ~~or locational~~ requirements ~~applicable to structures within that zoning district set forth within this chapter.~~

**Sec. 34-1142. - Rights adhere to the land.**

The nonconforming status of any nonconforming use, lot, or structure shall adhere solely to the land, and not to ~~any particular the land~~owner, tenant or other holder of any legal title to the property or the right of possession of such property.

**Sec. 34-1143. Delete**

~~Sec. 34-1143. — General.~~

- ~~(a) A nonconforming use, lot or structure may continue, as it existed when it became nonconforming. Except as provided within this division, a nonconforming use, lot or structure shall not be changed, altered, repaired, restored, replaced, relocated, extended or expanded in any manner (including, without limitation, by addition of new accessory, ancillary or other incidental uses).~~
- ~~(b) No use that is accessory, ancillary or incidental to a principal nonconforming use shall be continued after nonconforming status is lost.~~
- ~~(c) A use that is accessory, ancillary or incidental to a permitted principal use cannot be made the basis for a nonconforming use.~~

Comment [RL56]: Moved

**Sec. 34-1144. - Nonconforming uses.**

- (a) *Discontinuance or abandonment.*
- (1) ~~If any nonconforming use is discontinued for a period of two (2) years, it shall lose its nonconforming status, and any further use shall conform to the provisions of this chapter.~~ Cessation of a nonconforming use for a two-year period shall establish a presumption that such use has been discontinued. Continuation of a use which is accessory, ancillary or ~~otherwise~~ incidental ~~use~~ to the ~~principal~~-nonconforming use during the two-year period, without continuation of the ~~principal~~-nonconforming use itself, shall not operate to continue the ~~principal~~ nonconforming use.
- (2) Any nonconforming use that is intentionally abandoned, without regard to the length of time that has passed following such abandonment, shall be deemed terminated. Any further use of the property shall conform to the provisions of this chapter.



(b) ~~Permitted changes. A nonconforming use may not be changed, altered, repaired, restored, replaced, relocated or expanded except as set forth within this section, and subject to all approvals required by law.~~

- (1) A nonconforming use may change to a conforming use.
- (2) A nonconforming use may change to a more restricted nonconforming use, subject to verification by the Zoning administrator ~~that the proposed use is more restrictive use upon issuance by the zoning administrator of an approval for such a change. The zoning administrator's approval, which shall not be given until the nonconforming status of the use has been verified in accordance with section 34-1150, shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use, and a copy of such determination shall be forwarded to the planning commission and the governing body. If the zoning administrator determines the proposed use is not "more restricted" than the existing nonconforming use, then the application for a change to a more restricted nonconforming use shall be denied.~~ In determining whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, the Zoning administrator shall consider ~~be considered:~~
  - a. Whether the proposed use will change the size and scope of the existing use of the subject property, and the magnitude of such change; and
  - b. Whether the proposed use will increase the intensity of use of the subject property, including hours of operation, traffic, noise and similar impacts; and
  - c. Whether the proposed use will have a more or less detrimental effect than the existing nonconforming use upon conforming uses within the surrounding neighborhood; and
  - d. ~~How the quantum effect of the factors evaluated in preceding subsections (a., b., c.) relate to the purpose, policies and objectives of this chapter. Other factors deemed relevant by the Zoning administrator.~~
- (3) A nonconforming residential use destroyed by casualty may be reestablished as it existed immediately prior to such casualty, so long as such use is reestablished within two (2) years following the date of casualty destruction.
- (4) The owner of a valid nonconforming manufactured home not located within a manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.

#### **Sec. 34-1145. - Nonconforming lots.**

- (a) ~~A previously unimproved nonconforming lot of record, located within any zoning district, that is nonconforming as to required lot area, lot frontage, or any combination thereof, may be used for any use permitted by applicable zoning district regulations ~~right or with a special use or provisional use permit in such zoning district,~~ provided all other requirements and standards of the zoning district are met.~~
- (b) A single-family dwelling may be constructed on a nonconforming lot, if permitted within the applicable zoning district, provided all other zoning requirements and standards can be met; provided, however that, if ~~Where~~ yard requirements within a particular zoning district would preclude construction of a proposed single-family dwelling on a nonconforming lot, the Zoning administrator zoning administrator shall establish alternate yard requirements, which shall consist of: (i) the setbacks applicable to the last single-family dwelling established on the non-conforming lot, or if no single-family dwelling previously existed on the lot, then (ii) the average of the setbacks applicable to each of the other single-family dwellings currently located on the same block as the non-conforming lot.
- (b) Nonconforming lots may be altered change as follows:
  - (1) A nonconforming lot may be increased in lot size, lot width, or both, to make the lot less nonconforming;

- (2) The boundaries of a nonconforming lot may be adjusted, along with the boundaries of any contiguous conforming lot, provided such adjustment does not make the conforming lot nonconforming and does not make the nonconforming lot more nonconforming.
- (3) A boundary adjustment between or among two (2) or more adjoining nonconforming lots shall be permitted provided that no new lot is created.
- (4) When a building or structure to be constructed or expanded is located on more than one (1) nonconforming lot, a boundary adjustment shall be required to consolidate the lots to make them less nonconforming.
- (5) When a nonconforming lot is changed as allowed within this section, and when two (2) or more nonconforming lots are assembled to create a conforming lot, a plat of subdivision shall first be submitted to NDS filed and approved in accordance with the city's subdivision ordinance.

**Sec. 34-1146. - Nonconforming buildings and structures, permitted changes.**

~~(a) A nonconforming structure may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this section, and subject to all approvals required by law.~~

(ab) A nonconforming building or structure may be changed, altered, or expanded in a manner that will cause it to become to a conforming structure.

(bc) A nonconforming building or structure may be repaired, provided such repair constitutes only routine maintenance. Such repairs may include minor alterations, cosmetic modifications, interior renovations or similar changes; however, no expansion of the structure shall be allowed unless approved pursuant to section 34-1147.

(cd) A nonconforming building or structure damaged by casualty (as distinguished from ordinary wear and tear) may be restored in accordance with the following:

- (1) A nonconforming building or structure damaged by any casualty may be restored to its condition prior to the casualty, provided such restoration is begun within twelve (12) months of the date of the casualty and provided further that such restoration, once begun, is completed within twenty-four (24) months of the casualty.
- (2) Restoration of a nonconforming building or structure may include minor alterations, cosmetic modifications, interior renovations or similar changes; however, restoration of a nonconforming structure shall not include any expansion unless approved under the provisions set forth in section ~~XXX~~34-1147.
- (3) Restoration may include changes that make the building or structure less nonconforming than it was prior to the casualty.

~~(4) Prior to any restoration the nonconforming status of the structure shall be verified by the zoning administrator.~~

~~(5) For all structures except a residential dwelling located on a lot containing fewer than three (3) dwelling units, restoration of a nonconforming structure shall require approval of a site plan in accordance with Article VII, sections 34-800, et seq.~~

**Sec. 34-1147. - Expansion of nonconforming buildings and structures.**

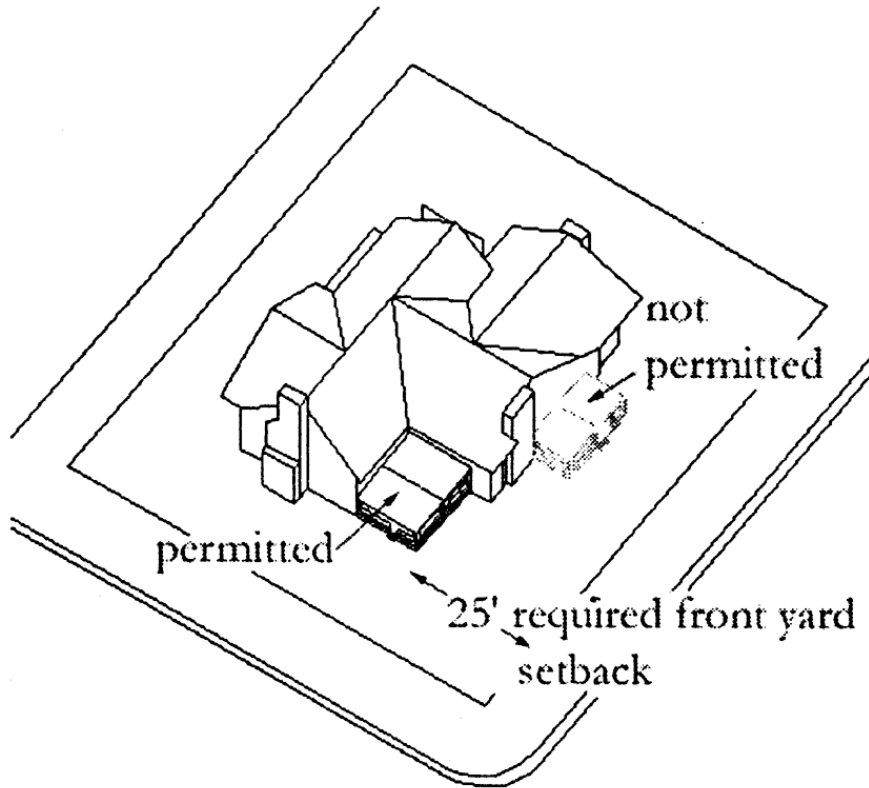
(a) ~~A n~~Nonconforming buildings or structures may be expanded only in accordance with the provisions of this section. Whenever a percentage limitation is placed on expansion, that limitation shall be the total expansion allowed over the life of the nonconforming building or structure, in increments of any size that add up to the total, or all at once. All expansion shall occur on the lot occupied by the nonconforming building use or structure, inclusive of any permitted consolidations or re-subdivisions.

(b) Nonconforming buildings and structures uses, other than structures, may be expanded on an area of a lot not originally occupied by devoted to the nonconforming building or structure use, provided such expansion meets all current requirements of this chapter applicable only to the expansion.

(c) Specific nNonconforming buildings and structures.

- (1) ~~Nonconforming single-family dwelling. The structure may be expanded as provided within this subsection. New or expanded residential accessory structures (such as storage sheds, garages, swimming pools, etc.) may be permitted. Expansion of the dwelling, and new or expanded accessory structures, shall meet all zoning ordinance requirements, including height, yard and setbacks, for the zoning district in which located; except that extension of~~ The front porch of a nonconforming single-family dwelling may be extended into any an existing front porch that encroaches into a front yard required by this ordinance shall be permitted to the required side yard(s), so long as such extension will not result in an increase in the front yard encroachment. A single-family detached dwelling that is nonconforming because it encroaches into any required yard(s) may be expanded as long as the expansion will not result in an increase in the yard encroachment(s). A single-family dwelling that is nonconforming only as to required setbacks may be ~~However, expansions in height to existing nonconforming single-family dwellings, which do not meet current setback requirements,~~ increased in height, unless the ~~, shall be permitted only if: (i) the dwelling is only being increased in height, and (ii) the footprint of the building dwelling will remain unchanged by the proposed expansion in height. Such expansion will not required to meet more restrictive setbacks enacted since the date the dwelling became nonconforming; however,~~ Except as provided above, expansion of a nonconforming single-family dwelling shall be in accordance with the requirements of this chapter, ~~all other zoning regulations for the district in which the dwelling is located shall apply.~~

**Illustration X: Nonconforming Single-Family Dwelling**



### Noneconforming Single Family Dwelling

- (2) *Nonconforming buildings and structures, other than single-family dwellings. A nonconforming building or structure other than a single-family dwelling Where the use of a nonconforming structure is permitted by right, or with a special use or provisional use permit, in the zoning district in which the structure is located, then expansion of a nonconforming structure may be approved provided that may be expanded, if: (i) yard, setback, screening and buffering, and height standards applicable to the proposed expansion are met; (ii) all applicable sign regulations are met, and (iii) such expansion does not exceed twenty-five (25) percent of the gross floor area of the existing building or structure. For any proposed expansion exceeding twenty-five (25) percent of the gross floor area of the existing building or structure, all zoning district and development regulations and standards applicable to the land on which the building or structure is located property as a whole shall be met.*
- (3) *Where a nonconforming building or structure is utilized for or in connection with a nonconforming use, then no expansion of the nonconforming building or structure shall be approved unless the Zoning administrator zoning administrator verifies certifies that: (i) expansion of the nonconforming building or structure would not result in any unlawful expansion of the nonconforming use, or (ii) expansion of the nonconforming structure would result in expansion of the nonconforming use, but expansion of the nonconforming use would meet the requirements of section 34-1147(b), above.*

~~(4) Prior to the approval of any expansion of a nonconforming use or structure, nonconforming status shall be verified by the zoning administrator.~~

- (d) In the event of ~~an any permitted~~ expansion of a nonconforming building or structure in accordance with this section, all signs located on the property lot shall be brought into full compliance with current zoning ordinance requirements.
- (e) Permitted expansions for nonresidential, nonconforming uses that require special or provisional use permits ~~shall be are~~ required to obtain a special use permit or provisional use permits only when ~~the such~~ expansions exceed twenty-five (25) percent of the gross floor area of the existing building or structure.

#### **Sec. 34-1148. - Nonconforming signs.**

Nonconforming signs may be altered or replaced only in accordance with the provisions of section ~~X34-1036~~.

~~Sec. 34-1149. - Nonconforming uses and structures - Floodplain overlay districts.~~

~~Nonconforming uses and structures within the city's flood hazard protection overlay district may be altered or replaced only in accordance with the provisions of Article II, section 34-257.~~

#### **Sec. 34-1150. - Verification of nonconforming uses.**

- (a) ~~As part of any zoning verification referenced in Article X, Sec. X, the Zoning administrator shall establish whether or not any land, buildings or structures, or the uses thereof, are nonconforming. Prior to approval of any change in a nonconforming use, lot or structure, the lawful status of the use, lot or structure shall be verified by the zoning administrator. The zoning administrator may also verify the lawful status of a nonconforming use, lot or structure, upon the request of the owner of the property, the request of a neighboring property owner, or upon the zoning administrator's own initiative.~~
- ~~(b) In If the Zoning administrator determines that any land, building or structure, or the use thereof, is nonconforming, the determination shall include verifying the lawful status of a nonconforming use, lot or structure, the zoning administrator shall determine, in writing, the following:~~
  - (1) Whether the use, lot or structure was lawfully established prior to the effective date of this chapter, in fact, lawfully nonconforming;
  - (2) The location and gross floor area (in square feet) of all existing buildings;
  - (3) The location, use and size of all existing structures other than buildings;
  - (4) The area of land (in square feet) devoted to all aspects of a the nonconforming use, lot or structure (including, without limitation, buildings, parking, outside storage, travelways, open spaces, etc.).
  - (5) A description of the nature and intensity of a nonconforming principal use and all accessory, ancillary or incidental uses associated with the that make up the lawful nonconforming use ~~as a whole~~.
- (c) The Zoning administrator's determination shall be based on: information provided by the landowner of the property, information provided by any other persons with knowledge of the land, building or structure property; and ~~on~~ any other information available to the Zoning administrator zoning administrator through public records. Public record information may include, but shall not be limited to, records of permits, licenses, property tax assessments, business records, photographs, plats, plans, etc.
- (d) The Zoning administrator ~~zoning administrator~~ shall mail a copy of his or her determination to the property landowner. The ~~zoning administrator's~~ determination shall be final after thirty (30) days unless ~~an~~ appeal to is filed with the board of zoning appeals (see Article X, division X).

(e) The Zoning administrator ~~zoning administrator shall~~ may keep and maintain records of all verified nonconforming uses, lots and structures. ~~Not less than every two (2) years after the original date of verification, the owner or operator of a verified nonconforming use, lot or structure may file a report with the zoning administrator, on forms available from the department of neighborhood development services, showing that the nonconforming use, lot or structure has not ceased for a two-year period, or been abandoned, and that the use, lot or structure is being used, maintained or operated in accordance with the original decision rendered as part of the nonconforming verification process and any subsequent changes authorized.~~

Comment [LR57]: Does anybody actually do this?

~~Sec. 34-1151. – Limited applicability.~~

~~Nothing in this division shall be construed to prevent removal of a valid nonconforming manufactured housing unit from property and replacement of that unit with another, comparable manufactured housing unit that meets the current HUD manufactured housing code. Such replacement unit shall retain the valid nonconforming status of the prior unit.~~

Comment [LR58]: Repetitive of earlier provisions

## **DIVISION 9. DELETE DIVISION HEADING**

### **Sec. 34-387. – Townhouse regulations, general.**

(a) Groupings--No more than eight (8) townhouses shall be included within any grouping ("row"). Required distance between any two (2) rows of townhouses: Ten (10) feet, minimum.

(b) Facades--The facades of townhouses within a townhouse development may be varied by changed front yards, varied architectural features or designs, roof lines, etc.

(c) Building height--No townhouse shall exceed a height of forty-five (45) feet, or the maximum height permitted in the applicable zoning district, whichever is less.

(d) Lot size-- Within a townhouse development, there shall be an average minimum lot width (measured at the front building line) of twenty (20) feet; in no case shall any lot frontage be less than sixteen (16) feet. Lot width for end units shall be adequate to provide required front and side yards. Each individual townhouse unit shall have frontage on a dedicated public street, or on a private street.

(e) Development site-- The minimum area of a townhouse development site shall be twelve thousand (12,000) square feet.

(f) Access--If access to a townhouse is to be provided by means of a private street or access easement, the following minimum standards shall be observed:

(1) Minimum pavement width: Twenty-four(24) feet, exclusive of parking.

(2) Concrete curb and gutter: Required on both sides of the street or easement. Streets trees shall be planted along each street or easement, at fifty (50) foot intervals (maximum).

(3) Sidewalks: sidewalks of at least five (5) feet in width must be provided on at least one (1) side of the street or easement.

(4) The radius for all cul-de-sacs, if permitted, shall be at least forty (40) feet, to be paved to a minimum radius of thirty-five (35) feet.

Comment [RL59]: Review/ update

(d) Common areas—Within a townhouse development, open space and common areas (including, without limitation, the amenities required within section 34-366), and all buildings, structures, facilities, lighting and landscaping located therein, shall be and remain, for the life of the development, under ownership of a single individual, entity or association responsible for maintenance thereof. The developer of a townhouse development shall demonstrate to the satisfaction of the city that this requirement is satisfied, prior to issuance of any building permit(s) for construction within such development.

## **DIVISION 9. — DELETE DIVISION HEADING STANDARDS FOR PROVISIONAL USES**

### **Sec. 34-1170. — Provisional uses, generally**~~General standards.~~

~~In addition to the standards set forth within this division for specific provisional uses, a~~All uses authorized ~~pursuant to by~~a provisional use permit must satisfy the following ~~general~~ standards:

- (1) The proposed use, at the specified location, must be permitted as a provisional use within the applicable zoning district ~~regulations~~, and must in all other aspects comply with the applicable zoning district regulations~~requirements of the city's zoning ordinance~~.
- (2) The city's building ~~code~~ official must certify that the use of any building or structure for as part of, or in connection with, the proposed provisional use will be is lawful permitted by under the USBC~~Uniform Statewide Building Code~~.
- (3) The ~~proposed~~ provisional use must be operated or conducted in accordance with all applicable federal, state, and local laws, regulations, ordinance, licenses, permits, and governmental requirements.
- (4) Approval issuance of a provisional use permit shall be conditioned upon the applicant's consent to inspections initiated by the Zoning administrator to verify compliance with the requirements of this division, and a right of access for the zoning administrator to make such inspections.

### **Sec. 34-1171. — Provisional Use Standards—Accessory apartments.**

- (a) In addition to the requirements of section 34-1105, accessory apartments authorized by a provisional use permit shall be subject to the following ~~regulations. Any property containing an accessory apartment shall comply with the following~~:
  - (1) Not more than two (2) dwelling units, including the accessory apartment, shall be located on the same lot. One (1) of the two (2) dwelling units ~~on the subject property~~ must be occupied by the ~~landowner of the property~~.
  - (2) Construction, uUse and occupancy of the accessory apartment ~~each dwelling unit~~ must comply with all applicable building code regulations.
  - (3) No building or structure containing an accessory apartment unit shall exceed twenty-five (25) feet in height, or the highest point of the primary dwelling unit's roof surface of the principal building or structure on the lot, whichever is less.
  - (4) Notwithstanding any other residential occupancy provisions set forth within this zoning ordinance, no accessory apartment may be occupied by more than two (2) persons.
- (b) In addition to the requirements ~~set forth above~~ in paragraph (a), the following shall apply to interior accessory apartments:

- (1) ~~An interior. The~~ accessory apartment may not have its own separate entrance located on any façade of the principal dwelling that ~~faces fronts~~ on a ~~public~~ street. No exterior stairs providing access to the ~~interior~~ accessory apartment shall be visible from any ~~public~~ street.
  - (2) The ~~interior~~ accessory apartment must be entirely contained within the principal ~~building on the lot~~ structure.
  - (3) The gross floor area of the ~~interior~~ accessory apartment may not exceed forty (40) percent of the gross floor area of the ~~principal structure building~~ in which it is located.
- (c) In addition to the requirements ~~set forth~~ in paragraph (a), the following shall apply to exterior accessory apartments:
- (1) ~~Exterior accessory apartments must~~ ~~Must~~ be located within an accessory ~~building or~~ structure, and the ~~all use and occupancy of the~~ accessory ~~building or~~ structure must ~~itself~~ be in compliance with ~~all~~ applicable ~~provisions of the USBC and applicable~~ zoning ~~and building code district~~ regulations.
  - (2) The ~~gross floor area footprint~~ of the exterior accessory apartment may not exceed forty (40) percent of the ~~area of the~~ footprint of the ~~principal building primary dwelling~~ on the ~~same lot~~ property.

**Sec. 34-1172. -- Provisional Use Standards—Home occupations.**

A home occupation authorized by a provisional use permit shall be subject to the following regulations:

- (1) A home occupation shall be permitted only where the character of such use is such that it is ~~an accessory use which is~~ clearly subordinate and incidental to the ~~residential occupancy principal residential use~~ of a dwelling ~~unit~~.
- (2) In addition to the ~~residential occupants~~ of the dwelling, not more than one (1) other individual may be engaged in the activities of the home occupation ~~business on the property~~ at any given time. ~~One. There must be~~ off-street parking ~~space must be provided on the same lot as the dwelling, available~~ for ~~use by~~ this other individual.
- (3) No more than three (3) customers or clients of a home occupation ~~business~~ shall be present on the ~~property premises~~ at the same time; for homestays: no more than six (6) adult overnight guests are allowed, per tax map parcel, per day. No customers, clients or employees shall be allowed to visit the property on which a home occupation ~~business~~ is conducted earlier than 8:00 a.m. or later than 9:00 p.m.; ~~however,~~ these hours of operation shall not apply to a homestay.
- (4) Deliveries of supplies associated with the home occupation ~~business~~ shall occur only between the hours of 8:00 a.m. and 9:00 p.m.
- (5) No mechanical or electrical equipment shall be employed within or on the property, other than machinery or equipment customarily found in a home.
- (6) No outside display of goods, and no outside storage of any equipment or materials used in the home occupation ~~business~~ shall be permitted.
- (7) There shall be no audible noise, or any detectable vibration or odor from activities or equipment of the home occupation beyond the confines of the dwelling, or an accessory building, including transmittal through vertical or horizontal party walls.
- (8) The storage of hazardous waste or materials not otherwise and customarily associated residential occupancy of a dwelling is prohibited.
- (9) There shall be no sales of any goods, other than goods that are accessory to a service delivered on-premises to a customer or client of the home occupation ~~business~~.
- (10) With the exception of homestays: (i) a home occupation ~~business~~ must be conducted entirely within the dwelling ~~unit~~, an accessory building or structure, or both and (ii) not more than 25% of



the ~~gross total~~ floor area of the dwelling unit shall be used in the conduct of the home occupation business, including storage of stock-in-trade or supplies.

- (11) For pet grooming services, all animals must be kept inside during the provision of services and no animals may be boarded or kept overnight.
- (12) All parking in connection with the home occupation ~~business~~ (including, without limitation, parking of vehicles marked with advertising or signage for the home business) must be in driveway and garage areas on the same property property, or in available on-street parking areas.
- (13) Homestays may not have any exterior signage. For other home occupations ~~businesses~~: one (1) exterior sign, of dimensions no greater than two (2) square feet, may be placed on the exterior of the dwelling or an accessory structure to indicate the presence or conduct of the home business: and (i) this sign may not be lighted; and (ii) in all other respects the property from which a home occupation business is to be conducted must be in compliance with the sign regulations set forth within Division 4, section 34-1020, et seq.
- (14) Except for a sign authorized by subparagraph (13) above, there shall be no evidence or indication visible from the exterior of the dwelling, or any accessory building or structure, indicating that the dwelling or any accessory building or structure is being utilized in whole or in part for any purpose other than residential occupancy.
- (15) Applicants for a provisional use permit authorizing a home occupation shall provide evidence of a city business license (or a statement from the commissioner of revenue that no city business license is required), proof of payment of taxes required by City Code, Chapter 30, if any, and a certificate of occupancy or other written indication from the city's building ~~code~~ official that use of the dwelling or an accessory building or structure for the home occupation ~~business~~ is in compliance with all applicable building code regulations.
- (16) In addition to the provisions of subparagraphs (1)—(16), above, the following regulations shall apply to homestays:
  - a. An individual who applies for a provisional use permit to authorize the operation of a homestay shall present proof of:
    - (i) Such individual's ownership of, and permanent residence at, the property that is the subject of the application. Acceptable proof of permanent residence includes: applicant's driver's license, voter registration card or U.S. passport, showing the address of the property, or other document(s) which the zoning administrator determines provide equivalent proof of permanent residence by the applicant at the property that is the subject of the application.
    - (ii) Contact information for a responsible party. If the owner is not the responsible party who will be available during the time of service, then the responsible party must be identified and must sign the application form.
  - b. No food shall be prepared for or served to guests of the homestay by the owner or the owner's agent(s) or contractor(s).
  - c. Every homestay shall have working smoke detectors, carbon monoxide detectors and fire extinguishers, and all such equipment shall be accessible to overnight guests of the homestay at all times. Every homestay shall comply with requirements of the applicable version of the Virginia Uniform Building Code, as determined by the City's Building Code Official.
  - d. By his or her application for a provisional use permit for a homestay, an applicant authorizes city inspectors to enter the subject property, upon reasonable advance written notice to the applicant, at least one (1) time during the calendar year for which the permit is valid, to verify that the homestay is being operated in accordance with the regulations set forth within this section.

- e. Each provisional use permit for a homestay will be valid from January 1 (or such other date during a calendar year on which such permit is issued) through December 31 of the calendar year in which the permit is issued. During this period of validity, the owner of the homestay must occupy the dwelling as his or her residence for more than one hundred eighty (180) days.
  - f. A provisional use permit for a homestay may be revoked by the zoning administrator (i) in the event that three (3) or more substantiated complaints are received by the city within a calendar year, or (ii) for failure to maintain compliance with any of the regulations set forth within this section. A ~~landowner property owner~~ whose provisional use permit has been revoked pursuant to this paragraph shall not be eligible to receive any new provisional use permit for a homestay, for the remaining portion of the calendar year in which the permit is revoked, and for the entire succeeding calendar year.
- (17) The following are specifically prohibited, and shall not be deemed or construed as activities constituting a home occupation:
- a. Auto detailing, where more than two (2) vehicles being serviced are present on the property at any given time.
  - b. Barber shops or beauty salons having more than two (2) chairs.
  - c. Funeral home with or without chapel.
  - d. Medical or dental clinic (other than psychiatric or psychological counseling services).
  - e. Motor vehicle sales, repair, equipment installation, and similar activities.
  - f. Nursing homes and adult care facilities.
  - g. Offices or staging facilities for any non-professional service-oriented businesses (for example, maid services, landscaping and lawn maintenance services, construction services, etc.), except where the sole activity on the premises would be telephone order/dispatching functions and there would be no vehicles, equipment, workers, or customers on the premises at any time.
  - h. Repair or testing of machinery, including internal combustion engines.
  - i. Restaurants.
  - j. Retail or wholesale sales, where any goods or merchandise are (i) displayed or otherwise offered or available on-site for sale or purchase, or (ii) delivered to or picked-up by purchasers on-site, including, without limitation: antique shops, sales of firearms, computer sales, and similar activities.
  - k. Schools, nursery schools, and day care facilities.
  - l. Veterinary clinics and animal kennels.

**Sec. 34-1173. -- Provisional Use Standards—Outdoor storage.**

The following standards shall apply to outdoor storage authorized by provisional use permit:

- (1) Outdoor storage and parking of equipment and motor vehicles used for or in connection with such use is permitted only in areas to the side or rear of the principal building on the lot. ~~Outdoor storage and P~~parking of motor vehicles shall be limited to operable ~~company~~ vehicles used for and in connection with the business activities to which the outdoor storage is provided. The outdoor storage area shall be located outside all required yard area(s) meet all setback requirements and shall be screened as required in section ~~34-XXX~~34-872.
- (2) Outdoor storage of refuse, waste, junk, inoperable motor vehicles and inoperable motorized equipment is prohibited.
- (3) In the aggregate, not No more than seventy-five (75) percent of the total area of ~~a the~~ lot shall be covered by any building(s), structure(s), and outdoor storage area(s).

(4) Temporary outdoor storage of materials to be incorporated into construction is allowed pursuant to a temporary use permit, see Sec. XXX.

**Sec. 34-1174. -- Provisional use standards, mMusic halls and all-night restaurants.**

For music halls and all-night restaurants the following requirements shall apply:

- (1) Any ~~such~~ restaurant or music hall that remains open after 2:00 a.m. on any day shall have a security guard on site between the hours of 2:00 a.m. and 6:00 a.m., or until one-half hour after the music hall closes, whichever is earlier.
- (2) In the event more than four (4) incidents at the site of the music hall or all-night restaurant property require police service/response over any two (2) month period, the provisional or special use permit shall be suspended ~~by the zoning administrator~~, for three hundred sixty-five (365) days. Following any such suspension, the music hall or all-night restaurant may continue to operate, but only if all activities conducted as part of such use comply with regulations applicable to in the form of a restaurant that is permitted within the applicable zoning district without ~~the requirement of~~ any provisional or special use permit.

**Sec. 34-1175. -- Provisional use standards, mMobile food units.**

A mobile food unit located on private property authorized by a provisional use permit shall be subject to the following regulations:

- (1) No mobile food unit may be operated on private property unless and until a without the mobile food unit owner or his designee having first been issued a provisional use permit has been issued to the owner of the mobile food unit or the operator of the food service business conducted from the mobile food unit, pursuant to this section.
- (2) ~~Each A~~ provisional use permit may authorize allows the permittee to operate at up to ten (10) different private properties. An applicant may apply for more than one (1) provisional use permit.
- (3) Applicants ~~seeking for~~ a provisional use permit for authorizing a mobile food unit ~~to operate on private property~~ must provide:
  - a. A city business license (or a statement from the commissioner of revenue that no city business license is required).
  - b. A valid health permit from the Virginia Health Department stating that the mobile food unit meets all applicable standards. A valid health permit must be maintained for the duration of the provisional use permit.
  - c. Written permission from the landowner(s) of the private properties upon which the permittee will operate.
  - d. A sketch to be approved by the Zoning administrator ~~zoning administrator~~ for each property, illustrating access to the site, all parking areas, routes for ingress and egress, placement of the mobile food unit, distance from property lines, garbage receptacles and any other feature associated with the mobile food unit.
- (4) A mobile food unit provisional use permit is valid for one (1) year from the date of issuance.
- (5) A mobile food unit operator shall not:
  - a. Sell anything other than food and non-alcoholic beverages and items incidental to the product and its consumption;
  - b. Set up more than one (1) covered ten (10) x ten (10) table to provide condiments to patrons;
  - c. Play any music that is audible outside of the mobile food unit~~vehicle~~;
  - d. Place or utilize any signage that is not permanently affixed to the mobile food unit;

- e. Fail to provide receptacles and properly dispose of all trash, refuse, compost and garbage that is generated by the use;
  - f. Cause any liquid wastes to be discharged from the mobile food unit;
  - g. ~~Operate~~ ~~Locate~~ a mobile food unit within one hundred (100) feet of a single-family or two-family ~~dwelling residential use~~.
- (6) A provisional use permit may be revoked ~~by the zoning administrator~~ at any time, due to the failure of the ~~permittee permit holder~~ to comply with all requirements of this chapter. Notice of revocation shall be made in writing ~~and given~~ to the ~~permittee permit holder at the address given within the permit application~~. Any person aggrieved by ~~revocation such notice~~ may appeal ~~the revocation~~ to the board of zoning appeals (~~see section 34-XXX~~).

## **DIVISION 10. ~~DELETED~~ TEMPORARY USE PERMITS**

### **Sec. 34-1190. ~~Temporary uses, generally~~ General standards.**

- (a) ~~Temporary uses are permitted within a zoning district, when the nature of the use and the activities associated with the use, are compatible with the established land uses within such district, as follows:~~
- (1) Temporary outdoor assemblies, subject to 34-1191;
  - (2) Temporary outdoor sales, subject to 34-1192;
  - (3) Temporary amusement enterprises, in districts other than residential districts, subject to 34-1192;
  - (4) Temporary family healthcare structures, subject to 34-1194;
  - (5) Temporary portable storage containers, subject to 34-XXXX;
  - (6) Temporary construction staging area, subject to 34-XXX; and
  - (7) Temporary parking (fewer than 7 days);
  - (8) Other temporary uses, if the zoning administrator interprets any such use(s) as being similar in nature and impact to the uses listed in (1)-(6), above.
- (b) ~~In addition to the standards set forth within this division for specific temporary uses, all~~ All temporary uses authorized by a temporary use permit must shall be conducted in accordance with a written operation plan approved by the Zoning administrator, as follows ~~satisfy the following requirements:~~
- (1) As part of the application for a temporary use permit, a landowner, or a person authorized by the landowner, an applicant ~~shall~~ provide a written plan containing, at a minimum, all of the following information:
- a. Site sketch showing the boundaries of the subject site; the tax map and parcel numbers for the subject site and adjacent property owners; the name of the ~~landowner of the subject property~~, and the name(s) of all adjacent ~~property landowners~~; the zoning district classifications of the lot on which the temporary use is to be conducted subject site ~~and of~~ each adjacent property; and a layout of the buildings, structures, parking areas and other pertinent features or components ~~of the proposed~~ temporary use.
  - b. Written permission of the ~~landowner of the subject property~~ (if different than the applicant) authorizing the applicant to use the landowner's the subject property for the temporary use.
  - c. Proof that ~~the applicant and/or owner of the subject property have obtained, or will obtain,~~ all licenses, permits and other governmental approvals required by any federal, state or local laws or regulations ~~, required~~ for or in connection with the proposed temporary use have been obtained and are valid.

- d. Other information deemed necessary by the zoning administrator in order to evaluate the application.

~~(2) A temporary use must be permitted within the zoning district where it will be located.~~

**Comment [LR60]:** It would be better to have a more flexible, generally-applicable ability to approve temporary uses.

#### **Sec. 34-1191. - Temporary outdoor assemblies.**

Temporary outdoor assemblies:

- (1) ~~may~~ **Must** take place only between the hours of 9:00 a.m. and 9:00 p.m. on a given day.;
- (2) ~~must~~ **Must** provide on-site parking for attendees ~~persons expected to attend of~~ the event, no fewer than one (1) space per four (4) persons of the capacity of the site, as determined by the zoning administrator.
- (3) ~~must be conducted in accordance with~~ **Must meet** all applicable requirements of the USBC and SFPC ~~state building and fire prevention codes.~~

#### **Sec. 34-1192. - Temporary outdoor sales.**

Temporary outdoor sales:

- (1) ~~m~~ **May** not be located or conducted in a manner that will reduce or eliminate the availability of any required off-street parking spaces for the subject property.;
- (2) ~~m~~ **May** not be located within any yard subject to a landscaping or buffer/screening requirement.;
- (3) ~~must~~ **Must**, with respect to any outdoor lighting utilized, comply with applicable provisions of division X ~~Division 3, sections 34-1000, et seq.,~~ of this article.; **and**
- (4) ~~must be conducted in accordance with~~ **Must meet** all applicable requirements of the USBC and SFPC ~~state building and fire prevention codes.~~

#### **Sec. 34-1193. – Temporary amusement enterprises (circuses, carnivals, etc.).**

Temporary amusement enterprises:

- (1) ~~must~~ **Must** provide parking sufficient to accommodate the number of persons expected to attend the event, as determined by the zoning administrator ~~based on other, similar events.~~;
- (2) ~~must~~ **Must**, in all aspects (including, without limitation, the erection of tents and rides) be conducted in accordance with applicable requirements of the USBC and SFPC ~~state building and fire prevention codes.~~;
- (3) ~~may not be operated or conducted~~ **Shall not be approved to take place at any site** within three hundred (300) feet of a low-density residential zoning district.; **and**
- (4) ~~must~~ **Must**, with respect to any outdoor lighting utilized, comply with applicable provisions of Division X ~~3, section 34-1000, et seq.,~~ of this article.

#### **Sec. 34-1194. - Temporary family health care structures.**

- (a) Temporary family health care structures ~~are a permitted temporary use, when authorized and conducted in accordance with~~ **shall be a permitted accessory use in single family residential zoning districts on lots zoned for single family detached dwellings if such structure** (i) is used by a caregiver in providing care for a mentally or physically impaired person, and (ii) is on property owned or occupied by the caregiver as his residence. For purposes of this section, "caregiver" and "mentally or physically impaired person" shall have the same meaning as defined in Virginia Code § 15.2-2292.1.
- (b) ~~A landowner shall obtain a~~ **Any person proposing to install such structure shall first obtain a** temporary use permit **prior to establishing a temporary family health care structure.**
- (c) ~~Temporary family health care structures are subject to the following~~ **In addition to the specific requirements of a temporary family health care structure found in section 34-1200 herein, such structures must meet the following** requirements:

- (1) Only one (1) ~~temporary family health care such structure is shall be~~ allowed on any lot or parcel of land.
- (2) ~~A landowner must. The applicant must~~ provide evidence of compliance with this section to the city one (1) year from the date of installation, and ~~annually every year~~ thereafter, as long as ~~a temporary family health care such structure is present on the landowner's remains on the~~ property. Such evidence ~~may be satisfied by an will involve inspection report prepared by the~~ zoning administrator ~~following an on-site inspection by the city of such structure at reasonable times.~~
- (3) The ~~temporary family health care structure must be used and occupied in accordance with applicant must comply with~~ all applicable requirements of the Virginia Department of Health, and of the USBC and SFPC.
- (4) No signage advertising or otherwise ~~identifying promoting the nature or presence existence of the~~ temporary family health care structure ~~is shall be~~ permitted anywhere on the property.
- (5) ~~A temporary family health care structure shall be. Such structure shall be removed within thirty (30) days of the time from 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 in accordance with Virginia Code 15.2-2292.1.~~
- (6) ~~A temporary use permit for a temporary family health care structure may be revoked. The zoning administrator may revoke any permit granted hereunder if the structure is used or occupied permit holder in violation of violates any provision of this section, in addition to any other remedies that the city may seek against the permit holder, including injunctive relief or other appropriate legal proceedings to ensure compliance.~~

**Sec. 34-XXX. Temporary portable storage containers**

The following requirements apply to portable storage containers:

- (1) ~~in residential districts and mixed-use districts, a maximum of two (2) portable storage containers may be allowed on a lot for a period no longer than fifteen (15) days in any consecutive twelve-month period. A maximum of one (1) portable storage container may be allowed on a lot for a period no longer than sixty (60) days in any consecutive twelve-month period. In any case where there is a change in ownership of the lot, the date upon which title to the lot is conveyed shall begin a new 12-month period. The portable storage container must be placed a minimum of five (5) feet from the property line, or on the driveway of the lot. One (1) portable storage container may be placed in a legal parking place on the street with a permit issued by the City's Traffic Engineer, when space is not available on site. No portable storage container located in a residential or mixed-use district shall have dimensions greater than twenty (20) in length, eight (8) feet in width or eight (8) feet in height;~~
- (2) ~~no permit is required for a single (1) portable storage container on a lot, if the container will remain on the lot for fewer than fifteen (15) calendar days, if the Zoning administrator has been given advance written notice of the location and duration of placement, in accordance with paragraph (1), above. A temporary use permit is required for any portable storage container that will remain on a lot for more than fifteen (15) days. The permit shall be displayed on the exterior of the portable storage unit at all times.~~
- (3) ~~Other than the required city permit, no sign shall be attached to a portable storage container except as authorized by the sign regulations set forth within section XXX of the City Code (Signs).~~
- ~~(4)~~(4) ~~All portable storage containers shall be maintained in a condition free from rust, peeling paint and other visible forms of deterioration.~~

**Sec. 34-XXX.-Temporary construction yard**

- (a). ~~Location temporary construction yards must be located outside public rights-of-way (including projects for which the construction activity is the maintenance or repair of streets or other public~~

facilities). A temporary construction yard permit may be issued for a period not exceeding eighteen (18) months, provided that the standards set out within this section are met. A permit may be renewed for additional twelve-month periods, subject to verification of continuing compliance with the standards of this section.

(b). Site diagram required--

1. In addition to the requirements set forth in Sec. 34-1190(a)(1)a, a site diagram must be submitted to and approved by the zoning administrator and the city's VESCP/ VSMP administrators, setting out the general location and extent of the activities and structures of the yard, including vehicle storage areas, contractor's office, watchman's trailer, construction equipment sheds, etc. The site diagram shall also show and describe a restoration plan for the site, setting out how the site will appear sixty (60) days after the expiration or voiding of the permit or completion of construction.
2. When a temporary construction yard is located in or adjacent to property zoned or used for residential purposes, then, at any point during the period of validity of the permit, the zoning administrator may require screening and/or fencing to be installed and may specify approved areas for the location for trailers, machinery, and/or site activities that normally generate noise, dust or glare and reasonable time-of-day restrictions on their use, operation or activities.

(c). Maintenance of temporary construction yard

1. All areas of a temporary construction yard, as well as the access thereto, shall be treated and maintained in such manner as to prevent dust or debris from blowing or spreading onto adjoining properties or any public rights-of-way. Temporary construction yards shall be maintained in a clean and orderly condition at all times. Construction materials and debris, and construction demolition debris, shall not be permitted to accumulate. Grass and weeds shall be maintained at a height not exceeding six (6) inches.
2. In the event that the permit holder fails to so maintain the site and fails to remedy all deficiencies within thirty (30) days after written notice of violation of these maintenance requirements has been issued by the zoning administrator, the zoning administrator may declare the permit void and require restoration of the site as provided for below.

(d). Expiration or termination of permit—Within sixty (60) days after the expiration or earlier termination of a zoning permit authorizing a temporary construction yard, the construction yard shall be closed and all buildings, structures, materials, supplies and debris associated with the use and operation of the construction yard shall be completely removed and all land shall be properly seeded and otherwise restored with appropriate vegetation.