

## ARTICLE IV

### General Regulations Applicable to All Districts

#### Section 4.0 Home-Based Occupation

A. Statement of Intent

The purpose of this section is to allow home-based occupations in all districts that allow residential dwellings provided that the home-based occupation meets the requirements in 4.0.B below. *[revision adopted by Town Council 10/2011]*

B. HOME OCCUPATION: The conduct of a business in a residence or on its premises is permitted providing the following characteristics are followed: *[revision adopted by Town Council 10/2011]*

1. Is the home-based occupation business clearly incidental and subordinate to the residential use of the dwelling (YES)?
2. Is any change required to the exterior of the dwelling (NO)?
3. Will there be any storage of goods, products, equipment, solid waste or other similar items stored outside the house to a greater extent than that associated with normal neighborhood characteristics (NO)?
4. If any accessory building on the property used for the home-based occupation, do they meet the requirement of the zone (YES)?
5. Will the home-based occupation create noise, dust, vibration, smoke, smell, glare, electrical interference, fire hazard, or other hazard or nuisance to any greater or more frequent extent that would normally be expected in the immediately adjacent neighborhood if no home-based business existed (NO)?
6. Will the pedestrian and commercial delivery traffic generated by the home-based occupation be greater than normal traffic in the neighborhood (NO)?
7. Will any excessive parking requirements be met using off street parking (YES)?
8. If the home-based occupation meets the above requirements and the Home-Based Occupation Affidavit is signed, zoning clearance may be granted. If the home-based occupation does not meet the above requirements, a conditional use permit will be required.
9. Nothing herein precludes compliance with any Federal, State, or Local regulatory agency requirements.

C. The following are specifically excluded:

1. Family care homes, group homes except as allowed under § 15.2-2291 of the Code of Virginia, nursing homes, convalescent homes, elderly care facilities. *[revision adopted by Town Council 12/2010]*
2. Auto repair shops.
3. Kennels.
4. Any activity that includes the use of weapons, ammunition, explosives, chemicals, fireworks, or other hazardous materials.
5. Butchers.
6. Sexually oriented business including adult media, products, or activity.
7. Illegal drugs and equipment used for these drugs.
8. Funeral parlors

## Section 4.1 Sign Regulations *[Adopted by Town Council 12/29/2013]*

### A. Purpose

The purpose of this sign ordinance is to encourage the effective use of signs as a means to communicate in the Town, to maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth; to improve the pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of these sign restrictions.

### B. Definitions

The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**ANIMATED SIGN.** A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

**Electrically activated.** Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

1. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle.
2. Patterned illusionary movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

**Environmentally activated.** Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

**Mechanically activated.** Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

**ARCHITECTURAL PROJECTION.** Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "Awning;" "Backlit awning;" and "*Canopy*, Attached and Free-standing."

**AWNING.** An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable,

including such structures that are internally illuminated by fluorescent or other light sources.

**AWNING SIGN.** A sign displayed on or attached flat against the surface or surfaces of an awning. See also "Wall or fascia sign."

**BACKLIT AWNING.** An awning with a translucent covering material and a source of illumination contained within its framework.

**BANNER.** A flexible substrate on which copy or graphics may be displayed.

**BANNER SIGN.** A sign utilizing a banner as its display surface.

**BILLBOARD.** Any large sign/panel including supporting structure used as an outdoor display for the purpose of displaying advertisements; the product, business, or service so advertised or displayed being remote from the site of the sign. This sign is typically seen alongside roadways or on the sides of buildings. (Sometimes referred to as "Off-premise sign" or "Outdoor advertising sign.")

**BUILDING ELEVATION.** The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

**CANOPY (Attached).** A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached *canopy* may be illuminated by means of internal or external sources of light. See also "Marquee."

**CANOPY (Free-standing).** A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a free-standing *canopy* may be illuminated by means of internal or external sources of light.

**CANOPY SIGN.** A sign affixed to the visible surface(s) of an attached or free-standing *canopy*. For reference, see Section C.

**CHANGEABLE SIGN.** A sign with the capability of content change by means of manual or remote input, including signs which are:

**Electrically activated.** Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also "Electronic message sign or center."

**Manually activated.** Changeable sign whose message copy or content can be changed manually.

**COMBINATION SIGN.** A sign that is supported partly by a pole and partly by a building structure.

**COPY.** Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

**DEVELOPMENT COMPLEX SIGN.** A free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned *industrial* park, which is controlled by a single owner or landlord, approved in accordance with Section I.2 of this chapter.

**DIRECTIONAL SIGN.** Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

**DOUBLE-FACED SIGN.** A sign with two faces, back to back.

**ELECTRIC SIGN.** Any sign activated or illuminated by means of electrical energy.

**ELECTRONIC MESSAGE SIGN OR CENTER.** An electrically activated changeable sign whose variable message capability can be electronically programmed.

**EXTERIOR SIGN.** Any sign placed outside a building.

**FASCIA SIGN.** See "Wall or fascia sign."

**FLASHING SIGN.** See "Animated sign, electrically activated."

**FREE-STANDING SIGN.** A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. Maximum size of 10 square feet. For visual reference, see Section C.

**FRONTAGE (Building).** The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

**FRONTAGE (Property).** The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

**GROUND SIGN.** See "Free-standing sign."

**ILLUMINATED SIGN.** A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated). Lighting fixtures must be dark sky compliant.

**INTERIOR SIGN.** Any sign placed within a building, but not including "window signs" as defined by this ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

**MANSARD.** An inclined decorative roof-like projection that is attached to an exterior building facade.

**MARQUEE.** See "*Canopy* (attached)."

**MARQUEE SIGN.** See "*Canopy* sign."

**MENU BOARD.** A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification. Maximum size of 10 square feet.

**MULTIPLE-FACED SIGN.** A sign containing three or more faces.

**OFF-PREMISE SIGN.** See "Billboard."

**ON-PREMISE SIGN.** A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

**OUTDOOR ADVERTISING SIGN.** See "Billboard."

**PARAPET.** The extension of a building facade above the line of the structural roof.

**POLE SIGN.** See "Free-standing sign."

**POLITICAL SIGN.** A temporary sign intended to advance a political statement, cause or candidate for office during an election. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

**PORTABLE SIGN.** Any *sign* not permanently attached to the ground or to a building or building surface. See "Temporary Sign."

**PROJECTING SIGN.** A *sign* other than a wall sign that is attached to or projects more than 18 inches (457 mm) from a building face or wall or from a structure whose primary purpose is other than the support of a sign. For visual reference, see Section C.

**REAL ESTATE SIGN.** A temporary *sign* advertising the sale, lease or rental of the property or premises upon which it is located.

**REVOLVING SIGN.** A *sign* that revolves 360 degrees (6.28 rad) about an axis. See also "Animated sign, mechanically activated."

**ROOF LINE.** The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

**ROOF SIGN.** A *sign* mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs. For a visual reference, and a comparison of differences between roof and fascia signs, see Section C.

**SANDWICH BOARD.** A freestanding temporary sign, constructed of two large boards hinged at the top, held together by a chain or rope, with no other moving parts or lights; displayed outside a business, during business hours, to advertise the business, hours of operation, an event, a promotion, etc. Maximum size of 10 square feet.

**SIGN.** Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial

symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

**SIGN AREA.** The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped *sign* shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the *sign*.

**SIGN COPY.** Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a *sign*, exclusive of numerals identifying a street address only.

**SIGN FACE.** The surface upon, against or through which the *sign* copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. see Section C.

1. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the *sign* copy is displayed or illustrated, but not open space between separate panels or cabinets.
2. In the case of *sign* structures with routed areas of sign copy, the *sign* face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.
3. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the *sign* face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the *sign* copy, but not the open space between separate groupings of sign copy on the same building or structure.
4. In the case of *sign* copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the *sign* face shall comprise the area within the contrasting background, or within the painted or illuminated border.

**SIGN STRUCTURE.** Any structure supporting a sign.

**TEMPORARY SIGN.** A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or *sign* structure that is permanently embedded in the ground, are considered temporary signs.

**UNDER CANOPY SIGN OR UNDER MARQUEE SIGN.** A sign attached to the underside of a *canopy* or marquee.

**V SIGN.** Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a "V" shape with an interior angle between faces of

not more than 90 (1.57 rad) degrees with the distance between the sign faces not exceeding 5 feet (1524 mm) at their closest point.

**WALL OR FASCIA SIGN.** A *sign* that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches (457 mm) from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For a visual reference and a comparison of differences between wall or fascia signs and roof signs, see Section C.

**WINDOW SIGN.** A *sign* affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property. A business is permitted to hang a sign in a window relating to something within their establishment. A business is not permitted to hang a sign in their window advertising another business.

C. General

Sign types and the computation of *sign* area shall be as depicted in Figures C.1(1) through C.1(4).

Figures depicted beginning on next page.

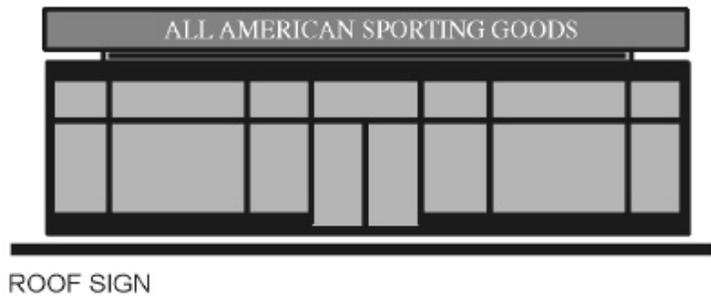
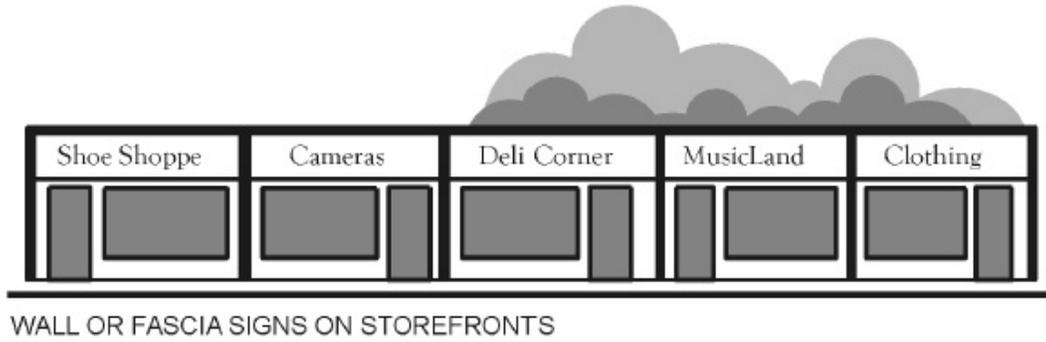
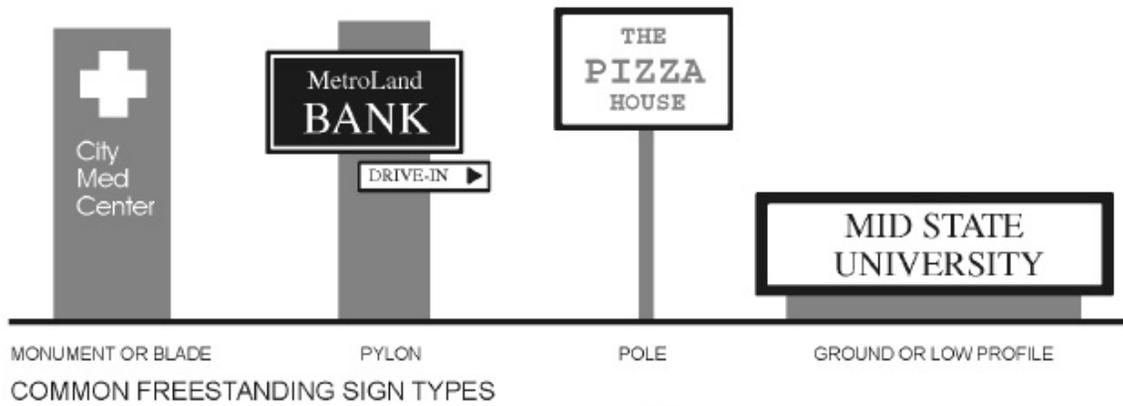
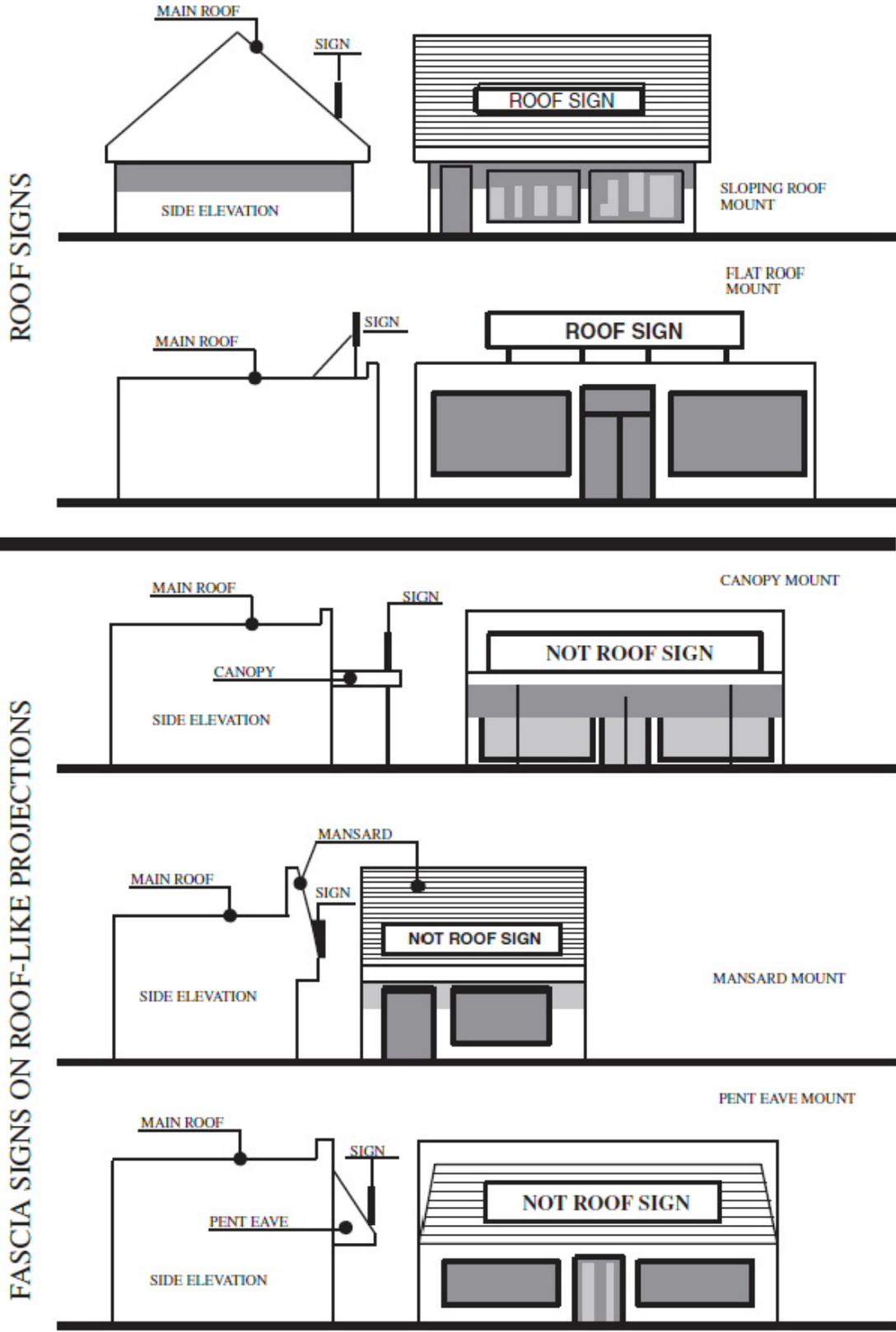


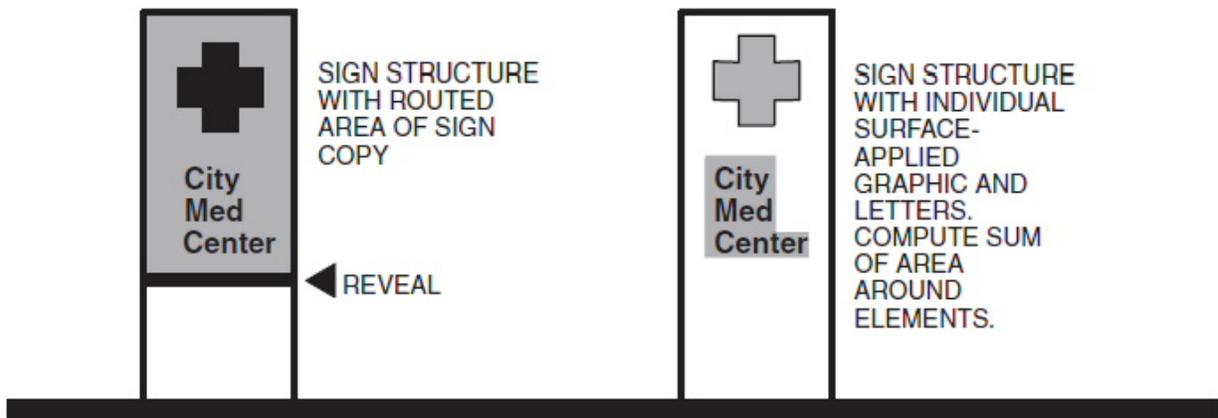
FIGURE C.1(1) GENERAL SIGN TYPES



**FIGURE C.1(2) COMPARISON—ROOF AND WALL OR FASCIA SIGNS**



**SIGN STRUCTURES**



**Notes:** Sum of shaded areas only represents sign area. Sign constructed with panels or cabinets.

**FIGURE C.1(3) SIGN AREA—COMPUTATION METHODOLOGY**



COMPUTE AREA INSIDE DEFINED BORDER OR INSIDE CONTRASTING COLOR AREA.



COMPUTE SUM OF AREAS OF INDIVIDUAL ELEMENTS ON WALL OR STRUCTURE.



IN COMPUTING AREA FOR UPPER- AND LOWER-CASE LETTERING, INCLUDE ASCENDERS OR DESCENDERS, BUT NOT BOTH. CALCULATE SUPER ASCENDERS SEPARATELY AS INDICATED.

**Notes:** Sum of shaded areas only represents sign area for code compliance purposes. Examples of signs consisting of individual letters, elements or logos placed on building walls or structures.

**FIGURE C.1(4) SIGN AREA—COMPUTATION METHODOLOGY**

D. General Provisions

1. Conformance to codes  
Any sign hereafter erected shall conform to the provisions of this ordinance and of any other ordinance or regulation within this jurisdiction.
2. Signs in rights-of-way  
No sign other than an official traffic sign or similar sign shall be erected within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the Town Manager and the Virginia Department of Transportation (VDOT).
3. Projections over public ways  
Signs projecting over public walkways shall be permitted to do so only with the approval of the Town Manager on a temporary basis. These signs are subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 8 feet (2438 mm) from *grade* level to the bottom of the sign. Signs, architectural projections or *sign* structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.
4. Traffic visibility.  
No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.
5. Computation of frontage  
Business signs with an area of two square feet for each foot of facade width to a maximum of fifty square feet in sign area (where more than one business exists in a building, each maximum sign area is to be proportionate to the business square footage). For buildings with more than one wall facing a street, each side of the building will be computed separately.
6. Animation and changeable messages  
Animated signs are not permitted in any areas of the Town.
7. Maintenance, repair and removal  
Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the zoning administrator, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the zoning administrator forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, zoning administrator shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign. The Town will store the sign for 30 days to give the owner an opportunity to reclaim the sign. The sign will be destroyed if unclaimed after 30 days. If ownership of the sign

cannot be determined, the sign shall be removed and destroyed after 30 days if unclaimed.

8. Obsolete sign copy

Any *sign* copy that no longer advertises or identifies a use conducted on the property on which said *sign* is erected must have the sign copy covered or removed within 10 days after written notification from the zoning administrator; and upon failure to comply with such notice, the zoning administrator is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located.

In some instances, the historic significance of the sign will exempt the property from adherence to this ordinance. Such cases will be determined by the zoning administrator.

9. Nonconforming signs

Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height or size with the regulations of the zone in which such *sign* is located, shall be considered a legal nonconforming use or structure and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

- a. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.
- b. Any legal nonconforming *sign* shall be removed or rebuilt without increasing the existing height or area if it is damaged, or removed if allowed to deteriorate to the extent that the cost of repair or restoration exceeds 50 percent of the replacement cost of the sign as determined by the zoning administrator.
- c. Signs that comply with either Item 1 or 2 above need not be permitted.

E. Exempt Signs

The following signs shall be exempt from the provisions of this chapter but no sign shall be exempt from Section D.4.

1. Official notices authorized by a *court*, public body or public safety official.
2. Directional, warning or information signs authorized by federal, state or municipal governments.
3. Memorial plaques, building identification signs, historical markers and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.
4. The flag of a government or noncommercial institution, such as a school.
5. Religious symbols and seasonal decorations within the appropriate public holiday season.
6. Works of fine art or historical signs displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.

7. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 4 square feet (0.56 m<sup>2</sup>) in area.
8. Freestanding signs or signs attached to fences, no more than one and one half square feet in area, to warn the public against hunting, fishing, trespassing, dangerous animals, swimming, the existence or danger of such, when placed on the periphery of the property or at a location where the warning is necessary.
9. Political signs during the election season. All requirements shown in § H.2.f must be followed.

F. Prohibited Signs

The following devices and locations shall be specifically prohibited:

1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
2. Except as provided for elsewhere in this code, signs encroaching upon or overhanging public right-of-way. No *sign* shall be attached to any utility pole (with the exception of the utility pole located at the Post Office on Randolph Avenue), light standard, street tree or any other public facility located within the public right-of-way.
3. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.
4. Signs, any part of which moves by any means, including but not limited to rotating signs, propellers, discs, and such but excluding pennants and signs indicating time and temperature.
5. Portable signs except as allowed for temporary signs.
6. Any *sign* attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
  - a. The primary purpose of such a vehicle or trailer is not the display of signs.
  - b. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
  - c. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.
7. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.
8. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purposes of this subsection, "temporarily" means no more than 20 days in any calendar year.
9. Any signs that use the word "stop" or "danger" or otherwise present or imply the need or requirement to stop or take caution of the existence of danger or which is a copy of, imitation of, or which for any reason is likely to be confused with any sign displayed or authorized by a public authority.
10. Any non-shielded illumination of a sign within 200 feet of a residential district.
11. Billboard signs

12. Illuminated tubing or strings of lights solely for the purpose of illumination, except when displayed as decorations during the holiday seasons. This includes any lighting arrangement which outlines any portion of a building or structure by exposed tubing or strings of lights.
13. Signs advertising activities which are illegal under federal, state, or local laws and regulations.

G. Permits Required

1. Unless specifically exempted, a permit must be obtained from the zoning administrator for the erection and maintenance of all signs erected or maintained within this jurisdiction and in accordance with other ordinances of this jurisdiction. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this ordinance.
2. Construction documents  
Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the zoning administrator showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the *International Building Code*.
3. Changes to signs  
No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.
4. Permit fees  
Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted within this jurisdiction.
5. Permit number. Permit must be made available upon request.
6. Permit expiration. If a sign is not erected within twelve months following the issuance of a sign permit, such permit shall be null and void.
7. Church, school, or other public or semi-public institutions may have one name sign or bulletin board not exceeding twenty square feet in area.
8. Landscaping shall be integrated with each individual freestanding sign. Landscaping plans will be approved by the Zoning Administrator.

9. Signs and advertising structures shall not obstruct any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, or ingress and egress for any building structure.

H. Specific Sign Requirements

1. Identification signs.

Identification signs shall be in accordance with Sections H.1.a through H.1.b.

a. Wall signs

Every single-family residence, multiple-family residential complex, commercial or *industrial* building, and every separate nonresidential building in a residential zone may display wall signs per street frontage subject to the limiting standards set forth in Table H.1.a. For shopping centers, planned *industrial* parks or other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy.

TABLE H.1.a IDENTIFICATION SIGN STANDARDS—WALL SIGNS

LAND USE	AGGREGATE AREA (square feet)
Single-family residential	2 SQFT
Multiple-family residential	2 SQFT per residential dwelling

For SI: 1 square foot = 0.0929 m<sup>2</sup>.

a. Free-standing signs

In addition to any allowable wall signs, every single-family residential subdivision, multiple-family residential complex, commercial or *industrial* building, and every separate nonresidential building in a residential zone shall be permitted to display free-standing or combination signs per street frontage subject to the limiting standards set forth in Table H.1.b.

TABLE H.1.b IDENTIFICATION SIGN STANDARDS—  
FREE-STANDING SIGNS<sup>a,b,c</sup>

LAND USE	NUMBER OF SIGNS	MAXIMUM HEIGHT (feet)	AREA (square feet)	SPACING
Residential Subdivision	1	6'	12 Sq Ft	1 per subdivision entrance <sup>a</sup>
Multiple-family residential	1	6'	12 Sq Ft	1 per driveway <sup>a</sup>
Commercial and industrial	1	6'	64 Sq Ft	150 <sup>b</sup>
Mason Avenue Commercial	1 per store front	6'	12 Sq Ft	1 per store front

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m<sup>2</sup>, 1 acre = 4047 m<sup>2</sup>.

a. For shopping centers or planned *industrial* parks, two monument-style free-standing signs not exceeding 50 percent each of the permitted height and area, and spaced not closer than 100 feet to any other free-standing identification sign, shall be permitted to be allowed in lieu of any free-standing sign otherwise permitted in Table H.1.b.

b. For any commercial or *industrial* development complex exceeding 1,000,000 square feet of gross leasable area, or 40 acres in size, such as regional shopping centers, auto malls or planned *industrial* parks, one free-standing sign per street front shall be permitted to be increased in sign area by up to 50 percent.

2. Temporary signs

Temporary signs shall be in accordance with Sections H.2.a through H.2.f.

a. Real estate signs

Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

- (1) Real estate signs, including Open House Signs, located on a single residential lot shall be limited to one sign, not greater than 4 square feet in area.
- (2) Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each *sign* shall be no greater than 32 square feet in area nor 6 feet in height. All signs permitted under this section shall be removed within 7 days after sale of the last original lot.
- (3) Real estate signs advertising the sale or lease of space within commercial or *industrial* buildings shall be no greater than 12 square feet in area nor 8 feet in height, and shall be limited to one sign per street front.
- (4) Real estate signs advertising the sale or lease of vacant commercial or *industrial* land shall be limited to one sign per street front, and each sign shall be no greater than 8 feet in height, and 20 square feet for property of 10 acres or less, or 32 square feet for property exceeding 10 acres.
- (5) Real estate signs shall be removed not later than 7 days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase.
- (6) Real estate auction signs advertising the sale of residential, commercial or *industrial* property shall be no greater than 32 square feet, and may be displayed for up to 30 days.

b. Development and construction signs

Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

- (1) Such signs on a single residential lot shall be limited to one sign, not greater than 6 feet in height and 4 square feet in area.
- (2) Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than 6 feet in height and 32 square feet in area.
- (3) Such signs for commercial or *industrial* projects shall be limited to one sign per street front, not to exceed 6 feet in height and 12 square feet for projects on parcels 5 acres or less in size, and not to exceed 6 feet in height and 32 square feet for projects on parcels larger than 5 acres.
- (4) Development and construction signs may not be displayed until after the issuance of construction permits by the building official, and must be removed not later than 7 days following issuance of an occupancy permit for any or all portions of the project.

c. Special promotion, event and grand opening signs

Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for nonresidential uses in a residential district, and for all commercial and *industrial* districts subject to the following limitations:

- (1) Such signs shall be limited to one sign per street front.
- (2) Such signs may be displayed for not more than 30 consecutive days in any 3-month period, and not more than 60 days in any calendar year. The signs shall be erected no more than 7 days prior to the event or grand opening, and shall be removed not more than 1 day after the event or grand opening.
- (3) The total number of all such signs shall not exceed 5 in any single-family residential district, limited to 4 square feet in any multiple-family residential district and in any commercial or *industrial* district.

d. Special event signs in public ways

Signs advertising a special community event shall be allowed in or over public rights-of-way, subject to approval by the zoning administrator and the Virginia Department of Transportation as to the size, location and method of erection. The zoning administrator may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

e. Political signs

Political signs shall be permitted in all zoning districts, subject to the following limitations:

- (1) Such signs shall not exceed an area of 4 square feet per sign.
- (2) Such signs for election candidates or ballot propositions shall be displayed only for a period of 45 days preceding the election and shall be removed within 7 days after the election.

- (3) Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.
- f. Other Temporary Signs  
This category includes temporary signs that do not conform to any of the other categories listed above.
- (1) Such signs on a single residential slot shall be limited to one sign per lot which shall not exceed an area of 4 square feet.
3. Requirements for specific sign types  
Signs of specific type shall be in accordance with Sections H.3.a through H.3.g.
- a. Canopy and marquee signs
- (1) The permanently-affixed copy area of *canopy* or marquee signs shall not exceed an area equal to 25 percent of the face area of the *canopy*, marquee or architectural projection upon which such sign is affixed or applied.
  - (2) Graphic striping, patterns or color bands on the face of a building, *canopy*, marquee or architectural projection shall not be included in the computation of sign copy area.
- b. Awning signs
- (1) The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning or awning surface to which such a sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.
  - (2) Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.
- c. Projecting signs
- (1) Projecting signs shall be permitted in lieu of free-standing signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such an occupancy, and shall be limited in area to 2 square feet per each lineal foot of building frontage, except that no such sign shall exceed an area of 50 square feet.
  - (2) No such *sign* shall extend vertically above the highest point of the building facade upon which it is mounted.
  - (3) Such signs shall not extend over a public sidewalk without approval of the Town Manager.
  - (4) Such signs shall maintain a clear vertical distance above any public sidewalk a minimum of 8 feet.

- d. Under *canopy* signs
  - (1) Under *canopy* signs shall be limited to no more than one such sign per public entrance to any occupancy.
  - (2) Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of 8 feet.
- e. Roof signs
  - (1) Roof signs shall not be permitted in any districts.
- f. Window signs (Inside).  
 Window signs shall be permitted for any nonresidential use in a residential district, and for all commercial and *industrial* districts, subject to the following limitations:
  - (1) Any signs attached to windows or glass walls advertising weekly specials or special services offered for a limited time by a business establishment.
  - (2) The aggregate area of all such signs shall not exceed 25 percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.
  - (3) Window signs shall not be assessed against the sign area permitted for other sign types.
- g. Menu boards  
 Menu board signs shall not be permitted to exceed 10 square feet and are limited to one sign per business.
- h. Sandwich boards  
 Sandwich boards on public right-of-way shall be removed at daily close of business. The signs shall not exceed 10 square feet and are limited to one sign per business.

I. Signs for Development Complexes

1. Master sign plan required

All landlord or single-owner controlled multiple-occupancy development complexes on parcels exceeding 8 acres (32 376 m<sup>2</sup>) in size, such as shopping centers or planned *industrial* parks, shall submit to the zoning administrator a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

- a. Proposed sign locations.
- b. Materials.
- c. Type of illumination.
- d. Design of free-standing sign structures.
- e. Size.

- f. Quantity.
  - g. Uniform standards for nonbusiness signage, including directional and informational signs.
- 2. Development complex sign
 

In addition to the free-standing business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification free-standing signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.
- 3. Compliance with master sign plan
 

All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.
- 4. Amendments
 

Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.
- J. Other Permitted Signs
  - 1. Commercial Districts
    - a. Barber poles.
    - b. Theater marquees, including chaser lights, neon, and backlit changeable letterings appropriate to its use.
- K. Sign Illumination
  - 1. External Illumination. External lighting shall be limited to light fixtures utilizing white, not colored, lighting and shall not be blinking, fluctuating, or moving. External lighting shall be provided by concealed and/or screened spots or floods and shall be arranged and installed so that direct or reflected illumination does not exceed (0.5) foot candles above background measured at the lot line of any adjoining residential or agricultural parcel or public right-of-way.
  - 2. Internal Illumination. Internal lighting shall be limited to internal light contained within translucent letters and internal illuminated sign boxes provided the background or field on which the copy and/or logos are placed is opaque. The area illuminated is restricted to the sign face only. The direct or reflected illumination shall not exceed (0.5) foot candles above the background measured at the lot line of any adjoining residential or agricultural parcel or public right-of-way.
- L. Violations of Signs
 

The Zoning Administrator shall have the authority to determine violations of this preceding section and notify the owner of such violation in writing. In addition to penalties described in Section 2.4.3, if it is determined that a sign is unlawfully installed,

erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the zoning administrator forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, zoning administrator shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign. The Town will store the sign for 30 days to give the owner an opportunity to reclaim the sign. The sign will be destroyed if unclaimed after 30 days. If ownership of the sign cannot be determined, the sign shall be removed and destroyed after 30 days if unclaimed. For repeat offenses, the Zoning Administrator is authorized to immediately remove any unlawfully placed sign.

#### **Section 4.2 Exceptions to the Regulations**

*(Revised 9/2007)*

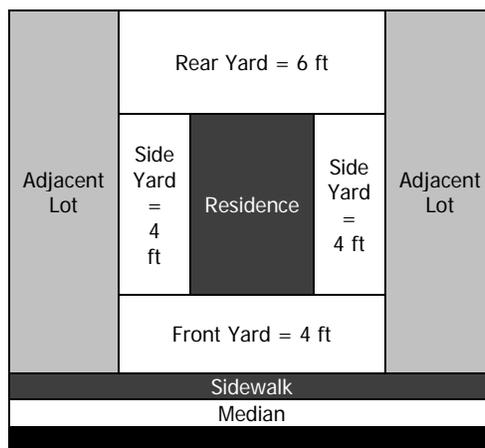
- A. Gasoline Pumps. Gasoline pumps shall be setback a minimum of 15 feet from the property line.
- B. Trailer Parking
  - 1. Storage of travel or recreational trailers in an enclosed accessory building is permitted in any district provided that no living quarters are maintained within the trailer.
  - 2. Travel and recreational trailers shall be parked to the rear of the front line of the main building in a residential district.
  - 3. Construction trailers are permitted on the construction site for the duration of the construction project.
- C. Structures Permitted Above Height Limitations. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, and similar equipment required to operate and maintain the building, fireproof, or parapet walls, towers, steeples, flagpoles, chimneys, smokestacks, wireless masts, water tanks, silos, cupolas, or similar structures may be erected above the height limit specified in the district in which the property is located, but no penthouses or roof shall be allowed for the purpose of providing additional floor space.
- D. Vision Clearance at Intersections. At any corner lot there shall be no planting, structure, fence, retaining wall, shrubbery, or obstruction to vision more than three feet higher than the curb level within the triangle formed by the street right-of-way lines and a line connecting such street lines 25 feet from their intersections.
- E. Accessory Buildings. The following restrictions shall apply to accessory buildings located in residential districts. *[adopted 1/2006]*
  - 1. The accessory building shall not be located in a front or side yard.
  - 2. The accessory building shall not be closer than five feet (5') to any alley line.
  - 3. The accessory building shall not be closer than two feet (2') to any side or rear lot line.
  - 4. The accessory building shall not be closer than fifteen feet (15') from the main building.
  - 5. A two-story building shall not be located any closer than five feet (5') to any lot line.
  - 6. The sum of the footprint square footage (SF) of all buildings on the lot shall be less than 50% of the total lot SF.

7. Where total lot frontage on one (1) or more lots owned by the same party is less than eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 550 SF whichever is lesser.
8. Where total lot frontage of one (1) or more lots owned by the same party is greater than or equal to eighty feet (80'), the sum of the footprint of all accessory buildings shall be less than the footprint of the primary residence or 660 SF, whichever is lesser.
9. Where the main structure possesses no more than one story above grade, no accessory structure shall be higher than the main structure.
10. Where the main structure possesses more than one story above grade, no accessory structure shall be higher than two-thirds the height of the main structure or twenty-four feet (24'), whichever is lesser.
11. Temporary Family Health Care Structures are only allowed per § 15.2-2292.1 of the Code of Virginia. *[adopted 12/2010]*

F. Projections Allowed in Required Setbacks. No building or structure, or addition thereto, shall extend into a required setback area or yard area, except chimneys, heating and cooling equipment, structures less than sixteen (16) inches in height as measured from finished ground elevations, and steps may extend into such setback or yard area other than front yard setback. The following unenclosed uses may extend no more than four feet, but not nearer than five feet to any property line: balconies, eaves, trims, fascia boards, and similar architectural features, platforms, and terraces. In Commercial District C-1, no building or structure, or addition thereto, shall extend into the required front setback area or yard area except for the following: above street floor level balconies, porches, and terraces may extend therein. Support members for these structures may extend to the ground as required by the building and maintenance code. No part of any foundation for these support members shall extend above the ground or grade level. The following unenclosed structures located above the first floor level may extend to the front lot line: porches, balconies, terraces. *[adopted 7/2006]*

G. Fences and Walls. The setback and yard requirements of this ordinance shall not deem to prohibit any otherwise lawful fence or wall. A fence or wall must be two feet from any sidewalk, alley, or public right of way.

1. In residential areas, fences and walls may be no closer than one inch from adjacent property boundaries (unless adjacent property owners agree to jointly construct the fence on the property line) and may be erected to a height as follows:

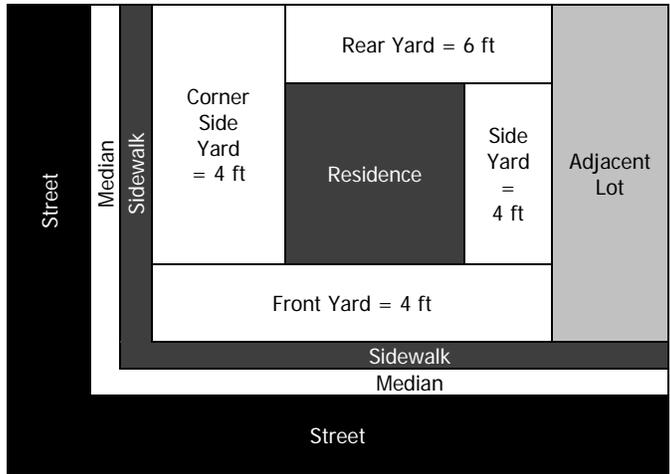


Street

Maximum fence heights for interior lots  
 Rear Yard – Not to exceed 6 feet  
 Side Yard – Not to exceed 4 feet  
 Front yard – Not to exceed 4 feet

- a. Exception. No fence or wall in a corner side yard shall exceed four feet in height. On corner lots, fences and walls may be erected to a height as follows:

Corner Lot



Maximum fence heights for corner lots  
 Rear Yard – Not to exceed 6 feet  
 Side Yard – Not to exceed 4 feet  
 Corner Side Yard – Not to exceed 4 feet  
 Front yard – Not to exceed 4 feet

- 2. Materials. Fences and walls must be constructed of appropriate materials. Materials, both traditional and contemporary (e.g. wood, wrought and cast iron, vinyl, tubular metal), may be used in traditional styles. Certain materials such as razor, barbed, or similar wire are not permitted in residential areas.

Chain link fencing is acceptable in rear yards not facing a public street. Open mesh fencing that existed as of the effective date of this section of the Zoning Ordinance may be maintained; any new fencing must meet the requirements of this ordinance.

- a. All fencing must be constructed with finished side facing the exterior of the property or neighbor (facing out) unless otherwise agreed upon by the adjacent property owner.
- 3. Commercial and Industrial Fences. Fences in commercial and industrial zones are permitted if they comply with residential fencing requirements in Section 4.2 G 1 and 2. In commercial and industrial zones, the conditional use permit process shall be used for any non-conforming

fences. Applicants shall demonstrate that the proposed fencing is consistent with the nature of and the security requirements of the business.

- H. Wetlands and Water Areas Excluded From Lot Areas. In calculating the area of any lot for the purpose of compliance with the minimum lot area requirements of the district regulations, wetlands, and areas outboard of the shoreline shall be excluded.
- I. Utility Lines Underground. All new utility lines such as electric, telephone, CATV, or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within a project. All junction and access boxes shall be screened with appropriate landscaping. All utility pad fixtures and meters shall be shown on the site plan. The necessity for utility connections, meter boxes, etc., should be recognized and integrated with the architectural elements of the site plan.

**Section 4.3 Conditional Use Permits** *[Revisions adopted by Council 6/10/2010 – C & D]*

- A. Statement of Intent. The purpose of this section is to recognize certain uses which, by nature, can have a potentially unfavorable impact on or be incompatible with other uses of land within a given zoning district. These uses, as described, may be permitted within given designated districts under controls, limitations, and regulations of a conditional use permit. It shall be the duty of the Town Council under the provisions of this ordinance to evaluate the impact and the compatibility of each use and to stipulate such conditions and restrictions including those specifically contained herein as will assure the use being compatible with the neighborhood in which it is located, both in terms of existing land uses and conditions and in terms of development proposed or permitted by right in the area or, where that cannot be accomplished, to deny the use as not being in accordance with the adopted comprehensive plan or as being incompatible with the surrounding neighborhood.
- B. Conditions for Issuance. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:
  - 1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.
  - 2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
  - 3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

- C. Procedures. Written application for a conditional use permit may be made by any property owner, tenant, department, board, or bureau of any government agency. The application shall be filed with the Zoning Administrator on forms provided by the town.

The application shall be accompanied by a fee established by separate ordinance by the Town Council to defray cost of advertising and processing the application. A site plan in accordance with the site plan ordinance shall be submitted with each application. A list of additional required permits shall be submitted with the application and shall be submitted to the Planning Commission with the application, and the Zoning Administrator may add any additional required permits. Changes to the additional permit list may be made by mutual consent of the applicant and the commission. No changes shall be made to the list after the Planning Commission recommendations to Town Council. Conditional use permits shall include a disclosure statement, signed by the applicant and notarized, of the equitable ownership of the real estate affected, which shall list the names and addresses of all the adjacent property owners and interested parties, including applicant, owners, contractors, purchasers, and lessees of the land described in the application, all partners, both general and limited, and partnerships, stockholders, officers, and directors. The applicant shall keep this information current at all times during the processing of the application. The procedures for approval of a conditional use permit shall be the same as those prescribed for zoning changes as set forth in this ordinance. *[adopted 6/2010]*

1. Action by the Zoning Administrator. The Zoning Administrator shall study the application and determine whether the proposed conditional use conforms to the general purpose and intent of the comprehensive plan, any applicable regulations that have been adopted, and the requirements of this ordinance. Upon completion of such review, if the administrator shall determine that any proposal in the application does not meet the requirements of this ordinance, he/she shall reject the application and return it to the applicant. If the applicant does meet the requirements of this ordinance, the administrator shall transmit all the findings and recommendations to the Planning Commission. However, nothing herein shall prohibit the administrator from accepting a conditional use permit application if failure to meet applicable requirements is due solely to area or dimension insufficiency of the lot upon which it is proposed. Any appeal of the Zoning Administrator may be made directly to the town manager.
  2. Action by the Planning Commission. After receiving the report of the administrator with all pertinent materials, the Planning Commission shall give notice of and hold a public hearing. Within 45 days after the hearing, the Commission shall submit its recommendations to the Town Council through the Zoning Administrator. Upon mutual agreement between the Commission and the applicant, such time may be extended.
  3. Action by the Town Council. After receiving the recommendations of the Zoning Administrator and the Planning Commission, the Town Council shall hold a public hearing and act upon the proposed conditional use permit, granting the applicant in whole or in part, with or without modifications, or denying the proposed application. In addition to the general or specific requirements set forth in the ordinance concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the Town Council as required for the protection of the public interest in the specific case.
- D. Approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the

application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. *[Adopted 6/2010]*

1. Staff shall notify Town Council of the date that all additional permits have been approved which date shall be the commencement date for the one (1) year Conditional Use Permit
2. Staff shall notify Town Council of the status of the project at a regular meeting prior to the expiration of the one (1) year Conditional Use Permit.

If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit. Town Council may make additional one-year extensions for good cause. To be considered acted upon one (1) or more of the following is required:

1. The procurement of a Cape Charles Building Permit
2. Payment of Water and Wastewater Connection and Facility Fees
3. Completed Plans stamped by a Virginia Licensed Professional

- E. No application for a use permit for the same conditional use on a lot, parcel, or tract shall be considered by the Town Council within a one-year period from its last consideration. The provisions, however, shall not impair the right of the Town Council to propose a use permit on its own motion if it finds that there is public benefit to be gained.
- F. Revocation of a Conditional Use. If the provisions of this ordinance or the requirements of the conditional use permit are not met, then the Town Council may revoke the conditional use permit provided that ten days' written notice is given to the applicant.

#### **Section 4.4 Landscaping and Screening Regulations**

- A. Statement of Intent. The intent of this section is to protect water quality by minimizing erosion and sedimentation, enhancing the infiltration of storm water runoff, and maximizing nutrient uptake. The intent of this section is also to preserve and enhance the aesthetics of the Town, to reduce the negative impact such as noise and glare of uses and structures which are in close proximity to each other and generally regarded as incompatible, to promote attractive landscaping in commercial and industrial districts of the Town.

A comprehensive plan for each individual lot or parcel is essential for the visual enhancement of the Town and to protect and promote the appearance, character, and economic values of neighborhoods. The purpose and intent of such landscaping requirements are to reduce the visibility of paved areas from adjacent properties and streets, moderate climatic effects, minimize noise and glare, and enhance public safety. Landscaping will provide transition and buffers between neighboring properties.

## B. General Requirements

1. Landscaping shall be required in all commercial and industrial districts.
  - a. The owner or his agent shall be responsible for the maintenance, repair, and replacement of all landscaping materials as may be required by the provisions of this Article.
  - b. All plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris at all times. All unhealthy, dying, or dead plant materials shall be replaced during the next planting season.
2. Commercial and industrial district uses that abut residential zones shall provide a landscape buffer or screened area between districts.
3. All parking lots shall be screened and landscaped from adjoining properties or every other use and zoning district.
4. Land disturbance shall be limited to the area necessary to provide for the desired use or development.
  - a. Ingress and egress during construction shall be limited to one access point unless otherwise approved by the Zoning Administrator.
5. Indigenous vegetation shall be preserved to the maximum extent possible with the use and the development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook and the Chesapeake Bay Act.
  - a. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities as approved by the Zoning Administrator.
  - b. Prior to clearing or grading, suitable protective barriers such as safety fencing shall be erected five feet outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
  - c. Trees may be pruned or removed as necessary to provide sight lines and vistas provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint pollution from runoff. Preservation of existing trees is encouraged to provide continuity, improved buffering ability, pleasing scale, and image.
  - d. Any path shall be constructed and surfaced so as to effectively control erosion.
6. Any land-disturbing activity exceeding 2,500 square feet, including construction of single-family homes, shall comply with the requirements of the Erosion and Sediment Control Regulations.
7. The comprehensive plan for each parcel shall include the requirement to retain the 100 foot Resource Protection Area (RPA) and associated buffer area.  
*[revision adopted by Town Council 12/2010]*

## C. Commercial and Industrial Requirements

1. Required open spaces shall be landscaped in accordance with a landscape plan to be submitted with the site plan and approved by the Zoning Administrator.
2. Screening shall be provided along the common side and rear lot lines of every commercial and industrial district that abuts a residential use or zone. Such screening shall include either fencing or shrubs and trees that provide a six feet in height barrier to visual observation. Screening shall be shown on the landscape plan submitted.
3. Parking lots. There shall be a landscaped open space within the perimeter of the parking areas in the minimum amount of two square feet per parking space. At least one tree shall be planted for each forty square feet of landscaped area.

D. Multi-Family Developments and Mobile Home Parks

1. Screening may be required for multi-family developments and mobile home parks that abut single-family districts or uses.
2. Parking areas may require landscaping and screening in multi-family and mobile home parks. Where required, other provisions of this ordinance shall apply.

E. Exterior Lighting

1. All exterior lighting shall be arranged and installed so that the direct or reflected illumination does not exceed (0.5) foot candles above the background measured at the lot line of any adjoining parcel.
2. Lighting standards shall be of a directional type capable of shielding the light source from direct view from any adjoining parcel.
3. All lighting shall comply with Dark Sky standards.

**Section 4.5 Parking Requirements**

Except as otherwise provided in this ordinance, wherever a zoning or conditional use permit is required under this ordinance, the development shall meet the standards set out in this section which include but are not limited to providing adequate off-street parking and loading spaces.

- A. Parking Spaces Required. Except as otherwise provided by this ordinance, every development or change of use shall provide a sufficient number of off-street parking spaces to accommodate the number of vehicles that are likely to be attracted to the development during the peak hour of a typical weekday or weekend, whichever is greater. In calculating the number of parking spaces needed, the number of spaces established for uses as set up in this Article, Table of Parking Standards, is presumed to be sufficient; however, the permit-issuing authority may, where appropriate, establish a different number of spaces by calculating such as need from the appropriate methodology set out in the most recent version of the Institute of Transportation Engineers (ITE) Reference Manual entitled "Parking Generation" or where that methodology is inadequate or inappropriate, from studies in the town and/or similar-sized towns and communities.
- B. New in-fill structures or change of use projects on the first floor of structures in Commercial District C-1 shall be exempt from complying with the exact requirement of Section 4.5.A (Parking Spaces Required), Section 4.6 (Loading and Unloading), and Section 4.8 (Table of Parking Standards). Owners are encouraged to provide off-street

or remote parking for themselves, employees, and loading facilities where possible (i.e., alleys to back yard areas). Owners shall evaluate existing parking and access and submit proposed plan to Town. Projects will be evaluated on a case-by-case basis. New or change of use second and third floor units shall be required to conform to parking requirements as set forth herein.

C. Reading the Table of Parking Standards. When a determination of the number of parking spaces required by this table results in a requirement of a fraction of a space, any fraction shall be counted as one parking space.

D. Adjustments--Satellite Parking

1. General. If the number of off-street parking spaces required by this Article cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section.
2. Location. Off-street parking, other than those intended for employees' use, shall be located within 600 feet of a public entrance of a principal building housing the use associated with such parking.
3. Condition. Property owners who obtain satellite parking in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this ordinance. This means that the person owning the lot on which the satellite parking is being provided must secure a zoning or conditional use permit for the use and must meet the requirements of this ordinance. A developer desirous of taking advantage of the provisions for satellite parking must present satisfactory written evidence that he has the permission of the owner or the person in charge of the lot or parcel to use such space.

E. Adjustments--Shared Parking

One parking area may contain required spaces for several different uses, but except as provided below, the required space assignment to one use may not be credited to any other use. The extent that developments wish to make joint use of the same parking spaces operated at different times, the same space may be credited to both uses. In determining the parking requirements where the uses intend to share parking, the permit-issuing authority will establish the peak hourly demand by calculating such a need from appropriate methodology set out in the most recent version of ITE Reference Manual entitled "Parking Generation," or where that methodology is inadequate from studies done in the town or similar towns and communities. Persons intending to take advantage of this provision are required to demonstrate that an enforceable agreement exists between two parties who intend to share parking.

F. General Design of Parking Areas

1. Vehicular accommodation area
  - a. Safety in relation to streets. Every off-street vehicular accommodation area shall be designed so it has access to a public street without impeding vehicular movement in that street. Vehicle accommodation areas, other than for single-family dwellings and duplexes on local or

- minor streets, shall be designed so that vehicles exit such areas without backing onto a public street.
- b. Pedestrian safety. Vehicular accommodation areas shall be designed so that vehicles can proceed without posing a significant danger to pedestrians or other vehicles. The permit-issuing authority may allow driveways handling two-way traffic to be built to one-way traffic standards where aisles will be less than sixty feet in length and where the number of parking spaces served will be fewer than five spaces.
  - c. Drainage. Except where the authority determines that adequate capacity in the storm drainage system to which the site is draining exists and is willing to accept the increase volume in runoff, no vehicle accommodation area shall be constructed in such a manner that a significant volume of surface water from the lot will be drained onto the public street or buildings. No vehicle accommodation area shall be constructed in such manner that will increase the quantity or decrease the quality of the runoff to adjacent lots.
  - d. Lighting. Adequate lighting shall be provided for vehicle accommodation areas that are used at night. Parking lights shall not exceed 18 feet in height. Lighting shall not interfere with the use of nearby properties or the safe use of public streets. All lighting is to be compliant with Dark Sky lighting standards.
  - e. Landscaping. All vehicle accommodation areas shall be landscaped. Said landscaping shall be in compliance with all other requirements of this ordinance.
    - i. The primary landscaping material used in parking areas shall be trees which provide shade or are capable of providing shade at maturity.
    - ii. Landscaping areas shall be reasonably dispersed throughout, located so as to divide and break up the expanse of paving. The area designated as required setbacks shall not be calculated as required landscaping area.
  - f. Screening. Plantings which meet the standards for screening of this ordinance will be used to screen vehicle accommodation areas other than those serving single-family and duplex dwellings from an adjacent residential district or use. Fencing may be substituted for plantings with the approval of the Zoning Administrator.
  - g. Reductions for protecting trees. The minimum number of spaces required may be reduced where the permit-issuing authority has determined that the reductions are necessary to preserve a healthy tree or trees with a three-inch or greater diameter from being damaged or removed and where the site plan provides for the retention of said tree or trees.
  - h. Handicapped spaces. Any use shall be required to provide handicapped spaces in accordance with the provisions of the Americans with Disabilities Act. All handicapped spaces shall be identified by appropriate restrictive signing and markings.
  - i. Compact spaces. In parking areas containing ten or more spaces, up to 35 percent of the required parking spaces may be set aside for the exclusive use of compact cars (being defined as cars 100 inches or less). Compact car spaces must be clearly marked and designated as such.

- j. Bicycle racks and motorcycle pads. The number of spaces required by this section may be reduced by one space for each bicycle rack for five or more bicycles and each motorcycle pad for two or more motorcycles which are provided up to a total of 5 percent of the number of spaces.
  - k. Marking and maintenance. Parking stalls in paved areas shall be marked as such. Vehicular accommodation areas shall be properly maintained in all respects. Without limiting the foregoing, landscaping shall be kept healthy and well maintained, surfaces shall be free of potholes, and lines marking spaces shall be distinct and clear.
  - l. Vehicles in working condition. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition. No motor vehicle repair work, except for emergencies, no storage of merchandise, and no motor vehicle parked for the sole purpose of sale shall be permitted in any required vehicle accommodation area.
2. Parking stalls and aisle dimensions
- a. Normal. A required off-street parking space shall include a rectangular area with a length of at least 18 feet and a width of at least 9 feet, exclusive of access drives or aisles, ramps, columns, or office or work parking area. Such space shall have a vertical clearance of at least 6½ feet. Aisles shall not be less than 18 feet for 90° parking nor less than 13 feet for 45° parking. Angles shall be measured between centerline of the parking space and centerline of the aisle. For parallel parking, the length of the space shall be increased an additional two feet and the width increased by one foot.
  - b. Compact. A compact car parking space shall have a minimum length of 16 feet and a minimum width of 8½ feet.
3. Surfacing
- a. Paved parking areas. All paved parking areas shall meet the following requirements:
    - i. a minimum depth of six inches of number 21A aggregate base and a minimum of one and one half inches of asphalt; or
    - ii. six inches of concrete on appropriate base; or
    - iii. four inches of brick or porous paving block on four inches of number 21A aggregate base.
    - iv. Land development shall minimize impervious cover to promote infiltration of storm water into the ground consistent with the use or the development permitted.
      - (a) Grid and modular pavements may be used for any required parking area, alley, or other low traffic driveway unless otherwise approved by the Zoning Administrator.
4. Standards for non-paved areas. Whenever a vehicle accommodation area is exempt from the paved parking requirements, the permit-issuing authority:
- a. may require that landscaped aisles or special separations be provided every three or more spaces where it finds it is desirable to ensure that the parking stalls will be readily identifiable to the users, and
  - b. may require that the perimeter of the accommodation area, encompassing but not limited to the unpaved parking stalls and the side of any unpaved drive or aisle leading to said stalls, be rimmed or edged with landscape timbers, railroad ties, brick, or curbing of adequate size

where it finds that it is desirable to prevent erosion or the washing away of the parking area.

5. Porous paving materials may be used. The permit-issuing authority may require that porous paving materials be substituted for other surfaces in any portion of an accommodation area where it finds it is necessary to protect the root system of a tree or trees from damage.

#### Section 4.5.1 Table of Parking Standards

<u>Nature of Use</u>		<u>Parking Standards</u>
A.	Park and Open Space:	
	1. Park and playground	as determined by authority
	2. Golf course	36.0 spaces per 18-hole course plus 1 space per employee
	3. Accessory building	as determined by authority
B.	Agricultural	
	1. Agricultural, as defined	1.0 space per employee
C.	Residential	
	1. Single-family dwelling	2.0 spaces per dwelling unit
	2. Two-family dwelling	2.0 spaces per dwelling unit
	3. Townhouse	2.0 spaces per dwelling unit
	4. Multi-family dwelling	1.0 space per one bedroom dwelling unit; otherwise 2.0 spaces per dwelling unit
	5. Mobile home	2.0 spaces per dwelling unit
D.	Care Facility/Institutional	
	1. Library	1.0 space per 300 sf GFA (Gross Floor Area)
	2. Museum	1.0 space per 300 sf GFA
	3. School	
	a. Nursery	1.0 space per employee
	b. Elementary	1.0 space per employee
	c. Middle	1.0 space per employee
	d. Junior	1.0 space per employee
	e. Other	.25 space per student plus 1.0 space per employee
	4. Instructional school	.5 space per student plus 1.0 space per employee
	5. Church	
	a. Parish house; Educational/ Social annex	.25 space per seat
	b. Place of Worship	.25 space per seat
	6. Hospital	2.0 spaces per bed

7.	Cemetery	20 spaces per chapel or .25 space per seat
8.	Funeral home	20 spaces per chapel or .25 space per seat, whichever is greater
E. Residential/Commercial		
1.	Home occupation Standards	see Section 4.8.C Residential
2.	Bed and breakfast	1.0 space per bedroom plus 1.0 space per owner/resident (see Section 3.2.C 4 c)
3.	Rooming house	1.0 space per bedroom plus 1.0 space per employee
4.	Boarding house	1.0 space per bedroom plus 1.0 space per employee
5.	Hotel and motel	1.0 space per bedroom plus 1.0 space per employee
F. Offices		
1.	Office	
	a. Professional	1.0 space per 300 sf GFA
	b. Other	1.0 space per 300 sf GFA
2.	Principal Office/Medical	
	a. Physician	1.0 space per 200 sf GFA
	b. Surgeon	1.0 space per 200 sf GFA
	c. Dentist	1.0 space per 200 sf GFA
3.	Bank	
	a. Standard	1.0 space per 200 sf GFA
	b. Drive-in	1.0 space per 200 sf GFA (stacking as per Section 4.5.B)
4.	Real estate	1.0 space per 250 sf GFA
G.	Retail	1.0 space per 200 sf GFA
H. Restaurant		
1.	Standard (no drive in)	1.0 space per 100 sf GFA
2.	Carry out	1.0 space per 100 sf GFA
3.	Fast food (no drive in)	1.0 space per 100 sf GFA
4.	Drive in	1.0 space per 65 sf GFA
5.	Delivery only/catering	1.0 space per employee and 1.0 space per each delivery vehicle
I.	Service/General	1.0 space per 275 sf GFA
J.	Entertainment	

1.	Private club	1.0 space per 3 seats
2.	Club and lodge	1.0 space per 3 seats
3.	Auditorium/assembly hall	1.0 space per 3 seats
4.	Theater	1.0 space per 3 seats
5.	Commercial recreation/entertainment	1.0 space per 3 seats
6.	Recreation facility	1.0 space per 3 seats
K. Service/Manufacturing		
1.	Sign printing shop	1.0 space per 400 sf GFA
2.	Upholstery shop	1.0 space per 400 sf GFA
3.	Cabinet and furniture	1.0 space per 400 sf GFA
4.	Printing/publishing	1.0 space per 400 sf GFA
5.	Blacksmith shop	1.0 space per 400 sf GFA
L. Motor Vehicles		
1.	Convenience store	1.0 space per 200 sf GFA
2.	Auto service station	2.0 spaces per service island plus 1.0 space per employee
3.	Car wash	3.0 spaces per washing bay
4.	Auto/trailer sales	3.0 spaces per employee
5.	Automobile service	1.0 spaces per employee plus 4.0 spaces per bay
M. Wholesale		
1.	Nursery	1.0 space per 400 sf GFA
2.	Machinery	
a.	Sales	1.0 space per 500 sf GFA
b.	Service	3.0 spaces per service bay plus 2
N. Utilities		
1.	Transportation	1.0 space per 200 sf GFA
2.	Public utilities and service	2.0 spaces per employee
3.	Public utility generating, booster, or relay stations, transmission lines and tower, for maintenance of public utilities, including railroads and facilities and water and sewerage facilities	1.0 space per 1,500 sf GFA plus 1.0 space per employee
O. Storage:		
1.	Monumental stone works	1.0 space per 1,500 sf GFA
2.	Coal, wood yards, lumber yards, feed and seed	1.0 space per 1,500 sf GFA
3.	Frozen food locker	1.0 space per 1,500 sf GFA

P. Manufacturing

1. Manufacturing 1.0 space per 500 sf GFA

Q. Storage and Stacking Spaces Required. Whenever a use involves the storage or stacking of vehicles awaiting service, the development shall also provide a sufficient number of storage spaces or adequately sized stacking lanes to accommodate the peak hourly demand for the peak day in a typical week for said storage. The following uses are presumed to require the following number of storage spaces or stacking area:

Typical Use--uses with a drive-in window including but not limited to banks and drive-in restaurants.

Space Required--lanes sufficient to stack six automobiles per window including, in the event of a staged drive-in, three automobiles beyond the stage farthest from the window without interfering with the use of the adjacent road or street.

Type Use--Vehicle repair uses including but not limited to enclosed auto repair and boat and trailer repair.

Space Required--four spaces per service bay or repair area.

Any stacking lane or storage space shall be required to be surfaced to the same standards as the paved parking area with which it is associated.

**Section 4.6 Loading and Unloading**

A. Loading and Unloading Areas Required. Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area shall be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner. This section also pertains to uses that generate a need for consumer pick up.

B. Number of Loading Spaces Required. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are anticipated to use this area. The following indicates the number and size of spaces that are presumed to satisfy this requirement; however, the permit-issuing authority may require more or less loading and unloading area where it finds that such an area is more appropriate for the development.

Uses which normally handle large quantities of goods including but not limited to the following categories:

- Schools
- Churches
- Care facilities
- Hospitals
- Retail sales
- Wholesale sales

Storage  
Manufacturing  
Agricultural

Gross Floor Area (GFA)	Number of Spaces
2,500 - 19,999 sf	1
20,000 - 39,999 sf	2
40,000 - 99,999 sf	3

Uses which do not normally handle large quantities of goods presumably shall provide off-street loading facilities in the following amounts:

Gross Floor Area (GFA)	Number of Spaces
5,000 - 79,999 sf	1
80,000 - 200,000 sf	2
Each additional 200,000	1

- C. Location. Loading and unloading areas shall be located and designed so that the vehicles intended to use them can maneuver safely and conveniently to and from the public right-of-way and complete loading and unloading operations without obstruction or interfering with on-site parking and movement of vehicles in the vehicle accommodation area. Loading and unloading areas shall be marked and designated with appropriate restrictive signage.
- D. Loading Areas. Sites shall be designed and buildings shall be oriented so that loading areas are not visible from any of the project perimeters adjoining any agricultural or residential district or any public right-of-way.

#### **Section 4.7 Stormwater Management**

- A. Purpose and Intent. The purpose and intent of the requirements contained in this section are to prevent a new increase in nonpoint source pollution from new development and achieve a 10 percent reduction in nonpoint source pollution from redevelopment to the greatest extent possible given the size and current development of lots within the Town.
- B. Except as provided in Section 4.7.C, for any development or redevelopment within the Town, stormwater runoff shall be controlled by the use of best management practices that achieve the following:
  - 1. For development, the post-development nonpoint source pollution runoff load shall not exceed .45 pounds per acre per year.
  - 2. For redevelopment, the nonpoint source pollution load shall be reduced by at least 10 percent. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control provided the following provisions are satisfied:
    - a. In no case may the post-development nonpoint source pollution runoff exceed the pre-development load;
    - b. Runoff pollution loads must have been calculated and the best management practices selected for the expressed purpose of controlling nonpoint source pollution; and

- c. If best management practices are structural, evidence shall be provided that the facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision.
  3. For redevelopment, both the pre- and the post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.
- C. For any development or redevelopment on any nonconforming lot within the Town, the Zoning Administrator may waive the requirements of this section upon receipt of a written request for such an administrative waiver provided, however, that in no case shall such development or redevelopment result in such nonconforming lot having total impervious coverage in excess of 40 percent for residential uses and 75 percent for commercial uses. The written request for an administrative waiver hereunder shall state the total estimated impervious coverage to result from such development or redevelopment.

#### **Section 4.8 Swimming Pool Regulations**

For the purpose of this ordinance, a swimming pool is defined as an artificial or man-made container of water capable of being filled to a depth exceeding 16 inches at the lowest point and is designed to be used for swimming or immersion purposes by individuals. Wading pools are exempt from the provisions of the Zoning Ordinance and are considered temporary pools if made of plastic, light metal, or other light duty materials which do not exceed a full volume depth of 16 inches at the lowest point, and which are completely emptied of water when not in use. Spas or health pools shall meet the same requirements as swimming pools, except when less than 10 feet in width.

Permanent swimming pools and associated decking and fencing, are required to meet all zoning and building code requirements, and are considered impervious structures. Building, electrical, and plumbing permits are required for the installation, alteration, repair or remodeling of all pools not exempt from the Zoning Ordinance. In-ground pools require an approved site plan. Above-ground pools may be installed without a survey and engineering grading plan if permitted by the Code Enforcement Official, and where steep slope areas are not present. Abandoned pools must be removed or appropriately filled in and covered. Swimming pools must be discharged according to all regulations established by the Commonwealth of Virginia.

Swimming pools are permitted to be located no closer than 5 feet to a side or rear property line, and must be located no closer than 5 feet from any structures, either primary or accessory, located on the lot or premises. Above-ground pools are only allowed in rear yards. The 5-foot separation from structures shall not apply to spas or health pools adjoining the principal structure. Spas must be covered with approved spa cover when not in use. Swimming pools and spas are not permitted in the front yard or within approved swale or storm water management systems.

Water contained in swimming pools must be kept healthy and sanitary at all times, and shall not emit an offensive odor that creates a nuisance or unhealthy condition. Approved circulators and filtration systems must be provided for all pools, spas, and health pools. Wading pools are exempt from filtration system requirement.

All zoning and building code requirements shall be met. Swimming pools must be completely enclosed with a minimum 4-foot high fence with locking gate access. Such fence must be constructed of a material that meets the approval of the building code official.

#### **Section 4.9 Satellite Dish.**

- A. Dish type satellite or other ground or building mounted television, radio, or other communications receiving or sending devices.
  - 1. Large satellite dishes are not permitted within the Town of Cape Charles.
  - 2. Mini dishes shall be allowed with building permit and zoning clearance.
    - a. Building-mounted dishes shall not be on the front of any façade or structure. The dish must be mounted in such a way that it cannot be seen from the sidewalk or street.
    - b. Ground-mounted dishes shall not be in the front yard of any structure. Every effort shall be made to mount the dish in an unobtrusive location. Visible dishes shall be screened with plantings.

#### **Section 4.10 Demolition Policy Guidelines**

- A. The owner of a building or structure within the Town shall be entitled to raze or demolish such building or structure provided that he has applied to the Building Official for such right.
  - 1. The owner must first try to sell the property at the appraised price (the appraisal to be at the owner's expense).
  - 2. The owner must have the property for sale, actively marketing and advertising it for sale for that appraised price for a period of one year.
  - 3. If unsold, the Town may elect to purchase the property at the appraised price or permit the demolition.
- B. Demolition-By-Neglect. No officially designated contributing building, structure, or site within the Town shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this ordinance. Demolition-by-neglect shall include any one or more of the following courses of action or inaction:
  - 1. Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition.
  - 2. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, windows, brick, plaster or mortar to the extent that it adversely affects the character of the district or could lead to irreversible damage to the structure.
  - 3. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety.
  - 4. Any fault in the building or structure which renders the same structurally unsafe or not properly watertight.

If the Building Official determines that a structure is being demolished by neglect, he or she shall send notification to the owners stating the reasons therefore and shall give the owner thirty days to respond with a plan of action and ninety days from the date of the notice in which to commence work. If appropriate action is not taken at this time, the

Zoning Administrator may initiate appropriate legal action as provided further in this chapter.

C. Penalties for Noncompliance.

1. Failure to correct a defect after a notice that the Building Official has determined that a property is being demolished by neglect shall constitute a misdemeanor. Such misdemeanor shall be punished as set forth in §§18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended. Each day that the violation continues is a separate offense.
2. Any property owner in the District who does not obtain approval as required within this ordinance shall be guilty of a misdemeanor and may be punished as set forth in §§18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended.
3. Nothing in this chapter shall be deemed to restrict or prohibit the Town Council to acquire in any legal manner any historic area, site, building, or structure or the land pertaining thereto for the use, observation, education, pleasure, and welfare of the citizens of the Town.

**Section 4.11 Cape Charles Planning, Zoning, and Building Fee Schedule**

All charges for planning and zoning activities, including but not limited to permit applications, inspections, certificates, reviews, variances, and appeals, shall be established from time to time by the Cape Charles Town Council in its sole discretion.

**Section 4.12 Wind Turbines *[New section adopted by Town Council 2/2011]***

A. Statement of Intent.

The intent of this ordinance is to regulate the placement, construction and modification of wind energy systems while promoting the safe, effective and efficient use of the wind energy resource and wind energy systems while not interfering with the development of independent renewable energy sources. Wind Energy Systems meeting the requirements will be allowed by Conditional Use Permit. The Zoning Administrator shall maintain an inventory of wind energy systems to include their installation, operation and removal dates to be updates annually.

B. Applicability

The requirements set forth in this section shall govern all zones and wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to Virginia's net metering laws (Code of Virginia, 56-594), serve as an independent source of energy or serve in a hybrid system.

	Minimum Lot Size	Minimum Setback Requirements <sup>1</sup>					Maximum Height From Grade
		Occupied Buildings (Subject Property) <sup>2</sup>	Occupied Buildings (Adjacent Prop.) <sup>2,3</sup>	Property Lines	Public/Private Right-of-Way	Hwys 184 & 642	
Anemometers	20,000 Sq. Ft.	1.0	1.5	1.0	1.5	2.5	Nacelle Height
Micro System	5,600 Sq. Ft.	0.0	1.0	1.0	1.5	1.0	Note 4
Small System	20,000 Sq. Ft.	0.0	1.5	1.0	1.5	2.5	120 Ft.
Large System	5 Acres	1.0	2.0	1.0	1.5	2.5	250 Ft.
Utility System	25 Acres	1.5	2.5	1.5	1.5	2.5	500 Ft.

<sup>1</sup> Measured from the center of the wind turbine base to the property line, ROW, or nearest point on the fountain of an occupied building.

<sup>2</sup> Calculated by multiplying the required setback number by the wind turbine height.

<sup>3</sup> This setback proposes to reduce noise and shadow flicker impacts to any previously existing occupied buildings on adjacent property or work site.

<sup>4</sup> One system per lot with a maximum of 18 feet above the roof.

1. As part of the Conditional Use Permit Process the setback requirements may be waived if the following conditions are met:
  - a. Property owners may waive the occupied building setback requirements on both the subject property and/or the adjacent properties, and the property line setback requirements for wind turbines, by executing a signed waiver that sets forth the applicable setback provisions and proposed changes.
  - b. The written waiver shall notify the applicable property owners of the setback required by this ordinance, describe how the proposed wind turbine and/or wind energy facility is not in compliance and state that the consent is granted for the wind turbine and/or wind energy facility to not be setback as required by this ordinance.
  - c. Any such waiver shall be signed by all affected property owners and be recorded in the Northampton County Clerks office. The waiver shall describe the properties benefited and/or burdened, and advise all subsequent purchasers of any burdened property that waiver of setback shall run with the land and may forever burden the subject property.

### C. Definitions

Anemometer – Measures the wind speed and may transmit wind speed data to the controller.

Hybrid System – An energy system that uses more than one technology to produce energy to work (for example a wind/solar system).

kW – Kilowatt

mW – Megawatt

Nacelle – The cover housing surrounding the turbine, usually at the center of the blades.

Tower – The structure on which the wind system is mounted.

Tower Height – The height above grade of the fixed portion of the tower, including the nacelle and excluding the rotor blades.

Wind Energy Facility – An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility, Large System – A system which has a rated capacity of not more than 999kW.

Wind Energy Facility, Micro System – A building mounted wind system that has a manufacturer's rating of 10kW or less and projects no more than 18 feet above the highest point of the roof and shall not be considered a small wind energy system in terms of the area or setback requirements. Only one facility is allowed per dwelling unit.

Wind Energy Facility, Small System – A system which has a rated capacity of not more than 25kW and primarily used for onsite consumption.

Wind Energy Facility, Utility Scale – A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of 1mW or greater.

Wind Farm – See "Wind Energy Facility – Utility Scale."

Wind Power – Electrical Power generated by wind driven turbine blades turning an electrical generator.

Wind Pump – A type of windmill used for pumping water from a well or pond.

Wind Turbine – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height – The distance measured from the grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Windmill – A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

#### D. Conditional Use Permit Requirements

1. The application shall demonstrate that the proposed wind energy facility will comply with this ordinance and shall contain at a minimum the following:
  - a. A narrative describing the proposed wind energy facility;
  - b. The approximate generating capacity of the wind energy facility;
  - c. The specific number, representative types and heights or range of heights of the wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers and description of ancillary facilities;
  - d. Identification and location of the properties on which the proposed wind energy facility will be located;
  - e. A plot plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines, and location of all structures and properties with the geographical boundaries of any applicable setback;
  - f. Evidence of compliance with Federal Aviation Administration regulations;
  - g. Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics.
  - h. An Environmental Assessment is required for small, large and utility scale wind energy facilities, which shall include review and comments from the applicable state and federal agencies, including but not limited to, Virginia Department of Mines, Minerals and Energy, DNR, USACE, US Fish and Wildlife and a completed Virginia Renewables Siting Scoring System (VRS3). The Planning Commission may require an additional Environmental Impact Statement (EIS) for the installation of three (3) or more turbines or if significant impacts could result from the installation.
  - i. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for the decommissioning and restoration and the anticipated manner in which the wind power project will be decommissioned and the site restored. This obligation shall be recorded and goes with the land.
  - j. Signature of the property owner(s) and the facility owner/operator of the energy facility;
  - k. Other relevant studies or reports that may be reasonably requested by the Town of Cape Charles to ensure compliance with this ordinance.
2. Throughout the permit process the applicant shall promptly notify the Town of any changes to the information contained in the permit application.
3. Changes to the pending application that do not materially alter the initial site plan may be adopted administratively.
4. Historic District Review Board or Harbor Area Review Board approval is required for systems within the Historic District Overlay District or Harbor District.

## E. Installation and Design

1. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of ANSI (American National Standards Institute).
2. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable town, state and national codes and ordinances. A Cape Charles Building Permit is required.
3. Small and Micro wind energy facilities shall not exceed 60 decibels as measured at the property line. The level, however, may be exceeded during short term events such as utility outages and/or severe windstorms.
4. Any on-site transmission or power lines shall, to the maximum extent possible, be placed underground.
5. The visual appearance of wind energy facilities shall at a minimum:
  - a. Maintain a galvanized finish and be a non-obtrusive color such as white, off-white or gray;
  - b. Not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety;
  - c. Not display advertising, including flags, streamers or decorative items, except for the identification of the turbine manufacturer, facility owner and operator.

F. Decommissioning or Abandonment

1. The wind energy facility owner, and/or operator and/or property owner shall have 3 months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months. Repair, maintenance or redesign plans shall be submitted to the zoning administrator if turbines will be off-line for 12 months or more.
2. Decommissioning shall include removal of the wind turbines, buildings, cabling, electrical components, roads and any other associated facilities. Foundations shall be removed to a depth of 48" below finished grade.
3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored. The required Erosion and Sediment measures shall be put in place per the Virginia Erosion and Sediment Control Handbook.