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**CHAPTER 18**

**ZONING**

**SECTION 4**

**GENERAL REGULATIONS**

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### **4.0 GENERAL REGULATIONS**

Except as otherwise specifically provided, the following general regulations shall apply.

#### **4.1 AREA AND HEALTH REGULATIONS RELATED TO UTILITIES (Amended 6-3-81)**

The following regulations shall apply to all districts:

It is specifically intended that the public water supply and public sewerage system be utilized within the service areas of the Albemarle County Service Authority. Within such service areas, provisions of section 6.0 and other provisions of section 4.1 notwithstanding, no building permit shall be issued for any building or structure, including mobile homes, the use of which requires increased water consumption and/or sewage disposal, unless the building or structure shall be provided with public water and/or public sewerage system service. This requirement, however, shall not apply to the following situations and circumstances:

- a. Whenever a structure is damaged as a result of factors beyond the control of the owner and/or occupant thereof, such structure may be repaired and/or reconstructed provided that such repair and/or reconstruction shall be commenced within twelve (12) months and completed within twenty-four (24) months from the date of such damage; and provided further that such structure shall not be repaired and/or reconstructed in such manner as to reasonably cause an increase in water usage and/or sewage disposal demand; or
- b. The director of planning and community development in consultation with the Albemarle County Service Authority finds that the cost of connecting the proposed development to the public water and/or sewerage system, exclusive of connection fees, exceeds the cost of installing an on-site well and/or septic system; or
- c. The director of planning and community development in consultation with the Albemarle County Service Authority finds that the capacity of the public water and/or sewerage system is inadequate to serve the proposed development.

Except for (a) above, the foregoing provisions shall not provide relief from §§ 4.1.1 through 4.1.7. (Added 1-3-96)

- 4.1.1 For a parcel served by both a central water supply and a central sewer system, the minimum area requirements of the district in which such parcel is located shall apply.
- 4.1.2 For a parcel served by either a central water supply or a central sewer system, there shall be provided a minimum area of forty thousand (40,000) square feet per commercial or industrial establishment or per dwelling unit as the case may be.
- 4.1.3 For a parcel served by neither a central water supply nor a central sewer system, there shall be provided a minimum of sixty thousand (60,000) square feet per commercial or industrial establishment or per dwelling unit as the case may be.
- 4.1.4 The provisions of sections 4.1.2 and 4.1.3 notwithstanding, in such cases where a greater minimum area is required by the regulations of the district in which the parcel is located, said district regulations shall apply.
- 4.1.5 In the case of unusual soil conditions or other physical factors which may impair the health and safety of the neighborhood, upon the recommendation of the Virginia Department of Health, the commission may increase the area requirements for uses utilizing other than a public sewer system.
- 4.1.6 For lots not served by a central sewer system, no building permit shall be issued for any building or structure, the use of which involves sewage disposal, without written approval from the local office of the Virginia Department of Health of the location and area for both original and future replacement septic disposal fields adequate to serve such use. For

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residential usage, at a minimum, each septic disposal field shall consist of suitable soils of adequate area to accommodate sewage disposal from a three (3) bedroom dwelling as determined by current regulations of the Virginia Department of Health. (Amended 11-15-89)

- 4.1.7 In a cluster development, open space may be used for septic field location only after the septic field locations on such lot are determined to be inadequate by the local office of the Virginia Department of Health. (Added 6-3-81)

**4.2 CRITICAL SLOPES**

These provisions are created to implement the comprehensive plan by protecting and conserving steep hillsides together with public drinking water supplies and flood plain areas and in recognition of increased potential for soil erosion, sedimentation, water pollution and septic disposal problems associated with the development of those areas described in the comprehensive plan as critical slopes. It is hereby recognized that such development of critical slopes may result in: rapid and/or large-scale movement of soil and rock; excessive stormwater run-off; siltation of natural and man-made bodies of water; loss of aesthetic resource; and in the event of septic system failure, a greater travel distance of septic effluent, all of which constitute potential dangers to the public health, safety and/or welfare. These provisions are intended to direct building and septic system locations to terrain more suitable to development and to discourage development on critical slopes, and to supplement other regulations regarding protection of public water supplies and encroachment of development into flood plains. (Amended 11-15-89)

Where modification of regulations is sought pursuant to section 4.2.5, such request shall address each concern specified in section 4.2. (Added 11-15-89)

**4.2.1 BUILDING SITE REQUIRED**

No lot other than a special lot shall have less than one (1) building site. For purposes of this section, the term "building site" shall mean a contiguous area of land in slopes of less than twenty-five (25) percent as determined by reference to either topographic quadrangle maps of the Geological Survey - U. S. Department of Interior (contour interval twenty [20] feet) or a source determined by the county engineer to be of superior accuracy, exclusive of:

Any area located in the flood hazard overlay district or which is located under water;

Any area located within two hundred (200) horizontal feet of the one hundred year flood plain of any public drinking water impoundment or within one hundred (100) horizontal feet of the edge of any tributary stream to such impoundment; (Amended 11-11-87)

Any area designated as a resource protection areas on the resource protection areas map adopted pursuant to chapter 17 of the Code of Albemarle; provided that nothing contained herein shall be deemed to prevent or impair the program authority from exercising discretion as set forth in that chapter. (Added 9-9-92)

(§4.2.1, 12-10-80; 11-11-87; 9-9-92; Ord. 11-18(5), 6-1-11)

**4.2.2 BUILDING SITE AREA AND DIMENSIONS**

Each building site shall be subject to the following minimum area and dimension requirements: (Amended 10-17-01)

- a. *Uses not served by a public or central sewerage system.* Building sites for uses not served by a public or central sewerage system shall be subject to the following: (Amended 11-15-89; 10-17-01)

- 1. *Dwelling units.* Each building site for a dwelling unit shall have an area of thirty thousand (30,000) square feet or greater and shall be of such dimensions that no one

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dimension exceeds any other by a ratio of more than five (5) to one (1) as described by a rectangle inscribed within the building site. The building site shall have adequate area for locating two (2) septic drain fields approved by the Virginia Department of Health pursuant to section 4.1 of this chapter. (Amended 11-15-89; 10-17-01)

2. *Development subject to section 32 of this chapter.* Each building site in a development subject to section 32 of this chapter shall have an area of thirty thousand (30,000) square feet or greater and shall be of such dimensions that no one dimension exceeds any other by a ratio of more than five (5) to one (1) as described by a rectangle inscribed within the building site. The building site shall have adequate area for all buildings and structures, two (2) septic drain fields approved by the Virginia Department of Health pursuant to section 4.1 of this chapter, parking and loading areas, storage yards and other improvements, and all earth disturbing activity related to the improvements. (Added 11-15-89; Amended 10-17-01)
  3. *Modification or waiver.* Notwithstanding section 4.2.5 of this chapter, the director of planning and community development may modify or waive the rectangular shape required by subsections (1) and (2) if, after receiving the recommendation from the Virginia Department of Health, the director of planning and community development finds, based on information provided by the developer, that: (i) the parcel has an unusual size, topography, shape, location or other unusual physical condition; (ii) no reasonable alternative building site exists; and (iii) modifying or waiving the rectangular shape would result in less degradation of the parcel or adjacent parcels than if those dimensions were adhered to. (Added 10-17-01)
  4. *Appeal.* A developer may appeal the denial of a modification or waiver to the planning commission and, thereafter, to the board of supervisors, pursuant to section 4.2.5. (Added 10-17-01)
- b. *Uses served by a central sewerage system.* Building sites for uses served by a central sewerage system shall be demonstrated by the applicant to have adequate area, as follows: (Amended 10-17-01)
1. *Residential development.* Each building site in a residential development shall have adequate area for all dwelling unit(s) together with an area equivalent to the sum of the applicable required yard areas for the applicable zoning district and, if parking is provided in bays, the parking area. (Added 11-15-89; Amended 10-17-01)
  2. *Development subject to section 32 of this chapter.* Each building site in a development subject to section 32 of this chapter shall have adequate area for all structures, parking and loading areas, storage yards and other improvements, and all earth disturbing activity related to the improvements. (Added 11-15-89; Amended 10-17-01)

(§ 4.2.2, 12-10-80; § 4.2.2, 4.2.2.1, 11-15-89; Ord. 01-18(7), 10-17-01)

### 4.2.3 LOCATION OF STRUCTURES AND IMPROVEMENTS (Amended 11-15-89)

Except as otherwise permitted pursuant to section 4.2.2, the provisions of this section shall apply to the location of any structure for which a permit is required under the Uniform Statewide Building Code and to any improvement shown on a site development plan pursuant to section 32.0 of this chapter. (Amended 11-15-89; 10-17-01)

(§ 4.2.3, 12-10-80, 11-15-89; Ord. 01-18(7), 10-17-01)

- 4.2.3.1 No structure or improvement shall be located on any lot or parcel in any area other than a building site. (Amended 11-15-89)

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4.2.3.2 No structure or improvement nor earth disturbing activity to establish such structure or improvement shall be located on slopes of twenty-five (25) percent or greater except as otherwise permitted under section 4.3.01. (Amended 11-15-89)

### 4.2.4 LOCATION OF SEPTIC SYSTEMS (Amended 11-11-87)

In the review for and issuance of a permit for the installation of a septic system, the Virginia Department of Health shall be mindful of the intent of this section, and particularly mindful of the intent to discourage location of septic tanks and/or drain fields on slopes of twenty (20) percent or greater. Septic system location shall be restricted to the approved building site. (Amended 11-1-87; 9-9-92)

### 4.2.5 MODIFICATION OR WAIVER

Any requirement of section 4.2.1, 4.2.2, 4.2.3 or 4.2.4 may be modified or waived as provided herein:

- a. *Modification or waiver by the commission.* The commission may modify or waive any requirement that is not subject to an administrative waiver as provided in subsection (b), as follows:
  1. *Request.* A developer or subdivider requesting a modification or waiver shall file a written request in accordance with section 32.3.10(d) of this chapter and identify and state how the request would satisfy one or more of the findings set forth in subsection 4.2.5(a)(3). If the request pertains to a modification or waiver of the prohibition of disturbing slopes of twenty-five (25) percent or greater (hereinafter, "critical slopes"), the request also shall state the reason for the modification or waiver, explaining how the modification or waiver, if granted, would address the rapid and/or large-scale movement of soil and rock, excessive stormwater run-off, siltation of natural and man-made bodies of water, loss of aesthetic resources, and, in the event of septic system failure, a greater travel distance of septic effluent (collectively referred to as the "public health, safety, and welfare factors") that might otherwise result from the disturbance of critical slopes.
  2. *Consideration of recommendation; determination by county engineer.* In reviewing a request for a modification or waiver, the commission shall consider the recommendation of the agent as to whether any of the findings set forth in subsection 4.2.5(a)(3) can be made by the commission. If the request pertains to a modification or waiver of the prohibition of disturbing critical slopes, the commission shall consider the determination by the county engineer as to whether the developer or subdivider will address each of the public health, safety and welfare factors so that the disturbance of the critical slopes will not pose a threat to the public drinking water supplies and flood plain areas, and that soil erosion, sedimentation, water pollution and septic disposal issues will be mitigated to the satisfaction of the county engineer. The county engineer shall evaluate the potential for soil erosion, sedimentation and water pollution that might result from the disturbance of slopes of twenty-five (25) percent or greater in accordance with the current provisions of the Virginia Department of Transportation Drainage Manual, the Commonwealth of Virginia Erosion and Sediment Control Handbook and Virginia State Water Control Board best management practices, and where applicable, Chapter 17, Water Protection, of the Code.
  3. *Findings.* The commission may grant a modification or waiver if it finds that the modification or waiver would not be detrimental to the public health, safety or welfare, to the orderly development of the area, or to adjacent properties; would not be contrary to sound engineering practices; and at least one of the following:
    - a. Strict application of the requirements of section 4.2 would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare;
    - b. Alternatives proposed by the developer or subdivider would satisfy the intent and purposes of section 4.2 to at least an equivalent degree;

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- c. Due to the property's unusual size, topography, shape, location or other unusual conditions, excluding the proprietary interest of the developer or subdivider, prohibiting the disturbance of critical slopes would effectively prohibit or unreasonably restrict the use of the property or would result in significant degradation of the property or adjacent properties; or
    - d. Granting the modification or waiver would serve a public purpose of greater import than would be served by strict application of the regulations sought to be modified or waived.
  4. *Conditions.* In granting a modification or waiver, the commission may impose conditions deemed necessary to protect the public health, safety or welfare and to insure that the development will be consistent with the intent and purposes of section 4.2.
  5. *Appeal.* The board of supervisors shall consider a modification or waiver as follows:
    - a. The denial by the commission of a modification or waiver, or the approval of a modification or waiver by the commission with conditions objectionable to the developer or subdivider, may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in section 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
    - b. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the findings set forth in subsection 4.2.5(a)(3), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection 4.2.5(a)(4).
- b. *Waiver by the agent.* In accordance with the procedures stated in section 2.5 of this chapter, the agent may waive the prohibition of disturbing critical slopes on any parcel not within the Rural Areas (RA), Monticello Historic District (MHD) or Village Residential (VR) zoning districts in the following circumstances: (i) the critical slopes were created during the development of the property pursuant to a site plan approved by the county; or (ii) the critical slopes will be disturbed to replace an existing structure located on the critical slopes and the extent of the disturbance is the minimum necessary to replace the existing structure with a new structure whose footprint does not exceed the footprint of the existing structure. The agent may grant a waiver if he or she finds that:
  1. The property is not identified in the open space plan as one having any protected resources and a field inspection has confirmed that there are no significant or critical features on the property identified for protection in the open space plan;
  2. There is no reasonable alternative that would eliminate or reduce the disturbance of critical slopes;
  3. The developer or subdivider submitted and obtained approval from the program authority of an erosion and sediment control plan, regardless of whether the area disturbed is less than ten thousand (10,000) square feet; and
  4. The developer or subdivider submitted and obtained approval from the county engineer of a plan that describes how the movement of soil and rock, stormwater runoff, siltation of natural and man-made bodies of water, the loss of aesthetic resources identified in the open space element of the comprehensive plan and, in the event of the failure of a treatment works and subsurface drainfield, a greater travel distance of septic effluent, will be mitigated through design, construction techniques, revegetation, stormwater management and other best management practices.

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(12-10-80, § 4.2.5; 11-15-89; Ord. 01-18(4), 5-9-01; Ord. 09-18(1), 1-14-09)

**4.2.6 EXEMPTIONS**

A lot, structure, or improvement may be exempt from the requirements of section 4.2 as provided herein: (Added 10-17-01)

- a. Any structure which was lawfully in existence prior to the effective date of this chapter and which is nonconforming solely on the basis of the requirements of section 4.2, may be expanded, enlarged, extended, modified and/or reconstructed as though such structure were a conforming structure. For the purposes of this section, the term "lawfully in existence" shall also apply to any structure for which a site development plan was approved or a building permit was issued prior to the effective date of this chapter, provided such plan or permit has not expired. (Amended 10-17-01)
- b. Any lot or parcel of record which was lawfully a lot of record on the effective date of this chapter shall be exempt from the requirements of section 4.2 for the establishment of the first single-family detached dwelling unit on such lot or parcel; provided that section 4.2.3.2 shall apply to such lot or parcel if it contains adequate land area in slopes of less than twenty-five (25) percent for the location of such structure. For the purposes of this section a manufactured home shall be deemed a single-family detached dwelling unit. (Amended 10-17-01)
- c. Accessways, public utility lines and appurtenances, stormwater management facilities, and any other public facilities necessary to allow the use of the parcel shall not be required to be located within a building site and shall not be subject to the requirements of this section 4.2.2, provided that the applicant demonstrates that no reasonable alternative location or alignment exists. The county engineer shall require that protective and restorative measures be installed and maintained as deemed necessary to insure that the development will be consistent with the intent of section 4.2 of this chapter. (Added 10-17-01)

(§ 4.2.6, 12-10-80; Ord. 01-18(7), 10-17-01)

**4.3 TREE CUTTING**

- a. In districts other than the RA, cutting of trees shall be limited to dead trees and trees of less than six (6) inches in diameter measured at six (6) inches above ground; except that trees may be cleared as an incident to the preparation of land for the establishment of some other use permitted in the district, provided that:
  - 1. Such use is exempt from the provisions of section 32.0 hereof; or
  - 2. A site development plan for such permitted use shall have been approved in accordance with the provisions of section 32.0 of this ordinance;
- b. The following regulation shall apply in all zoning districts:
  - 1. Unless otherwise specifically approved to accommodate development pursuant to section 32.0 hereof, no tree within fifteen (15) feet of any perennial stream or water supply impoundment may be cut, except for dead trees or trees of less than six (6) inches in diameter measured at six (6) inches above ground; or in order to provide access for livestock or for another permitted use;
- c. The foregoing notwithstanding, the zoning administrator may authorize cutting of trees which:
  - 1. Are deemed by the zoning administrator to pose a clearly demonstrable danger to buildings or other structures or otherwise a danger to public safety; or

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2. Have been specifically recommended for removal following field investigation by the Virginia Department of Forestry as being virulent or pestilent to other trees in the vicinity;
- d. For the purpose of this ordinance, the term "tree cutting" shall be deemed to include sawing, burning, bulldozing, poisoning, girdling or any other activity which could reasonably be anticipated to result in the death of a tree. Fill and waste areas shall not be deemed a permitted use but preparatory activity to establish a permitted use. (Added 9-9-92)

### **4.3.1 FILL AREAS, WASTE AREAS**

Fill and waste areas shall be permitted in all zoning districts. Fill and waste activities shall be permitted only in accordance with section 5.1.28 of this ordinance. (Added 7-3-83)

### **4.3.2 SPECIAL LOTS**

Special lots shall be permitted in all zoning districts.

(Ord. 11-18(6), 6-1-11)

### **4.4 VISIBILITY CLEARANCE AT INTERSECTIONS**

For protection against traffic hazards, no material impediment to visibility shall be placed, allowed to grow, erected or maintained on any parcel so as to restrict sight distance at any intersection of any public street, private road or driveway, or at the intersection of any alley and public street or private road, below the minimum required by the Virginia Department of Transportation for such intersection. (Amended 9-9-92, 2-6-02)

(§ 4.4, 12-10-80, 9-9-92; Ord. 02-18(2), 2-6-02)

### **4.5 REQUIREMENTS FOR CONDOMINIUMS**

- 4.5.1 Definitions: For purposes of this section the meaning of all terms shall be controlled by section 55-79.41 of the Code.
- 4.5.2 Where permitted: Condominiums shall be permitted in all zones in which is permitted any physically identical development; provided that site development plan approval shall be required for any condominium development.
- 4.5.3 Compliance with ordinance: All condominiums and the use thereof shall in all respects comply with the provisions of this ordinance, and no vested rights shall be created upon the conversion to condominiums of the use thereof if either the condominium or the use thereof does not conform to the provisions of this ordinance. Except as otherwise specified, provisions of this ordinance applicable to condominiums shall be those provisions applicable to physically identical developments.

### **4.6 LOT REGULATIONS**

#### **4.6.1 FRONTAGE AND LOT WIDTH MEASUREMENTS (Amended 7-20-88)**

Lot frontage and the minimum lot width shall be established as follows:

- a. Except as otherwise provided in sections 4.6.1 and 4.6.6, every lot shall front on an existing public street, or a street dedicated by subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation, except that private roads shall be permitted in accordance with section 14-514 of Chapter 14 of the Code of Albemarle. (Amended 7-20-88, 2-6-02)
- b. Except as specifically permitted in this section, frontage shall not be less than required by the regulations of the district in which the lot or parcel is located. (Amended 2-6-02)

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1. Frontage on a public street cul-de-sac or on a private road cul-de-sac may be reduced provided that driveway separation shall be in accordance with Virginia Department of Transportation standards. (Amended 9-9-92, 2-6-02)
2. For a lot located at the end of an access easement, frontage shall not be less than the full width of such easement. For a lot served by a shared driveway or alley, frontage shall be provided along a public street or private road. (Added 7-20-88, Amended 2-6-02)
- c. Minimum lot width shall be at least the same distance as the frontage required for the district in which such lot is located. The depth of front and rear yards shall be established where minimum lot width is achievable but shall not be less in depth than required for the district in which such lot is located. Minimum lot width shall be maintained between the front and rear yard. Lot width shall not be reduced under section 4.6.1(b). (Amended 7-20-88; 9-9-92, 2-6-02)

(§§ 4.6.1, 4.6.1.1, 4.6.1.2, 4.6.1.3, 12-10-80, 7-20-88, 9-9-92; § 4.6.1, Ord. 02-18(2), 2-6-02)

### **4.6.2 LOTS, DETERMINATION OF LOT FRONT**

Lot fronts shall be determined as follows: (Added 10-3-01)

- a. On interior lots, the lot front shall be the portion abutting the street. (Amended 10-3-01)
- b. On corner lots, the lot front shall be both portions abutting the street. (Amended 10-3-01)
- c. On double frontage lots, the lot front shall be determined by observing the prevailing building pattern or, if a prevailing building pattern has not been established, the prevailing lotting pattern. If neither building or lotting patterns exist, the lot front shall be the narrower boundary abutting the street. (Amended 10-3-01)

(§ 4.6.2, 12-10-80; Ord. 01-18(6), 10-3-01)

### **4.6.3 LOTS AND YARDS ADJACENT TO STREETS, ALLEYS AND SHARED DRIVEWAYS**

Lots and yards adjacent to streets, alleys and shared driveways are subject to the following:

- a. Front yards of the depth required in the district shall be provided across the full width of the lot adjacent to the public street or private road. The depth of a required front yard shall be measured from the right-of-way line of the public street or private road so that the building line is equidistant from the public street or private road right-of-way at all points. Areas in parking bays shall not be considered as part of the public street or private road for purposes of determining front yard setback. In addition, if a shared driveway traverses a front yard, each primary structure also shall be located at least ten (10) feet from the edge of the shared driveway easement; if a shared driveway is concurrent with the shared lot line of the lots served by the shared driveway, each primary structure also shall be located at least six (6) feet from the edge of the shared driveway easement. (Amended 7-1-81, 2-6-02)
- b. Other yards adjacent to public streets or private roads shall have a minimum depth, equal to the minimum front yard depth required in the district in which the lot is located. This provision shall apply to lots in the RA or residential districts only. The foregoing notwithstanding, section 10.4 shall apply as written and depth of individual yards to streets shall be determined by the nature of the individual street. (Amended 7-20-88, 9-9-92, 2-6-02)
- c. Street line for measurement of required yards adjacent to streets. Required yards and setbacks shall be measured from a line equidistant from the public street or private road right-of-way line(s) at all points. (Amended 7-1-81, 2-6-02)

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- d. A front yard shall be measured from the right-of-way of public streets, private roads and vehicular access easements except alley easements and shared driveway easements. (Added 7-1-81, Amended 2-6-02)

(§§ 4.6.3, 4.6.3.1, 4.6.3.2, 4.6.3.3, 4.6.3.4, 12-10-80, 7-1-81, 7-20-88, 9-9-92; § 4.6.3, Ord. 02-18(2), 2-6-02)

### **4.6.4 REAR YARDS ON INTERIOR LOTS**

Rear yards on interior lots shall be provided at the depth required for the district, and shall run across the full width of the lot at the rear. The depth of a required rear yard shall be measured in such a manner that the yard is a strip of minimum depth required by district regulations with its inner edge parallel to its outer edge. If an alley abuts the rear yard, the required rear yard shall be measured from the edge of the alley right-of-way or easement. (Amended 2-6-02)

(§ 4.6.4, 12-10-80; Ord. 02-18(2), 2-6-02)

### **4.6.5 SIDE YARDS ON LOTS**

Side yards on lots are defined as running from the required front yard line to the required rear yard line. On corner lots, the required side yards shall run from the point where side yard lines intersect to required front yard lines.

### **4.6.6 LOT ACCESS REQUIREMENTS**

Vehicular access on a lot shall be provided as follows:

- a. In all zoning districts, a structure requiring a permit under the Uniform Statewide Building Code may be established only on a lot having frontage on a public or private street as authorized by the subdivision ordinance, except that this requirement shall not apply to lots lacking such frontage on the effective date of this chapter.
- b. In the rural areas zoning district, in addition to the requirements in subsection (a) and in order to provide public safety vehicles with safe and reasonable access to a new dwelling unit on a lot, each driveway that will serve a new dwelling unit: (1) shall not exceed a sixteen (16) percent grade; (2) shall have a travelway that is at least ten (10) feet in width; (3) shall extend to within fifty (50) feet of each dwelling unit on the lot; and (4) shall include a rectangular zone superjacent to the driveway that is clear of all obstructions, including any structures and vegetation, that is at least ten (10) feet in width and fourteen (14) feet in height. The landowner shall demonstrate to the satisfaction of the county engineer that the driveway will meet the requirements of this subsection before a building permit is issued.
- c. Notwithstanding the requirements of subsection (b), the county engineer, with the recommendation of the fire marshal, may authorize a driveway having a grade that exceeds sixteen (16) percent if the landowner demonstrates to the satisfaction of the county engineer and the fire marshal that public safety vehicles would be able to access the dwelling unit even though the grade may exceed sixteen (16) percent. In considering a waiver request, the county engineer and the fire marshal shall consider: (1) the length of the segment of the driveway that would exceed sixteen (16) percent; (2) whether the segment that would exceed sixteen (16) percent would require the public safety vehicle to travel uphill towards the dwelling unit; (3) whether fire suppression equipment such as sprinklers would be installed within the dwelling unit; and (4) whether the dwelling unit is within fifty (50) feet of a public or private street. In authorizing such a grade, the county engineer may impose reasonable conditions to assure that the public safety vehicles may access the dwelling unit including, but not limited to, a condition limiting the maximum length any segment of the driveway may exceed sixteen (16) percent.

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1. The landowner may appeal the disapproval of a waiver under subsection (c), or the approval of a waiver with conditions objectionable to the landowner, to the commission. The appeal shall be in writing and be filed with the department of community development within ten (10) days after the date of the county engineer's and the fire marshal's decision. In reviewing a waiver request, the commission may approve or disapprove the waiver based upon the applicable factors in subsection (c), amend any condition imposed by the county engineer and fire marshal, and impose any conditions it deems necessary to assure that public safety vehicles may access the dwelling unit. In so doing, the commission shall give due consideration to the recommendations of the county engineer and the fire marshal. In addition, the commission may consider such other evidence as it deems necessary for a proper review of the waiver request.
  2. The landowner may appeal the decision of the commission to the board of supervisors under the same procedure and subject to the same standards as an appeal to the commission set forth herein.
- d. Any lot which was lawfully a lot of record on the effective date of subsection (b) shall be exempt from the requirements of that subsection for the establishment of the first single-family detached dwelling unit on the lot if the county engineer determines that those requirements would prohibit the practicable development of the lot for that first single-family detached dwelling unit.

(§ 4.6.6, 12-10-80; 5-21-86; Ord. 98-A(1), 8-5-98; Ord. 08-18(1), 2-6-08)

### 4.6.7 LOT COVERAGE BY BUILDINGS

Except as otherwise specifically provided, in computations to determine lot coverage by buildings, building coverage shall be construed as including all areas under roofs or projections from buildings on the lot.

### 4.7 OPEN SPACE

Open space shall be established, used, designed and maintained as follows:

- a. *Intent.* Open space is intended to provide active and passive recreation, protect areas sensitive to development, buffer dissimilar uses from one another and preserve agricultural activities. The commission and the board of supervisors shall consider the establishment, use, design and maintenance of open space in their review and approval of zoning map amendments. The subdivision agent and the site plan agent (hereinafter, collectively referred to as the "agent") shall apply the following principles when reviewing open space provided on a subdivision plat or site plan.
- b. *Uses permitted.* Open space shall be maintained in a natural state and shall not be developed with any improvements, provided that the agent may authorize the open space to be used and improved for the following purposes: (i) agriculture, forestry and fisheries, including appropriate structures; (ii) game preserves, wildlife sanctuaries and similar uses; (iii) noncommercial recreational uses and structures; (iv) public utilities; (v) individual wells and treatment works with subsurface drainfields (reference section 4.1.7); and (vi) stormwater management facilities and flood control devices.
- c. *Design.* Open space shall be designed as follows:
  1. *Lands that may be required.* The agent may require that open space include: (i) areas deemed inappropriate for or prohibited to development including, but not limited to, land in the one-hundred year flood plain and significant drainage swales, land in slopes of twenty-five (25) percent or greater, public utility easements for transmission lines, stormwater management facilities and flood control devices, and lands having permanent

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or seasonally high water tables; (ii) areas to satisfy section 4.16, and (iii) areas to provide reasonable buffering between dissimilar uses within the development and between the development and adjoining properties.

2. *Redesign during review.* The agent may require the redesign of a proposed development to accommodate open space areas as may be required under this section 4.7, provided that the redesign shall not reduce the number of dwelling units permitted under the applicable zoning district.
3. *Limitation on certain elements.* If open space is required by this chapter, not more than eighty (80) percent of the minimum required open space shall consist of the following: (i) land located within the one-hundred year flood plain; (ii) land subject to occasional, common or frequent flooding as defined in Table 16 Soil and Water Features of the United States Department of Agriculture Soil Conservation Service, Soil Survey of Albemarle County, Virginia, August, 1985; (iii) land in slopes of twenty-five (25) percent or greater; and (iv) land devoted to stormwater management facilities or flood control devices, except where the facility or feature is incorporated into a permanent pond, lake or other water feature deemed by the agent to constitute a desirable open space amenity.
- d. *Ownership of open space.* Open space may be privately owned or dedicated to public use. Open space in private ownership shall be subject to a legal instrument ensuring the maintenance and preservation of the open space that is approved by the agent and the county attorney in conjunction with the approval of the subdivision plat or site plan. Open space dedicated to public use shall be dedicated to the county in the manner provided by law. Open space dedicated to public use shall count toward the minimum required open space.

(12-10-80, §§ 4.7, 4.7.1, 4.7.2, 4.7.3, 4.7.4; 6-3-81, 11-15-89; Ord. 09-18(1), 1-14-09, § 4.7)

**4.8 USES--GENERALLY**

**4.8.1 DETERMINATIONS CONCERNING UNSPECIFIED USES**

Uses other than those specified in district regulations as permitted by right or accessory uses may be added to a district on application by a landowner if the commission and board of supervisors find:

- a. That there is no clear intent to exclude such uses; and
- b. That the proposed use is appropriate within the district and would have no more adverse effects on other uses within the district, or on uses in adjoining districts, than would uses of the same general character permitted in the district.

In such cases, the board of supervisors shall proceed to amend the ordinance in accord with the provisions of section 33.0.

**4.8.2 TEMPORARY INDUSTRIALIZED BUILDINGS**

Temporary industrialized buildings shall be permitted only in accordance with the provisions of section 5.7 and section 5.8 of this chapter. (Amended 3-5-86; 10-3-01)

(§ 4.8.2, 12-10-80, 3-5-86; Ord. 01-18(6), 10-3-01)

**4.8.3 HOUSES DISPLAYED FOR ADVERTISING PURPOSES**

Construction of a house displayed for advertising purposes, not intended to be sold or occupied as a dwelling, whether in connection with a residential development or otherwise shall not commence until a performance bond adequate to insure the removal of the structure has been posted.

**4.8.4 (Repealed 3-18-81)**

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**4.8.5 (Repealed 3-18-81)**

**4.9 HANDICAPPED ACCESS**

Notwithstanding any other regulation of this chapter, ramps or other modifications to a lot or structure, which are the minimum required under the Americans with Disabilities Act to serve handicapped persons, are authorized in all zoning districts. (Added 9-9-92; Amended 10-3-01)

(§ 4.9, 9-9-92; Ord. 01-18(6), 10-3-01)

**4.10 HEIGHT OF BUILDING AND OTHER STRUCTURES**

**4.10.1 INTENT**

It is the intent of these height regulations to secure safety, to provide adequate light and air, and to protect the character of districts and the interests of the general public. To accomplish these purposes, the following requirements and limitations are established.

**4.10.2 FIRE AND SAFETY REQUIREMENTS**

**4.10.2.1 FIRE PROTECTION**

No building exceeding thirty-five (35) feet in height above grade shall be erected without certification from the Albemarle County fire official that such building, as proposed to be located, constructed and equipped, and particularly occupants of upper stories, can be properly protected in case of fire. In the case of structures other than buildings exceeding thirty-five (35) feet in height, the commission may require such certification where a determination is made that there is substantial fire danger to such structure or to surrounding properties.

**4.10.2.2 AERIAL NAVIGATION**

No building or other structure shall be located in a manner or built to a height which constitutes a danger to aerial navigation. In such case where the commission believes a danger to navigation may result, such structure shall not be located or erected without certification from the Federal Aviation Administration and the Virginia Department of Aviation that such structure will not reasonably constitute a danger to air traffic. No building or structure exceeding one hundred fifty (150) feet in height above ground level (AGL) shall be located or erected until certification for the same has been obtained from the Virginia Department of Aviation.

**4.10.3 HEIGHT LIMITATION--EXCEPTIONS**

The following exceptions to height limitations for certain buildings and structures shall be permitted provided that no building or structure shall be exempt from the requirements of section 4.10.2.2.

**4.10.3.1 EXCEPTIONS--EXCLUDED FROM APPLICATION**

The structures identified below shall be subject to height limitations as follows:

- a. The height limitations of this chapter shall not apply to barns, silos, farm buildings, agricultural museums designed to appear as traditional farm buildings, residential chimneys, spires, flag poles, monuments, transmission towers and cables, smokestacks, water tanks, or radio or television antennas or towers.
- b. Any structure identified in subsection (a), other than one now or hereafter located on an existing public utility easement, shall not: (1) be located closer in distance to any lot line than the height of the structure; and (2) within a residential district, exceed one hundred (100) feet in height, except for telecommunications facilities owned or operated in whole or in part by the county, which shall not exceed one hundred fifteen (115) feet in height.

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- c. The commission may modify or waive either requirement of subsection (b) in an individual case if it determines that the public health, safety or welfare would be equally or better served by the modification or waiver. In granting such modification or waiver, the commission may impose such conditions as it deems necessary to protect the public health, safety or welfare.
- d. The board of supervisors shall consider a modification or waiver of this subsection only as follows:
  - 1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
  - 2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (c), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (c).

(12-10-80; 12-20-89; Ord. 01-18(4), 5-9-01; Ord. 01-18(5), 5-16-01)

**4.10.3.2 EXCEPTIONS--LIMITED**

The following structures are excepted from the height limitations in the applicable zoning districts:

- a. Towers, gables, penthouses, scenery lofts, cupolas, similar structures and necessary mechanical appurtenances may be erected on a building to a height twenty (20) percent greater than the limit established for the district in which the building is located, provided that no such exception shall be used for sleeping or housekeeping purposes or for any commercial or industrial purpose; and provided further that access by the general public to any such area shall be expressly prohibited.
- b. Poles that support outdoor luminaires for lighting athletic facilities, subject to approval of a modification by the commission as provided in section 4.17.5(1)(3).

(12-10-80; Ord. 08-18(5), 7-9-08)

**4.10.3.3 PARAPET WALLS, CORNICES, ETC.**

A parapet wall, cornice or similar projection may exceed the height limit established for the district by no more than four (4) feet. (Amended 12-16-81; 9-9-92)

**4.10.3.4 ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS**

Except as permitted by the provisions of section 4.10.3.1, no accessory building in a residential district shall exceed a height of twenty-four (24) feet. In no case shall a parking structure, other than a parking lot or garage located entirely at and/or below grade, be deemed to be accessory to any use in any residential district. (Amended 11-7-84)

**4.11 USES AND STRUCTURES PERMITTED IN REQUIRED YARDS**

The following uses and structures shall be permitted in required yards, subject to the limitations established.

**4.11.1 COVERED PORCHES, BALCONIES, CHIMNEYS AND LIKE FEATURES**

Covered porches, balconies, chimneys, eaves and like architectural features may project not more than four (4) feet into any required yard; provided that no such feature shall be located closer than six (6) feet to any lot line. (Amended 9-9-92)

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### 4.11.2 ACCESSORY STRUCTURES IN REQUIRED YARDS

Accessory structures are authorized in required yards as follows:

- a. *Front yards.* Accessory structures, including detached garages, are prohibited within the minimum front yard required by the applicable district regulations except as otherwise provided in subsection (c).
- b. *Side and rear yards.* Accessory structures are permitted in side and rear yards, provided that they are erected no closer than six (6) feet to the side or rear property lines or, in the case of an alley or a shared driveway, no closer than three (3) feet to the edge of the easement or right-of-way of the alley or shared driveway except as otherwise provided in subsection (c). The zoning administrator may authorize an accessory structure to be located closer to the edge of an alley easement or right-of-way if the county engineer determines that the proposed design incorporates features that assure public safety and welfare. In making the determination, the county engineer shall consider the provision of adequate access to required onsite parking and/or garages, unimpeded vehicular circulation along the alley, an adequate clear zone along the alley, and other safety issues deemed appropriate for the conditions.
- c. *Accessory structures permitted in required yards.* The following accessory structures are permitted in required yards provided that they comply with the visibility clearance requirements of section 4.4:
  1. Fences, including free-standing walls enclosing yards and other uncovered areas.
  2. Freestanding mail and newspaper boxes.
  3. Retaining walls.
  4. Shelters for school children traveling to and from school.
  5. Public telephone booths, provided that: (i) the telephones are equipped for emergency service to the public without prior payment; (ii) the zoning administrator determines that the location of the booth will not adversely affect the safety of the adjacent street; and (iii) the booth shall be subject to relocation at the expense of the owner, whenever relocation is determined by the zoning administrator to be reasonably necessary to protect the public health, safety and welfare or whenever relocation is necessary to accommodate the widening of the adjacent street.
  6. Automated teller machines.
- d. *Accessory structures located closer than three (3) feet to primary structure.* Accessory structures for which any part is located closer than three (3) feet to any part of a primary structure shall comply with the minimum applicable yard requirements for a primary structure.

(§ 4.11.2, 12-10-80, 3-18-81; § 4.11.2.1, 12-10-80, 1-1-83, Ord. 02-18(2), 2-6-02; § 4.11.2.2, 12-10-80, 3-18-81, § 4.11.2.3, 3-18-81; Ord. 09-18(4), 7-1-09)

### 4.11.3 REDUCTION OF BUILDING SEPARATION AND SIDE YARDS (Added 1-1-83, Amended 6-11-08)

The minimum building separation and side yards for primary structures may be reduced in accordance with the applicable district regulations as follows:

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- A. *Reductions for structures not within zero lot line developments; with adequate fire flows or which are constructed in accordance with the building code.* The minimum building separation or side yards for primary structures may be reduced if the structure is not located within a zero lot line development, but is located in an area where available fire flows are adequate under Insurance Service Offices standards to allow the reduction. Each primary structure for which the minimum building separation or side yard has been reduced as provided in this subsection shall be subject to the following:
1. In the case of a side yard reduction, the Albemarle County fire official may require a guarantee as deemed necessary to insure compliance with the provisions of this section, and this guarantee may include, but not be limited to, appropriate deed restrictions, disclosure, and other such instruments, which shall be of a substance and be in a form approved by the fire official and the county attorney, and shall be recorded in the records of the circuit court of the county;
  2. No structure shall encroach within any emergency accessway required by the Albemarle County fire official;
  3. Unless constructed to a common wall, no structure shall be located closer than six (6) feet to any lot line; and
  4. No structure shall encroach on any utility, drainage or other easement, nor on any feature required by this chapter or other applicable law.
- B. *Reductions for dwelling units within zero lot line developments.* The minimum building separation or side yards for detached dwelling units may be reduced to zero (0) feet on one side for each dwelling unit located within a zero lot line development if the structure is located in an area where available fire flows are adequate under Insurance Service Offices standards to allow the reduction. Each zero lot line development shall be subject to the following:
1. The subdivider shall submit with the final subdivision plat a lot development plan showing all the lots in the zero lot line development and delineating the location of each zero lot line dwelling unit;
  2. The subdivider shall establish a perpetual wall maintenance easement on the lot abutting the zero lot line side of the dwelling unit so that, with the exception of fences, a minimum width of ten (10) feet between dwelling units shall be kept clear of structures in perpetuity. This easement shall be shown on the final plat, shall be of a substance and be in a form approved by the director of community development and the county attorney, shall be recorded in the records of the circuit court of the county with the approved final subdivision plat, and shall be incorporated by reference in each deed transferring title to each lot that is a dominant and servient estate; and
  3. Building footings may penetrate the easement on the adjacent lot to a maximum distance of eight (8) inches.

(1-1-83; 10-15-86; Ord. 08-18(4), 6-11-08)

**4.11.4 STRUCTURES WITHIN EASEMENTS**

No structure shall be permitted within an easement in a way that adversely affects the easement.

(Ord. 09-18(4), 7-1-09)

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### **4.12 PARKING, STACKING AND LOADING** (New sections 4.12 – 4.12.19 adopted 2-5-03; old sections 4.12 – 4.13.3 repealed at the same time pursuant to Ord. 03-18(1))

#### **4.12.1 PURPOSE AND INTENT**

These parking, stacking and loading regulations establish minimum standards applicable to new uses, structures or parking areas, or redeveloped sites, for the purposes of: (1) maximizing the safety and functionality of parking areas; (2) providing parking and loading facilities in a reasonable proportion to one or more use's needs; (3) reducing minimum parking requirements to coincide with common usage rather than peak usage; (4) minimizing the visual and environmental impacts of parking areas on adjacent lands; and (5) supporting mass transit opportunities. These regulations also encourage the application of transportation demand management strategies and allow flexibility in design to reduce traffic congestion and the amount of land that must be devoted to parking for commercial, industrial and public facility uses.

(§ 4.12.1, 12-10-80; 6-14-89; Ord. 03-18(1), 2-5-03)

#### **4.12.2 APPLICABILITY**

The regulations of section 4.12 shall apply as follows:

- a. *General applicability.* Except as provided in section 4.12.3, these parking, stacking and loading regulations shall apply to: (1) each new use or structure approved after the date of adoption of these regulations; and (2) each change or intensification of any use that necessitates additional parking, but only to the extent of the additional parking. Each use or structure to which these regulations apply shall be subject to the following:
  1. All parking areas having four (4) or more spaces, regardless of whether the number of spaces exceeds the applicable minimum number required by sections 4.12.6 or 4.12.7, and all stacking and loading areas, shall satisfy the minimum specifications for parking area design required in section 4.12.15.
  2. Neither a certificate of occupancy nor a zoning compliance clearance shall be issued until the zoning administrator determines that the required parking, stacking and loading improvements have been completed and are operational for the use or structure for which the improvements are required.
  3. All parking spaces provided in excess of the minimum number of spaces required by sections 4.12.6 and 4.12.7 shall comply with the requirements of this section 4.12 and section 32.
- b. *Exceptions.* These parking, stacking and loading regulations shall not apply to parking, stacking or loading spaces for uses or structures approved by the county in a valid preliminary or final site plan or a valid preliminary or final subdivision plat prior to the date of adoption of section 4.12, regardless of whether those spaces have been constructed or otherwise established.
- c. *Modification or waiver.* The limitation on the maximum number of parking spaces required by subsection 4.12.4(a) and the design requirements in sections 4.12.15, 4.12.16, 4.12.17, 4.12.18 and 4.12.19 may be modified or waived, and in any commercial or industrial zoning district the minimum number of parking spaces required by section 4.12.6 may be modified, in an individual case if the zoning administrator finds that the public health, safety or welfare would be equally or better served by the modification or waiver and that the modification or waiver would not otherwise be contrary to the purpose and intent of this chapter.
  1. For each request to modify the minimum number of parking spaces required by section 4.12.6, the developer shall submit a study prepared by a transportation planner, traffic

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- consultant, licensed engineer or architect justifying the modification. The study shall include the following: (i) a calculation of the number of off-street parking spaces required by section 4.12.6; (ii) the total square footage of all uses within the existing and proposed development and the square footage devoted to each type of use therein; (iii) trip generation rates expected for the uses within the existing and proposed development; (iv) data pertaining to a similar use or uses and the associated parking needs; (v) the developer's plan to provide alternative solutions to off-street parking on the lot; (vi) the developer's plan to provide incentives for employees to use transportation modes other than single-occupancy motor vehicles; and (vii) an amended site plan, or if no site plan exists, a schematic drawing, demonstrating that the number of off-street parking spaces required by section 4.12.6 can be established on the lot, and showing which spaces would not be established if the modification is granted.
2. The zoning administrator may modify or waive a design requirement in sections 4.12.15, 4.12.16, 4.12.17, 4.12.18 and 4.12.19 only after consultation with the county engineer, who shall advise the zoning administrator whether the proposed waiver or modification would equally or better serve the public health, safety or welfare.
  3. In granting a modification or waiver, the zoning administrator may impose such conditions as deemed necessary to protect the public health, safety or welfare. In granting a request to modify the minimum number of parking spaces required by section 4.12.6, the zoning administrator may also require that the developer reserve an area on the lot equal to the reduced number of parking spaces for a specified period, and under conditions, imposed by the zoning administrator.
- d. *Review of modification or waiver.* The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be considered by the commission as part of its review of: (1) a plat, as provided in sections 14-220 and 14-225 of the Code; (2) a site plan, as provided in sections 32.4.2.6 and 32.4.3.6; or (3) a special use permit. The board of supervisors shall consider a modification or waiver only as follows:

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1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (c), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (c).

(§ 4.12.2, 12-10-80; Ord. 03-18(1), 2-5-03)

**4.12.3 PROHIBITED ACTIVITIES IN PARKING, STACKING AND LOADING AREAS**

The following activities are prohibited:

- a. In any parking, stacking or loading area:
  1. *Uses.* The sale, repair, dismantling or servicing of any vehicle or equipment; the storage of materials, supplies or merchandise; the storage of refuse, recycling or similar disposal containers; or other use that would prevent the parking, stacking or loading area, or any portion thereof, from being used for its intended purpose. This prohibition shall not apply to single-family dwelling units or to temporary uses or activities approved by the zoning administrator.
  2. *Discontinuation, elimination or reduction of area.* The discontinuation, elimination or reduction of a required parking, stacking or loading area, any part thereof, or any required parking spaces, including those in garages or provided for residential uses, so long as the use requiring such area(s) or parking spaces continues, unless an alternative equivalent area complying with these regulations are established as required by this chapter. For any use subject to a site plan, the removal of any parking spaces shall require an amendment to the site plan.
- b. On any lot, including any parking, stacking or loading area, except where expressly authorized:
  1. *Parking, storage or use of major recreational equipment.* No major recreational equipment shall be used for living, sleeping or other occupancy when parked or stored on any lot or in any other location not approved for such use. For purposes of this section, the term “major recreational equipment” includes, but is not limited to, travel trailers, pickup campers, motorized dwellings, tent trailers, boats and boat trailers, house-boats, and trailers, cases or boxes used for transporting such recreational equipment, whether occupied by the equipment or not.
  2. *Trucks with minimum gross vehicle weight or major recreational equipment.* No truck with a gross vehicle weight of twelve thousand (12,000) pounds or major recreational equipment shall be parked in any residential district other than the rural areas (RA) zoning district, except for purposes of making pickups or deliveries, in any location other than an off-street parking area shown on an approved site plan or subdivision plat.
  3. *Parking or storage of inoperable vehicles.* No inoperable vehicle shall be parked or stored on a lot within any agricultural or residential district, including the rural areas (RA) zoning district, unless the vehicle is within a fully enclosed building or structure, or

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is otherwise shielded or screened from view from all public roads and adjoining properties. No more than two (2) inoperable vehicles may be parked or stored on a lot.

4. Nothing in this subsection shall be construed to authorize or prohibit parking or storing the vehicles and equipment described herein on a street or highway.

(§ 4.12.5, 12-10-80; § 4.13, 12-10-80; 1-1-84; 6-10-87; Ord. 03-18(1), 2-5-03)

**4.12.4 PARKING AREAS**

The following requirements shall apply to all parking areas, except as otherwise expressly provided:

- a. *Maximum number of spaces.* The number of parking spaces in a parking area may not exceed the number of spaces required by this section by more than twenty (20) percent.
- b. *Spaces to satisfy minimum ADA requirements.* The number, location, and dimensions of fully accessible parking spaces, and the provision of access aisles, curb ramps, signage and other specifications for those spaces shall be as required by the Americans with Disabilities Act and the current editions of the Americans with Disabilities Act Accessibility Guidelines and Virginia Uniform Statewide Building Code.
- c. *Rounding off to determine minimum number of required parking spaces.* When the calculation of the minimum number of required parking spaces results in something other than a whole number, the minimum required number of parking spaces shall be rounded off to the closest whole number.
- d. *Garages.* Garage spaces on a lot may be counted towards the minimum number of required parking spaces.

(§ 4.12.6.5(part), 12-10-80; 11-16-83; Ord. 01-18(6), 10-3-01, Ord. 03-18(1), 2-5-03)

**4.12.5 LOCATION OF PARKING AREAS**

The following requirements shall apply to establishing the location of all parking areas, except as otherwise expressly provided:

- a. *Parking areas on same lot as primary use; exception.* All parking spaces shall be established on the same lot with the primary use to which it is appurtenant, except as authorized by section 4.12.8.
- b. *Determining minimum yard requirements.* For the purpose of determining minimum yard requirements of the various zoning districts, the term “off-street parking space” consists of the parking space or stall together with the adjacent aisle and turnaround.

(§§ 4.12.3.1, 4.12.3.2, 12-10-80; 6-14-89; Ord. 03-18(1), 2-5-03)

**4.12.6 MINIMUM NUMBER OF REQUIRED PARKING SPACES FOR SCHEDULED USES**

Except when alternative parking is approved as provided in section 4.12.8, the following schedule shall apply to determine the number of required off-street parking spaces to be provided in a particular situation. If a particular use is not scheduled, then section 4.12.7 shall apply.

*Assisted living facility.* One space per three (3) beds. (Added 2-5-03)

*Automated teller machines (ATMs):* Two (2) spaces per each outdoor walk-up type; five (5) stacking spaces per each drive-up type. (Added 2-5-03)

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*Automobile service station and truck repair shop:* One (1) space per each employee plus two (2) spaces per each service stall. In addition, when accessory activities such as the rental of automobiles, trucks and trailers of all types exist on the site, there shall be provided suitable area to accommodate the highest number of rental units expected at any one time. (Amended 2-5-03)

*Barber shop, beauty shop:* One (1) space per two hundred (200) square feet of gross floor area plus one (1) space per employee.

*Boarding house:* One (1) space per two (2) beds plus one (1) space per employee. (Amended 2-5-03)

*Building Material Sales:* Repealed 2-5-03

*Campground:* One (1) space per campsite; for group campsites, adequate parking space shall be provided for buses as determined by the zoning administrator.

*Church:* In the development areas identified in the comprehensive plan, if the area of assembly seats more than one hundred persons, one (1) space per three (3) fixed seats or per seventy-five (75) square feet of area of assembly, whichever shall be greater; if the area of assembly seats one hundred persons or fewer, one (1) space per four (4) fixed seats or per seventy-five (75) square feet of area of assembly, whichever shall be greater. In the rural areas identified in the comprehensive plan, the number of proposed spaces shall be shown in a parking study submitted by the church; the number of required spaces shall be determined by the zoning administrator, who shall consider the recommendations in the parking study, traffic generation figures either known to the industry or estimated by the Institute of Transportation Engineers, peak parking demands, and other relevant information. Nothing herein requires the parking study to be prepared by a transportation engineer. (Amended 2-5-03)

*Club, lodge:* One (1) space per three (3) fixed seats or per seventy-five (75) square feet, whichever shall be greater. (Amended 2-5-03)

*Contractor's (construction office, shop, equipment storage and materials yard):* One (1) space per employee assigned to work on-site plus one (1) space per facility vehicle. (Amended 2-5-03)

*Dance Hall:* Repealed 2-5-03

*Day care center, nursery facilities:* One (1) space per ten (10) children enrolled in the major class or shift plus one (1) space per employee. In addition, a pick-up and drop-off area shall be provided on the site. (Amended 2-5-03)

*Dental clinic:* One (1) space per one hundred seventy-five (175) square feet of net floor area. (Added 2-5-03)

*Drive-in lane serving any use:* The number of stacking spaces shall be determined by the zoning administrator using a combination of traffic generation figures either known to the industry or estimated by Institute of Transportation Engineers. The stacking spaces shall be designed so as not to impede required parking spaces, pedestrian or vehicular circulation. (Added 2-5-03)

*Drive-in restaurant:* Eighteen (18) spaces per each one thousand (1,000) square feet of gross floor area.

*Dry cleaning:* One (1) space per fifty (50) square feet open to the public plus one (1) space per employee. (Added 2-5-03)

*Dwellings:* (Amended 2-5-03)

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*Single family detached (including manufactured homes):* Two (2) spaces per unit, except when the Virginia Department of Transportation requires three (3) spaces to offset the loss of ancillary onstreet parking because a reduced urban street width has been permitted in accordance with the “VDOT Subdivision Street Requirements.”

*Multi-family units, including duplexes, single family attached, and townhouses, but excluding student suites:*

<u>Number of Bedrooms/Unit</u>	<u>Parking Spaces/Unit</u>
Any unit of 500 square feet or less	1.25
One (1) bedroom	1.50
Two (2) or more bedrooms	2.00

In addition, if parking is provided on individual lots, such as for duplexes and single family attached townhouses, rather than in lots or bays that are shared by all units in the development, then one (1) guest space per four (4) units shall be provided.

*Student suites:* One and one-quarter (1 1/4) spaces per bedroom.

*Multi-family dwellings for the elderly:* One and one-quarter (1 1/4) spaces per unit plus one (1) space per employee on the largest shift; provided that for a congregate care facility, one (1) space per unit plus one (1) space per employee on the largest shift.

*Eating Establishment:* Repealed 2-5-03

*Fast Food Restaurant:* Repealed 2-5-03

*Feed and seed store:* One (1) space per four hundred (400) square feet of retail sales area. (Amended 2-5-03)

*Financial institution:* One (1) space per one hundred fifty (150) square feet of gross floor area. This requirement may be reduced by twenty-five (25) square feet per drive-in aisle. Each drive-through lane serving a financial institution shall provide a minimum of five (5) stacking spaces that shall not impede any required parking or loading spaces or any pedestrian or vehicular circulation aisles. (Amended 2-5-03)

*Food store:* One (1) space per two hundred (200) square feet of gross floor area.

*Funeral home:* One (1) space per three (3) fixed seats or per seventy-five (75) square feet area of assembly, whichever shall be greater. (Amended 2-5-03)

*Furniture store and other large sized retail items such as appliances, carpeting, office equipment or specific building materials:* One (1) space per four hundred (400) square feet of retail sales area. (Amended 2-5-03)

*Gift, craft, antique shop:* One (1) space per two hundred (200) square feet of gross floor area; provided that for any area devoted to furniture, parking shall be one (1) space per four hundred (400) square feet of such area.

*Golf Course, Driving Range:* Repealed 2-5-03

*Greenhouse and nursery:* (Amended 2-5-03)

*Sales area within a greenhouse that is not in conjunction with any other retail sales:* One

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(1) space per one hundred (100) square feet for the first one thousand (1,000) square feet and one (1) space for each five hundred (500) square feet of greenhouse sales area above one thousand (1,000) square feet.

*Exterior nursery sales area:* One (1) space per each five thousand (5,000) square feet of exterior nursery sales area.

*Hospital:* The number of proposed spaces shall be shown in a parking study submitted by the hospital. The number of required spaces shall be determined by the zoning administrator. In making the determination, the zoning administrator shall consider the recommendations in the parking study, traffic generation figures either known to the industry or estimated by the Institute of Transportation Engineers, peak parking demands, and other relevant information. (Amended 2-5-03)

*Hotel, motel:* One (1) space per unit; additional spaces shall be required for restaurants, assembly rooms, and other separate uses identified herein. (Amended 2-5-03)

*Industrial use not otherwise identified:* One (1) space per employee on the largest shift plus one (1) space per five hundred (500) square feet open to the public for customer parking, but in all cases a minimum of two (2) customer parking spaces. (Added 2-5-03)

*Kennel, commercial:* One (1) space per four hundred (400) square feet of gross floor area including runs, plus one (1) space per employee.

*Laundromat:* One (1) space per two (2) washing machines.

*Laundry, Dry Cleaning:* Repealed 2-5-03

*Machinery, Equipment Sales and Service:* Repealed 2-5-03

*Medical and Dental Clinic:* Repealed 2-5-03

*Manufactured home, modular home, travel trailer sales:* One (1) space per three thousand (3,000) square feet of display area. (Amended 2-5-03)

*Motor vehicle sales, including automobiles, farm equipment and trucks:* One (1) space per one thousand five hundred (1,500) square feet of display area. Spaces for customers shall be clearly delineated on the ground, signed and maintained for customers only. (Amended 2-5-03)

*Offices, business, administrative and professional (including medical offices but not dental clinics):* One (1) space per two hundred (200) square feet of net office floor area. The term “net office floor area” shall be deemed to be: (1) eighty (80) percent of the gross floor area; or (2) at the request of the applicant, the actual net office floor area as shown on floor plans submitted by the applicant, delineating the actual net office floor area, which plans shall be binding as to the maximum net floor area used. (Amended 2-5-03)

*Over-the-counter sales:* One (1) space per fifty (50) square feet open to the public or one (1) space per two hundred (200) square feet of gross floor area, whichever shall be greater.

*Printing and publishing facilities, including newspaper publishing:* One (1) space per employee on the largest shift, plus one (1) space per each five hundred (500) feet of floor area open to the public for customer parking, but in all cases a minimum of two (2) customer parking spaces. (Amended 2-5-03)

*Production or Processing of Materials, Goods or Products:* Repealed 2-5-03

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*Production, processing, testing, repairing, or servicing materials, goods or products:* One (1) space per employee on the largest shift plus one (1) space per each five hundred (500) square feet of floor area open to the public for customer parking, but in all cases a minimum of two (2) customer parking spaces. (Added 2-5-03)

*Public assembly (indoor or outdoor) use not otherwise identified:* One (1) space per three (3) fixed seats or one (1) space per seventy-five (75) square feet of place of assembly, whichever shall be greater. "Fixed seats," where the seating consists of pews, benches, bleachers and similar forms of seating, shall be calculated at the rate of one (1) seat per two (2) feet of length. A place of public assembly includes multipurpose areas that may be used either for assembly or recreation, and dance halls that are not accessory to a restaurant. (Added 2-5-03)

*Recreation, commercial and residential:* (Added 2-5-03)

<u>Recreation</u>	<u>Parking spaces required</u>
Baseball field	20 per field
Basketball court	2 per basket
Golf course	4 per hole, plus 1 per employee
Horseshoe pits	2 per pit
Soccer field	24 per field
Skating rink	1 per 200 square feet of rink area
Swimming pool	1 per 125 square feet of water surface
Tennis court	2 per court

For each recreation use not specified above, one (1) space per one hundred twenty-five (125) square feet of useable recreation area.

The minimum number of parking spaces required for a residential recreational facility within a subdivision shall be reduced by the percentage of dwelling units within the subdivision within one-quarter mile of the facility.

*Recreation, public:* The number of proposed spaces shall be shown on a parking study. The number of required spaces shall be determined by the zoning administrator. In making the determination, the zoning administrator shall consider the recommendations in the parking study, traffic generation figures either known to the industry or estimated by the Institute of Transportation Engineers, peak parking demands, and other relevant information. (Added 2-5-03)

*Rest home, nursing home, convalescent home:* One (1) space per four (4) beds. (See also Multi-family dwellings for the elderly.) (Amended 2-5-03)

*Restaurant:* Thirteen (13) spaces per one thousand (1,000) square feet of gross floor area including areas for accessory dancing. Drive-through lanes serving restaurants shall provide a minimum of five (5) stacking spaces that shall not impede any required parking or loading spaces or any pedestrian or vehicular circulation aisles. The five (5) stacking spaces shall be provided at the order board and additional spaces may be provided at the payment or pick-up windows. (Added 2-5-03)

*Retail use not otherwise identified:* One (1) space per each one hundred (100) square feet of retail sales area for the first five thousand (5,000) square feet and one (1) space per each two hundred (200) square feet of retail sales area above five thousand (5,000) square feet. For purposes of this paragraph, "retail sales area" shall be deemed to be: (1) eighty (80) percent of the gross floor area; or (2) at the request of the applicant, the actual retail sales floor area as shown on floor plans submitted by the applicant delineating the actual retail sales area, which plans shall be binding as to the maximum retail sales area used. (Added 2-5-03)

*Schools:* The number of proposed spaces shall be shown in a parking study submitted by the school division (public schools) or the school (private schools). The number of required spaces shall be determined by the zoning administrator. In making the determination, the zoning

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administrator shall consider the recommendations in the parking study, traffic generation figures either known to the industry or estimated by the Institute of Transportation Engineers, peak parking demands, and other relevant information. (Amended 2-5-03)

*Service industry:* One (1) space per 50 square feet of net office floor area. (Added 2-5-03)

*Shopping center:* (Amended 2-5-03)

<u>Gross leasable area in square feet</u>	<u>Minimum number of spaces required per one thousand square feet of gross leasable floor area</u>
10,000 to 24,999	5.50
25,000 to 50,000	5.00
50,001 to 200,000	4.75
200,001 to 600,000	4.50
600,001 to 750,000	4.75
750,001 and larger	5.00

*Skating Rink:* Repealed 2-5-03

*Special events:* One (1) space per two and one-half (2.5) participants, plus one (1) space per employee (includes staff, caterers, musicians and vendors). (Added 7-13-05)

*Stable:* Repealed 2-5-03

*Testing, Repairing, Cleaning, Servicing of Material Goods or Products:* Repealed 2-5-03

*Theatre, Drive-In:* Repealed 2-5-03

*Theater, indoors or outdoors:* One (1) space per each three (3) seats. (Amended 2-5-03)

*Tourist lodging:* One (1) space per unit in addition to the parking required for a single family dwelling. (Amended 2-5-03)

*Veterinary clinic:* One (1) space per two hundred (200) square feet of gross floor area exclusive of that area to house animals. (Amended 2-5-03)

*Wayside stand:* One (1) space per one hundred (100) square feet of sales or display area.

*Wholesaling or warehousing use not otherwise identified:* One (1) space per employee plus one (1) space per each five hundred (500) square feet of floor area open to the public for customer parking, but in all cases a minimum of two (2) customer parking spaces. (Added 2-5-03)

*Wineries, including farm wineries:* If open to the public, one (1) space per two and one-half (2.5) customers for daily use. For special events and festivals, one (1) space per two and one-half (2.5) customers, plus one (1) space per employee (includes winery staff, caterers, musicians and vendors). The parking required for special events and festivals may be considered overflow parking and may be provided in a well-drained, suitably graded area adjacent to required parking area. (Added 2-5-03)

(§ 4.12.6.6.2, 12-10-80; 3-18-81; 7-20-88; 12-5-90; 2-6-02; Ord. 03-18(1), 2-5-03; Ord. 05-18(8), 7-13-05)

**4.12.7 MINIMUM NUMBER OF REQUIRED PARKING SPACES FOR UNSCHEDULED USES**

For uses not specifically identified in section 4.12.6, including mixed uses, or when a conflict exists between possibly applicable schedule requirements, the zoning administrator shall determine the minimum number of required parking spaces. In making this determination, the zoning administrator shall consider the characteristics of the proposed use or uses, anticipated employment, the number of residents and/or visitors, the minimum parking required for similar uses or mixes and other relevant considerations. The zoning administrator shall also consider the following:

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- a. *Permitted use not otherwise identified.* A total number of spaces sufficient to accommodate the vehicles of all employees of the establishment plus those of all persons who may be expected to visit the same at any one time.
- b. *Concurrent uses.* The zoning administrator may require additional parking for concurrent uses on any site.
- c. *Parking study.* The zoning administrator may consider the recommendations of any parking study relevant to the request, whether it is supplied by the applicant or available from any other source, as well as traffic generation figures, including estimates by the Institute of Transportation Engineers, peak parking demands, and other relevant information.

(§ 4.12.6.6.1, 12-10-80; 11-16-83; Ord. 03-18(1), 2-5-03)

**4.12.8 ALTERNATIVES AVAILABLE TO PROVIDE MINIMUM NUMBER OF PARKING SPACES**

The alternatives described herein are intended to promote more creative design, allow higher density in those zoning districts in the development areas, and reduce impervious area by allowing the parking requirements of this section to be satisfied, in whole or in part, by street parking, shared parking, and off-site stand alone parking. In addition to all other applicable requirements of this section, the following requirements shall apply to the parking alternatives provided in sections 4.12.9, 4.12.10 and 4.12.11:

- a. *Types of alternatives.* The parking alternatives consist of street parking, as provided in section 4.12.9, shared parking, as provided in section 4.12.10, off-site stand alone parking, as provided in section 4.12.11, and other reductions resulting from the provision of mass transit or other transportation demand management tools.
- b. *Combination of alternatives.* One or more parking alternatives may be used in combination with one another or with on-site parking to attain the minimum number of required parking spaces.
- c. *Provision of means for safe movement.* Sidewalks and other means for permitting safe movement of pedestrians between the parking area or spaces and the use or structure they serve shall be provided.
- d. *Parking not to be separated from use by major roads.* No parking area or spaces shall be separated from the use or structure they serve by a street whose classification is greater than a major collector, unless safe and convenient access is provided from the parking area or spaces to the use or structure and is approved by the director of planning and community development.
- e. *Instrument assuring continuation of off-site parking.* If stand-alone parking or off-site shared parking is to be provided, the applicant shall submit with the application for a site plan, site plan waiver or, if a site plan is not required, with an application for a zoning compliance clearance, an instrument that restricts the use of that part of the land on which parking is provided to that use, and assures that a minimum number of parking spaces as required by this section shall be established and maintained for the life of the use. The instrument shall be in a form that is suitable for recording, shall be subject to review and approval as to form and substance by the county attorney, and shall be recorded in the office of the clerk of the circuit court of the county before the site plan or site plan waiver is approved. As the parking requirements for the use or structure change, subsequent instruments may be submitted, reviewed, approved and recorded that rescind or modify the prior instrument.

(Ord. 03-18(1), 2-5-03)

**4.12.9 STREET AND ALLEY PARKING**

Street and alley parking may be provided as follows:

- a. Street parking consists of parking spaces located in a public or private right-of way. Each parking space that is in a public or private right-of-way abutting the lot shall count as a parking space for the purpose of meeting the minimum parking space requirements in sections 4.12.6 and 4.12.7. Each parking space shall be on a paved area abutting the travelway, and if the parking space is in a public right-of-way it shall not be prohibited by the Virginia Department of Transportation.
- b. Alley parking consists of parking areas located in the alley right-of-way. A parking space in an alley may meet the minimum parking space requirements in section 4.12.6 if approved by the county engineer. In approving alley parking, the county engineer shall consider the width of the travelway, the widths of the lots abutting the alley, and the setbacks from the alley.

(Ord. 03-18(1), 2-5-03)

**4.12.10 SHARED PARKING**

Shared parking allows parking spaces to be shared among two (2) or more uses that typically experience peak parking demands at different times and is located on the same lot or on nearby lots. Because parking spaces are shared, the total number of parking spaces that would otherwise be required may be reduced. In addition to all other applicable requirements of this section, the following requirements shall apply to shared parking:

- a. *Authority to reduce aggregate number of parking spaces.* The zoning administrator may reduce the aggregate minimum number of required parking spaces, provided that each use participating in the shared parking experiences peak parking demands at different times. The zoning administrator shall base this decision on the particular circumstances of the application.
- b. *Parking study.* Before making the decision to allow shared parking and to reduce the aggregate number of parking spaces, the zoning administrator may require the applicant to submit a parking study to determine the peak parking demand periods or other information needed to determine the viability of shared parking under the particular circumstances of the application.
- c. *Effect of reserved parking spaces.* Parking spaces reserved for specific individuals or classes of individuals shall not be counted toward the parking spaces that could be shared, except for those spaces designated and marked for use only by handicapped persons.
- d. *Maximum reduction.* The aggregate number of parking spaces required for all uses participating in the shared parking shall not be reduced by more than thirty-five (35) percent.

(§ 4.12.4, 12-10-80; Ord. 03-18(1), 2-5-03)

**4.12.11 STAND ALONE PARKING**

Where authorized by the applicable zoning district regulations, stand alone parking allows parking areas to be located on a lot other than the lot on which the use served by the parking areas is located. Stand alone parking is not required to be located on a lot under the same ownership as the lot on which the use served by the parking is located. In addition to all other applicable requirements of this section, the following requirements shall apply to stand alone parking:

- a. *Site plan required.* A site plan for the stand alone parking shall be submitted and approved under section 32.

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- b. *Identification of use served.* At least one (1) sign shall be posted in the parking area identifying the off-site use served by the parking area.

(§ 4.12.3.3 , 12-10-80; 12-10-97; Ord. 03-18(1), 2-5-03)

**4.12.12 TRANSPORTATION DEMAND MANAGEMENT**

Transportation demand management (“TDM”) is a set of tools that provide an alternative to parking spaces upon a demonstration that the number of vehicle trips upon which the minimum number of parking spaces required herein will be reduced. TDM tools include, but are not limited to, mass transit, car pooling, and park and ride lots.

- a. *Application.* An applicant seeking to reduce the number of required parking spaces through TDM shall submit to the zoning administrator a parking study demonstrating how the number of required parking spaces may be reduced through TDM.
- b. *Authority to reduce.* The zoning administrator may reduce the number of on-site parking spaces using TDM alternatives if the parking study submitted by the applicant demonstrates that the use of TDM tools can effectively eliminate the need for some of the required parking spaces.

(Ord. 03-18(1), 2-5-03)

**4.12.13 LOADING AREAS**

Off-street loading areas shall be provided as follows:

- a. Loading spaces shall be provided on the same lot with the use to which it is appurtenant and shall be adjacent to the structure it serves.
- b. Loading spaces shall be designed so as not to impede any required parking spaces, or any pedestrian or vehicular circulation.
- c. Loading spaces shall be provided in addition to and exclusive of any parking requirement on the basis of: (1) one (1) space for the first eight thousand (8,000) square feet of retail gross leasable area, plus one (1) space for each additional twenty-thousand (20,000) square feet of retail gross leasable area; (2) one (1) space for the first eight thousand (8,000) square feet of office space plus one (1) space for each additional twenty thousand (20,000) square feet of office space; or (3) one (1) space for the first ten thousand (10,000) square feet of industrial floor area plus one (1) space for each additional twenty thousand (20,000) square feet of industrial floor area.
- d. Additional loading spaces may be required or requested during review of the site plan.
- e. Each site plan that depicts a commercial or industrial building of four thousand (4,000) gross square feet or more shall provide a dumpster pad that does not impede any required parking or loading spaces, nor any pedestrian or vehicular circulation aisles.
- f. The requirements of this subsection may be modified or waived in an individual case if the zoning administrator, in consultation with the county engineer, finds that the public health, safety or welfare would be equally or better served by the modification or waiver; that the modification or waiver would not be a departure from sound engineering and design practice; and that the modification or waiver would not otherwise be contrary to the purpose and intent of this chapter. In granting a modification or waiver, the zoning administrator may impose such conditions as deemed necessary to protect the public health, safety or welfare.

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The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be considered by the commission as part of its review of: (1) a plat, as provided in sections 14-220 and 14-225 of the Code; (2) a site plan, as provided in sections 32.4.2.6 and 32.4.3.6; or (3) a special use permit.

The board of supervisors shall consider a modification or waiver of any requirement of this subsection only as follows:

1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (h), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (h).

(§ 4.12.7, 12-10-80; Ord. 01-18(4), 5-9-01; Ord. 03-18(1), 2-5-03)

### **4.12.14 PREEXISTING OR APPROVED PARKING, STACKING AND LOADING AREAS**

Each parking, stacking and loading area serving a use or structure lawfully established in accord with a valid final site plan or subdivision plat prior to the date of adoption of these regulations, or approved in a valid and vested preliminary site plan or subdivision plat, whose use has not changed or intensified so as to necessitate additional parking, shall be allowed to continue, subject to the following:

- a. Preexisting or approved parking spaces may be used to satisfy the number of parking spaces required for a changed or intensified use if the structure to which the parking area is accessory remains.
- b. If the structure to which the parking area is accessory is demolished, removed, or reconstructed, then all parking required or otherwise serving a new use or structure must comply with this section.
- c. Pre-existing parking structures authorized by right or by special use permit by the applicable zoning district regulations that do not comply with the requirements of section 4.12 shall be deemed to be nonconforming structures subject to section 6 of this chapter.
- d. Preexisting or approved parking, stacking or loading areas that are not parking structures as described in subsection (c), and that do not comply with the requirements of section 4.12, are accessory to a primary use and shall not obtain status as a nonconforming use or structure. However, these areas may continue and be maintained for so long as the primary use exists.

(Ord. 03-18(1), 2-5-03)

### **4.12.15 MINIMUM DESIGN REQUIREMENTS AND IMPROVEMENTS FOR PARKING AREAS**

The following design requirements and minimum improvements shall be provided for all off-street parking areas consisting of four (4) or more parking spaces:

- a. *Surface materials.* All parking areas consisting of four (4) or more spaces shall be surfaced. The surface materials for parking areas and access aisles shall be subject to review and

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approval by the county engineer, based upon the intensity of usage and Virginia Department of Transportation pavement design guidelines and specifications. The county engineer may approve the use of alternative surfaces deemed equivalent in regard to strength, durability, sustainability and long term maintenance for the intensity of the use.

- b. *Grading and drainage systems.* Parking area grading and drainage systems shall be designed and constructed to minimize, to the greatest extent practical, the amount of surface runoff exiting or entering through entrances to public streets.
- c. *Maximum grade.* The maximum grade for parking spaces, loading spaces, and access aisles abutting parking or loading spaces shall not exceed five (5) percent in any direction.
- d. *Sight distance.* Minimum intersection sight distance for internal intersections of access aisles, intersections of access aisles and pedestrian ways, and access aisles around buildings shall not be less than one hundred (100) feet. The county engineer may increase this minimum, if the travel speed is anticipated to exceed ten (10) miles per hour, to a sight distance commensurate with the anticipated travel speed. If the county engineer anticipates that travel speeds of twenty (20) miles per hour or greater may be reasonably achieved along a primary travelway serving a development, he may require that the travelway comply with the private road horizontal and vertical standards stated in Table A of section 14-514 of the Code for the anticipated traffic volume. Sight distance shall be measured as provided in Section 602 of the Albemarle County Design Standards Manual.
- e. *Accessibility to loading spaces, loading docks and dumpsters.* Parking areas shall be designed so that all loading spaces, loading docks, and dumpsters are accessible by delivery and service vehicles when all parking spaces are occupied.
- f. *Protective barriers and design.* When deemed necessary and reasonable to assure that safe and convenient access is provided, the county engineer may require: (1) raised traffic islands at the ends of parking rows to protect parked vehicles and to prohibit parking in unauthorized areas; (2) traffic islands and other such traffic control devices; and (3) a design that provides no parking along the accessways providing the principal ingress, egress and circulation on the site.
- g. *Curb and gutter in parking areas and along travelways.* Curbs shall be established at the edges of parking areas or access aisles in the following circumstances: (1) in all commercial or institutional developments requiring eight (8) or more parking spaces; (2) in all multi-family dwelling and townhouse developments requiring eight (8) or more parking spaces; (3) where necessary to control or direct stormwater runoff; (4) where a sidewalk is located closer than four (4) feet from the edge of an access aisle; and (5) where necessary to contain vehicular traffic to protect pedestrians and/or property. Gutters shall be required where necessary to control or direct stormwater runoff. The county engineer may waive or modify this requirement if deemed necessary to accommodate stormwater management/BMP facility design or existing uses located in the Rural Areas (RA) zoning district.
- h. *Separation of parking area from public street or private road.* Where off-street parking is provided, parking areas shall be established sufficiently inside the site so as to prevent queuing onto a public street or private road. The minimum required separation shall be determined by the county engineer and will be based on the intensity of traffic on the site. In any case, the minimum separation should not be less than one (1) car length for the most minimal use.
- i. *Location of handicapped parking spaces.* Parking areas shall be designed so that handicapped parking spaces are located to provide persons with direct unobstructed access to buildings by the shortest practical route, and to eliminate the need to cross vehicular access aisles wherever possible.

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(§ 4.12.6.3, 12-10-80; 6-14-89; § 4.12.6.5(c)(part), 12-10-80; 11-16-83; 6-14-89; Ord. 01-18(6), 10-3-01; Ord. 03-18(1), 2-5-03)

**4.12.16 MINIMUM DESIGN REQUIREMENTS AND IMPROVEMENTS FOR PARKING SPACES WITHIN PARKING AREAS OR PARKING BAYS**

The following design requirements and minimum improvements shall be provided for all parking spaces within parking areas or parking bays:

- a. *Arrangement of spaces.* All parking spaces shall be perpendicular, angled, parallel or curvilinear to the vehicle access aisle. Angled parking may be provided at sixty (60), forty-five (45) or thirty (30) degrees from the access aisle.
- b. *Design of spaces.* All parking spaces shall be designed so that no part of any vehicle will extend over any lot line, right-of-way line, sidewalk, walkway, and driveway or aisle space.
- c. *Minimum parking space size.* Parking spaces shall be the minimum sizes, and have the minimum aisle width, provided below:

- 1. *Perpendicular parking.* For perpendicular parking, the minimum space and aisle widths shall be:

<u>Width (ft.)</u>	<u>Length (ft.)</u>	<u>Aisle Width (ft.)</u>
10	18	20
9	18	24

- 2. *Parallel parking.* For parallel parking, the minimum space shall be:

<u>Width (ft.)</u>	<u>Length (ft.)</u>
9	20

- 3. *Angled parking.* For angled parking, the minimum space and aisle widths shall be:

ANGLED PARKING DIMENSIONS – ONE WAY CIRCULATION											
ANGLE (DEGS.)	AISLE WIDTH	STALL DEPTH	WIDTH	LENGTH	A	B	E	F	G	H	I
60	16	20.1	9	18	4.5	10.4	35.7	36.1	56.2	87.8	107.9
45	14	19.1	9	18	6.4	12.7	31.8	33.1	52.2	78.9	98
30	12	16.8	9	18	7.8	18	25.8	28.8	45.6	66.6	83.4

ANGLED PARKING DIMENSIONS – TWO WAY CIRCULATION											
ANGLE (DEGS.)	AISLE WIDTH	STALL DEPTH	WIDTH	LENGTH	A	B	E	F	G	H	I
60	20	20.1	9	18	4.5	10.4	35.7	40.1	60.2	95.8	115.9
45	20	19.1	9	18	6.4	12.7	31.8	39.1	58.2	90.9	110
30	20	16.8	9	18	7.8	18	25.8	36.8	53.6	82.6	99.4

All depths, widths and lengths in the tables above are stated in feet. All angled parking must have a parking envelope that is nine (9) feet by eighteen (18) feet within each angled parking space. The dimensions of angled parking (as provided in the above tables in columns A, B, E, F, G, H and I) shall be measured as provided in Section 602.1 (Figure 6-4) of the Albemarle County Design Standards Manual.

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4. *Curvilinear parking.* For curvilinear parking, the minimum space and aisle widths shall be the same as for perpendicular parking, except that the width of the parking space shall be measured at the narrowest point along the length of the space, and provided that a one-hundred (100) foot sight distance is maintained. The site distance shall be measured as provided in Section 602.1 (Figure 6-5) of the Albemarle County Design Standards Manual.
5. *Handicapped parking spaces.* For handicapped parking, vehicular access aisle widths shall be the same as for perpendicular parking. In addition, a handicapped access aisle shall be provided adjacent to each handicapped parking space, provided that the aisle may be shared between adjacent handicapped parking spaces. The minimum space and aisle widths shall be:

<u>Width (ft.)</u>	<u>Length (ft.)</u>	<u>Handicap Access Aisle Width (ft.)</u>	<u>Van Access Aisle Width (ft.)</u>
8	18	5	8

6. *Minimum length reduction.* Perpendicular and curvilinear parking space minimum length requirements may be reduced by not more than two (2) feet when any of the following conditions are satisfied: (i) one or more rows of parking are separated by planting islands, median, or other such features (other than sidewalks) and allow for an unobstructed overhang, from each row, equivalent to the reduction; or (ii) one or more rows of parking adjacent to a building are separated from the building by planting islands, or other such features (other than sidewalks) and allow for an unobstructed overhang, from each row, equivalent to the reduction.
- d. *Delineation of parking spaces.* Parking spaces shall be delineated in a manner that identifies and preserves the required dimensions by paint striping, signage, or by another means approved by the zoning administrator. The zoning administrator may authorize that bumper blocks or posts be used to delineate parking spaces on surfaces that are not conducive to paint striping.
- e. *Bumper blocks.* Bumper blocks shall be provided in parking spaces in the following circumstances, unless waived by the county engineer: (1) the parking area has no curb or curb and gutter; (2) the parking has curb or curb and gutter and there is a sidewalk located closer than two (2) feet from the edge of the parking area, except that bumper blocks shall not be required where a sidewalk has a minimum width of six (6) feet. Bumper blocks shall be constructed of a durable material such as concrete or treated timbers. Each bumper block shall be a minimum length of six (6) feet, a maximum height of five (5) inches, and shall be securely anchored into the pavement in at least two (2) places.

(§ 4.12.6.5, 12-10-80; 11-16-83; 6-14-89; Ord. 01-18(6), 10-3-01; Ord. 03-18(1), 2-5-03)

**4.12.17 MINIMUM DESIGN REQUIREMENTS AND IMPROVEMENTS FOR VEHICLE ACCESS AISLES**

The following design requirements and minimum improvements shall be provided for all vehicle access aisles:

- a. *Grade for vehicle access aisles not adjacent to parking spaces.* Vehicle access aisles that are not adjacent to parking spaces, shall not exceed a grade of ten (10) percent. The county engineer may increase the maximum grade, upon a finding that no reasonable design alternative would reduce or alleviate the need and that the increase in grade would be in the best interest of public health, safety and welfare. The developer must request the waiver in writing and provide all information necessary to justify that no reasonable design alternative exists. In no case shall the grade exceed private road standards set forth in section 14-514 of the Code.

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- b. *Entrances.* Entrances to parking areas from public streets or private roads shall be designed and constructed in accordance with Virginia Department of Transportation standards. An adequate landing and/or grade transition shall be provided for vehicle access aisles at the intersection with public streets or private roads to allow for the stopping of vehicles and sight distance, as deemed necessary by the county engineer to assure public safety. As a guideline, the approach grade should not exceed four (4) percent for a distance of not less than forty (40) feet measured from the edge of the street or road being intersected.
- c. *Vehicle access aisle standards.* Vehicular access aisles that are not adjacent to parking spaces shall comply with the following:
  - 1. *Two-way access aisles.* The minimum travelway width for two-way access aisles shall be twenty (20) feet.
  - 2. *One-way access aisles.* One-way circulation is allowed provided the circulation loop or pattern is contained within the site or sites. Public streets or private roads shall not be used as part of the circulation loop or pattern. The minimum travelway width for one-way access aisles shall be twelve (12) feet, with the following exceptions:
    - (a) *Bypass traffic.* A travelway width of up to sixteen (16) feet may be required to allow for bypass traffic, when deemed necessary by the county engineer. In making this determination, the county engineer shall consider the site specific factors including, but not limited to, the length of the travelway, nature of the land use, and internal traffic circulation.
    - (b) *Bank teller and ATM canopy and lanes.* The travelway width may be reduced for bank teller and ATM canopies and lanes if the county engineer determines that a reduction is necessary to accommodate the specific architectural, structural and customer service needs of a proposed application, and the reduction will not reduce public safety.
- d. *Turning radii.* Turning radii shall be limited by the requirement to maintain one hundred (100) foot sight distance. Turning movements for delivery vehicles or other expected truck traffic shall be evaluated by the county engineer using AASHTO single unit truck standards or other AASHTO standard vehicle as appropriate.

(§ 4.12.6.2, 12-10-80; 6-14-89; § 4.12.6.3 (part), 12-10-80; 6-14-89; Ord. 03-18(1), 2-5-03)

**4.12.18 MINIMUM DESIGN REQUIREMENTS AND IMPROVEMENTS FOR LOADING AREAS**

The following design requirements and minimum improvements shall be provided for all loading areas:

- a. *Size.* Loading spaces shall be a minimum of twelve (12) feet in width, fourteen and one-half (14 1/2) feet in clearance height and a length sufficient to accommodate the largest delivery trucks serving the establishment, but in no case will such length be less than twenty-five (25) feet.
- b. *Surface materials.* All loading and unloading berths shall be surfaced with a bituminous or other dust free surface.
- c. *Design of loading spaces.* Loading spaces shall be designed so that no part of any vehicle will extend over any lot line, right-of-way line, sidewalk, driveway or aisle space.
- d. *Delineation of loading spaces.* Loading spaces shall be delineated in a manner that identifies and preserves the required dimensions with paint striping, signage, or by other means

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approved by the zoning administrator. The zoning administrator may authorize that bumper blocks or posts be used to delineate loading spaces on surfaces that are not conducive to paint striping.

(§ 4.12.7 (part), 12-10-80; Ord. 03-18(1), 2-5-03)

**4.12.19 MINIMUM DESIGN REQUIREMENTS AND IMPROVEMENTS FOR DUMPSTER PADS**

The following design requirements and minimum improvements shall be satisfied for all vehicle access aisles:

- a. *Materials.* Dumpster pads shall be concrete.
- b. *Design.* The pad shall extend beyond the front of each dumpster so that the front wheels of a truck servicing the dumpster will rest on the concrete, but in no case shall the length of a concrete pad be less than eight (8) feet beyond the front of the dumpster. The site shall be designed so that stormwater does not run through, and drains away from, areas where dumpsters are located in order to minimize the potential for contaminating stormwater runoff due to contact with solid waste.
- c. *Screening.* Dumpsters shall be screened as required by section 32.7.9 and, where applicable, section 30.6.

(Ord. 03-18(1), 2-5-03)

**4.13 (Repealed 2-5-03)** (Old sections 4.12 and 4.13 repealed on 2/5/03 when new sections 4.12 – 4.12.19 adopted pursuant to Ord. 03-18(1))

**4.14 PERFORMANCE STANDARDS**

Each use of an industrial character as determined by the zoning administrator and each use to which section 4.14 is expressly applicable to that use (referred to collectively in sections 4.14.1 through 4.14.5 as a “use of an industrial character”) shall be subject to the performance standards in this section through section 4.14.5.

(§ 4.14, 12-10-80; Ord. 11-18(8), 8-3-11)

**4.14.1 NOISE**

Sound generated from a use of an industrial character shall comply with section 4.18.

(§ 4.14.1, 12-10-80; Ord. 00-18(3), 6-14-00; Ord. 11-18(8), 8-3-11)

**4.14.1.1 (Repealed 6-14-00)**

**4.14.1.2 (Repealed 6-14-00)**

**4.14.2 VIBRATION**

Vibrations generated from a use of an industrial character shall be subject to the following:

- a. *Method of measurement.* The vibration standards delineated in this section shall be measured as follows:
  - 1. Measurements shall be made at or beyond the closest boundary line of an abutting lot and the zoning district boundary line closest to the source as provided below in a manner accepted by the county engineer.

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2. Ground transmitted vibration shall be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency, particle velocity or acceleration simultaneously in three (3) mutually perpendicular directions. The term “vibration” means the periodic displacement or oscillation of the earth.
  3. The maximum particle velocity shall be the maximum vector sum of the three (3) mutually perpendicular components recorded simultaneously. Particle velocity may be also expressed in a manner accepted by the county engineer, applying sound engineering principles.
- b. *Standards.* The following standards apply, as measured in inches per second, for the maximum allowable peak velocity:

<b>Type of vibration</b>	<b>At residential district boundaries</b>	<b>At other lot lines within district</b>
Continuous	.00	.015
Impulsive (100 per minute or less)	.006	.030
Less than 8 pulses per 24 hours	.015	.075

(§ 4.14.2, § 4.14.2.1, § 4.14.2.2, 12-10-80; Ord. 11-18(8), 8-3-11)

**4.14.2.1 (Repealed 8-3-11)**

**4.14.2.2 (Repealed 8-3-11)**

**4.14.3 GLARE AND HEAT**

Glare and heat generated from a use of an industrial character shall be subject to the following:

- a. *Glare from lights, building surfaces or processes.* No direct or sky reflected glare, whether from flood lights, building surfaces or from high temperature processes such as, but not limited to, combustion or welding, so as to be visible beyond the lot line, shall be permitted except for signs, parking lot lighting and other lighting authorized by this chapter or required by any other applicable law. However, any operation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.
- b. *Intense glare from processes.* Any operation producing intense glare as determined by the zoning administrator shall be performed only within a completely enclosed building and in such a manner so as not to create a public nuisance or hazard to abutting parcels. An operation will be deemed to produce intense glare when it creates a sensation of extreme brightness within the visual field which causes squinting, discomfort or loss in visual performance and visibility in persons not suffering from light sensitivity (photophobia).
- c. *Intense heat from processes.* Any operation producing the emission of heat which would cause a temperature increase of one degree Fahrenheit (1° F) or greater as measured at or beyond the closest boundary line of an abutting lot shall be performed only within a completely enclosed building and in such a manner so as not to create a public nuisance or hazard to abutting parcels. No heat or heated air shall be discharged such that a temperature increase of one degree Fahrenheit (1° F) or greater is measureable at or beyond the closest boundary line of an abutting lot. Vents, chimney stacks and other devices for emitting heat or heated air from a building shall be oriented away from abutting lots within the rural areas (RA) or any residential zoning district.

(§ 4.14.3, 12-10-80; Ord. 11-18(8), 8-3-11)

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**4.14.4** (New sections 4.14.4, 4.14.5 and 4.14.6 adopted 8-3-11; old sections 4.14.4, 4.14.5 and 4.14.5 repealed at the same time pursuant to Ord. 11-18(8))

**4.14.4 ELECTRICAL DISTURBANCE**

No electrical disturbance generated from a use of an industrial character shall adversely affect any activity, including the use of any machinery or equipment, on any other lot. Any electrical disturbance that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.

(§4.14.7, 12-10-80; § 4.14.4, Ord. 11-18(8), 8-3-11)

**4.14.5 CERTIFIED ENGINEER'S REPORT**

Prior to the issuance of a zoning clearance or approval of a final site plan, each prospective occupant of a use of an industrial character shall submit a certified engineer's report as follows, except as provided in section 4.14.5(c):

- a. *Contents.* Each certified engineer's report shall include the following information unless the county engineer determines that any such information is not necessary:
  - 1. *Nature of the operation.* A description of the proposed operation, including all machines, processes, and products.
  - 2. *Emissions and discharges.* The identification of all by-products or wastes, stating the expected levels of emissions or discharges to land, air, and/or water of any liquid, solid or gas, and the emission of electrical impulses and sound under normal operations.
  - 3. *Control of emissions and discharges.* Descriptions and specifications as to how emissions and discharges will be treated and the equipment and practices that will be used to control emissions and discharges.
  - 4. *Other information.* Any state or federal permits, readings, measurements, plans or documentation necessary to demonstrate that the proposed use will comply with this chapter, other requirements of the Code and all applicable state and federal laws, including but not limited to those pertaining to the following:
    - (a) *Air emissions.* Air emissions subject to the applicable regulations of the State Air Pollution Control Board and the Virginia Department of Environmental Quality.
    - (b) *Water discharges.* Water discharges subject to the applicable regulations of the State Water Control Board and the Virginia Department of Environmental Quality.
    - (c) *Radioactive materials and radiation emissions.* Radioactive materials used in conjunction with, and radiation emissions from, a use that is subject to the applicable regulations of the State Board of Health and all applicable requirements arising from all agreements between the Commonwealth of Virginia and the United States of America, and any department or agency thereof, pertaining to radioactive materials or radiation emissions, and all interstate compacts pertaining to radioactive materials or radiation emissions to which the Commonwealth of Virginia is a party. Any radioactivity or radiation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.

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- (d) *Flammable, hazardous and explosive materials.* Flammable, hazardous and explosive materials used in conjunction with a use shall comply with the applicable requirements of the county fire marshal and the Virginia Department of Environmental Quality.
  - (e) *Disposal of waste and spill containment.* The disposal of waste and the containment of spills in conjunction with a use shall comply with the applicable requirements of the county fire marshal.
- b. *Review of report.* The certified engineer's report shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5. If a site plan is required, the county engineer shall review the report and inform the commission or the agent prior to action on the preliminary site plan as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.
- c. *Document in lieu of certified engineer's report.* In lieu of a certified engineer's report, the county engineer may allow a prospective occupant of a use of an industrial character to submit a document that describes the processes and activities of the proposed use and addresses the performance standards in sections 4.14 through 4.14.5. A document in lieu of a certified engineer's report: (i) is appropriate for those uses of an industrial character that are determined by the county engineer to be low impact; (ii) may be in the form of a letter, or in any other form acceptable to the county engineer, signed by the prospective occupant or its representative; and (iii) shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

(§4.14.8, 12-10-80; 9-9-92; § 4.14.5, Ord. 11-18(8), 8-3-11)

**4.15 SIGNS** (New sections adopted 7-8-92 and 5-9-01; old sections repealed at the same time.)

**4.15.1 PURPOSE AND INTENT**

The purpose and intent of this section 4.15 include, but are not limited to, the following:

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- a. The board of supervisors finds that signs are a separate and distinct use of the property upon which they are located and affect the uses and users of adjacent streets, sidewalks and other areas open to the public; that signs are an important means of communication for businesses, organizations, individuals and government; and that the unregulated erection and display of signs constitute a public nuisance detrimental to the health, safety, convenience and general welfare of the public. Therefore, the purpose of this section 4.15 is to establish reasonable regulations pertaining to the time, place and manner in which outdoor signs and window signs may be erected and maintained in order to:
  1. Promote the general health, safety and welfare, including the creation of an attractive and harmonious environment;
  2. Protect the public investment in the creation, maintenance, safety and appearance of its streets, highways and other areas open to the public;
  3. Improve pedestrian and vehicular safety by avoiding saturation and confusion in the field of vision that could otherwise result if such signs were not regulated as provided herein; and
  4. Protect and enhance the county's attractiveness to tourists and other visitors as sources of economic development.
- b. The board of supervisors finds that the regulations in this section 4.15 advance the significant governmental interests identified herein and are the minimum amount of regulation necessary to achieve them.
- c. Signs are classified and regulated in this section 4.15 by their purpose (*e.g.*, bonus tenant panel), physical type (*e.g.*, freestanding sign), location (*e.g.*, off-site sign) and characteristics (*e.g.*, illuminated sign). By classifying and regulating signs by their purpose, the board of supervisors does not intend to regulate their content and, more specifically, any particular viewpoint, but rather intends to create a reasonable classification by which to regulate the time, place and manner of signs.
- d. The regulations in this section 4.15 shall apply to all outdoor signs and window signs. Each sign subject to this section 4.15 shall comply with all regulations applicable to that sign.

(12-10-80; 7-8-92, § 4.15.01; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

**State law reference** – Va. Code § 15.2-2280.

### 4.15.2 DEFINITIONS

The following definitions shall apply in the interpretation and implementation of this section 4.15:

- (1) *Advertising vehicle*. The term “advertising vehicle” means a motor vehicle, trailer or semi trailer (collectively, “vehicle”) having a permanent or temporary sign affixed, painted on or placed upon it, including a sign that alters the vehicle’s manufacturer’s profile; provided that a temporary sign affixed to an employee’s private vehicle during his or her working hours is not an advertising vehicle. (Amended 3-16-05)
- (1.1) *Agricultural product sign*. The term “agricultural product sign” means a sign or signs identifying the produce, crops, animals or poultry raised or quartered on the property, or identifying farm sales, a farm stand, a farmers’ market or a farm winery. (Added 3-16-05; Amended 5-5-10)
- (2) *Anchor sign*. (Repealed 3-14-12)

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- (3) *Animated sign.* The term “animated sign” means a sign that moves or a sign that changes lighting by any mechanical, electrical or other device.
- (4) *Auction sign.* The term “auction sign” means a sign that advertises an auction to be conducted.
- (5) *Awning.* The term “awning” means a covering attached to a structure, erected on or over a window or door, and typically supported by a metal frame.
- (6) *Awning sign.* The term “awning sign” means a type of projecting sign that is painted or printed on, or attached to, the surface of an awning.
- (7) *Banner.* The term “banner” means a temporary sign that is not a pennant, consisting of a piece of fabric or other flexible material, suspended from a fixed structure, rope, wire, string or cable. (Amended 3-16-05)
- (8) *Billboard.* The term “billboard” means a freestanding off-site sign that exceeds thirty-two (32) square feet in sign area.
- (8.1) *Bonus tenant panel:* The term “bonus tenant panel” means an additional sign permitted for individual tenants in shopping centers or planned developments when added to one freestanding sign for the shopping center or planned development. (Added 3-14-12)
- (9) *Bulletin board sign.* The term “bulletin board sign” means a type of directory sign that has changeable copy enclosed in a casement covered by glass, plexiglass or other transparent material.
- (10) *Canopy.* The term “canopy” means a permanent structure, or part thereof, that has a roof with support but no walls, and is intended as shelter.
- (11) *Canopy sign.* The term “canopy sign” means a type of wall sign that is attached to the fascia of a canopy. See Figure I following this section.
- (12) *Commercial speech.* The term “commercial speech” means speech that is an expression related solely to the economic interests of the speaker and its audience, concerns lawful activity, and is not misleading.
- (13) *Construction sign.* The term “construction sign” means a sign that identifies a construction project and/or an architect, contractor, subcontractor, material supplier or lending institution participating in the construction project.
- (14) *Copy.* The term “copy” means the letters, figures, designs, devices, pictures, projected images, symbols, fixtures, colors, logos, emblems, or insignias displayed on a sign face.
- (14.1) *Cornice line.* The term “cornice line” means the location of a cornice along the top of a wall; or, for a wall that has no cornice, the corresponding horizontal line along the top of a wall where a cornice would traditionally be located. In all cases, the “cornice line” applies to the main walls of a building and does not apply to features that extend above the top of the main walls of a building. (Added 3-14-12)
- (15) *Directory sign.* The term “directory sign” means a type of freestanding or wall sign, other than a development’s primary freestanding sign, that displays the names and/or the addresses of the establishments or uses of a building or group of buildings located within the development for the sole purpose of providing direction, that is not erected at the road entrance to the development, and includes, but is not limited to, a bulletin board sign. See Figure I following this section.

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- (16) *Electric message sign.* The term “electric message sign” means a sign on which the copy can be changed or altered by electric, electro-mechanical or electronic means. (Amended 3-14-12)
- (17) *Erect.* The term “erect” means, in the appropriate context, to affix, construct, hang, install, locate, paint, place or print.
- (18) *Establishment.* The term “establishment” means a public or private institution or a place of business; for purposes of this definition, the number of franchises held by an automobile dealership shall not be relevant to the determination as to what is an establishment.
- (19) *Estate sign.* The term “estate sign” means a sign that identifies the name of a private residence.
- (20) *Farm sign.* The term “farm sign” means a sign that identifies the name of a property in agricultural or forestal use. (Amended 3-16-05)
- (21) *Fascia.* The term “fascia” means one or more of the vertical faces of the roof of a canopy or structure.
- (22) *Flag.* The term “flag” means a sign consisting of a piece of fabric or other flexible material attached to a flag pole, except as otherwise authorized. A flag representing the official symbol of a national, state or local government is not a sign for the purposes of section 4.15 (for federal law pertaining to flying the flag of the United States of America, see 4 U.S.C. § 5 *et seq.*). A “commercial flag” is a flag that contains commercial speech. A “noncommercial flag” is a flag that contains no commercial speech, such as decorative, hospitality, and seasonal flags containing no advertising, words or logos related to a specific business, product or service, and does not represent the official symbol of a national, state or local government. (Amended 3-16-05)
- (23) *Flashing sign.* The term “flashing sign” means an illuminated sign of which all or part of the illumination is flashing or intermittent, or changing in degrees of intensity, brightness or color.
- (24) *Freestanding sign.* The term “freestanding sign” means a sign that is supported from the ground and not attached to a structure. See Figure I following this section.
- (25) *Home occupation sign.* The term “home occupation sign” means a sign on the premises of a dwelling unit that has an authorized Class B or major home occupation that does not exceed four (4) square feet in sign area and only states the name of the person occupying the dwelling and identifies the product or service offered by the home occupation. (Amended 1-12-11)
- (26) *Illuminated sign.* The term “illuminated sign” means a sign, or any part of a sign, that is illuminated by an external or internal light source.
- (27) *Incidental sign.* The term “incidental sign” means a sign that has a purpose secondary to the use of the lot on which it is located, such as “handicap parking,” “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives.
- (28) *Maintain.* The term “maintain” means the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter in any way, however slight, the copy, design, or the structure of the sign.
- (29) *Marquee.* The term “marquee” means a fixed covering that projects over an entrance to a theater or other building.
- (30) *Marquee sign.* The term “marquee sign” means a type of wall sign incorporated in or attached to a marquee, and that may have changeable copy.

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- (31) *Menu sign.* The term “menu sign” means a sign designed and located to be read from a drive-thru lane.
- (32) *Moving sign.* The term “moving sign” means a sign, any part of which moves by means of an electrical, mechanical or other device, or that is set in motion by wind.
- (33) *Noncommercial speech.* The term “noncommercial speech” means speech that is not commercial speech, but does not include expressions related solely to the economic interests of the speaker and its audience that do not concern lawful activity or are misleading.
- (34) *Nonconforming sign.* The term “nonconforming sign” means a lawful sign existing on the effective date of this section 4.15 that does not comply with the requirements contained herein.
- (35) *Off-site sign.* The term “off-site sign” means: (i) within a zoning district other than a planned development, a sign that is not located on the same lot with the use to which it pertains, but does not include a sign located in a public right-of-way; or (ii) within a planned development zoning district, a sign that is not located within the area depicted on the application plan approved for the planned development, but does not include a sign located in a public right-of-way. (Added 3-14-12)
- (36) *On-site sign.* The term “on-site sign” means a sign located on the same lot with the principal use to which it pertains, and includes every sign whose copy is exclusively noncommercial speech.
- (36.1) *Opaque background:* The term “opaque background” means the portion of the face of a sign that lies behind the message portion of the sign, made of a material through which light cannot pass when the sign is internally illuminated at night. (Added 5-12-10)
- (37) *Pennant.* The term “pennant” means a series of two (2) or more sections of a piece of fabric or other flexible material that is generally triangular and tapering, suspended from a fixed structure, rope, wire, string or cable and designed to move in the wind and including, but not limited to, streamers and tinsel. (Amended 3-16-05)
- (38) *Political sign.* The term “political sign” means a sign that pertains to the candidacy of one or more persons for an elective office, or pertains to one or more issues to be voted upon, in an upcoming election.
- (39) *Portable sign.* The term “portable sign” means a temporary sign that is not permanently affixed to the ground or to a permanent structure, or a sign that can be moved to another location including, but not limited to, a sign erected on a trailer, a sign with attached wheels, or a sign consisting of A-shaped or T-shaped frames. See Figure I following this section. (Amended 3-16-05)
- (40) *Private drive sign.* The term “private drive sign” means an on-site sign that contains only the words "private drive."
- (41) *Projecting sign.* The term “projecting sign” means a sign, other than a wall sign, that is attached to a structure but which is not mounted parallel to the structure’s wall surface, and includes, but is not limited to, an awning sign. See Figure I following this section.
- (42) *Public sign.* The term “public sign” means a sign that is erected and maintained by a town, city, county, state or federal government or an authority thereof, and any lawful road name and number sign regardless of whether it was publicly or privately erected or maintained.
- (42.1) *Rare gas illumination.* The term “rare gas illumination” means a sign using a rare gas such as neon, argon, helium, xenon or krypton in a glass tube for illumination. (Added 3-16-05)

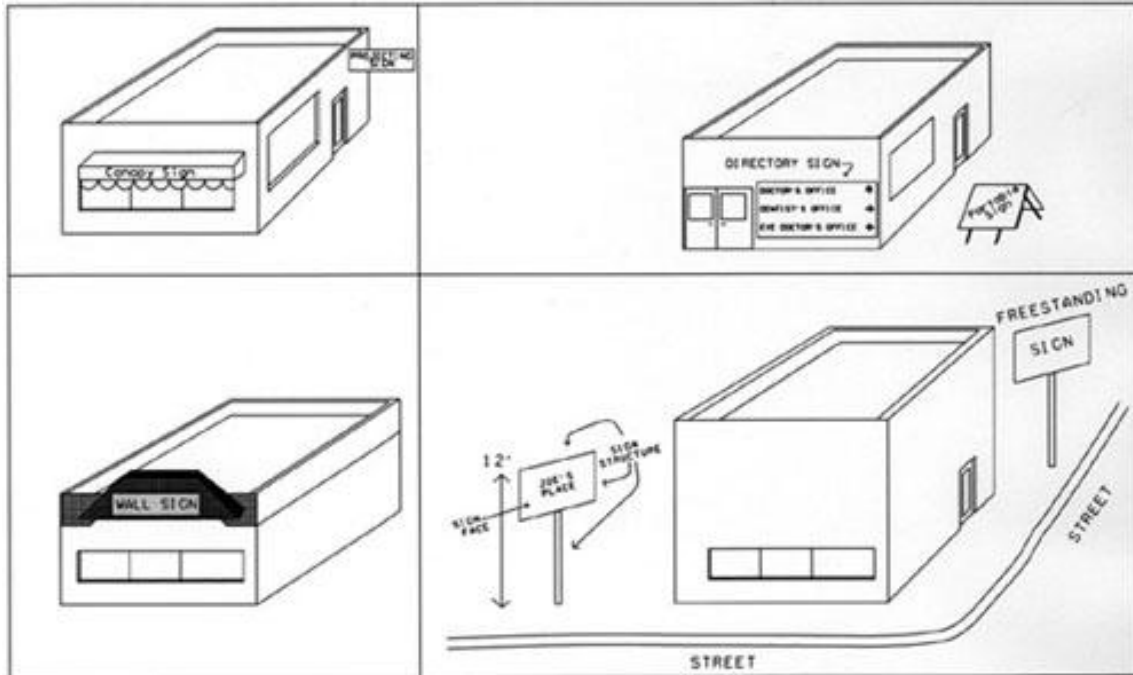
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- (43) *Real estate sign.* The term “real estate sign” means a sign that is used to advertise the sale, lease, rental, development or other use of the property on which the sign is located.
- (44) *Residence sign.* The term “residence sign” means a sign erected on a lot containing a private dwelling that identifies the name of the occupant and/or the street address of the residence.
- (45) *Residential sign.* The term “residential sign” means a sign erected on a lot containing a private dwelling whose copy is exclusively noncommercial speech.
- (46) *Roof sign.* The term “roof sign” means a sign erected on a structure that extends, in whole or in part, above the top of the wall of the structure; except that a sign located on a fake mansard is not a roof sign, but is a wall sign.
- (46.1) *Sandwich board sign.* The term “sandwich board sign” means an A-frame sign with two (2) faces that is periodically placed directly in front of the place of business that it advertises. (Added 1-13-10)
- (47) *Sign.* The term “sign” means any object, device or structure, or any part thereof including the sign face and the sign structure, visible from beyond the boundaries of the lot on which it is located, which exists primarily to advertise, identify, display, or direct or attract attention to a structure, object, person, institution, organization, business, product, service, event, issue or location by any means, including letters, figures, designs, devices, pictures, projected images, symbols, fixtures, colors, logos, emblems, or insignias or any part or combination thereof. (Amended 3-16-05)
- (48) *Sign face.* The term “sign face” means the area or display surface used to advertise, identify, display, or direct or attract attention. See Figure I following this section.
- (49) *Sign structure.* The term “sign structure” means the supports, uprights, bracings and framework of any structure, be it single-faced, double-faced, V-type or otherwise, used to exhibit a sign. See Figure I at the end of this section.
- (50) *Subdivision sign.* The term “subdivision sign” means a type of freestanding sign erected at the entrance of a residential development that identifies the development.
- (51) *Temporary sign.* The term “temporary sign” means a sign that is displayed for only a limited period of time authorized in section 4.15.4(D), that describes or identifies participants in a seasonal, brief or particular event or activity to be or being conducted upon a lot. (Amended 3-16-05)
- (52) *Visible.* The term “visible” means that which is capable of being seen, whether or not legible, by a person of normal visual acuity.
- (53) *Wall sign.* The term “wall sign” means a sign, other than a projecting sign, that is painted on, printed on, or attached to, a wall of a building and parallel to the wall, is located on a fake mansard, or is a canopy sign or a marquee sign. See Figure I following this section.
- (54) *Warning sign.* The term “warning sign” means a sign that provides a warning or a notice to persons on, or entering upon, the premises on which the sign is located including, but not limited to, signs stating that solicitations, hunting, fishing or trespassing is prohibited, that a dog is present on the property, and that the property is protected by a security or alarm system.
- (55) *Window sign.* The term “window sign” means a permanent or temporary sign affixed to the interior or exterior of a window or door, or within three (3) feet of the interior of the window or door; provided that the display of goods available for purchase on the premises is not a window sign. (Amended 3-16-05)

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(12-10-80; 7-8-92, § 4.15.03; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(1), 1-13-10; Ord. 10-18(3), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.



**Figure 1: Illustrations of Sign Type**

**4.15.3 SIGN CONTENT**

Each sign authorized in this section 4.15 may contain any noncommercial copy in lieu of, or in addition to, any commercial copy.

(Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

**4.15.4 SIGNS AUTHORIZED BY SIGN PERMIT**

Except for temporary signs subject to the permitting requirements of section 4.15.4A, signs exempt from this section under section 4.15.6 or nonconforming signs subject to section 4.15.24, a sign permit shall be required for each sign prior to its erection, alteration, replacement or relocation, as provided herein:

- a. *Application.* An application for a sign permit shall be submitted to the department of community development, together with payment of the fee required for the application pursuant to section 35.1 of this chapter. A complete application shall consist of the following:
  - 1. A fully completed application form, provided to the applicant by the zoning administrator;
  - 2. A schematic legibly drawn to scale and sufficiently detailed showing the location and dimensions of the sign; and
  - 3. Any plans, specifications and details pertaining to, among other things, the sign materials, the methods of illumination, methods of support, components, and the condition and age

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of the sign, as determined by the zoning administrator to be necessary for the review of the application.

- b. *Application review and permit issuance.* A sign permit application shall be reviewed and acted upon by the zoning administrator only as provided herein:
  - 1. *Timing of application.* An application for a sign permit may be filed at any time, and if a special use permit for the sign is required under section 4.15.5 or a certificate of appropriateness for the sign is required under section 4.15.15 and section 30.6 of this chapter, the application may be filed with or any time after the application for the special use permit or certificate of appropriateness is filed.
  - 2. *Action on application.* Within thirty (30) days after receipt of a complete sign permit application, the zoning administrator shall review the application and either: (i) approve the application; (ii) deny the application; or (iii) refer the application to the applicant for more information as may be required by section 4.15.4(a)(3). An application shall be denied only if the proposed sign is a prohibited sign, does not comply with the regulations set forth in this section 4.15 or, a required special use permit or certificate of appropriateness for the sign was not granted. If the application is denied, the reasons shall be specified in writing.
  - 3. *Failure to timely act.* If the zoning administrator fails to take one of the actions described herein within thirty (30) days of receipt of a complete sign permit application, the permit shall be deemed approved as received.
- c. *Administration.* A sign permit shall become null and void if the use to which the sign permit pertains is not commenced within six (6) months after the date the sign permit, special use permit or certificate of appropriateness is issued, whichever is later or, if the sign contains exclusively noncommercial copy, the sign is not erected within six (6) months after the date the sign permit is issued. Upon written request by the permittee and upon good cause shown, the zoning administrator may grant an extension of the six (6)-month period.

(12-10-80; 7-8-92, §§ 4.15.09, 4.15.09.1, 4.15.09.2, 4.15.09.3; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

**State law reference** – Va. Code §§ 15.2-2280, 15.2-2286.

**Sec. 4.15.4A SIGNS AUTHORIZED BY TEMPORARY SIGN PERMIT**

A permit shall be required for each temporary sign (hereinafter, a “temporary sign permit”), prior to its erection, alteration, replacement or relocation, as provided herein:

- a. *Application.* An application for a temporary sign permit shall be submitted to the department of community development, together with payment of the fee required for the application pursuant to section 35.1 of this chapter, and comply with the application requirements of subsection 4.15.4(a).
- b. *Application review and permit issuance.* A temporary sign permit application shall be reviewed and acted upon by the zoning administrator only as provided herein:
  - 1. *Action on application.* Within seven (7) days after receipt of a complete application, the zoning administrator shall either: (i) approve the application; (ii) deny the application; or (iii) refer the application to the applicant for more information as may be required by section 4.15.4(a)(3). An application shall be denied only if the proposed temporary sign is a prohibited sign or does not comply with the regulations set forth in this section 4.15. If the application is denied, the reasons shall be specified in writing.

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2. *Failure to timely act.* If the zoning administrator fails to take one of the actions described herein within seven (7) days after receipt of a complete sign application for a temporary sign, the permit shall be deemed approved as received.
- c. *Administration.* The following regulations shall apply to the administration of temporary sign permits:
  1. *Number of permits.* No more than six (6) temporary sign permits shall be issued by the zoning administrator to the same establishment in any calendar year.
  2. *Period of validity.* Each temporary sign permit shall be valid for a period not to exceed fifteen (15) consecutive days after the erection of the sign, provided that a temporary sign permit issued while a permanent sign is being made may be valid for longer than fifteen (15) days until the permanent sign is erected.
  3. *Aggregate duration for temporary signs in calendar year.* Temporary signs shall not be erected at an establishment for more than sixty (60) days, in the aggregate, in a calendar year.
  4. *Portable signs; stabilization.* A temporary sign that is a portable sign shall be stabilized so as not to pose a danger to public safety. Prior to the sign being erected, the zoning administrator shall approve the method of stabilization.
- d. *Exemptions.* A temporary sign permit is not required for a sign exempt from the sign permit requirement under section 4.15.6 or nonconforming signs subject to section 4.15.24.

(Ord. 12-18(2), 3-14-12)

### 4.15.5 SIGNS AUTHORIZED BY SPECIAL USE PERMIT

Except as provided in subsection (d), electric message signs, off-site signs, and signs in public rights-of-way may be authorized only by special use permit, as provided herein:

- a. *Circumstances under which signs may be authorized.* The signs may be authorized only under the following circumstances:
  1. *Off-site signs.* Off-site signs may be authorized by special use permit within any zoning district.
  2. *Electric message signs.* Electric message signs may be authorized by special use permit within any commercial or industrial zoning district, or any commercially designated areas of a planned unit development.
  3. *Signs in public rights-of-way.* Signs in public rights-of-way; provided: (1) the subdivision or planned development to which the sign pertains abuts the public right-of-way; (2) the sign is either a subdivision sign or a sign identifying a planned development authorized by sections 19, 20, 25, 25A, and 29; (3) the freestanding sign regulations, other than setback regulations, applicable to the lot with the use to which the sign pertains shall apply; and (4) if the sign is located within an entrance corridor overlay district, a certificate of appropriateness is issued by the architectural review board.
- b. *Authority.* The authority to issue a special use permit for off-site signs and electric message signs is hereby granted to the board of zoning appeals.
- c. *Procedure and administration.* The application procedure, the findings and conditions to be applied by the board of zoning appeals when considering an application for a special use

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permit, and the authority to revoke such a permit, shall be as provided in section 31.6 of this chapter. In addition to the foregoing:

1. For an off-site sign, the board of zoning appeals shall also find that the issuance of a special use permit is necessary because an on-site sign would be ineffective to communicate its message off-site because of topography or vegetation.
  2. For an electric message sign, the board of zoning appeals shall also find that the sign complies with all applicable state laws for such signs.
  3. A permit number for each special use permit issued for an off-site sign shall be affixed to the sign in a conspicuous place.
- d. *Exception; certain off-site signs.* A special use permit shall not be required for off-site directional, political, subdivision or temporary signs, and off-site agricultural product signs, except for those advertising a farmers' market in any zoning district other than the Rural Areas, Monticello Historic District, and the Village Residential zoning districts, provided that their number does not exceed two (2) and they do not exceed an aggregate of thirty-two (32) square feet in sign area, and further provided that any agricultural product sign advertising a farmers' market in the Rural Areas, Monticello Historic District, or the Village Residential zoning districts is posted within that particular zoning district.

(12-10-80; 7-8-92, § 4.15.05; Ord. 01-18(3), 5-9-01; Ord. 10-18(4), 5-5-10)

**State law reference** – Va. Code §§ 15.2-2280, 15.2-2286.

**4.15.6 SIGNS EXEMPT FROM THE SIGN PERMIT REQUIREMENT**

The following signs are exempt from the requirement to obtain a sign permit under section 4.15.4 and a temporary sign permit under section 4.15.4A, provided that they comply with the regulations set forth below and all other applicable regulations of this section 4.15. A sign exempt from the requirements to obtain permits under sections 4.15.4 and 4.15.4A is not exempt from the requirement to obtain a special use permit under section 4.15.5 if required.

- (1) *Agricultural product sign, on-site.* One or two on-site agricultural product signs that do not exceed an aggregate of thirty-two (32) square feet in sign area. (Added 3-16-05; Amended 5-5-10)
- (2) *Auction sign.* An auction sign that does not exceed four (4) square feet in sign area, and which is posted for a total of thirty (30) days or less in a calendar year. Such an auction sign shall be removed within seven (7) days after date of the auction.
- (3) *Commemorative plaque.* A commemorative plaque that does not exceed four (4) square feet in sign area. (Amended 5-5-10)
- (4) *Construction sign.* A construction sign that does not exceed thirty-two (32) square feet in sign area. Such a construction sign shall be removed within seven (7) days after issuance of a certificate of occupancy.
- (5) *Estate sign.* An estate sign that does not exceed four (4) square feet in sign area.
- (6) *Farm sign.* A farm sign that does not include commercial identification and does not exceed four (4) square feet in sign area.
- (7) *Home occupation class B or major home occupation sign.* A home occupation class B or major home occupation sign that does not exceed four (4) square feet in sign area. (Amended 1-12-11, 3-14-12)

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- (8) *Incidental sign.* An incidental sign that does not exceed four (4) square feet in sign area.
- (9) *Political sign.* One or more political signs that do not exceed the maximum sign area allowed for the physical type of the sign (e.g., freestanding, wall) within the applicable zoning district.
- (10) *Private drive sign.* A private drive sign that does not exceed four (4) square feet in sign area, limited to one such sign per entrance.
- (11) *Public sign.* A public sign.
- (12) *Residence sign.* A residence sign that does not exceed four (4) square feet in sign area.
- (13) *Residential sign.* One or more residential signs that are not illuminated signs and do not exceed thirty-two (32) square feet in cumulative sign area.
- (14) *Special decorative display.* A special decorative display used for holidays or public events, and which is displayed for a total of sixty (60) days or less in a calendar year. Such a display shall be removed within seven (7) days of said event.
- (15) *Temporary directional sign.* A temporary directional sign that is erected no closer than five (5) feet from a front lot line and does not exceed four (4) square feet in sign area.
- (16) *Real estate sign.* A real estate sign that does not exceed thirty-two (32) square feet in sign area. Such a real estate sign shall be removed from the site within seven (7) days of sale, lease or rental.
- (17) *Warning sign.* A warning sign that is erected by a private landowner and does not exceed four (4) square feet in sign area.
- (18) *Window sign.* A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05, 3-14-12)
- (19) *Commercial flag.* A commercial flag, subject to the following: (i) not more than one (1) flag may be flown on a lot, provided that if the lot is four (4) acres or larger, then one (1) additional flag may be flown; (ii) the flag shall not exceed twenty-four (24) square feet in size; and (iii) the flag shall be flown on a flag pole and, if two (2) flags may be flown, they may either be on the same or on separate flag poles. (Added 3-16-05)
- (20) *Noncommercial flag.* A noncommercial flag, subject to the following: (i) the flag shall not exceed twenty-four (24) square feet in size; (ii) on commercial, institutional and industrial lots, the flag shall be displayed only on privately owned light posts and shall be installed in a manner so that it remains taut and flapping and movement is minimized; and (iii) on residential and agricultural lots, the flag shall be displayed from a mount on a dwelling unit or other permitted primary or accessory structure, a flag pole, a mast, or suspended from a fixed structure, rope, wire, string or cable. (Added 3-16-05)
- (21) *Advertising vehicle.* An advertising vehicle in which none of the prohibited conditions delineated in section 4.15.7(c)(2)(ii) or (iii) exist that is: (i) used as transportation for the business; and (ii) parked in an approved parking space or parking area that serves the advertised business, or temporarily parked at another business to actively receive or provide goods or services, such as to load or unload goods, provide on-site services, receive vehicle maintenance and repair, or obtain food for the driver and passengers. (Added 3-16-05)
- (12-10-80; 7-8-92, § 4.15.04; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(4), 5-5-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12)

**State law reference** – Va. Code § 15.2-2280.

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### 4.15.7 PROHIBITED SIGNS AND SIGN CHARACTERISTICS

Notwithstanding any other provision of this section 4.15, the following signs and sign characteristics are prohibited in all zoning districts:

- a. *Signs that violate state or federal law.* Signs that violate state or federal law, including but not limited to:
  1. A sign that violates any law of the Commonwealth of Virginia related to outdoor advertising, including but not limited to Virginia Code §§ 33.1-351 to 33.1-381, inclusive, and 46.1-174.
  2. A sign that violates any law of the United States related to the control of outdoor advertising, including but not limited to 23 U.S.C. § 131.
  3. A sign that violates any state or federal law related to Virginia byways or scenic highways.
  4. A sign that violates the building code or the fire code.
- b. *Signs with characteristics that create a safety hazard or are contrary to the general welfare.* Signs whose construction, design, location or other physical characteristic create a safety hazard or are contrary to the general welfare, as follows:
  1. *Sign that is attached to another thing.* A sign, other than a public sign or a warning sign, that is nailed, tacked, painted or in any other manner attached to any tree, cliff, fence, utility pole or support, utility tower, rack, curbstone, sidewalk, lamp post, hydrant, bridge or public property of any description.
  2. *Sign that casts illumination off-site.* A sign that casts illumination, directly or indirectly, on any street, or on any adjacent property within a residential district.
  3. *Floating sign.* A sign that is a moored balloon or other type of tethered floating sign.
  4. *Lighting that illuminates outline.* Lighting that outlines any structure, window, sign structure, sign or part thereof using rare gas illumination or other light. (Amended 3-16-05)
  5. *Sign that imitates a traffic sign or signal or a road name sign.* A sign that imitates an official traffic sign or signal or a road name sign, or conflicts with traffic safety needs due to its location, color, movement, shape or illumination.
  6. *Sign using rare gas illumination.* A sign that uses exposed, bare, or uncovered rare gas illumination having a brightness that exceeds thirty (30) milliamps; provided that a sign within the entrance corridor overlay district that is visible from an entrance corridor overlay street that uses exposed, bare or uncovered rare gas illumination in clear, rather than frosted, tubing, regardless of brightness, is also prohibited. (Amended 3-16-05)
  7. *Sign that obstructs vision.* A sign that obstructs free or clear vision, or otherwise causes a safety hazard for vehicular, bicycle, or pedestrian traffic due to its location, shape, illumination or color; and window signs whose aggregate area on a window or door exceed twenty-five percent (25%) of the total area of the window or door. (Amended 3-16-05)
  8. *Pennants, ribbons, spinners streamers.* Pennants, ribbons, spinners, streamers or similar moving devices, whether or not they are part of a sign.
  9. *Sign erected in public right-of-way.* A sign, other than a public sign, erected on or over a public right-of-way unless the sign is authorized under section 4.15.5.

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10. *Sign that contains or consists of searchlight, beacon or strobe light.* A sign, other than a public sign, that contains or consists of a searchlight, beacon, strobe light, or similar form of illumination.
11. *Sign that produces sound.* A sign that produces sound for the purpose of attracting attention regardless of whether the sign has a written message content.
12. *Sign that contains or consists of strings of light bulbs.* A sign that contains or consists of one (1) or more strings of light bulbs that is not part of a decorative display.
13. *Sign with unsafe illumination.* A sign that is illuminated so as to be unsafe to vehicular or pedestrian traffic.
14. *Sign erected in unsafe location.* A sign that is erected in a location so as to be unsafe to vehicular or pedestrian traffic.
15. *Sign determined by official to create safety hazard.* A sign whose characteristics, including but not limited to its construction, design or location, are determined by a fire official, the building official, or a law enforcement officer to create a safety hazard.
16. *Window sign above the first floor, exception.* A commercial window sign affixed to a window or door above the first floor of the structure unless the business to which the sign pertains does not occupy any first floor space. (Added 3-16-05)

c. *Certain sign types.* Signs that are:

1. Animated signs, including signs using rare gas illumination, that give the appearance of animation. (Amended 3-16-05)
2. Advertising vehicles, where (i) the vehicle is parked so as to be visible from a public right-of-way in a parking space or parking area not authorized by section 4.15.6(21); (ii) the vehicle is inoperable; or (iii) the vehicle is incapable of moving on its own or is not self-propelled. (Amended 3-16-05)
3. Banners, except as an authorized temporary sign under section 4.15.4(d). (Amended 3-16-05)
4. Billboards.
5. Flashing signs.
6. Moving signs, including signs using rare gas illumination, that give the appearance of movement, but not including flags that meet the requirements of sections 4.15.6(18) or 4.15.6(19). (Amended 3-16-05)
7. Roof signs.

(12-10-80; 7-8-92, § 4.15.06; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05)

State law reference – Va. Code § 15.2-2280.

**4.15.7.1 (Repealed 5-9-01)**

**4.15.7.2 (Repealed 5-9-01)**

**4.15.7.3 (Repealed 5-9-01)**

**4.15.7.4 (Repealed 5-9-01)**

**4.15.7.5 (Repealed 5-9-01)**

**4.15.7.6 (Repealed 5-9-01)**

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**4.15.8 REGULATIONS APPLICABLE IN THE MHD, RA, VR, R-1 AND R-2 ZONING DISTRICTS**

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Monticello Historic District (MHD), Rural Areas (RA), Village Residential (VR) and Residential (R-1 and R-2) zoning districts:

<b>Sign Type</b>	<b>Number of Signs Allowed</b>	<b>Sign Area (Maximum)</b>	<b>Sign Height (Maximum)</b>	<b>Sign Setback (Minimum)</b>
<i>Directory</i>	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
<i>Freestanding</i>	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage, plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	24 square feet, aggregated; if more than 1 sign, no single sign shall exceed 12 square feet	10 feet	5 feet
<i>Subdivision</i>	2 per entrance per subdivision	24 square feet, aggregated, per entrance	6 feet	5 feet
<i>Temporary</i>	1 per street frontage per establishment	24 square feet	10 feet, if freestanding sign; 20 feet, if wall sign, but not to exceed the top of the fascia or mansard	5 feet
<i>Wall</i>	As calculated pursuant to section 4.15.20	40 square feet, aggregated in the RA zoning district; 20 square feet, aggregated, in other zoning districts	20 feet	Same as that applicable to structure

(12-10-80; 7-8-92, § 4.15.12.1; Ord. 01-18(3), 5-9-01; Ord. 05-18(5), 6-8-05; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

**4.15.9 REGULATIONS APPLICABLE IN THE R-4 AND R-6 ZONING DISTRICTS**

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Residential (R-4 and R-6) zoning districts:

<b>Sign Type</b>	<b>Number of Signs Allowed</b>	<b>Sign Area (Maximum)</b>	<b>Sign Height (Maximum)</b>	<b>Sign Setback (Minimum)</b>
<i>Directory</i>	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
<i>Freestanding</i>	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	24 square feet, aggregated; if more than 1 sign, no single sign shall exceed 12 square feet	10 feet	5 feet
<i>Projecting</i>	1 per street frontage	24 square feet	20 feet, but not to exceed the top of the fascia or mansard	Not applicable
<i>Subdivision</i>	2 per entrance per subdivision	24 square feet, aggregated, per entrance	6 feet	5 feet
<i>Temporary</i>	1 per street frontage per establishment	24 square feet	10 feet, if freestanding sign; 20 feet, if wall sign, but not to exceed the top of the fascia or mansard	5 feet
<i>Wall</i>	As calculated pursuant to section 4.15.20	20 square feet, aggregated	20 feet	Same as that applicable to structure

(12-10-80; 7-8-92, § 4.15.12.2; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

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**4.15.9.1 (Repealed 5-9-01)**

**4.15.9.2 (Repealed 5-9-01)**

**4.15.9.3 (Repealed 5-9-01)**

**4.15.9.4 (Repealed 5-9-01)**

**4.15.9.5 (Repealed 5-9-01)**

**4.15.10 REGULATIONS APPLICABLE IN THE R-10, R-15 AND PRD ZONING DISTRICTS**

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Residential (R-10 and R-15) and Planned Residential Development (PRD) zoning districts:

<b>Sign Type</b>	<b>Number of Signs Allowed</b>	<b>Sign Area (Maximum)</b>	<b>Sign Height (Maximum)</b>	<b>Sign Setback (Minimum)</b>
<i>Directory</i>	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
<i>Freestanding</i>	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	24 square feet, aggregated; if more than 1 sign, no single sign shall exceed 12 square feet	12 feet	5 feet
<i>Projecting</i>	1 per street frontage	24 square feet	20 feet, but not to exceed the top of the fascia or mansard	Not applicable
<i>Subdivision</i>	2 per entrance per subdivision	24 square feet, aggregated, per entrance	6 feet	5 feet
<i>Temporary</i>	1 per street frontage per establishment	24 square feet	12 feet, if freestanding sign; 20 feet, if wall sign, but not to exceed the top of the fascia or mansard	5 feet
<i>Wall</i>	As calculated pursuant to section 4.15.20	1 square foot per 1 linear foot of establishment structure frontage, not to exceed 32 square feet	20 feet	Same as that applicable to structure

(12-10-80; 7-8-92, § 4.15.12.3; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

**4.15.11 REGULATIONS APPLICABLE IN THE PUD, DCD AND NMD ZONING DISTRICTS**

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Planned Unit Development (PUD), Downtown Crozet (DCD) and Neighborhood Model (NMD) zoning districts:

<b>Sign Type</b>	<b>Number of Signs Allowed</b>	<b>Sign Area (Maximum)</b>	<b>Sign Height (Maximum)</b>	<b>Sign Setback (Minimum)</b>
<i>Directory</i>	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
<i>Freestanding</i>	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregated, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	12 feet	5 feet

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<b>Projecting</b>	1 per street frontage	24 square feet	30 feet, but not to exceed the top of the fascia or mansard	Not applicable
<b>Subdivision</b>	2 per entrance per subdivision	24 square feet, aggregated, per entrance	6 feet	5 feet
<b>Temporary</b>	1 per street frontage per establishment	24 square feet	12 feet, if freestanding sign; 20 feet, if residential wall sign; 30 feet if nonresidential wall sign, but not to exceed the cornice line	5 feet
<b>Wall</b>	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 32 square feet if residential wall sign, or 100 square feet if nonresidential wall sign	Not to exceed the cornice line	Same as that applicable to structure

One (1) sandwich board sign is permitted for each establishment, subject to the requirements of section 4.15.16(i).

(12-10-80; 7-8-92, § 4.15.12.4; Ord. 01-18(3), 5-9-01; Ord. 03-18(2), 3-19-03; Ord 10-18(1), 1-13-10; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

**4.15.12 REGULATIONS APPLICABLE IN THE C-1, CO AND HC ZONING DISTRICTS**

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Commercial (C-1), Commercial Office (CO) and Highway Commercial (HC) zoning districts:

<b>Sign Type</b>	<b>Number of Signs Allowed</b>	<b>Sign Area (Maximum)</b>	<b>Sign Height (Maximum)</b>	<b>Sign Setback (Minimum)</b>
<b>Directory</b>	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
<b>Freestanding</b>	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregated, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	12 feet	5 feet
<b>Projecting*</b>	1 per street frontage	32 square feet	30 feet, but not to exceed the top of the fascia or mansard	Not applicable
<b>Temporary</b>	1 per street frontage per establishment	32 square feet	12 feet, if freestanding sign; 30 feet if wall sign, but not to exceed the cornice line	5 feet
<b>Wall*</b>	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 100 square feet	Not to exceed the cornice line	Same as that applicable to structure

\*Each establishment may have both a projecting sign and a wall sign. If the establishment has both such signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign (which may not exceed thirty-two (32) square feet).

(12-10-80; 7-8-92, § 4.15.12.5; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

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**4.15.12.1 (Repealed 5-19-01)**

**4.15.12.2 (Repealed 5-19-01)**

**4.15.12.3 (Repealed 5-19-01)**

**4.15.12.4 (Repealed 5-19-01)**

**4.15.12.5 (Repealed 5-19-01)**

**4.15.12.6 (Repealed 5-19-01)**

**4.15.12.7 (Repealed 5-19-01)**

**4.15.12.8 (Repealed 5-19-01)**

**4.15.13 REGULATIONS APPLICABLE IN THE PD-SC AND PD-MC ZONING DISTRICTS**

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Planned Development-Shopping Center (PD-SC) and Planned Development-Mixed Commercial (PD-MC) zoning districts:

<b>Sign Type</b>	<b>Number of Signs Allowed</b>	<b>Sign Area (Maximum)</b>	<b>Sign Height (Maximum)</b>	<b>Sign Setback (Minimum)</b>
<b>Directory</b>	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
<b>Freestanding</b>	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregated, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	16 feet	5 feet
<b>Projecting*</b>	1 per street frontage	32 square feet	30 feet, but not to exceed the top of the fascia or mansard	Not applicable
<b>Temporary</b>	1 per street frontage per establishment	32 square feet	12 feet, if freestanding sign; 30 feet if wall sign, but not to exceed the cornice line	5 feet
<b>Wall*</b>	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 200 square feet	Not to exceed the cornice line	Same as that applicable to structure

\*Each establishment may have both a projecting sign and a wall sign. If the establishment has both such signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign (which may not exceed thirty-two (32) square feet).

One (1) sandwich board sign is permitted for each establishment, subject to the requirements of section 4.15.16(i).

(12-10-80; 7-8-92, § 4.15.12.6; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

**4.15.13.1 (Repealed 5-19-01)**

**4.15.13.2 (Repealed 5-19-01)**

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**4.15.14 REGULATIONS APPLICABLE IN THE HI, LI AND PD-IP ZONING DISTRICTS**

The following regulations pertaining to the number of signs permitted per lot or establishment, the sign area, sign height, and setback requirements shall apply to each sign for which a sign permit is required within the Heavy Industry (HI), Light Industry (LI) and Planned Development-Industrial Park (PD-IP) zoning districts.

<b>Sign Type</b>	<b>Number of Signs Allowed</b>	<b>Sign Area (Maximum)</b>	<b>Sign Height (Maximum)</b>	<b>Sign Setback (Minimum)</b>
<i>Directory</i>	1 or more per establishment, as authorized by zoning administrator	24 square feet, aggregated	6 feet	5 feet
<i>Freestanding</i>	1 per street frontage, or 2 per entrance, per lot with 100 or more feet of continuous street frontage plus 1 per lot if the lot is greater than 4 acres and has more than 1 approved entrance on its frontage	32 square feet, aggregate, plus bonus tenant panels as provided in section 4.15.16(b); if more than 1 sign at an entrance, no single sign shall exceed 16 square feet	16 feet	5 feet
<i>Projecting*</i>	1 per street frontage	32 square feet	30 feet, but not to exceed the top of the fascia or mansard	5 feet
<i>Temporary</i>	1 per street frontage per establishment	32 square feet	12 feet, if freestanding sign; 30 feet if wall sign, but not to exceed the cornice line	5 feet
<i>Wall*</i>	As calculated pursuant to section 4.15.20	1.5 square feet per 1 linear foot of establishment structure frontage, not to exceed 200 square feet	Not to exceed the cornice line	Same as that applicable to structure

\*Each establishment may have both a projecting sign and a wall sign. If the establishment has both such signs, the allowed sign area of the wall sign shall be reduced by the sign area of the projecting sign (which may not exceed thirty-two (32) square feet).

Within the PD-IP zoning district, one (1) sandwich board sign is permitted for each establishment, subject to the requirements of section 4.15.16(i).

(12-10-80; 7-8-92, § 4.15.12.7; Ord. 01-18(3), 5-9-01; Ord. 12-18(2), 3-14-12)

State law reference – Va. Code § 15.2-2280.

**4.15.14.1 (Repealed 5-19-01)**

**4.15.14.2 (Repealed 5-19-01)**

**4.15.15 REGULATIONS APPLICABLE IN THE ENTRANCE CORRIDOR OVERLAY DISTRICT**

In addition to all other regulations set forth in this section 4.15, the following regulations shall apply within the entrance corridor overlay zoning district:

- a. *Certificate of appropriateness required.* Prior to the erection of a sign that would be visible from an entrance corridor street, the owner or lessee of the lot on which the sign will be located shall obtain a certificate of appropriateness for that sign unless the sign is exempt under section 30.6.5(d).
- b. *Authority and procedure for acting upon application for certificate of appropriateness.* The authority and procedure for acting upon an application for a certificate of appropriateness for a sign shall be as set forth in section 30.6.
- c. *Opaque backgrounds.* All internally illuminated box-style and cabinet-style signs shall have an opaque background.

(12-10-80; 7-8-92, § 4.15.12.8; Ord. 01-18(3), 5-9-01; Ord. 10-18(5), 5-12-10; Ord. 12-18(2), 3-14-12)

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State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

### 4.15.16 REGULATIONS APPLICABLE TO CERTAIN SIGN TYPES

In addition to all other regulations set forth in this section 4.15, the following regulations apply to the sign types identified herein:

- a. *All sign types.* The following regulations shall apply to all signs, including exempt signs: (i) no sign shall be erected within the applicable minimum setback area or within the sight distance triangle; and (ii) the area of the sign face shall not exceed two hundred (200) percent of the sign area.
- b. *Bonus tenant panels.* In each shopping center exceeding fifty thousand (50,000) square feet in gross floor area: (i) one (1) bonus tenant panel shall be permitted for each fifty thousand (50,000) square feet in gross floor area, not to exceed four (4) bonus tenant panels at the shopping center; and (ii) no bonus tenant panel shall exceed eight (8) square feet in sign area.
- c. *Canopy signs.* A canopy sign shall not extend above or below the edge of the canopy's fascia.
- d. *Freestanding signs.* The following regulations shall apply to freestanding signs: (i) the maximum combined size of a freestanding sign and its support structure shall not exceed two and one-half (2.5) times the maximum allowable sign size; and (ii) a lot with less than one hundred (100) feet of frontage, on which there is erected a freestanding sign on the date of the adoption of this regulation, shall be permitted one (1) freestanding sign.
- e. *Gasoline service station fuel price signs.* Gasoline service stations shall be permitted additional sign area for the exclusive purpose of displaying fuel prices. This sign area shall be calculated at a maximum of fifty (50) percent of the principal sign area to which it is attached or sixteen (16) square feet, whichever is less.
- f. *Menu signs.* An outdoor menu sign shall be permitted as a directory sign only on a lot with a permitted drive-through use and shall not be visible from any street.
- g. *Off-site signs.* An off-site sign shall count toward the signage allowed on the lot on which the sign is located.
- h. *Projecting signs.* A projecting sign shall not be mounted on the fascia of a canopy and shall not be mounted such that the projecting sign extends, in whole or in part, above the top of the wall structure.
- i. *Sandwich board signs.* Sandwich board signs shall be subject to the following: (1) the sign shall not exceed four (4) feet in height, two (2) feet in width or eight (8) square feet of area per sign face; (2) if the sign is placed on a sidewalk or any other public pedestrian right-of-way, it shall be placed in a location that provides a contiguous and unobstructed pedestrian passageway at least three (3) feet wide; (3) the sign shall not be located in any required off-street parking space, driveway, access easement, alley or fire lane; (4) the sign shall not be illuminated; (5) the sign shall be removed during non-business hours; and (6) if the sign is located on county-owned right-of-way, prior to placement of the sign, the owner shall agree to indemnify and hold harmless the county against any claim or liability arising from the placement of the sign, and the agreement shall be in a form and have a substance approved by the county attorney.
- j. *Signs using rare gas illumination.* Signs using exposed rare gas illumination, and signs within the entrance corridor overlay district visible from an entrance corridor overlay street that use rare gas illumination covered by a transparent material, shall not have a brightness that exceeds thirty (30) milliamps. Brightness shall be determined by the zoning

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administrator, who shall consider information provided by the sign manufacturer, the rated size of the sign’s transformer, and any other relevant information deemed appropriate. (Added 3-16-05)

- k. *Wall signs.* In order to be eligible to have a wall sign, the establishment shall have an exterior wall.

(12-10-80; 7-8-92, § 4.15.12; Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 12-18(2), 3-14-12)

**State law reference** – Va. Code § 15.2-2280.

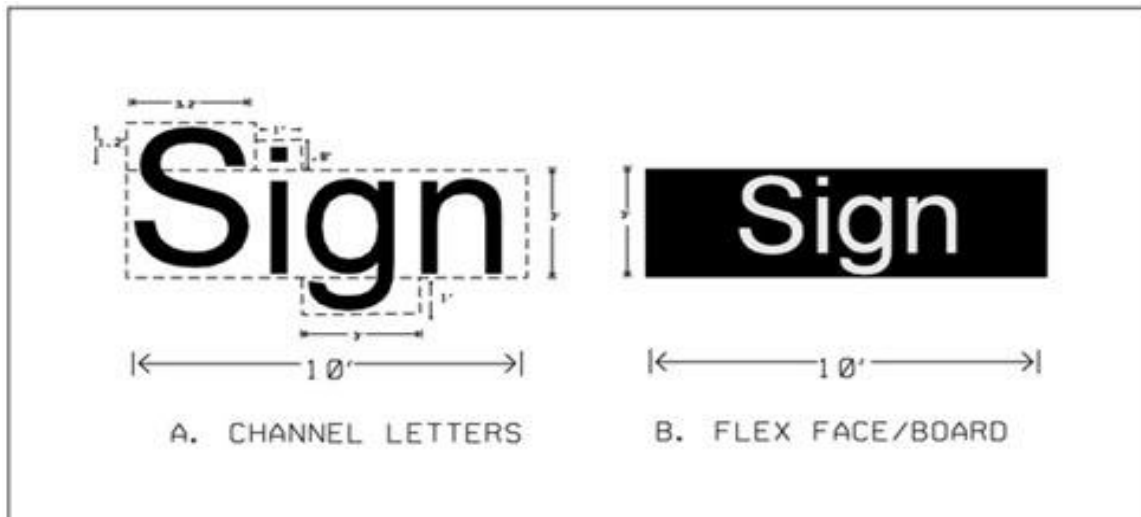
**4.15.17 DETERMINING SIGN AREA**

The sign area shall be measured as provided herein:

- a. *Measurement.* The sign area shall be measured as the area of a sign face within the smallest square, circle, rectangle, triangle or combination thereof, that encompasses the extreme limits of the letters, figures, designs, devices, pictures, projected images, symbols, fixtures, logos, emblems or insignias, or any part or combination thereof, together with any materials or colors forming an integral part of the background of the sign face or used to differentiate the sign from the backdrop or structure against which it is placed. Two-sided sign faces shall be counted as single sign face provided the angle separating them does not exceed forty-five (45) degrees. See Figure II following this section.
- b. *Area not included.* The sign area shall not include any supporting framework, bracing or decorative fence or wall when such feature otherwise complies with the regulations of this section 4.15 and is clearly incidental to the sign itself.

(12-10-80; 7-8-92, § 4.15.07.1; Ord. 01-18(3), 5-9-01)

**State law reference** – Va. Code § 15.2-2280.



**Figure II: Measuring Sign Area**

**4.15.18 DETERMINING SIGN HEIGHT**

The sign height shall be measured as provided herein:

- a. *Measurement.* The sign height shall be measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is

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higher, and shall include the sign base, regardless of material, including earth used primarily to elevate the sign. See Figure III following this section.

- b. *Determining the highest point.* In determining the highest point of the sign or sign structure in subsection (A), the normal grade from which to measure the bottom of the sign height shall be that which is either existing prior to construction, or newly established after construction, depending on which grade is more consistent with the surrounding elevation of the lot on which the sign is located. Any fill or excavation that serves primarily to elevate the sign shall be included in the height of the sign.

(12-10-80; 7-8-92, § 4.15.07.2; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

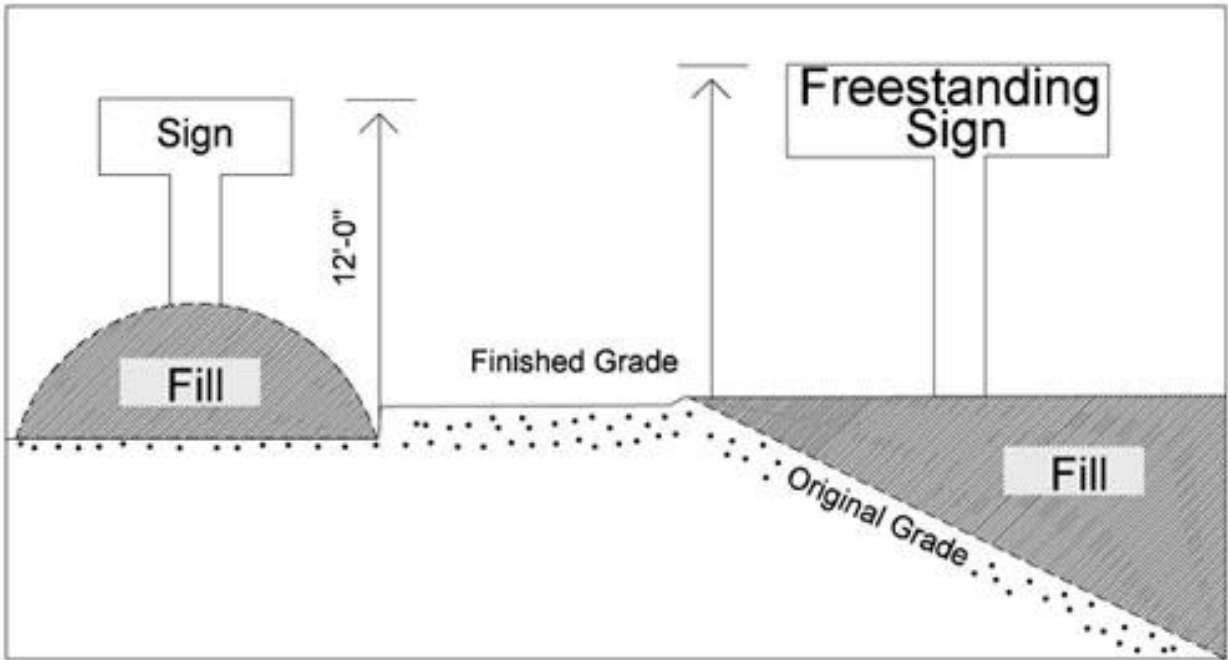


Figure III: Measuring Sign Height

**4.15.19 DETERMINING SIGHT DISTANCE TRIANGLE**

The sight distance triangle shall be measured as provided herein:

- a. *Measurement.* The sight distance triangle is that triangular area on a property between the two lines created by the existing or proposed right-of-way lines of intersecting exterior streets and/or street commercial entrances, and the straight line connecting them at points ten (10) feet distant from where the right-of-way lines intersect. See Figure IV following this section.
- b. *Area not included.* The driveway for a single-family or two-family residence shall not be included in this calculation.

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- c. *Extension of sight distance triangle.* The sight distance triangle may be extended to conform to minimum Virginia Department of Transportation sight distance standards.

(12-10-80; 7-8-92, § 4.15.07.3; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

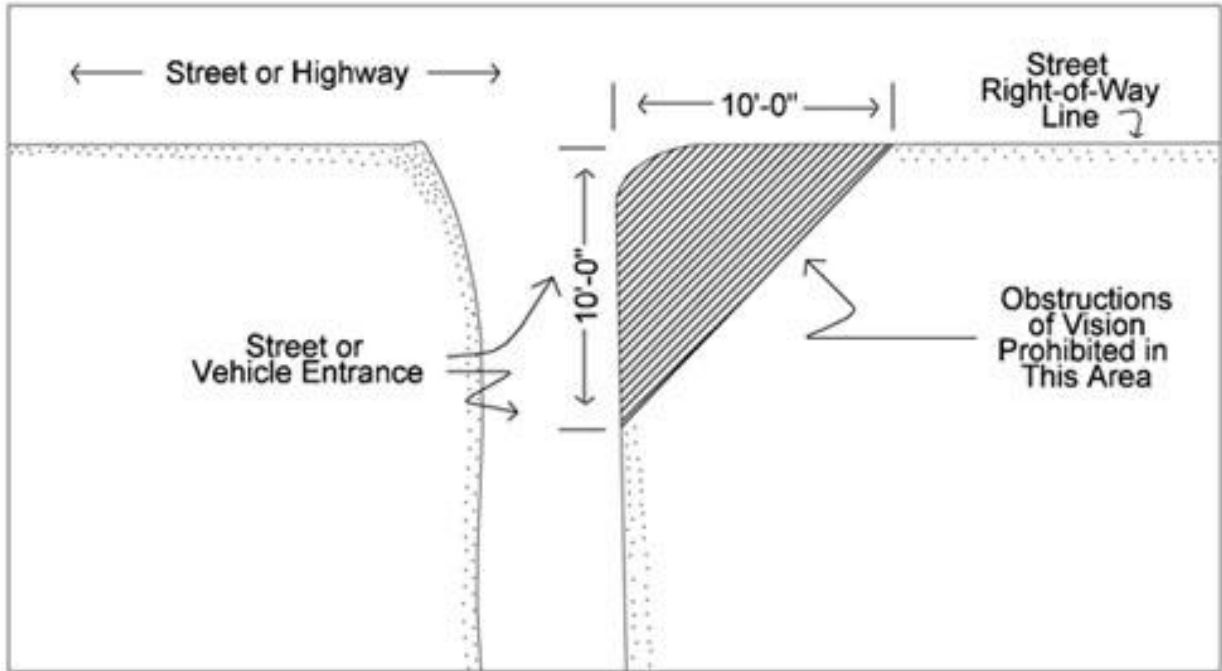


Figure IV: Determining Sight Distance Triangle

**4.15.20 DETERMINING STRUCTURE FRONTAGE**

The structure frontage shall be measured to calculate the permitted wall signage as provided herein.

- a. *Measurement.* The structure frontage is the horizontal length of the outside structure wall of the establishment, in one plane, adjacent to a street.
- b. *Two or more walls adjacent to a street.* If an establishment has two (2) or more walls adjacent to a street, at least one of which is an exterior wall, one (1) of these additional walls may be used to calculate additional wall signage at one-third (1/3) the rate as allowed on the structure frontage. The total permitted wall signage may then be divided to be used on any walls of the structure and/or canopy, provided that no one wall sign shall exceed the applicable maximum allowable sign area.

(12-10-80; 7-8-92, § 4.15.07.5; Ord. 01-18(3), 5-9-01)

State law reference – Va. Code § 15.2-2280.

**4.15.21 DETERMINING SIGN SETBACK**

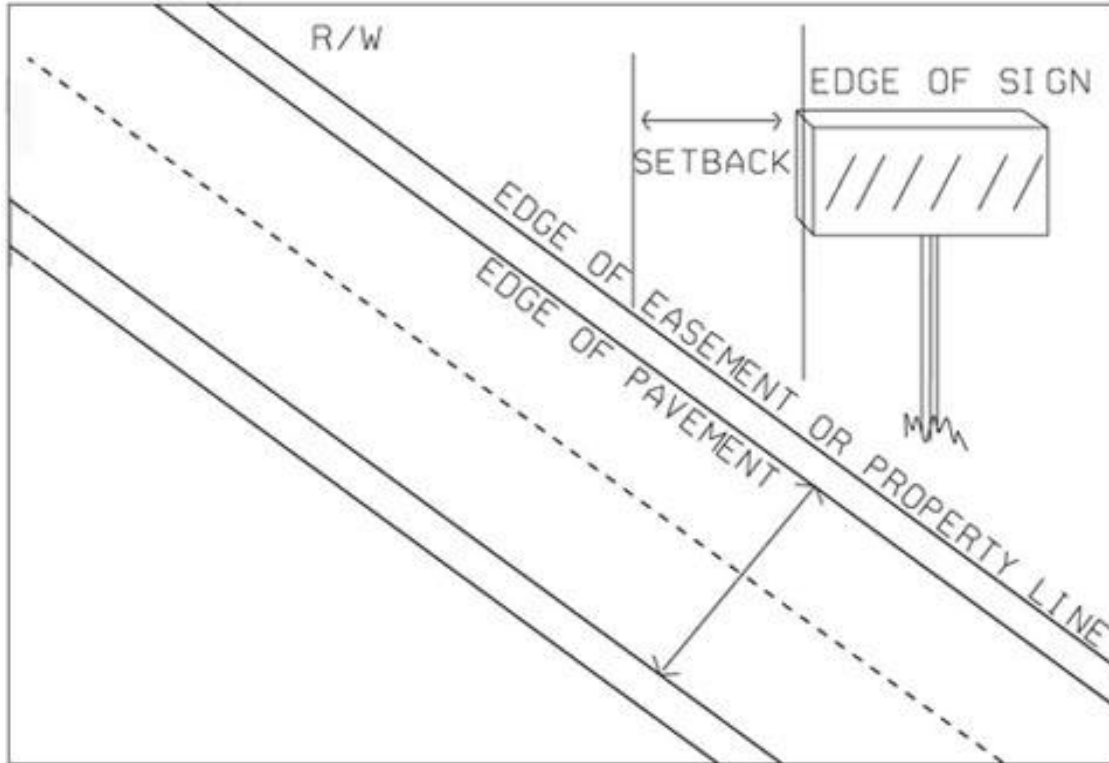
For all signs other than a sign within a public right-of-way, the sign setback shall be measured

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from the property line or, in the case of an access easement, from the edge of the easement, to the closest point of the sign. The setback for a sign within a public right-of-way shall be measured from the edge of the travelway to the closest point of the sign. See Figure V following this section.

(12-10-80; 7-8-92, § 4.15.07.4; Ord. 01-18(3), 5-9-01)

**State law reference** – Va. Code § 15.2-2280.



**Figure V: Determining Sign Setback**

**4.15.22 SIGN MAINTENANCE**

Each sign, including the sign structure, shall be maintained at all times in a safe structural condition and in a neat and clean condition, and shall be kept free from defective or missing parts. If the sign is illuminated, all lighting fixtures and sources of illumination shall be maintained in proper working order. (Amended 3-16-05)

(12-10-80; 7-8-92, § 4.15.09.4 (part); Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05)

**State law reference** – Va. Code § 15.2-2280.

**4.15.23 SIGN ALTERATION, REPAIR OR REMOVAL; WHEN REQUIRED**

A sign shall be altered, repaired or removed in any of the following cases:

- a. *Alteration, repair or removal; unsafe or endangering condition.* If a sign becomes structurally unsafe, as determined by the building official, so as to become a danger to the public health or safety, the zoning administrator may order the owner or lessee of the property on which the sign is located to alter, repair or remove the sign within a time period determined by the zoning administrator to be appropriate under the circumstances. If the owner or lessee fails to comply with the order, the zoning administrator may cause the sign to

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be removed or initiate such other action as may be necessary to compel the alteration, repair or removal of the sign. .

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- b. *Removal; unlawful erection of sign.* If a sign is erected on private property in violation of this section 4.15, the zoning administrator shall order the owner or lessee of the property on which the sign is located to remove the sign within a time period determined by the zoning administrator to be appropriate under the circumstances. If the owner or lessee fails to comply with the order, the zoning administrator may cause the sign to be removed or initiate such other action as may be necessary to compel compliance with the provisions of this section 4.15. If a sign is erected on public property, including a public right-of-way in violation of this section 4.15, any county employee may immediately remove the sign without prior notice to the owner of the sign.
- c. *Removal of copy on sign face; discontinuance of pertinent use.* If the use of a structure or property is discontinued, the copy on each sign face pertaining to that use shall be removed by the owner or lessee of the property on which the sign is located within two (2) years from the date of the discontinuance of the use. If the owner or lessee fails to remove the copy, the zoning administrator may cause the copy to be removed or initiate such other action as may be necessary to compel compliance with the provisions of this section 4.15.
- d. *Liability for cost of removal by county.* If the zoning administrator causes a sign or copy on a sign face to be removed under the provisions of this section, the cost of such removal shall be chargeable to the owner of the sign or the owner or lessee of the property on which the sign is located.
- e. *Custody and destruction of removed signs.* Cardboard and paper signs that have been removed by the county pursuant to this section shall be destroyed upon removal. All other signs which have been removed by the county shall be held for a period of thirty (30) days and may be reclaimed by the sign owner within that time by reimbursing the county for the costs of removal. If such a sign is not reclaimed within the thirty (30)-day period, it shall be deemed to have been forfeited by the owner and shall be destroyed.

(12-10-80; 7-8-92, § 4.15.09.4 (part); Ord. 01-18(3), 5-9-01)

**State law reference** – Va. Code § 15.2-2280.

**4.15.24 NONCONFORMING SIGNS**

A nonconforming sign may continue, subject to the provisions, conditions and prohibitions set forth herein:

- a. *Alteration of copy.* The copy of a nonconforming sign may be altered by refacing the sign by or for the current owner of the establishment to which the sign pertains.
- b. *Alteration of sign structure.* A nonconforming sign shall not be structurally altered; provided that the zoning administrator may authorize a nonconforming sign to be structurally altered so that it is less nonconforming and further provided that each time the nonconforming sign is structurally altered, the sign area and sign height shall be reduced by at least twenty-five (25) percent of its current area and height until the sign area and the sign height are conforming.
- c. *Consolidation.* Two or more nonconforming signs on a lot may be consolidated into a single sign; provided that the resulting sign area and sign height shall be reduced by at least twenty-five (25) percent of its current area and height until the sign area and the sign height are conforming, and further provided that each time the resulting nonconforming sign is thereafter consolidated with another nonconforming sign on the lot, the resulting sign area and sign height shall be reduced by at least twenty-five (25) percent of its current area and height, until the sign area and the sign height are conforming. A sign resulting from the consolidation of

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nonconforming signs shall not have greater sign height than any of the signs that were consolidated.

- d. *Discontinuance of copy on sign face.* A nonconforming sign without copy on its sign face for a continuous period of two (2) years shall lose its nonconforming status and be removed by the owner of the property on which the sign is located.
- e. *Discontinuance of use or structure to which sign pertains.* A nonconforming sign shall lose its nonconforming status and be removed by the owner of the property on which the sign is located if the use to which the sign pertains is discontinued for more than two (2) years.
- f. *Enlargement or extension.* A nonconforming sign shall not be enlarged or extended.
- g. *Maintenance.* A nonconforming sign shall be maintained in good repair and condition.
- h. *Relocation.* A nonconforming sign shall not be moved to another location on the same lot or to any other lot; provided that the zoning administrator may authorize a nonconforming sign to be moved to a location that is more in compliance with the purpose and intent of this section 4.15.
- i. *Replacement or restoration.* A nonconforming sign may be replaced or restored only as provided below:
  1. A nonconforming sign that is destroyed or damaged by the owner of the sign or the owner of the lot on which the sign is located shall not be replaced or restored unless it complies with this section 4.15.
  2. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the lot on which the sign is located, to an extent the destruction or damage exceeds fifty (50) percent of its appraised value, shall not be replaced or restored unless it complies with this section 4.15.
  3. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the lot on which the sign is located, to an extent the destruction or damage is fifty (50) percent or less of the appraised value, may be replaced or restored provided that the replacement or restoration is completed within two (2) years after the date of the destruction or damage, and the sign is not enlarged or extended.
- j. *Removal if in unsafe condition.* A nonconforming sign declared to be unsafe by a public safety official because of the physical condition of the sign, including an unsafe physical condition arising from the failure of the sign to be maintained, shall be removed.
- k. *Registry of nonconforming signs.* The owner of any property on which there is erected a nonconforming sign shall, upon notice from the zoning administrator, submit verification within sixty (60) days that the sign was lawfully in existence at the time of adoption of these sign regulations. The zoning administrator shall maintain a registry of such nonconforming signs.

(12-10-80; 7-8-92, §§ 4.15.09.5, 4.15.10; Ord. 01-18(3), 5-9-01)

**State law reference** – Va. Code § 15.2-2280.

**4.16 RECREATION REGULATIONS**

Developed recreational area(s) shall be provided for every development of thirty (30) units or more equal to or exceeding four (4) dwelling units per acre, except for single-family and two-family dwellings developed on conventional lots. (Added 3-5-86)

**4.16.1 MINIMUM AREA**

A minimum of two hundred (200) square feet per unit of recreational area shall be provided in common area or open space on the site, this requirement not to exceed five (5) percent of the gross site area.

The commission shall consider the appropriateness of such area for the intended purpose, using the following guidelines:

1. Slope in active recreation areas shall not exceed ten (10) percent. Slope and drainage shall be approved by the county engineer;
2. The size and shape of each recreation area shall be adequate for the intended use;
3. Groundcover shall consist of turf grass or contained mulch such as pine bark, shredded tires, or pea gravel;
4. Existing wooded or steep areas may qualify as passive recreation area provided no other suitable area is available on the site;
5. Access shall be adequate for pedestrians and service vehicles if necessary;
6. Location shall be compatible with adjoining uses, convenient to users and suitable for supervision.

**4.16.2 MINIMUM FACILITIES**

The following facilities shall be provided within the recreational area:

- 4.16.2.1 One (1) tot lot shall be provided for the first thirty (30) units and for each additional fifty (50) units and shall contain equipment which provides an amenity equivalent to:

- One (1) swing (four (4) seats)
- One (1) slide
- Two (2) climbers
- One (1) buckabout or whirl
- Two (2) benches.

Substitutions of equipment or facilities may be approved by the director of planning and community development, provided they offer a recreational amenity equivalent to the facilities listed above, and are appropriate to the needs of the occupants.

Each tot lot shall consist of at least two thousand (2,000) square feet and shall be fenced, where determined necessary by the director of planning and community development, to provide a safe environment for young children.

- 4.16.2.2 One-half (1/2) court for basketball shall be provided for each one hundred (100) units, consisting of a thirty (30) foot by thirty (30) foot area of four (4) inch 21-A base and one and one half (1 1/2) inches bituminous concrete surface, and a basketball backboard and net installed at regulation height.

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### **4.16.3 ADDITIONAL REQUIREMENTS**

- 4.16.3.1 Equipment specifications shall be approved by the director of planning and community development on advice of the director of parks and recreation.
- 4.16.3.2 Recreational equipment and facilities shall be maintained in a safe condition and replaced as necessary. Maintenance shall be the responsibility of the property owner if rental units or a homeowners' association if sale units.
- 4.16.3.3 Recreational facilities shall be completed when fifty (50) percent of the units have received certificates of occupancy.

### **4.17 OUTDOOR LIGHTING**

Outdoor lighting regulations are set forth in sections 4.17.1, 4.17.2, 4.17.3, 4.17.4, 4.17.5 and 4.17.6. These regulations are in addition to the performance standard pertaining to glare set forth in section 4.14.3 of this chapter.

(Ord. 98-18(1), 8-12-98)

#### **4.17.1 PURPOSE**

The purposes of these outdoor lighting regulations are to protect dark skies, to protect the general welfare by controlling the spillover of light onto adjacent properties, and to protect the public safety by preventing glare from outdoor luminaires. To effectuate these purposes, these regulations regulate the direction of light emitted from certain luminaires, and limit the intensity of light on certain adjacent properties, as provided herein.

(Ord. 98-18(1), 8-12-98)

#### **4.17.2 APPLICABILITY**

Except as provided in sections 4.17.4.b and 4.17.6, these outdoor lighting regulations shall apply to each outdoor luminaire installed or replaced after the date of adoption of these regulations which is: (Amended 10-17-01)

- a. Located on property within a commercial or industrial zoning district, or is associated with a use for which a site plan is required by section 32.0, and is equipped with a lamp which emits three thousand (3,000) or more maximum lumens; or (Amended 10-17-01)
- b. Located on property within a residential or the rural areas zoning district and is associated with a use for which a site plan is not required by section 32.0, and is equipped with a high intensity discharge lamp, regardless of its maximum lumens. (Amended 10-17-01)

(Ord. 98-18(1), 8-12-98; Ord. 01-18(8), 10-17-01)

#### **4.17.3 DEFINITIONS**

The following definitions shall apply in the implementation and enforcement of these outdoor lighting regulations:

*Decorative luminaire with full cutoff optics.* (Repealed 10-17-01)

*Full cutoff luminaire.* The term "full cutoff luminaire" means an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane.

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*High intensity discharge lamp.* The term “high intensity discharge lamp” means a mercury vapor, metal halide, or high pressure sodium lamp, and for purposes of this section 4.17, a low pressure sodium lamp.

*Initial lumens.* (Repealed 10-17-01)

*Lamp.* The term “lamp” means the component of a luminaire that produces light. A lamp is also commonly referred to as a bulb.

*Lumen.* The term “lumen” means a standard unit of measurement of luminous flux.

*Luminaire.* The term “luminaire” means a complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.

*Outdoor luminaire.* The term “outdoor luminaire” means a luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign, except that it does not include an internally illuminated sign.

(Ord. 98-18(1), 8-12-98; Ord. 01-18(8), 10-17-01))

### 4.17.4 STANDARDS

The following standards shall apply to each outdoor luminaire:

- a. Except as provided in section 4.17.6, each outdoor luminaire subject to these outdoor lighting regulations shall be a full cutoff luminaire. (Amended 10-17-01)
  1. For each outdoor luminaire subject to these outdoor lighting regulations pursuant to section 4.17.2.a, whether a lamp emits three thousand (3,000) or more maximum lumens shall be determined from the information provided by the manufacturer of the lamp including, but not limited to, information on the lamp or on the lamp’s packaging materials. (Amended 10-17-01)
  2. For each outdoor luminaire subject to these outdoor lighting regulations pursuant to section 4.17.2.a, the following rated lamp wattages shall be deemed to emit three thousand (3,000) or more maximum lumens unless the zoning administrator determines, based upon information provided by a lamp manufacturer, that the rated wattage of a lamp emits either more or less than the three thousand (3,000) maximum lumens: (Amended 10-17-01)
    - a. Incandescent lamp: one hundred sixty (160) or more watts.
    - b. Quartz halogen lamp: one hundred sixty (160) or more watts.
    - c. Fluorescent lamp: thirty-five (35) or more watts.
    - d. Mercury vapor lamp: seventy-five (75) or more watts.
    - e. Metal halide lamp: forty (40) or more watts.
    - f. High pressure sodium lamp: forty-five (45) or more watts.
    - g. Low pressure sodium lamp: twenty-five (25) or more watts.
  3. If a luminaire is equipped with more than one lamp, the lumens of the lamp with the highest maximum lumens shall determine the lumens emitted. (Amended 10-17-01)
- b. Each parcel, except those containing only one or more single-family detached dwellings, shall comply with the following: (Added 10-17-01)
  1. The spillover of lighting from luminaires onto public roads and property in residential or rural areas zoning districts shall not exceed one-half (½) foot candle. A spillover shall be

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measured horizontally and vertically at the property line or edge of right-of-way or easement, whichever is closer to the light source. (Amended 10-17-01)

2. All outdoor lighting, regardless of the amount of lumens, shall be arranged or shielded to reflect light away from adjoining residential districts and away from adjacent roads. (Added 10-17-01)

(Ord. 98-18(1), 8-12-98; Ord. 01-18(8), 10-17-01)

### **4.17.5 MODIFICATION OR WAIVER**

Modifications and waivers may be granted in an individual case as provided herein: (Amended 10-17-01, 7-9-08)

- a. The commission may modify or waive any standard set forth in section 4.17.4(a) under subsections 4.17.5(a)(1) and (2), and may modify the maximum height of poles supporting outdoor luminaires lighting athletic facilities under subsection 4.17.5(a)(3), in the following circumstances: (Amended 10-17-01, 7-9-08)
  1. Upon finding that strict application of the standard would not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.
  2. Upon finding that an outdoor luminaire, or system of outdoor luminaires, required for an athletic facility cannot reasonably comply with the standard and provide sufficient illumination of the facility for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity or other evidence if a recommended practice is not applicable. (Amended 10-17-01)
  3. Upon finding that the maximum permitted height of a pole supporting an outdoor luminaire lighting an athletic facility under the applicable district regulations would prevent the luminaire from providing sufficient illumination of the facility for its safe use, as determined by the recommended practices adopted by the Illuminating Engineering Society of North America for that type of facility and activity or other evidence if a recommended practice is not applicable. (Added 7-9-08)
- b. Prior to considering a request to modify or waive , five (5) days' written notice shall be provided to the owner, owner's agent or occupant of each abutting lot or parcel and each parcel immediately across the street or road from the lot or parcel which is the subject of the request. The written notice shall identify the nature of the request and the date and time the commission will consider the request.
- c. The commission may impose conditions on such a modification or waiver which it deems appropriate to further the purposes of these outdoor lighting regulations. (Added 7-9-08)
- d. The board of supervisors shall consider a modification or waiver of this section only as follows: (Amended 7-9-08)
  1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
  2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (a), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (a). Otherwise, neither the grant nor denial of a modification or waiver may be appealed to the board. (Amended 10-17-01)

(Ord. 98-18(1), 8-12-98; Ord. 01-18(4), 5-9-01; Ord. 01-18(8), 10-17-01; Ord. 08-18(5), 7-9-08)

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**4.17.6 EXEMPT OUTDOOR LIGHTING AND RELATED ACTS**

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

- a. Lighting which is not subject to this chapter by state or federal law.
- b. Construction, agricultural, emergency or holiday decorative lighting, provided that the lighting is temporary, and is discontinued within seven (7) days upon completion of the project or holiday for which the lighting was provided.
- c. Lighting of the United States of America or Commonwealth of Virginia flags and other non-commercial flags expressing constitutionally protected speech.
- d. Security lighting controlled by sensors which provides illumination for fifteen (15) minutes or less.
- e. The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the date of adoption of section 4.17.
- f. The replacement of a failed or damaged luminaire which is one of a matching group serving a common purpose.

(Ord. 98-18(1), 8-12-98)

**4.18 NOISE**

The board of supervisors hereby finds and declares that noise is a serious hazard to the public health, safety, welfare, and quality of life, and that the inhabitants of the county and adjoining localities have a right to and should be free from an environment of noise. Therefore, it is the policy of the county to regulate noise as provided in this section 4.18.

(Ord. 00-18(3), 6-14-00)

**State law reference** – Va. Code § 15.2-2280.

**4.18.01 APPLICABILITY**

This section 4.18 shall apply to sound generated from any land use within Albemarle County, regardless of whether the property in the receiving zone is within or without Albemarle County. This chapter is in addition to any sound or noise regulations set forth in any other chapter of the Albemarle County Code.

(Ord. 00-18(3), 6-14-00)

**State law reference** – Va. Code § 15.2-2280.

**4.18.02 DEFINITIONS**

The following definitions shall apply to this section 4.18. The definitions of any sound-related term not defined herein shall be obtained from the American Standard Terminology if defined therein.

*“A” weighted sound level.* The term “‘A’ weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network expressed as dB(A) or dBA.

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*Acoustic calibrator.* The term “acoustic calibrator” means an instrument which measures the accuracy of a sound level meter.

*Ambient sound.* The term “ambient sound” means the sound derived from all sound associated with a given environment, being usually a composite of sounds from many sources.

*Daytime.* The term “daytime” means that period of a day beginning at 7:00 a.m. and ending at 10:00 p.m., each day of the week.

*Decibel.* The term “decibel” means a unit for measuring the volume of a sound equal to twenty times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

*Emergency operation.* The term “emergency operation” means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

*Equivalent sound level (Leq).* The term “equivalent sound level” means the average sound level accumulated over a given period of time. The equivalent sound level is the A-weighted sound level corresponding to a steady state sound level containing the same total sound energy as the time varying signal over a given period of time, determined using a sound level meter as set forth in the American National Standards for Sound Level Meters.

*Impulse sound.* The term “impulse sound” means any sound of short duration with an abrupt onset and rapid decay. This includes but is not limited to explosions, drum beats, drop forge impacts, discharge of firearms and one object striking another.

*Nighttime.* The term “nighttime” means that period of a day beginning at 10:00 p.m. and ending at 7:00 a.m., each day of the week.

*Noise.* The term “noise” means any sound which violates the sound level standards of this section 4.18, but does not include any sound which is exempt pursuant to section 4.18.05.

*Person.* The term “person” means any natural person, association, partnership, corporation or other legal entity.

*Property line.* The term “property line” means an imaginary line along the ground surface which separates the real property owned by one person from another.

*Public facility.* The term “public facility” means a structure or use which may be publicly or privately owned or operated and which is generally open to the public, and includes but is not limited to schools, libraries, parks, hospitals and uses of a similar character.

*Receiving zone.* The term “receiving zone” means the zoning classification of the property receiving the noise, as shown on the official zoning maps. For property which is located within another jurisdiction, the zoning administrator shall determine the comparable zoning category, and be guided in making the determination by the actual use of the property. The receiving zones shall include property with the zoning classifications set forth below:

- a. *Commercial receiving zone.* A commercial receiving zone is property zoned commercial (C-1), commercial office (CO), highway commercial (HC), planned development -- shopping centers (PDSC), planned development -- mixed commercial (PDMC), the commercial areas of a planned unit development (PUD), and any other commercial zoning district.

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- b. *Industrial receiving zone.* An industrial receiving zone is property zoned light industrial (LI), highway industrial (HI), planned development -- industrial park (PDIP), the industrial areas of a planned unit development (PUD), and any other industrial zoning district.
- c. *Public space or institutional receiving zone.* A public space or institutional receiving zone is property determined by the zoning administrator to be a public facility or an institution.
- d. *Rural areas and residential receiving zone.* The rural areas and residential receiving zone is that property zoned rural areas (RA), village residential (VR), residential (R-1, R-2, R-4, R-6, R-10, and R-15), planned residential development (PRD), the residential area of a planned unit development (PUD), the portions of the University of Virginia located within Albemarle County, and any other rural or residential zoning district.

*Sound level meter.* The term “sound level meter” means an instrument used for making sound level measurements which meets the requirements of the American National Standards Institute Type II rating.

*Source sound level.* The term “source sound level” means the equivalent sound level of the source being measured.

*Total sound level.* The term “total sound level” means the equivalent sound level of the source being measured and ambient sound before correction to determine the source sound level.

(Ord. 00-18(3), 6-14-00)

**State law reference** – Va. Code § 15.2-2280.

### 4.18.03 PROCEDURE FOR MEASURING SOUND

Each sound meter reading shall be conducted as provided herein:

- A. *Instrument of measurement.* Each sound measurement shall be taken only from a sound level meter.
- B. *Calibration of sound level meter.* An acoustic calibrator authorized by the manufacturer of the sound level meter shall properly calibrate the sound level meter used for each sound measurement. The calibration shall have been performed within twelve (12) months prior to the date of such reading. The user of the sound level meter shall also have calibrated the sound level meter within one (1) hour prior to taking such sound measurements.
- C. *Weather conditions.* A windscreen shall be used on the sound level meter when sound measurements are being taken. No outdoor sound measurements shall be taken during rain or during weather conditions in which wind sound is distinguishable from, and is louder to the ear than, the sound source being tested.
- D. *Scale.* Each sound measurement shall be expressed in units of the sound level (dBA), in accordance with American National Standards Institute specifications for sound level meters. Each measurement shall be made using the A-weighted scale with fast response, following the manufacturer's instructions and measuring the equivalent sound level. Impulse sounds shall be measured as the maximum reading and not the equivalent sound level.
- E. *Place of sound measurement.* Each sound measurement shall be taken no closer to the sound source than the property lines of the receiving zone properties or the property line along which a street fronts. If the property line of a receiving zone property is not readily determinable, the sound measurement shall be taken from any point inside the nearest receiving zone property, or within an occupied structure located on receiving zone property.

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If the property line abutting a street is not readily determinable, the sound measurement shall be taken from the edge of the pavement which is closest to the source of the sound. Each sound measurement taken of a sound source within a multifamily structure, such as an apartment building, townhouse development and the like, may be made: (i) within the interior of another residential unit in the same structure or the same development; or (ii) from common areas.

- F. *Orientation of microphone.* To the extent that it is practical to do so, the microphone of the sound level meter shall be positioned four (4) to five (5) feet above the ground or floor. The orientation recommended by the manufacturer of the sound level meter shall supersede the foregoing orientation if the manufacturer's recommendation conflicts therewith.
- G. *Duration of measurement.* Each sound measurement shall be taken over a period of five (5) continuous minutes, unless the sound being measured is an impulse sound. If the sound being measured is an impulse sound, each sound measurement shall be taken during the "impulse" or emission of that sound. The zoning administrator shall determine whether a sound is an impulse sound for purposes of determining the duration of the sound measurement.
- H. *Ambient sound measurement.* The ambient sound shall be measured for each sound measurement as follows:
  - 1. The ambient sound level shall be averaged over a period of time comparable to that for the measurement of the particular sound source being measured.
  - 2. In order to obtain the ambient sound level, the sound source being measured shall be eliminated by the source ceasing its sound-producing activity and the ambient sound level shall be obtained from the same location as that for measuring the source sound level. If the sound from the sound source cannot be eliminated, the ambient sound level shall be measured from an alternative location whose ambient sound level is not affected by the sound source in accordance with the following procedure:
    - a. The alternative location should be as close as feasible as that for measuring the source sound level, but located so that the sound from the source has as little effect as possible on the ambient sound level measurement. Even if the source sound is audible or is sufficient to raise the sound level above that which would be measured were it inaudible at the alternative location, the reading is sufficient for the purpose of this procedure.
    - b. The alternative location chosen must be such that structures in the vicinity are similar in size and distribution, and the local topography is similar in character to the location for the source sound level measurement.
    - c. Traffic conditions at the time the ambient sound level is measured must be similar to those at the location for the sound source measurement.
- I. *Determining source sound level.* Except for new equipment for which the owner provides manufacturer's specifications related to sound levels accepted by the zoning administrator, the sound level from a sound source shall be determined by correcting the total sound level for ambient sound in accordance with the following procedure:
  - 1. Subtract the maximum measured ambient sound level from the minimum measured total sound level.
  - 2. In Row A below, find the sound level difference determined under paragraph (1) and its corresponding correction factor in Row B.

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<b>Row A Sound Level Difference (Decibels)</b>	0.5	1	2	3	4	5	6	7	8	9	10
<b>Row B Correction Factor (Decibels)</b>	9.6	7	4	3	1.8	1.6	1.2	1.0	0.75	0.6	0.5

3. Subtract the value obtained from Row B under paragraph (2) from the minimum measured total sound level to determine the source sound level.
4. If the difference between the total sound level and the ambient sound level is greater than 10 dBA, no correction is necessary to determine the source sound level.

(Ord. 00-18(3), 6-14-00)

**State law reference** – Va. Code § 15.2-2280.

**4.18.04 MAXIMUM SOUND LEVELS**

Except as provided in section 4.18.05, it shall be unlawful for any person to operate or cause to be operated, any source such that the sound originating from that source causes a sound level that exceeds the sound levels in the receiving zone, measured pursuant to section 4.18.03, as set forth below:

<b>Receiving Zone</b>	<b>Time Period</b>	<b>Noise Level (dBA)</b>
Rural Areas and Residential	Daytime	60
	Nighttime	55
Public Space or Institutional	Daytime	60
	Nighttime	55
Commercial	Daytime	65
	Nighttime	65
Industrial	Daytime	70
	Nighttime	70

(Ord. 00-18(3), 6-14-00)

**State law reference** – Va. Code § 15.2-2280.

**4.18.05 EXEMPT SOUNDS**

The following sounds shall not be subject to this section 4.18:

- A. *Animals.* Sounds generated from animals including, but not limited to, barking dogs.
- B. *Church bells or chimes.* Sounds generated by church bells or chimes.
- C. *Construction, demolition and/or maintenance activities.* Sounds generated from construction, demolition and/or maintenance activities between 7:00 a.m. and 10:00 p.m.
- D. *Emergency operations.* Sound generated in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger, and sounds generated by power generators during power outages and other emergency situations.

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- E. *Firearms.* Sounds generated from the lawful discharge of a firearm; provided that this exemption shall not apply to gun clubs or shooting ranges, nor to firearms discharged at a gun club or a shooting range.
- F. *Parades, fireworks and similar events.* Sounds generated from parades, fireworks, and other events determined to be similar by the zoning administrator prior thereto.
- G. *Protected expression.* Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression.
- H. *Public facilities.* Sounds generated from the operation of a public facility or public use or activity including, but not limited to, sounds generated from school athletic contests or practices, and other school activities.
- I. *Residential air conditioning units.* Sounds generated from residential air conditioning units.
- J. *Silvicultural or agricultural activities.* Sounds generated during lawfully permitted bona fide silvicultural or agricultural activities including, but not limited to, logging activities and sounds caused by livestock.
- K. *Transient sounds from transportation.* Transient sounds generated by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit.
- L. *Warning devices.* Sounds generated by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.
- M. *Yard maintenance activities.* Sounds generated from routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing.

(Ord. 00-18(3), 6-14-00)

**State law reference** – Va. Code § 15.2-2280.

**4.18.06 EXISTING SOUND SOURCES**

Each existing sound source existing on the effective date of this section 4.18 shall be regulated as follows:

- A. Each existing sound source that complies with the maximum sound levels established in section 4.18.04 shall comply with all requirements of this section 4.18 rather than an applicable prior regulation.
- B. Each existing sound source that does not comply with the maximum sound levels established in section 4.18.04 shall not increase its sound level. Such a sound source shall comply with such sound levels whenever a building, structure, equipment or machinery thereof is expanded, enlarged, extended or replaced, unless a modification, waiver or variation is granted as provided in section 4.18.07.

(Ord. 00-18(3), 6-14-00)

**State law reference** – Va. Code § 15.2-2280.

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**4.18.07 MODIFICATION OR WAIVER**

Any standard of section 4.18.04 may be modified or waived in an individual case, as provided herein:

- a. The commission may modify or waive the standard set forth in section 4.18.04 in a particular case upon finding that strict application of the standard would cause undue hardship and not forward the purposes of this chapter or otherwise serve the public health, safety or welfare, or that alternatives proposed by the owner would satisfy the purposes of this section 4.18 at least to an equivalent degree.
- b. The commission may impose conditions on the modification or waiver that it deems appropriate to further the purposes of this chapter.
- c. Prior to considering a request to modify or waive, five (5) days' written notice shall be provided to the owner, owner's agent or occupant of each abutting lot or parcel and each parcel immediately across the street or road from the lot or parcel which is the subject of the request. The written notice shall identify the nature of the request and the date and time the commission will consider the request.
- d. The board of supervisors shall consider a modification or waiver of any standard of section 4.18.04 only as follows:
  1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
  2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (A), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (B).

(Ord. 00-18(3); Ord. 01-18(4), 5-9-01)

**State law reference** – Va. Code § 15.2-2280.