

**TITLE SIX
TOWN OF BRIDGEWATER
ZONING**

*(Enacted November 10, 1981)
(Reenacted August 12, 1986)*

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CHAPTER 1
Title and Purposes

§ 6-1. Title. A code to provide for the establishment of zoning districts within which the proper use of land and natural resources shall be encouraged and regulated; to establish minimum standards for open space, building and population density; to regulate the occupancy and use of dwellings, buildings and structures, that may hereafter be erected, altered, or moved; to provide for the administration hereof; to provide for a method of amending; to provide for conflicts with other acts, codes, or regulations; to provide for the collection of fees for the furtherance of the purpose of this code; to provide for petitions and public hearings; to provide for appeals; to provide for penalties for the violation of this code.

§ 6-2. Short Title. These regulations shall be known and may be cited as “The Zoning Code of Bridgewater.”

§ 6-3. Purposes. This Title is enacted for the purposes set forth in § 15.2-2283 of the Code of Virginia. (Amended October 13, 2009.)

THE TOWN COUNCIL DOES ORDAIN AND ENACT INTO LAW THE FOLLOWING ARTICLES AND SECTIONS.

CHAPTER 2
Zoning Districts and Map

§ 6-4. Establishment of Zoning Classifications. For the purpose of promoting the public health, safety, morals, convenience, and the general welfare of the community, the Town of Bridgewater has designated the land within its boundaries by certain zoning classifications as set forth in this Title. (Amended August 8, 2000; December 11, 2007.)

§ 6-5. Zoning Map. The location and boundaries of the zoning districts established by this code are denoted and defined as shown on the map entitled “Zoning Districts of Bridgewater, Virginia,” and certified by the town clerk. The said map, together with everything shown thereon, is hereby incorporated into this code as if fully set forth and described herein.

The zoning map shall be kept and maintained by the zoning administrator and shall be available for inspection and examination by the public at all reasonable times as any other public record.

§ 6-6. Scope of Regulations. (Repealed August 13, 1996.)

§ 6-7. Rules for Interpretation of District Boundaries. (Amended October 10, 2017.)

- (a) Boundaries shown as following or approximately following Public Ways shall be construed to follow the center lines of such Public Ways. Likewise, all Public Ways shall carry the zoning classification of the parcels which abut them, each such parcel controlling the Public Way’s zoning classification to the center line of the way. Nevertheless, nothing in this title shall restrict the Town’s use of Public Ways or other publicly owned property.

For Purposes of this paragraph (a), a “Public Way” is any public highway, street, or alley. (Amended October 10, 2017.)

- (b) Boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be said boundary lines.

- (c) Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses.
- (d) Boundaries shown as following or closely following the limits of the Town of Bridgewater shall be construed as following such limits.
- (e) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Zoning Appeals.
- (f) (Repealed October 10, 2017.)

§ 6-8. Annexed Territory. Any territory hereafter annexed to the town shall be zoned A-1. Upon annexation, the Council will institute proceedings to determine a more appropriate classification, if such should exist. (Amended July 10, 2018.)

CHAPTER 3 **Administration and Enforcement**

§ 6-9. Administrative Officer. The provisions of this code shall be administered by the zoning administrator or his designated assistant who shall:

- (a) Issue all zoning permits and make and maintain records thereof.
- (b) (Repealed August 13, 1996.)
- (c) Maintain and keep current zoning maps, and records of amendments thereto.
- (d) Conduct such inspections as are necessary to ensure compliance with the various provisions of this code. After making a reasonable effort to obtain the consent of the owner or occupant of real property for an administrative inspection, the Zoning Administrator may apply to a magistrate or court of competent jurisdiction for the issuance of an inspection warrant. The magistrate or court shall issue an inspection warrant to determine whether violations of this title exist, if the testimony of the Zoning Administrator or his agent establishes probable cause of such a violation.

The Zoning Administrator shall have the authority specified in § 15.2-2286 of the Code of Virginia, and such other authority as may be granted by law.

(Amended August 13, 1996, October 13, 2009.)

§ 6-10. Permits Required. (Repealed December 8, 1992.)

§ 6-11. Zoning Permit. No Person shall commence any of the following activities without first obtaining a zoning permit from the Zoning Administrator:

- (i) The erection, construction, enlargement, alteration, repair, or improvement of any Building or Structure, if such activities require a building permit under the Uniform Statewide Building Code;

- (ii) The installation of any Ground Sign or Roof Sign, other than Temporary Signs;
- (iii) The operation of a business in a fixed location;
- (iv) The leasing of space to another Person for the operation of a business.
- (v) Changing the use of a Lot so that a different parking classification under § 6-180.1 applies to it.
- (vi) The construction, enlargement, alteration, repair or improvement of any Building or Structure in Special Hazard Flood Area as defined in § 6-135.6(1a).
- (vii) The erection of unattached buildings of accessory use on any residentially zoned property. (Added May 11, 2021.)

Staff Opinion: Short-Term Rentals raise questions with respect to § 6-11 (iii). A Bridgewater Staff Opinion is that a short-term-rental property which does not require a business license under § 19-302 is not a “business” requiring a zoning permit. (March 3, 2020.)

The Zoning Administrator shall develop a form for the application for a zoning permit. He may require that the form be used for all applications. He may require such supporting documentation as he deems reasonable in addition to the form. Without limiting the foregoing, if proposed construction involves significant questions of land disturbance, public infrastructure, or stormwater drainage, the Zoning Administrator may require a site plan as described in § 5-10(b) of the Town Code. If a site plan is required, the fees prescribed in § 5-10(b) shall apply in addition to those prescribed for a zoning permit.

The legal effect of a zoning permit is to declare that, at the time of issuance, the proposed use or structure is permissible under this Title. It does not guarantee such permissibility into the future except to the extent required by Va. Code §15.2-2307. (Added May 11, 2021.)

Notwithstanding the foregoing, the Zoning Administrator may issue blanket permits which authorize all occurrences of a specified set of circumstances. A blanket permit may be withdrawn, but any Structures or uses authorized by the permit while it was in force shall remain permitted.

In reviewing a permit application in a Special Hazard Flood Zone (as defined in § 6-135.6) the Zoning Administrator shall review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards. The Zoning Administrator shall also review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (44 CFR § 60.3(a))

(Amended December 8, 1992, August 13, 1996, October 13, 2009, October 8, 2013, January 9, 2018.)

§ 6-12. Forms for Zoning Permits. (Repealed August 13, 1996.)

§ 6-13. Building Permit. (Repealed August 13, 1996.)

§ 6-14. Certificate of Occupancy. (Repealed December 8, 1992.)

§ 6-15. Amendments. The regulations, restrictions, boundaries, and options set forth in this code may be amended, supplemented, revised, or repealed from time to time as may be required to further (i) public necessity, (ii) convenience, (iii) general welfare, or (iv) good zoning practice, subject to the following conditions.

- (a) *Initiation.* An amendment may be proposed by resolution of council or by motion of the planning commission; either body initiating a proposed amendment shall specify which of the public purposes listed above underlie the amendment. An amendment may also be proposed by application of the landowner, contract purchaser (with the owner's permission), or the owner's authorized agent.
- (b) *Application.* An application for a proposed amendment or rezoning shall be filed with the Administrator, on behalf of the council. The application shall contain such information and sketches as the Administrator may require. Application fees will be set by the council from time to time.
- (b) *Public Hearing.* Public hearings shall be held as required by state law.
- (c) *Report to the Town Council.* The planning commission shall make a recommendation to the town council upon all such applications and no amendment shall be passed except by a majority vote of the councilmen present and voting.

(Amended December 8, 1992; August 13, 1996.)

§ 6-15.1. Incentive Zoning. Notwithstanding any other provision of this title, the council may relax any area, dimensional, setback, or density requirement within a development in return for the developer's provision of certain features or amenities desired by the council and located within the development. (Code of Virginia, §§ 15.1-491(j), 15.1-430(t).) (Enacted August 13, 1996.)

§ 6-16. Fees. Fees shall be established by the town council.

§ 6-17. Penalties.

- (a) *Civil Penalties.* Except as provided in paragraph (b) below, all violations of this Title shall carry civil penalties as prescribed by this paragraph (a).
 - (1) Schedule of Penalties.
 - (A) For a first summons regarding a violation, the civil penalty shall be \$200, if the Town provided [Notice](#) of the violation at least 10 days prior to the issuance of summons. If the Town did not provide such [Notice](#), the penalty shall be \$25.
 - (B) For each subsequent summons, the civil penalty shall be \$500.
 - (C) Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period,

and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.

(2) Process

- (A) The Administrator may issue a civil summons for any violation within this paragraph (a).
- (B) Any person summoned for such violation may make an appearance in person or in writing by mail to the Town Treasurer prior to the date fixed for trial in court.
- (C) Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- (D) If a person charged does not elect to enter a waiver-of-trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.
- (E) In any trial for a scheduled violation authorized by this section, it shall be the Town's burden to show the liability of the violator by a preponderance of the evidence.
- (F) If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(3) General

- (A) "Notice" for purposes of this section shall mean a written notice hand-delivered to a person found in charge of the site or mailed to the address of the landowner at the mailing address listed with the Rockingham County Commissioner of the Revenue.
 - (B) The existence of a civil penalty under this paragraph (a) shall not preclude action by the [Administrator](#) under of § [15.2-2286\(A\)\(4\)](#) or action by the Council under § [15.2-2208](#).
 - (C) The penalties provided by this paragraph (a) shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
- (b) Criminal Penalties. Violations of this Title related to (i) activities related to land development activities or (ii) the posting of [Signs](#) on public property or public rights-of-way, shall be punishable as provided in this paragraph (b). Such violation shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to

abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,000, and any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$100 nor more than \$1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than \$2,000. (Ed. Note: State code requires that (b) remain for these types of violations.)

(Amended May 14, 2019.)

§ 6-18. *Validity.* Should any section, clause or provision of this code be declared by the court to be unconstitutional or invalid, this judgment shall not affect the validity of the code as a whole or any part thereof than the part judged invalid.

§ 6-19. *Conflicts With Other Laws.* In the interpretation and application of the provisions of this code, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and the general welfare. Whenever the requirements of this code are at variance with the requirements of other lawfully adopted rules, regulations, or codes, the most restrictive, or that imposing the higher standards, shall govern.

§ 6-20. *Repealer.* Any ordinance or code now in effect that conflicts with any provisions of this code is hereby repealed, held to be invalid, and to no effect.

§ 6-21. *Effective Date.* This code shall take effect and be in full force after its passage and publication according to law.

CHAPTER 4 **Definitions**

§ 6-22. *Definitions.* For the purpose of this ordinance, the following words shall carry the definitions set forth in this section, unless the context shall plainly require otherwise: (Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.)

- (1) Abattoir: A commercial slaughter house.
- (1.1) Abut..... Properties abut when they are contiguous, without separation by a public street or otherwise. (Added October 10, 2017.)
- (2) Accessory use of Structure...(Repealed August 13, 1996.)
- (3) AcreageA parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.
- (4) Administrator, The The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

- (5) Agriculture:The tilling of the soil, the raising of crops, horticulture, forestry, and gardening, including the keeping of animals and fowls, and including any agricultural industry or business such as fruit packing plants, dairies, or similar uses.
- (6) Alteration:Any change in the total floor area, use, adaptability, or external appearance of any existing structure.
- (7) Automobile Graveyard:..Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.
- (8) Basement:.....A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.
- (9) Bed and Breakfast Facility, Limited:.....A limited bed and breakfast facility is a structure in which guests are provided with sleeping quarters for a fee. The proprietor shall reside in the facility, or the facility shall be located on the same lot as the proprietor's dwelling. To qualify, the facility shall employ no more than two persons not residing in the structure. The structure must appear to be an ordinary dwelling and carry no indicia of housing a bed and breakfast facility. Guests may be provided with morning meals (but not other meals), and may not be lodged for more than 14 consecutive days. (This definition added December 9, 1986.)
- (10) Boarding House:.....A building where, for compensation, lodging and meals are provided for at least five and up to 14 persons.
- (11) **Building**:.....Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals, or chattels.
- (12) **Building, Accessory**:A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used as a Dwelling Unit. (Amended May 11, 2021.)
- (13) **Building, Height of**:The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.
- (14) **Building, Main**:The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

- (15) Cellar:A story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.
- (16) Commission, The: The planning commission of the town.
- (17) Contiguous: Two parcels of land are contiguous if they adjoin each other or if they are separated only by a public street. (Added September 11, 1990.)
- (18) Dairy:.....A commercial establishment for the manufacture and sale of dairy products.
- (19) Day Care Facility,
Limited: A day care facility is a use in which a proprietor supervises children for a fee. To qualify as a limited day care facility, the following conditions must be met:
1. Children must not be kept overnight,
 2. The maximum enrollment shall be 9 children,
 3. The proprietor shall reside in the facility or on the same lot as the facility,
 4. The facility shall employ no more than two persons not residing in the structure or on the same lot, and
 5. The facility shall appear to be an ordinary dwelling and shall carry no indicia of housing a limited day care facility, other than such indicia as might ordinarily be present at a dwelling.
- (20) Dwelling:.....Any structure which is used—or proposed to be used—for residential purposes, except Hotels, Boarding Houses, Lodging Houses, tourist cabins, automobile trailers, mobile homes, and nursing homes. (Amended September 11, 1990; November 11, 2003.)
- (21) Dwelling,
Multiple-Family: A Dwelling arranged or designed to be occupied by more than two families (Amended January 9, 2007; Amended January 8, 2019.)
- (22) Dwelling, Two-Family:..A Dwelling arranged or designed to be occupied by two families, the structure having only two dwelling units. (Amended January 8, 2019.)
- (23) Dwelling, Single-Family:A Dwelling arranged or designed to be occupied by one family, the structure having only one dwelling unit. (Amended January 8, 2019.)
- (24) Dwelling Unit:.....One or more rooms in a Dwelling which have the potential for autonomous occupancy by a Family. For purposes of this definition, ‘autonomous occupancy’ is an occupancy which is substantially independent from other occupancies in the Dwelling. In determining whether the potential for an autonomous occupancy exists, the Administrator shall consider the totality of the proposed

use, including, without limitation, the existence of separate kitchens, bathroom facilities, and exits.

.....A Single-Family Dwelling will contain a single Dwelling Unit, a Two-Family Dwelling will contain two Dwelling Units, etc.

.....(Amended September 11, 1990; November 11, 2003, October 13, 2009.)

(25)FamilyOne of the following: (i) one person living alone, (ii) two or more people who are related by blood, marriage or adoption and comprise a single housekeeping unit, or (iii) two or more people who comprise a single housekeeping unit, have a joint right to occupy the premises, and are legally domiciled at the premises, together with their legal dependents.

Additionally, the term “Family” shall include two or fewer persons who provide ‘family assistance services’ for a fee. ‘Family assistance services’ shall mean nursing care, child care, cooking, or cleaning for the sole benefit of other residents of the Dwelling Unit

(Amended August 13, 1996; November 11, 2003.)

(26) Front:An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

(27) Garage, Private:Accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is an accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units.

(28) Garage, Public:A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.

(29) Governing Body:The Council of the Town of Bridgewater, Virginia.

(30) Gross Development

Acreage:With respect to planned unit developments, the gross development acreage is the area within the outer perimeter of the development. (Added September 11, 1990.)

(31) Guest Room:A room which is intended, arranged, or designed to be occupied, or which is occupied, by one or more guests paying direct compensation therefor, but in which no provision is made for cooking. Dormitories are excluded.

(32) Hog Farm:(Repealed August 13, 1996.)

(33) Home Garden:A garden in a residential district for the production of vegetables, fruits and flowers generally for use and/or consumption by the occupants of the premises.

(33.1) Home Occupations,

Level One:..... Any commercial endeavor which is undertaken in a structure used as a residence and meeting the following criteria:

- The person conducting the home occupation must be a resident of the Dwelling in which the home occupation is to be located.
- The home occupation shall be operated only by persons residing in the Dwelling, with no other employees permitted.
- The home occupation shall be clearly secondary to the use of the Dwelling as a residence and shall not occupy more than 25% of the living area of the Dwelling.
- The home occupation shall not generate significantly more traffic than is typically generated by residential uses in the neighborhood.
- The exterior of the dwelling shall show no evidence of the attendant home occupation. There shall be no outside display of products, goods, or commodities in conjunction with the home occupation. The use of a sign shall also be prohibited.

(33.2) Home Occupations,

Level Two:A commercial endeavor undertaken in a structure used as a residence which does not qualify as a Level One Home Occupation but does meet the following criteria:

- The person conducting the home occupation must be the owner of the Dwelling in which the home occupation is to be located, or if the person is a tenant, written approval of the owner must be provided.
- The home occupation shall be operated by persons residing in the Dwelling but may employ up to two other persons.
- The home occupation shall not occupy more than 25% of the living area of the Dwelling.
- Except for the daily commute of employees, the home occupation shall not generate significantly more traffic than is typically generated by residential uses in the neighborhood.
- The exterior of the Dwelling shall show no evidence of the attendant home occupation. There shall be no outside display of products, goods or commodities in conjunction with the home occupation. The use of a sign shall also be prohibited.

- (34) Hospital: An institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental or feeble-minded patients, epileptics, alcoholics, or drug addicts.
- (35) Hospital, Special Care: ... A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics, or drug addicts.
- (36) Hotel: A building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are, for compensation, lodged with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.
- (37) Kennel: A place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.
- (38) Livestock Market: A commercial establishment wherein livestock is collected for sale and auctioned off.
- (39.1) (Deleted January 8, 2019.)
- (39.2) Location The broadest of the following: (i) a lot, (ii) a single commercial enterprise or development which spans multiple lots, or (iii) a discrete shopping center comprised of multiple commercial enterprises.”. (Added October 8, 2013.)
- (39) Lot: A parcel of land occupied or to be occupied by a main structure or group of main structures, together with such yards, open spaces, lot width and lot areas as are required by this ordinance, and having frontage upon a street either shown on a plat of record or considered as a unit of property and described by metes and bounds.
- (40) Lot, Corner: A lot abutting on two or more streets at their intersection. The front of a corner lot shall be deemed to be the shortest of the sides fronting on streets. (Amended December 9, 1986.)
- (41) Lot, Depth of: The horizontal distance between the front and rear lot lines. (Amended December 8, 1992.)
- (42) Lot, Interior: Any lot other than a corner lot.
- (43) Lot, Width of: The horizontal distance between side lot lines. (Amended December 8, 1992.)
- (44) Lot of Record: A lot which has been recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia.
- (44.1) Main Street
Entrance Point Any driveway, lane, parking lot, or other surface capable of allowing vehicular access to or from Main Street without first

traveling on another street (either a public street accepted by the Town or a private street approved as part of a planned unit development). (Added March 14, 2000.)

(45) Manufacture and/or

Manufacturing: The processing and/or converting of raw, unfinished materials or products, or either of them, into articles or substances of different character, or for use for a different purpose.

(46) Mobile Home: A mobile home is anything intended for human habitation and designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor unpacking and assembly operation, location on jacks or permanent foundations, and connection to utilities and the like. (Amended December 9, 1986.)

(47) Mobile Home Park

or Subdivision: Any area designed to accommodate two or more mobile homes intended for residential use where residence is in mobile homes exclusively.

(47.1) Neighborhood

Public Utilities Facilities which are (i) related to utility services such as electricity, telephone, cable television, natural gas, water or sewer and (ii) of a type generally used to provide service to the immediate vicinity of the facility. The term does not include Telecommunications Antennas or Towers. The term also does not include any utility poles which (i) exceed 65 feet in height, (ii) have cross arms exceeding six feet in length, or (iii) have a diameter in excess of 36 inches. Finally, the term does not include anything included within the definition of 'Wide-Area Public Utility' below. Nothing in this definition allows overhead utility lines where any law or regulation requires them to be underground. (Added June 13, 2000.)

(48) Net Development

Acreage: With respect to planned unit developments, the net development acreage is the gross development acreage, less any areas to be used for PUD commercial uses, uses for community facilities, churches and other religious institutions, schools, and streets. Open space shall be included in net development acreage. (Added September 11, 1990.)

(49) Nonconforming Lot: (Repealed August 13, 1996.)

(50) Nonconforming Activity (Repealed August 13, 1996.)

(51) Nonconforming Structure (Repealed August 13, 1996.)

(52) Nursing Home: An institution for the care of children or the aged or infirmed, not including facilities for the care and treatment of mental illness, alcoholism, or narcotic addiction. (Added September 11, 1990.)

- (53) Office:A room, series of rooms, or building principally devoted to performance of administrative, managerial, clerical, or professional tasks. (Added September 11, 1990.)
- (54) Off-Street Parking Area: Space provided for vehicular parking outside the dedicated street right-of-way.
- (55) Open Space: With respect to planned unit developments, open space is any area of the development, in common or private ownership, which is left undistributed or is developed as a landscaped area and unoccupied by habitable buildings, streets, or parking areas. (Added September 11, 1990.)
- (56) Person:..... Any natural person, firm, corporation, association, or other entity. (Added December 8, 1992.)
- (57) (Deleted June 13, 2000.)
- (58) Public Water and Sewer Systems:..... A water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.
- (59) PUD Commercial Use: ..Any permitted use in a planned unit development which is so designated. (Added September 11, 1990.)
- (60) Rear: An open, unoccupied space on the same lot as a building between (excluding steps) and the rear line of the lot and extending the full width of the lot.
- (61) Required Open Space:.... Any space required in any front, side, or rear yard.
- (62) Restaurant:..... Any building in which for compensation food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops or refreshment stands.
- (63) Retail Stores and Shops:. Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards), such as the following which will serve as illustration: drug store, newsstand, wood store, candy shop, milk dispensary, drygoods and notions store, antique shop and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.
- (64) School:..... A place for systematic instruction in any branch or branches of knowledge.
- (65) Setback: The minimum distance by which any building or structure must be separated from the front lot line.

- (65.1) Short Term Rental:.... As provided in § 17-301 of the Town Code. (Added May 11, 2021.)
- (66) Side:.....An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.
- (67) Story:That portion of a building, other than the Basement, included between the surface of the floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.
- (68) Story, Half:A space under a sloping roof which has the line intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.
- (68.1) Street:..... The full width of the Town’s right-of-way or dedicated street or alley area. A “Street” may extend beyond the traveled and paved area. A “Street” includes any adjoining sidewalk. (Added May 11, 2021.)
- (69) Structure:Anything constructed or erected the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.
- (69.1) Telecommunications
 Antenna: When used anywhere in this Code, the term Telecommunications Antenna shall have the meaning set forth in § 6-255. (Added June 13, 2000.)
- (69.2) Telecommunications
 Tower:..... When used anywhere in this Code, the term Telecommunications Antenna shall have the meaning set forth in § 6-255. (Added June 13, 2000.)
- (70) Tourist Court, Auto Court, Motel, Cabins, or Motor Lodge:One or more buildings containing individual sleeping rooms designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.
- (71) (Deleted May 11, 2021.)
- (72) Townhouse:A portion of a Multi-Family Dwelling which (i) contains a single Dwelling Unit, (ii) sits on a discrete Lot with no other principal Structures, and (iii) is designed for separate ownership, along with the Lot. (Amended January 9, 2007.)
- (72.1) Townhouse Cluster..A single Building comprised of separate Townhouses. (Amended January 9, 2007.)

- (73) Travel Trailer:A mobile unit less than 29 feet in length and less than 4,500 pounds in weight which is designed for human habitation.
- (74) Use, Accessory:.....A subordinate use, customarily incidental to and located upon the same lot occupied by the main use.
- (74.1) VarianceA reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of this Title would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such Variance is not contrary to the purpose of this Title. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.
- (75) Wayside Stand, Roadside Stand,
Wayside Market:Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.
- (75.1) Wide Area Public
Utilities:Facilities which are (i) related to utility services such as electricity, telephone, cable television, natural gas, water or sewer and (ii) used to provide service beyond the immediate vicinity of the facilities. The term includes electrical substations, telephone switching facilities, and similar equipment. The term does not include Telecommunications Antennas or Towers. (Added June 13, 2000.)
- (76) Yard:An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

§ 6-22.1. Supplemental Definitions—Adult Businesses.

Notwithstanding any contrary provision in this title, Adult Businesses are distinct from and mutually exclusive of all other uses defined or referenced in this code. Accordingly, if a use falls within the definition of an Adult Business, it cannot qualify as a “retail store,” “restaurant,” or other use.

For purposes of this Title, the following definitions apply:

- (1) *Adult Business*: An Adult Business is (i) an Adult Theatre, (ii) Adult Store, (iii) any business providing Adult Entertainment, or (iv) any other establishment that regularly emphasizes materials or demonstrations relating to Specified Sexual Activities or Specified Anatomical Areas or is intended for the sexual stimulation or titillation of patrons.

- (2) *Adult Theatre:* An Adult Theatre is an establishment which presents for the viewing or listening of patrons materials characterized by (i) their emphasis on Specified Sexual Activities or Specified Anatomical Areas or (ii) the intent to provide sexual stimulation or titillation of patrons.
- (3) *Adult Store:* An Adult Store is an establishment which sells or rents
- a) Materials (whether printed or in electronic, optical, magnetic, or other media) characterized by
 - i) Their emphasis on Specified Sexual Activities or Specified Anatomical Areas or
 - ii) Their predominant purpose being to provide sexual stimulation or titillation of patrons, or
 - b) Toys, novelties, instruments, devices or paraphernalia which represent human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

Nevertheless, if the aforementioned items constitute only an insubstantial portion of an establishment's stock-in-trade, the establishment shall not be considered an Adult Store. For purposes of this paragraph, an "insubstantial portion" is less than five percent of the establishment's stock-in-trade.

- (4) *Adult Entertainment:* Adult Entertainment is dancing, modeling, or other live performances in which the performance (i) is characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities, or (ii) is intended for the sexual stimulation or titillation of patrons. Adult Entertainment also includes the presentation of materials or images (irrespective of the media) characterized by their emphasis on Specified Sexual Activities or Specified Anatomical Areas or the intent to provide sexual stimulation or titillation of patrons.
- (5) *Specified Anatomical Areas:* Specified Anatomical Areas are as follows:
- a) If less than completely and opaquely covered: human genitals, pubic region, buttock; and the female breast below a point immediately above the top of the areola, and
 - b) Irrespective of coverage: human male genitals in a discernibly turgid state.
- (6) *Specified Sexual Activities:* Specified Sexual Activities are as follows:

- a) The display of—or the reference to—human genitals in a state of sexual stimulation or arousal;
- b) Acts of human masturbation, sadomasochistic abuse, sexual penetration with an inanimate object, sexual intercourse or sodomy, or
- c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(Added January 9, 2007.)

CHAPTER 5
R-1 Residential District

§ 6-23. Legislative Intent. This district is intended to be used for low density single-family residential development with accessory uses necessary or compatible with residential surroundings. The additional permitted uses, by review of the town council, includes facilities sometimes required to provide the basic elements of a basic and attractive residential area.

§ 6-24. Uses Permitted as a Matter-of-Right.

- (a) One Single-family Dwelling, occupied by a single Family. (Amended November 11, 2003.)
- (a1) A Dwelling used as a Short-Term Rental, as defined in § 17-301, but otherwise compliant with paragraph (a) above. This paragraph does not apply to Short-Term Rentals barred under § 17-301(e).
(Added January 8, 2019.)
- (b) Limited Day Care Facilities, as defined.
- (c) Temporary Buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.
- (d) Neighborhood Public Utilities. (Amended June 13, 2000.)
- (e) Accessory Uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any Accessory Building shall be located on the same lot with the principal building.
- (f) Level One Home Occupations, as defined in § 6-22(33.1). (Added December 14, 2004.)

§ 6-25. Uses Permitted with Special Use Permit. The following uses may be permitted in accordance with provisions contained in Chapter 22:

- (a) Schools, as defined.
- (b) Churches or similar places of worship, with accessory structures but not including missions or revival tents.

- (c) Public parks, playgrounds and playfields, golf courses (but not miniature courses or driving tees operated for commercial purposes), swimming pools not accessory to residential property usage, and tennis courts. (Amended May 11, 2021.)
- (d) Wide-Area Public Utilities. (Amended June 13, 2000.)
- (e) Limited bed and breakfast facilities, as defined. (Added December 9, 1986.)
- (f) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27. (Added June 13, 2000.)
- (g) Level Two Home Occupations, as defined in § 6-22(33.2), upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood. (Added December 14, 2004.)
- (h) Limited Day Care Facilities identical to those allowed as a matter-of-right, except with a maximum enrollment of 12 children. (Added March 13, 2018.)
- (i) Detached structures used as Short-Term Rentals. This paragraph does not allow Short-Term Rentals barred under § 17-301(e). (Added May 11, 2021.)
- (j) Detached structures to be used as Dwelling Units on the same Lot as an existing Dwelling Unit. (Added May 11, 2021.)

LEGISLATIVE INTENT: The concept of using a detached structure for residential purposes, as described in paragraphs (i) and (j), could lead to more efficient use of real estate, but it could also lead to disruption of neighborhoods. As with all requests for special use permits, the Council will weigh the evidence carefully, and if the permit is granted, it is likely to impose safeguarding conditions.

***Area and Use Regulations
(For Dwellings Only)***

§ 6-25.1. Occupancy Limitation. In R-1 zones, no Dwelling Unit may be occupied by more than persons than the number of bedrooms in the Dwelling Unit, multiplied by 3.1. Nothing in this section shall be construed to be in conflict with applicable state or federal law (Code of Virginia, § 15.2-2286 (A)(14)). (Enacted October 13, 2009.)

§ 6-26. Minimum Lot Area. The minimum lot area shall be 10,000 square feet if Public Water and Sewer is available, if only one of such services is available the minimum lot area shall be 15,000 square feet and if neither is available the minimum lot area shall be 20,000 square feet. There shall be no more than one dwelling unit on each lot.

§ 6-27. Front Yard. For all uses permitted as a matter of right the minimum depth of the front yard shall be 35 feet from the street right of way if the street is 50 feet or greater in width and if the street is less than 50 feet in width then the minimum front yard shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

§ 6-28. Public Street Frontage and Lot Width at Setback. The minimum lot width at the setback line shall be 80 feet. Lots must either

- (a) Abut on a public street—not an alley—for a distance of 30 feet or more, or
- (b) Upon issuance of a special use permit, have access to a public street—not an alley—through
 - (i) A properly recorded and dedicated easement of right-of-way at least 16 feet in width, but such easement shall not be shared by any other lots, nor shall it be shared with any other dwelling units, or
 - (ii) An appendage of the Lot, commonly known as a “pipestem,” at least 16 feet in width. This appendage shall be part of the Lot, but it shall not be calculated as such for Lot area or dimensional purposes.

(Amended December 9, 1986, December 8, 1992, August 13, 1996, March 13, 2001.)

§ 6-29. Minimum Depth. The minimum depth of each lot shall be 100 feet.

§ 6-30. Side Yard. For a single story dwelling, no side yard shall be less than 10 feet in width, and the sum of the two side yards shall be not less than 25 feet. For dwellings of more than one story, there shall be side yards of not less than 15 feet each. Additionally, for dwellings located on corner lots, the side yard abutting the street shall be at least as wide as the minimum front yard depth specified in § 6-27. For unattached buildings of accessory use, there shall be a side yard of not less than 10 feet; provided, that unattached one story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory building are located more than ten feet behind the main building. (Amended December 9, 1986.)

§ 6-31. Rear Yard. All dwellings shall have a minimum rear yard of 30 feet. (Amended May 11, 2021.)

§ 6-32. Height Regulations. No Building or other Structure shall exceed 35 feet in height. Further, accessory buildings shall not exceed 15 feet in height. (Amended November 11, 2003.)

§ 6-32.1. Accessory Structures. Unattached Accessory Buildings use shall not exceed 15 feet in Height or be located

- (i) Wholly or partially in the Front Yard.
- (ii) Within 10 feet of the Main Building.
- (iii) Within 7 feet of an interior lot line.
- (iv) Within 5 feet of a Rear lot line.
- (v) Within 20 feet of any public Street, or
- (vi) Within the limits of a utility easement.

(Added May 13, 2021.)

§ 6-33. Maximum Lot Coverage. Dwellings and accessory buildings shall cover not more than 40% of the lot area.

§ 6-34. Off-Street Parking. As regulated in Chapter 20.

§ 6-35. Signs. As provided in Chapter 21.1. (Amended December 8, 1992.)

CHAPTER 6
R-2 Residential District

§ 6-36. Legislative Intent. This district is intended to be used for low to moderate density residential development for single-family, two-, three- or four-family dwellings and townhouse units, as well as other compatible uses.

§ 6-37. Uses Permitted as a Matter-of-Right.

- (a) Any use permitted as a matter-of-right in the R-1 Residential District.
- (b) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.
- (c) Neighborhood Public Utilities. (Amended June 13, 2000.)
- (d) Two-, three-, or four-family Dwellings. All Dwelling Units may be occupied by no more than a single Family. Each Lot may contain no more than one Dwelling structure (but there may be more than one Dwelling Unit in each.) (Amended November 11, 2003; Amended January 9, 2007; Amended May 11, 2021.)
- (d1) A Dwelling used as a Short-Term Rental, as defined in § 17-301, but otherwise compliant with paragraph (d) above. This paragraph does not apply to Short-Term Rentals barred under § 17-301 (e). (Added January 8, 2019.)
- (e) (Repealed December 14, 2004.)
- (f) Accessory uses and buildings provided such uses are incidental to the principal use and do not include any activities commonly conducted as a business. Any accessory buildings shall be located on the same lot with the principal building.

§ 6-38. Uses Permitted with Special Use Permit. The following uses may be permitted in accordance with provisions contained in Chapter 22.

- (a) Schools as defined.
- (b) Churches or similar places of worship with accessory structures but not including missions or revival tents.
- (c) Public parks, playgrounds and playfields, golf courses (but not miniature courses or driving tees operated for commercial purposes), swimming pools not accessory to residential property usage, and tennis courts. (Amended May 11, 2021.)
- (d) Wide-Area Public Utilities. (Amended June 13, 2000.)
- (e) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also service agencies not involving on premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.
- (f) Limited bed and breakfast facilities, as defined. (Added December 9, 1986.)
- (g) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27. (Added June 13, 2000.)

- (h) Level Two Home Occupations, as defined in § 6-22(33.2), upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood. (Added December 14, 2004.)
- (i) Townhouses, in accordance with Chapter 16. (Amended January 9, 2007.)
- (j) Limited Day Care Facilities identical to those allowed as a matter-of-right, except with a maximum enrollment of 12 children. (Added March 13, 2018.)
- (k) Detached structures used as Short-Term Rentals. This paragraph does not allow Short-Term Rentals barred under § 17-301(e). (Added May 11, 2021.)
- (l) Detached structures to be used as Dwelling Units on the same Lot as an existing Dwelling Unit. (Added May 11, 2021.)

LEGISLATIVE INTENT: The concept of using a detached structure for residential purposes, as described in paragraphs (k) and (l), could lead to more efficient use of real estate, but it could also lead to disruption of neighborhoods. As with all requests for special use permits, the Council will weigh the evidence carefully, and if the permit is granted, it is likely to impose safeguarding conditions.

***Area Regulations
(For Dwellings Only)***

§ 6-38.1. Division of Two-Family Dwellings. Wherever a Two-Family Dwelling is constructed in accordance with the regulations of this classification and the structure as a whole meets the requirements of this classification, individual units may be sold without regard to area requirements. No such sale of individual units of a Two-Family Dwelling shall be deemed a subdivision. (Amended August 13, 1996; January 9, 2007.)

§ 6-39. Minimum Lot Area. The minimum lot area where public water and sewer is available shall be 9,000 square feet for a one-family dwelling, 12,500 square feet for a two-family dwelling, 15,000 square feet for a three-family dwelling and 17,500 square feet for a four-family dwelling. If only one of such services is available the minimum lot area shall be 150% of the foregoing areas and if neither water nor sewer service is available the minimum lot area shall be 200% of that specified where both services are available.

§ 6-40. Front Yard. If the dwelling unit fronts on a street of at least 50 feet in width then the minimum depth of the front yard shall be 35 feet. If the street is less than 50 feet in width then the setback shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

§ 6-41. Public Street Frontage and Lot Width at Setback. The minimum lot width at the setback line shall be 80 feet for a one family dwelling, 100 feet for a two or three family dwelling, and 120 feet for a four family dwelling. Lots must either

- (a) Abut on a public street—not an alley—for a distance of 30 feet or more, or

- (b) Upon issuance of a special use permit, have access to a public street—not an alley—through
 - (i) A properly recorded and dedicated easement of right-of-way at least 16 feet in width, but such easement shall not be shared by any other lots, nor shall it be shared with any other dwelling units, or
 - (ii) An appendage of the Lot, commonly known as a “pipestem,” at least 16 feet in width. This appendage shall be part of the Lot, but it shall not be calculated as such for Lot area or dimensional purposes.

(Amended December 9, 1986, December 8, 1992, August 13, 1996, March 13, 2001.)

§ 6-42. Minimum Depth. The minimum depth for a one-family dwelling shall be 100 feet, for a two-family dwelling 125 feet, and for a three- or four-family dwelling 150 feet.

§ 6-43. Side Yard. For a one family dwelling, no side yard shall be less than 10 feet in width, and the sum of the two side yards shall be not less than 25 feet. For two or three family dwellings, no side yard (of the structure) shall be less than 15 feet in width, and the sum of the two side yards shall be not less than 35 feet. For a four family dwelling, no side yard shall (of the structure) be less than 20 feet and the sum of the two side yards shall be not less than 45 feet. Additionally, for dwellings on corner lots, the side yard abutting the street shall be at least as wide as the minimum front yard depth specified in § 6-40. For unattached buildings of accessory use, there shall be a side yard of not less than 10 feet; provided that unattached one story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory building are located more than 10 feet behind the main building. (Amended December 9, 1986; May 11, 2021.)

§ 6-44. Rear Yard. All dwellings shall have a minimum rear yard of 30 feet. (Amended May 11, 2021.)

§ 6-45. Height Regulations. No Building or other Structure shall exceed 35 feet in height. Further, accessory buildings shall not exceed 15 feet in height. (Amended November 11, 2003.)

§ 6-45.1. Accessory Structures. Unattached Accessory Buildings use shall not exceed 15 feet in Height or be located

- (i) Wholly or partially in the Front Yard.
- (ii) Within 10 feet of the Main Building.
- (iii) Within 7 feet of an interior lot line.
- (iv) Within 5 feet of a Rear lot line.
- (v) Within 20 feet of any public Street, or
- (vi) Within the limits of a utility easement.

No minimum setbacks apply along a side property line with a shared common wall between multi family dwelling units.

(Added May 11, 2021.)

§ 6-46. Maximum Lot Coverage. For one-, two- and three-family dwellings the total coverage including dwellings and accessory buildings shall not exceed 40% of the lot area and for four-family dwellings the total coverage shall not exceed 35% of the lot area.

§ 6-47. Townhouses. See Chapter 16 for regulation.

§ 6-48. Off-Street Parking. As regulated in Chapter 20.

§ 6-49. Signs. As provided in Chapter 21.1. (Amended December 8, 1992)

CHAPTER 7
R-3 Residential District

§ 6-50. Legislative Intent. This district is intended to be used for medium to high density development, residential and institutional use with necessary or compatible accessory uses.

§ 6-51. Uses Permitted as a Matter-of-Right.

- (a) Any use permitted as a matter-of-right in the R-1 or R-2 Residential Districts.
- (b) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.
- (c) Multiple-family Dwellings. All Dwelling Units may be occupied by no more than a single Family. Each Lot may contain no more than one Dwelling structure (but there may be more than one Dwelling Unit in each.) (Amended November 11, 2003; December 14, 2004; January 9, 2007; May 11, 2021.)
- (c1) A Dwelling used as a Short-Term Rental, as defined in § 17-301, but otherwise compliant with paragraph (c) above. This paragraph does not apply to Short-Term Rentals barred under § 17-301(e). (Added January 8, 2019.)
- (d) Neighborhood Public Utilities. (Amended June 13, 2000.)
- (e) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

§ 6-52. Uses Permitted with Special Use Permit. The following uses may be permitted in accordance with provisions contained in Chapter 22.

- (a) Schools, as defined.
- (b) Churches or similar places of worship with accessory structures but not including missions or revival tents.
- (c) Public parks, playgrounds and playfields, golf courses (but not miniature courses or driving tees operated for commercial purposes), swimming pools not accessory to residential property usage, and tennis courts. (Amended May 11, 2021.)
- (d) Wide-Area Public Utilities. (Amended June 13, 2000.)

- (e) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also service agencies not involving on premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.
- (f) Hospitals, but not an animal hospital.
- (g) Funeral homes.
- (h) University and college buildings and functions.
- (i) Group houses, as defined.
- (j) Fraternities, sororities and denominational student headquarters.
- (k) Residential human care facility, including family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons not related by blood or marriage. No conditions may be imposed on this use as a prerequisite for authorization except those conditions imposed to assure compatibility with other permitted uses and these conditions shall not be more restrictive than those imposed on other dwellings in the same district unless such additional conditions are necessary to protect the health and safety of the residents of such facilities.
- (l) Clubs, fraternities, lodges, meeting places and other organizations not including any use that is customarily conducted as a gainful business.
- (m) Police, fire and rescue squad stations.
- (n) Post offices.
- (o) Public buildings and properties of a cultural, administrative or service type.
- (p) Nursing homes and dwelling units for retirement developments.
- (q) A planned unit development as regulated in Chapter 15.
- (r) Limited bed and breakfast facilities, as defined. (Added December 9, 1986.)
- (s) Village homes as defined in and regulated by Chapter 25. (Added October 10, 1989.)
- (t) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27. (Added June 13, 2000.)
- (u) Level Two Home Occupations, as defined in § 6-22(33.2), upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood. (Added December 14, 2004.)
- (v) Townhouses, in accordance with Chapter 16. (Added January 9, 2007.)

- (w) Limited Day Care Facilities identical to those allowed as a matter-of-right, except with a maximum enrollment of 12 children. (Added March 13, 2018.)
- (x) Detached structures used as Short-Term Rentals. This paragraph does not allow Short-Term Rentals barred under § 17-301(e). (Added May 11, 2021.)
- (y) Detached structures to be used as Dwelling Units on the same Lot as an existing Dwelling Unit. (Added May 11, 2021.)

LEGISLATIVE INTENT: The concept of using a detached structure for residential purposes, as described in paragraphs (x) and (y), could lead to more efficient use of real estate, but it could also lead to disruption of neighborhoods. As with all requests for special use permits, the Council will weigh the evidence carefully, and if the permit is granted, it is likely to impose safeguarding conditions.

***Area Regulations
(For Dwellings Only)***

§ 6-52.1. Division of Two-Family Dwellings. Wherever a Two-Family Dwelling is constructed in accordance with the regulations of this classification and the structure as a whole meets the requirements of this classification, individual units may be sold without regard to area requirements. No such sale of individual units of a Two-Family Dwelling shall be deemed a subdivision. (Amended August 13, 1996; amended January 9, 2007.)

§ 6-53. Minimum Lot Area. The lot area requirements for a single-, two-family, three-family, or four-family dwelling shall be in accordance with the R-2 District; for other multiple-family structures the lot area requirements shall be not less than 17,500 square feet plus an additional 2,000 square feet for each additional dwelling unit.

§ 6-54. Front Yard. If the street on which the dwelling fronts is 50 feet or more in width then all dwelling units shall be at least 35 feet from the street right-of-way. If the street is less than 50 feet in width then the setback shall be 60 feet from the center of the street. In no case shall any accessory building be located or extend into the front yard.

§ 6-55. Public Street Frontage and Lot Width at Setback. The minimum lot width at the setback line shall be 80 feet for a one family dwelling, 100 feet for a two or three family dwelling, and 120 feet for all other multiple family dwellings. Lots must either

- (a) Abut on a public street—not an alley—for a distance of 30 feet or more, or
- (b) Upon issuance of a special use permit, have access to a public street—not an alley—through
 - (i) A properly recorded and dedicated easement of right-of-way at least 16 feet in width, but such easement shall not be shared by any other lots, nor shall it be shared with any other dwelling units, or

- (ii) An appendage of the Lot, commonly known as a “pipestem,” at least 16 feet in width. This appendage shall be part of the Lot, but it shall not be calculated as such for Lot area or dimensional purposes.

(Amended December 9, 1986, December 8, 1992, August 13, 1996, March 13, 2001.)

§ 6-56. Minimum Depth. The minimum depth for a one-family dwelling shall be 100 feet; for a two-family dwelling 125 feet and for other multiple-family dwellings 150 feet.

§ 6-57. Side Yard. For a one family dwelling, no side yard shall be less than 10 feet in width, and the sum of the two side yards shall be not less than 25 feet. For two or three family dwellings, no side yard (of the structure) shall be less than 15 feet in width, and the sum of the two side yards shall be not less than 35 feet. For a four family dwelling or other multiple family dwelling, no side yard (of the structure) shall be less than 20 feet and the sum of the two side yards shall be not less than 45 feet. Additionally, for dwellings on corner lots, the side yard abutting the street shall be not less than the minimum front yard depth specified in § 6-54. For unattached buildings of accessory use, there shall be a side yard of not less than 10 feet; provided, that unattached one story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory building are located more than 10 feet behind the main building. (Amended December 9, 1986.)

§ 6-58. Rear Yard. All dwellings shall have a minimum rear yard of 30 feet. (Amended May 11, 2021.)

§ 6-59. Height Regulations. No Building or other Structure shall exceed 40 feet in height. Further, accessory buildings shall not exceed 15 feet in height. (Amended November 11, 2003.)

§ 6-59.1. Accessory Structures. Unattached Accessory Buildings use shall not exceed 15 feet in Height or be located

- (i) Wholly or partially in the Front Yard.
- (ii) Within 10 feet of the Main Building.
- (iii) Within 7 feet of an interior lot line.
- (iv) Within 5 feet of a Rear lot line.
- (v) Within 20 feet of any public Street, or
- (vi) Within the limits of a utility easement.

No minimum setbacks apply along a side property line with a shared common wall between multi-family dwelling units.

(Added May 13, 2021.)

§ 6-60. Maximum Lot Coverage. For one-, two- and three-family dwellings the total coverage including dwellings and accessory buildings shall not exceed 40% of the lot area and for all other multiple-family dwellings the total coverage shall not exceed 35% of the lot area.

§ 6-61. Townhouses. See Chapter 16 for regulation.

§ 6-62. Off-Street Parking. As regulated in Chapter 20.

§ 6-63. Signs. As provided in Chapter 21.1. (Amended December 8, 1992.)

§ 6-64. Condominiums. (Repealed December 14, 2004.)

CHAPTER 8
B-1 Business District

§ 6-65. Legislative Intent. This district is primarily for neighborhood businesses which do not create excessive traffic or other burdens. Where appropriate, with special use permits, residences and more intensive business uses are allowed. (Amended March 14, 2000; October 10, 2017.)

§ 6-66. Uses Permitted as a Matter-of-Right.

- (a) (Repealed December 14, 2004.)
- (b) Retail stores of less than 25,000 square feet, in which substantially all stock is kept indoors (or, in the case of gasoline stations, underground).
- (c) Restaurants.
- (d) Offices, including professional, insurance, real estate, and administrative offices. This paragraph does not permit veterinary offices or veterinary hospitals.
- (e) Dry cleaners and laundries.
- (f) Printing and photocopy shops.
- (g) Electronic repair shops; jewelry repair shops.
- (h) Dressmaking; tailoring; millinery shops.
- (i) Upholstery and drapery repair and installation shops; furniture repair shops.
- (j) Churches or similar places of worship, but not including missions or revival tents.
- (k) Public parks, playgrounds and playfields, golf courses, miniature golf courses, swimming pools, and tennis courts, and similar recreational amenities.
- (l) Funeral homes.
- (m) Clubs, civic groups, lodges, and similar organizations.
- (n) Museums, galleries, and similar cultural establishments.
- (o) Theatres.
- (p) Hotels, motels, and Lodging Houses.
- (q) Auction houses.
- (r) Banks.

- (s) Barber shops, beauty parlors, chiropody, or similar personal service shops.
- (t) Parking lots, whether or not accessory to another use.
- (u) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.
- (v) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.
- (w) (Repealed June 13, 2000.)
- (x) Neighborhood Public Utilities. (Amended June 13, 2000.)
- (y) Limited Bed and Breakfast Facilities, as defined.
- (z) (Repealed December 14, 2004.)
- (aa) Schools not housing students overnight. (Added December 14, 2004; Amended August 12, 2014.)

LEGISLATIVE INTENT: The 2014 amendment, adding “not housing students overnight,” is declarative of existing law.

- (bb) Level One Home Occupations, as defined in § 6-22(33.1), when incidental to a residence. (Added December 14, 2004.)

(Amended March 14, 2000; December 14, 2004; August 12, 2014.)

§ 6-67. Uses Permitted with Special Use Permit. The following uses may be permitted in accordance with provisions contained in Chapter 22.

- (a) Public billiard palaces, pool rooms, bowling alleys, dance halls, and amusement centers.
- (b) Warehouses, including self-service storage facilities.
- (c) Automobile repair shops, and other shops which repair equipment and machinery, provided not more than 10 persons are employed on the premises in a single shift (not including persons whose principal duties are off premises) and provided that all storage and activities are conducted within a building.
- (d) Car washes.
- (e) Nursing homes and dwelling units for retirement developments.
- (f) Hospitals.

- (g) Veterinary establishments provided that all animals shall be kept inside soundproofed, air-conditioned buildings.
- (h) Garden centers, greenhouses and nurseries.
- (i) Mobile home parks in accordance with Chapter 18.
- (j) Fraternities, sororities and denominational student headquarters.
- (k) Pet shops.
- (k1) Day care facilities. (Added June 14, 2016.)
- (l) Other neighborhood retail business uses upon a finding by governing body that such uses are of the same general character as those permitted and which will not be detrimental to other uses within the district or to adjoining land uses.
- (m) Wide-Area Public Utilities. (Added June 13, 2000.)Telecommunications Towers and
- (n) Telecommunications Antennas, in accordance with Chapter 27. (Added June 13, 2000.)
- (o) Residential uses permitted as a matter-of-right in the R-1, R-2, R-3 Residential Districts, but those uses shall be subject to the area regulations, parking, sign, and height regulations of the district in which such use is permitted (and if permitted in more than one district then the regulations of the less restrictive district shall prevail). Any Townhouses permitted shall be subject to Chapter 16 of this Title. (Added December 14, 2004.)Village Homes as defined in and regulated by Chapter 25. (Added December 14, 2004.)
- (p) Level Two Home Occupations, as defined in § 6-22(33.2)—when incidental to a residence—upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood. (Added December 14, 2004.)
- (q) Townhouses, in accordance with Chapter 16. (Added January 9, 2007.)
- (r) Facilities which provide housing, shelter, and care for pregnant women and women who have recently given birth. (Added November 12, 2013.)
- (s) Flexible Purpose Housing, meaning structures which serve as a hotel or other transient housing, permanent residences, college dormitories or other residential housing, along with such other uses as may be permitted by this Chapter. (Added August 12, 2014.)

LEGISLATIVE INTENT: Because the Flexible Purpose Housing category is so broad, the Council anticipates that it will be most often approved with substantial safeguarding conditions in place.

- (u) Retail stores, without the limitations set out in § 6-66(b). (Added October 10, 2017.)
(Amended March 14, 2000; December 14, 2004; November 12, 2013; August 12, 2014; October

10, 2017.)

Area Regulations

LEGISLATIVE INTENT: The area restrictions shown below are intended for uses permitted as a matter of right. More restrictive limitations will likely be placed on uses permitted by special use permit, especially residences.

§ 6-68. Minimum Lot Area. None. (Amended October 10, 2017.)

§ 6-69. Front Yards. Between the front of any structure and an abutting residential district, there shall be a Front Yard of 17.5 feet. Otherwise, a Front Yard of five feet is required. (Amended March 14, 2000; October 10, 2017.)

§ 6-70. Public Street Frontage and Lot Width at Setback. No minimum required but building must front on public street, not an alley. (Amended December 8, 1992; amended August 13, 1996.)

§ 6-71. Minimum Depth. None required. (Amended October 10, 2017.)

§ 6-72. Side Yard. Between the side of any Structure and an abutting residential district, there shall be a Side Yard of five feet. Otherwise, no Side Yard is required. (Amended March 14, 2000; October 10, 2017.)

§ 6-73. Rear Yard. Between the rear of any Structure and an abutting residential district, there shall be a Rear Yard of five feet. Otherwise, no Rear Yard is required. (Amended November 11, 2003; October 10, 2017.)

§ 6-74. Height Regulations. For principal Structures, 40 feet. For accessory Structures, 20 feet. (Amended March 14, 2000; October 10, 2017.)

§ 6-75. Maximum Lot Coverage. None. (Amended October 10, 2017.)

§ 6-76. Off-Street Parking. As regulated in Chapter 20.

§ 6-77. Signs. As provided in Chapter 21.1.

CHAPTER 9 B-2 Business District

§ 6-78. Legislative Intent. This district is intended to be composed of land and structured use to furnish a wider range of retail goods and services to satisfy the household and personal needs of the neighborhood.

§ 6-79. Uses Permitted as a Matter-of-Right.

- (a) All the uses permitted as a matter-of-right in the B-1 Business District except the uses permitted under § 6-66 (y).
- (b) Automobile repair shops, and other shops which repair equipment and machinery, provided all storage and activities are conducted within a building, without any limitation as to the number of persons employed.
- (b1) Retail stores permitted under § 6-66(b) but without the limitations as to size and outdoor stock. This paragraph permits but is not limited to automobile dealerships, lumber yards, and manufactured housing lots. (Enacted August 13, 1996.)
- (c) Radio or television broadcasting stations, studios, or offices, except transmission towers.
- (c1) (Repealed August 8, 2000.)
- (d) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.
- (e) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.
- (f) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also service agencies not involving on premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.
- (g) Hospitals, but not animal hospital.
- (h) (Repealed June 13, 2000.)
- (i) Nursing Homes and dwelling units for retirement developments.
- (j) Veterinary establishments provided that all animals shall be kept inside soundproofed air-conditioned buildings.
- (k) Garden centers, greenhouses, and nurseries.
- (l) Pet shops.
- (m) Neighborhood Public Utilities. (Added June 13, 2000.)

(Amended March 14, 2000.)

§ 6-80. Uses Permitted with Special Use Permit. The following uses may be permitted in accordance with provisions contained in Chapter 22.

- (a) Public billiard parlors, pool rooms, bowling alleys, dance halls and amusement centers.

- (b) Processing and manufacturing establishments that are not objectionable because of smoke, odor, dust or noise but only when such processing and manufacturing is incidental to a retail business conducted on the premises and where not more than ten persons are employed on the premises in the processing or manufacturing activities.
- (a) Mobile home parks in accordance with Chapter 18.
- (c1) Warehouses and commercial storage facilities. (Added August 8, 2000.)
- (d) Tire recapping and vulcanizing within a completely enclosed building and with no outdoor storage of tires, discarded rubber or similar material.
- (e) Other retail business uses upon finding by the governing body that such uses are of the same character as those permitted and which will not be detrimental to other uses within the district or to adjoining land uses.
- (f) Wide-Area Public Utilities. (Added June 13, 2000.)
- (g) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27. (Added June 13, 2000.)
- (h) Adult Businesses (Added January 9, 2007)

Area Regulations

§ 6-81. Minimum Lot Area. None required except where individual water or sewage disposal systems, as opposed to public systems, are required, then regulations of the State Health Department and other regulatory bodies must be complied with.

§ 6-82. Front Yards. If the street on which the building fronts is 50 feet or more in width then all buildings shall be at least 25 feet from the street right-of-way. If the street is less than 50 feet in width then the minimum front yard shall be 50 feet from the center of the street.

§ 6-83. Public Street Frontage and Lot Width at Setback. No minimum required but building must front on public street. (Amended December 8, 1992.)

§ 6-84. Minimum Depth. None required.

§ 6-85. Side Yard. On the side of a lot adjoining a residential district or a dwelling there shall be a side yard of not less than 20 feet. For corner lots, the side yard abutting the street shall be not less than the minimum front yard depth specified in § 6-82. (Amended December 9, 1986.)

§ 6-86. Rear Yard. None, except where a rear boundary of the lot adjoins (i) a residential district or a Dwelling or (ii) a public street or alley, there shall be a rear yard of at least 20 feet. (Amended November 11, 2003.)

§ 6-87. Height Regulations. Buildings shall not exceed three stories or 45 feet in height whichever is less. Accessory buildings shall not exceed 15 feet in height.

§ 6-88. Maximum Lot Coverage. The total coverage including main and accessory buildings shall not exceed 75% of the lot area.

§ 6-89. Off-Street Parking. As regulated in Chapter 20.

§ 6-90. Signs. As provided in Chapter 21.1. (Amended December 8, 1992.)

CHAPTER 10
M-1 Industrial District

§ 6-91. Legislative Intent. This district is intended primarily for manufacturing, processing, storage, wholesaling and distribution activities.

§ 6-92. Uses Permitted as a Matter-of-Right.

- (a) Any use permitted in the B-1 or B-2 Business Districts as a matter-of-right except for Limited Bed and Breakfast Facilities and Lodging Houses. (Amended December 11, 2007.)
- (b) Building material sales or storage yards except materials shall not be extracted from the premises.
- (c) Contractors' equipment storage yards or plants.
- (d) Cold storage, frozen food and bottling plants.
- (e) Grain and feed manufacturing and storage.
- (f) Veterinary hospitals.
- (g) Other than the uses prohibited under this chapter all industrial or manufacturing operations, compounding, processing, packaging or treatment of products.
- (h) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.
- (i) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also service agencies not involving on premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.
- (j) Hospitals.
- (k) (Repealed June 13, 2000.)
- (l) (Repealed June 13, 2000.)
- (m) (Repealed June 13, 2000.)
- (n) Neighborhood Public Utilities. (Added June 13, 2000.)

- (o) Commercial storage facilities and warehouses, including self-service storage facilities. (Added January 9, 2007; Moved from § 92.1(c) May 11, 2021.)

§ 6-92.1. Uses allowed with Special Use Permit. The following uses may be permitted in accordance with the provisions contained in Chapter 22:

- (a) Wide-Area Public Utilities.
- (b) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27.
- (c) (Moved to § 6-92(o) May 11, 2021.)

(Added June 13, 2000.)

§ 6-93. Uses Prohibited. The following uses are prohibited:

- (a) Abattoirs, slaughter houses, and any other business which regularly kills livestock or fowl. (Amended December 9, 1986.)
- (b) Acid manufacturers.
- (c) Ammonia, bleaching powder or chlorine manufacturers.
- (d) Asphalt manufacturers or refining.
- (e) Blast furnaces.
- (f) Boiler works.
- (g) Brick, tile or terra-cotta manufacturers not requiring ovens.
- (h) Coke ovens.
- (i) Creosote treatment or manufacturers.
- (j) Distillation of bones.
- (k) Fat rendering.
- (l) Dyestuff manufacturers.
- (m) Fertilizer manufacturers.
- (n) Forge plants.
- (o) Fuel manufacturers.
- (p) Gas manufacturers or storage in excess of one thousand cubic feet.
- (q) Gelatin or glue manufacturers or any process involving recovery from fish or animal material.

- (r) Glass manufacturers.
- (s) Gunpowder manufacturers or storage.
- (t) Incineration or reduction of garbage, dead animals, outfall, or refuse other than by an authorized public agency.
- (u) Iron, steel, brass or copper works or foundry.
- (v) Lime, gypsum or plaster of paris manufacturers.
- (w) Oil, paint, turpentine or varnish manufacturers.
- (x) Pulp mills.
- (y) Petroleum products.
- (z) Printing ink manufacturers.
- (aa) Rendering plant or other comparable processing of fish or animal material.
- (bb) Sawmills.
- (cc) Melting or refining of metals.
- (dd) Soap manufacturing.
- (ee) Stockyards.
- (ff) Tanning, curing or storage of raw hides or skins or leather dressing or coloring.
- (gg) Tar distillation or manufacturers.
- (hh) Any use reasonably deemed harmful to health, safety or welfare because of undue noise vibration, smoke, dust, odor, heat or glare.

Area Regulations

§ 6-94. Minimum Lot Area. None required except where individual water or sewage disposal systems, as opposed to public systems, are required, then regulations of the State Health Department and other regulatory bodies must be complied with.

§ 6-95. Front Yards. If the street on which the building fronts is 50 feet or more in width then all buildings shall be at least 25 feet from the street right-of-way. If the street is less than 50 feet in width then the minimum front yard shall be 50 feet from the center of the street.

§ 6-96. Public Street Frontage and Lot Width at Setback. No minimum required but building must front on a public street. (Amended December 8, 1992.)

§ 6-97. Minimum Depth. None required.

§ 6-98. Side Yard. On the side of a lot adjoining a residential district or dwelling there shall be a side yard setback of not less than 15 feet. For corner lots, the side yard abutting the street shall be not less than the minimum front yard depth specified in § 6-95. (Amended December 9, 1986.)

§ 6-99. Rear Yard. None, except where a rear boundary of the lot adjoins (i) a residential district or a Dwelling or (ii) a public street or alley, there shall be a rear yard of at least 15 feet. (Amended November 11, 2003.)

§ 6-100. Height Regulations. Buildings shall not exceed three stories or 45 feet in height whichever is less. Accessory buildings shall not exceed 15 feet in height.

§ 6-101. Maximum Lot Coverage. The total coverage including main and accessory buildings shall not exceed 85% of the lot area.

§ 6-102. Off-Street Parking. As regulated in Chapter 20.

§ 6-103. Signs. As provided in Chapter 21.1. (Amended December 8, 1992.)

CHAPTER 11

A-1 Agricultural District

§ 6-104. Legislative Intent. This district is designed primarily to accommodate farming and kindred rural activities, permitting the development of other uses by special use permit.

§ 6-105. Uses Permitted as a Matter-of-Right.

- (a) Agriculture, general farming, including dairying.
- (b) Orchards.
- (c) Nurseries.
- (d) Churches or similar places of worship, with accessory structures.
- (e) Golf courses, miniature golf courses and golf driving tees.
- (f) Public parks, playgrounds and playfields.
- (g) Swimming pools and tennis courts.
- (h) Grain storage bins as a primary use.
- (i) Greenhouses.
- (j) Tree farms.
- (k) Wildlife areas, game refuges and forest preserves.
- (l) Single-family dwellings but not including residential subdivisions.

- (m) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.
- (n) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also service agencies not involving on premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.
- (o) Hospitals, but not an animal hospital.
- (p) (Repealed June 13, 2000.)
- (q) Neighborhood Public Utilities. (Added June 13, 2000.)
- (r) Level One Home Occupations, as defined in § 6-22(33.1). (Added December 14, 2004.)

§ 6-106. Uses Permitted with Special Use Permit. The following uses may be permitted in accordance with provisions contained in Chapter 22.

- (a) Cemeteries and memorial gardens.
- (b) Clubs, fraternities, lodges and meeting places of other organizations not including any use that is customarily conducted as a gainful business.
- (c) Family campgrounds.
- (d) Hog farms.
- (e) Home occupations as regulated under Chapter 19.
- (f) Police, fire and rescue squad stations.
- (g) Poultry and egg production and hatcheries.
- (h) Raising fur-bearing animals and pelt processing.
- (i) Schools, as defined.
- (j) Funeral homes.
- (k) Gravel pits and quarries.
- (l) Convalescent, nursing and rest homes.
- (m) Machine shops with equipment and materials under cover.
- (n) Manufacture and sale of feed and other farm supplies.

- (o) Radio or television transmitting stations and towers.
- (p) Riding academies or stables.
- (q) Dumps and sanitary landfill operations.
- (r) Shooting range or galleries.
- (s) Farm, lawn and garden machinery and equipment sales and service.
- (t) Airports.
- (u) Roadside stands or markets.
- (v) Blacksmith shops.
- (w) Wineries.
- (x) (Repealed June 13, 2000.)
- (y) (Repealed June 13, 2000.)
- (z) Mobile home parks in accordance with Chapter 18.
- (aa) Wide-Area Public Utilities. (Added June 13, 2000.)
- (bb) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27. (Added June 13, 2000.)
- (cc) Level Two Home Occupations, as defined in § 6-22(33.2), upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood. (Added December 14, 2004.)

Area Regulations
(For Single Family Dwellings Permitted Only)

§ 6-107. *Minimum Lot Area.* Minimum lot area shall be 20,000 square feet. There shall be no more than one single-family dwelling unit on each lot.

§ 6-108. *Front Yards.* The minimum depth of the front yard shall be 35 feet from the street right-of-way if the street is 50 feet or greater in width and if the street is less than 50 feet in width then the minimum front yard shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

§ 6-109. *Frontage.* The minimum lot width at setback line shall be 100 feet. Lots must either a) abut on a public street for a distance of not less than 30 feet, or b) have access to a public street through a properly recorded and dedicated easement of right-of-way at least 12 feet wide. (Amended December 9, 1986.)

§ 6-110. *Minimum Depth.* Minimum depth of each lot shall be 150 feet.

§ 6-111. Side Yard. For single story dwellings, no side yard shall be less than 10 feet in width, and the sum of the two yards shall be not less than 25 feet. For a dwelling of more than one story, there shall be side yards of not less than 15 feet each. Additionally, for dwellings on corner lots, the side yard abutting the street shall be not less than the minimum front yard depth specified in § 6-108. For unattached buildings of accessory use, there shall be a side yard of not less than 10 feet; provided that unattached one story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory building are located more than 10 feet behind the main building. (Amended December 9, 1986.)

§ 6-112. Rear Yard. For Dwellings and other principal Structures, there shall be a rear yard of not less than 35 feet. For Accessory buildings, there shall be a rear yard of at least five feet. (Amended November 11, 2003.)

§ 6-113. Height Regulations. No dwelling shall exceed two and one-half stories or 35 feet in height whichever is less. Accessory buildings shall not exceed 15 feet in height.

§ 6-114. Maximum Lot Coverage. Dwellings and accessory buildings shall cover not more than 40% of the lot area.

§ 6-115. Off-Street Parking. As regulated in Chapter 20.

§ 6-116. Signs. As provided in Chapter 21.1. (Amended December 10, 1996.)

CHAPTER 12

A-2 Agricultural District

§ 6-117. Legislative Intent. This is intended to allow all types of farming without special use permits.

§ 6-118. Uses Permitted as a Matter-of-Right.

- (a) General farm use including the current employment of land and buildings supporting accepted farming practice for the purpose of raising, harvesting and selling crops or for the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honey bees or for dairying and the sale of dairy products or any other agricultural use of animal husbandry or horticultural use or any combination thereof. Farm use shall include the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise.
- (b) The growing and harvesting of timber and the maintenance of structures needed for the execution of those activities. This shall not include either uses or structures related to the production, manufacture or storage of wood products.
- (c) Public and private conservation areas and structures for the retention of water, soil, open space, forest or wildlife resources.
- (d) Public and private parks, playgrounds, recreational grounds and grounds for games and sports except those the chief activity of which is carried on, or is customarily carried on as a business.

- (e) Single-family dwelling if incidental to the above listed uses.
- (f) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.
- (g) (Repealed June 13, 2000.)
- (h) (Repealed June 13, 2000.)
- (i) (Repealed June 13, 2000.)
- (j) Neighborhood Public Utilities. (Added June 13, 2000.)
- (j) Level One Home Occupations, as defined in § 6-22(33.1), if incidental to a residence. (Added December 14, 2004.)

§ 6-118.1. Uses allowed with Special Use Permit. The following uses may be permitted in accordance with the provisions contained in Chapter 22:

- (a) Wide-Area Public Utilities.
- (b) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27
- (c) Level Two Home Occupations, as defined in § 6-22(33.2)—when incidental to a residence—upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood. (Added December 14, 2004.)

(Added June 13, 2000.)

***Area Regulations
(For Single-Family Dwellings Only)***

§ 6-119. Minimum Lot Area. Minimum lot area shall be 20,000 square feet. There shall be no more than one single-family dwelling unit on each lot.

§ 6-120. Front Yards. The minimum depth of the front yard shall be 35 feet from the street right-of-way if the street is 50 feet or greater in width and if the street is less than 50 feet in width then the minimum front yard shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

§ 6-121. Frontage. The minimum lot width at setback line shall be 100 feet. Lots must either a) abut on a public street for a distance of not less than 30 feet, or b) have access to a public street through a properly recorded and dedicated easement of right-of-way at least 12 feet wide. (Amended December 9, 1986.)

§ 6-122. Minimum Depth. Minimum depth of each lot shall be 150 feet.

§ 6-123. Side Yard. For single story dwellings, no side yard shall be less than 10 feet in width, and the sum of the two yards shall be not less than 25 feet. For a dwelling of more than one story, no side yard shall be less than 15 feet each. Additionally, for dwellings on corner lots, the side yard

abutting the street shall be not less than the minimum front yard depth specified in § 6-120. For unattached buildings of accessory use, there shall be a side yard of not less than 10 feet; provided that unattached one story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory building are located more than 10 feet behind the main building. (Amended December 9, 1986.)

§ 6-124. Rear Yard. For Dwellings and other principal Structures, there shall be a rear yard of not less than 35 feet. For Accessory buildings, there shall be a rear yard of at least five feet. (Amended November 11, 2003.)

§ 6-125. Height Regulations. No dwelling shall exceed two and one-half stories or 35 feet in height whichever is less. Accessory buildings shall not exceed 15 feet in height.

§ 6-126. Maximum Lot Coverage. Dwellings and Accessory Buildings shall cover not more than 40% of the lot area.

§ 6-127. Off-Street Parking. As regulated in Chapter 20.

§ 6-128. Signs. As provided in Chapter 21.1.

CHAPTER 12.1 **P-1 Public Use District**

§ 6-128.1 Legislative Intent. This district is intended to allow cultural, recreational, educational, and governmental uses. The Council intends that this classification will apply primarily to governmentally-owned property, but it may also apply to privately-owned property being put to similar uses.

§ 6-128.2 Uses Permitted as a Matter of Right.

- (a) Schools not housing students overnight.
- (b) Police Stations.
- (c) Fire Stations.
- (d) Rescue Squad Stations.
- (e) Parks, playgrounds, and recreational facilities.
- (f) Libraries.
- (g) Administrative offices for governmental entities.
- (h) Community centers and other assembly halls.
- (i) Water treatment facilities.
- (j) Sewage treatment facilities.
- (k) Neighborhood Public Utilities. (Amended June 13, 2000.)

- (l) (Repealed June 13, 2000.)
- (m) Water tanks.
- (n) Cemeteries. (Added September 15, 1999.)
- (o) Municipal Maintenance Facilities. (Added September 15, 1999.)

§ 6-128.3 *Uses Permitted with Special Use Permit.*

- (a) Festival parks, in which occasional celebrations, sales, lawn parties, fund raisers, and similar events are held.
- (b) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27. (Amended June 13, 2000.)
- (c) Wide-Area Public Utilities. (Added June 13, 2000.)

§ 6-128.4 *Area Regulations.* There are no requirements for minimum lot areas, front yards, street frontage, lot width, depth, side yards, rear yards, or lot coverage.

§ 6-128.5 *Height.* Buildings shall not exceed three stories or 40 feet in height, whichever is less. There is no height limit for other types of structures, except as may be provided in Chapter 21.1 for signs.

§ 6-128.6 *Off-Street Parking.* As provided in Chapter 20.

§ 6-128.7 *Signs.* As provided in Chapter 21.1.

CHAPTER 13
Flood Plain Districts and Regulations
(Repealed August 14, 1990)

CHAPTER 13.1
Flood Plain Districts and Regulations
(Enacted August 14, 1990)

§ 6-135.01. *Authority.* This Chapter is enacted pursuant to the authority granted to localities by Va. Code. § 15.2-2280. (Added October 8, 2013) (Ed: Renumbered from enacted ordinance.)

§ 6-135.02. *Federal Flood Insurance.*

- (a) The Town Superintendent shall have the responsibility and authority to use all appropriate means to satisfy the Town's obligations under Title 44, Section 59.22(a) of the Code of Federal Regulations. The Town Superintendent shall further submit reports to the Federal Insurance Administrator concerning the community participation in the Program, including, but not limited to the development and implementation of flood plain management regulations. This report shall be submitted annually or biennially as determined by the Federal Insurance Administrator. (44 CFR § 59.22(B))
- (b) The Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Town Superintendent shall notify the

Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with [this part.] (44 CFR § 65.3)

- (c) The Town Superintendent shall notify, in riverine situations, adjacent communities and the “State Coordinating Office” prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Insurance Administrator. (44 CFR § 60.3(b)(6))

(Added October 8, 2013)

§ 6-135.1. Purpose. The purpose of these provisions of this chapter is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (a) Regulating activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- (b) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- (c) Requiring all those uses, activities, and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
- (d) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

§ 6-135.2. Applicability. These provisions shall apply to all lands within the jurisdiction of the Town of Bridgewater, Virginia, and identified as being in the 100-year floodplain by the Federal Insurance Administration.

§ 6-135.3. Compliance and Liability.

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.
- (b) The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the floodplain area, or that land uses permitted within such area will be free from flooding or flood damages.
- (c) This chapter shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision thereunder.

§ 6-135.4. Abrogation and Greater Restrictions. This chapter supersedes any ordinance currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.

§ 6-135.5. Severability. If any section, subsection, paragraph, sentence, clause, or phase of this chapter shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this chapter. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this chapter are hereby declared to be severable.

§ 6-135.6. Definitions. The following definitions shall apply within this chapter:

(1a) *Area of Special Hazard*.. The land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE,, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.” (44 CFR § 59.1.) (Added October 8, 2013.)

(a) *Base Flood/One-Hundred Year Flood*:.....The flood having a one percent chance of being equaled or exceeded in any given year. (Amended December 11, 2007.)

(a1) *Base Flood Elevation*:The elevation shown on the Flood Insurance Rate Map (FIRM) described in § 6-135.7 below that indicates the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. (Added December 11, 2007)

(a2) *Basement*:Any area of a building having its floor subgrade (below ground level) on all sides. (Added December 11, 2007)

(b) *Board of Zoning Appeals*The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this chapter.

(c) *Development*.....Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, paving, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials. (Amended December 11, 2007.)

(c1) *Elevated Building*.A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers). (Added December 11, 2007.)

- (c2) *Encroachment*. The advance or infringement of uses, plant growth, fill excavation, Buildings, permanent Structures or development into a Floodplain, which may impede or alter the flow capacity of a Floodplain. (Added December 11, 2007.)
- (d) *Existing Manufactured Home Park/Subdivision*..A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of these regulations.
- (e) *Expansion to an Existing Manufactured Home Park or Subdivision*.....The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.)
- (f) *Flood or Flooding* 1. A general or temporary condition of partial or complete inundation of normally dry land area from
- a. The overflow of inland or tidal waters; or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by some similarly unusual and unforeseeable event with results as defined in paragraph 1(a) of this definition.
- (Amended December 11, 2007.)
- (g) *Floodplain or Flood-Prone Area*Any land area susceptible to being inundated by water from any source. (Amended December 11, 2007.)
- (h) *Floodplain* (Deleted December 11, 2007.)
- (i) *Floodway*.....The channel of a river or other Watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood without cumulatively increasing the water surface elevation more than a designated height. (Added December 11, 2007.)
- (i1) *Freeboard*.....A factor of safety usually expressed in feet above a Flood level for purposes of Floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size

flood and floodway conditions, such as wave action, bridge openings, and hydrological effect of urbanization in the watershed. (Added December 11, 2007.)

(j) *Historic Structure* Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the Secretary of the Interior or

(ii) Directly by the Secretary of the Interior in states without approved programs.

(Amended December 11, 2007.)

(j1) *Lowest Floor* The lowest floor of the lowest enclosed areas (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR § 60.3. (Added December 11, 2007.)

(k) *Manufactured Home* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes the term "Manufactured Home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (Amended December 11, 2007.)

(l) *Manufactured Home Park/*

Subdivision A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

- (m) *New Construction*.....For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (Amended December 11, 2007.)
- (n) *New Manufactured Home Park/Subdivision*A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the initial effective date of these regulations.
- (o) *Recreational Vehicle*A vehicle which is:
- (a) built on a single chassis;
 - (b) 400 square feet or less when measured at the largest horizontal projection;
 - (c) designed to be self-propelled or permanently towable by a light duty truck; and
 - (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- (o1) *Shallow Flooding Area* ..A special flood hazard area with Base Flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. (Added December 11, 2007.)
- (o2) *Special Flood Hazard Area*..... The land in the Floodplain subject to one percent (1%) or greater chance of being Flooded in any given year as determined as determined under § 6-135.7 below. (Added December 11, 2007.)
- (p) *Start of Construction*The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a

foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building. (Amended December 11, 2007.)

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

(r) *Substantial Improvement*Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structures continued designation as a “historic structure.”

(s) *Watercourse*A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourses include specifically designated areas in which substantial Flood damage may occur. (Added December 11, 2007.)

§ 6-135.7. Description of District.

- (a) *Basis of District:* The floodplain district shall include areas to one percent (1%) or greater chance of being Flooded in any given year. The basis for the delineation of the district shall be the one hundred (100) year flood elevations or profiles contained in the Flood Insurance Study for the Town of Bridgewater, Virginia, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated August 18, 2014, as amended. (Amended December 11, 2007, effective February 2, 2008; amended July 8, 2014, effective August 18, 2014.)
- (1) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year floodplain boundary has been approximated. Such areas are shown as Zone A on the Flood Insurance Rate Map dated August 18, 2014. For these areas, the one hundred (100) year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100) - year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town.
- (b) *Overlay Concept:*
- (1) The Floodplain District described above shall be overlays to the existing underlying area as shown on the Official Zoning Map, and as such, the provisions for the floodplain district shall serve as a supplement to the underlying district provisions.
- (2) In case of any conflict between the provisions or requirements of the Floodplain District and those of any underlying district the more restrictive provisions and/or those pertaining to the floodplain district shall apply.
- (3) In the event any provision concerning a Floodplain District declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

§ 6-135.8. Official Zoning Map. The boundaries of the Floodplain District are established as shown on the Flood Insurance Rate Map which is declared to be a part of this chapter and which shall be kept on file in the office of the town superintendent.

§ 6-135.9. District Boundary Changes. The delineation of any of the Floodplain District may be revised by the town council where natural or man-made changes have occurred or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified

agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

§ 6-135.10. Interpretation of District Boundaries. Initial interpretations of the boundaries of the Floodplain District shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the District, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

§ 6-135.11. General Provisions Concerning Floodplain District.

- (a) *Permit Requirement:* All uses, activities, and development occurring within any Floodplain District shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the subdivision regulations in Title 5 of this code. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstance shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.
- (b) *Alteration or Relocation of Watercourse:* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Marine Resources Commission, the Virginia State Water Control Board (a joint permit application is available from anyone of these organizations.) Notification of the proposal shall be given to all adjacent jurisdictions, the Division of Dam Safety and Floodplain Management (Department of Conservation and Recreation), and the Federal Insurance Administration. (Amended December 11, 2007.)
- (c) *Site Plans and Permit Applications:* All applications for zoning permits in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:
 - (1) For structures to be elevated, the elevation of the lowest floor (including basement).
 - (2) For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
 - (3) The elevation of the one hundred (100) year flood.
 - (4) Topographic information showing existing and proposed ground elevations.
- (d) *Encroachment Provisions:*
 - (1) No new construction or development shall be permitted within the floodplain district unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one foot at any point.

- (2) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred (100) year flood elevation.

(e) *Manufactured Homes:*

- (1) Manufactured homes that are placed or substantially improved on sites
 - (i) Outside of a manufactured home park or subdivision,
 - (ii) In a new manufactured home park or subdivision,
 - (iii) In an expansion to an existing manufactured home park or subdivision,
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood,

Shall be elevated on a permanent foundation such that the lowest referenced elevation of the manufactured home is elevated to a minimum of one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement. (Amended November 11, 2003.)

- (2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of paragraph one above of this section shall be elevated so that either:
 - (i) The lowest floor of the manufactured home is at or above the base flood elevation, or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(f) *Recreational Vehicles:* Recreational vehicles shall either:

- (i) Be on the site for fewer than 180 consecutive days, and
- (ii) Be fully licensed and ready for highway use, or
- (iii) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in paragraph § 6-135.11(e) above. (Amended November 11, 2003.)

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- (g) All new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the community’s FIRM shall have the lowest floor

(including basement) elevated to or above the base flood level, unless the community is granted an exception by the Federal Insurance Administrator for the allowance of basements in accordance with § 60.6(b) or (c). All new construction and substantial improvements of non-residential structures within Zones A1-30, AE and AH zones on the [community's firm] shall have (i) the lowest floor (including basement) elevated to or above the base flood level or, (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (44 CFR § 60.3(c)) (Added October 8, 2013.)

- (h) Where a non-residential structure is intended to be made watertight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of paragraph (c)(3)(ii) or (c)(8)(ii) of this section and (ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained with the official designated by the community under § 59.22(a)(9)(iii). (Added October 8, 2013.)
- (i) For all new construction and substantial improvements, enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Added October 8, 2013.)

§ 6-135.12. *Design Criteria for Utilities and Facilities.*

- (a) Sanitary Sewer Facilities: All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- (a1) Within flood-prone areas (i) new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and (ii) onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (44 CFR § 60.3(a)) (Added October 8, 2013.)
- (b) Water Facilities: All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

- (c) **Drainage Facilities:** All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The town may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (d) **Utilities:** All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- (e) **Streets and Sidewalks:** Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

§ 6-135.13. Variances. In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway area that will cause any increase in the one hundred (100) year flood elevation.
- (b) The danger that materials may be swept on to other lands or downstream to the injury of others.
- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (e) The importance of the services provided by the proposed facility to the community.
- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (j) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

- (l) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (m) Such other factors which are relevant to the purposes of this chapter.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from exceptional hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

§ 6-135.14. Existing Structures in Floodplain Districts. The Substantial Damage or Substantial Improvement of any Structure shall require the entire Structure to be brought into full compliance with the provisions of this Chapter. (Amended December 11, 2007, Amended October 8, 2013.)

CHAPTER 13.2

Neighborhood Districts

§ 6-13.2-1. Intent. This Chapter is intended to promote responsible, healthy, livable development in areas where parking can be dealt with creatively. (Added October 8, 2013)

§ 6-13.2-2. Designations. The Council may designate, by ordinance, one or more overlay districts known as “Neighborhood Districts.” The creation of a Neighborhood District, in and of itself, has no effect under this ordinance, other than to allow landowners (or other proper parties) to petition for a Neighborhood District Special Use Permit. (Added October 8, 2013)

§ 6-13.2-3. Special Use Permit. Within a Neighborhood District a special use permit may be sought for any particular property under Chapter 22 of this Title. Upon approval of the Special Use Permit, the provisions of Chapters 5-12.1, 20, and 21.1 shall not apply.

Legislative Intent: As with all Special Use Permits, the Council may impose conditions upon the issuance thereof. For example, the Council will commonly require that all properties governed by a Neighborhood District Special Use Permit connect to utilities by underground cables.

(Added October 8, 2013.)

§ 6-13.2-4. Permitted Uses. For property governed by a Neighborhood District Special Use Permit, only the following uses are permitted.

- (i) Restaurants.
- (ii) Retail Stores of less than 10,000 square feet.
- (iii) Offices, including professional, insurance, real estate, and administrative offices. This paragraph does not permit veterinary offices or veterinary hospitals.
- (iv) Museums, galleries, theatres, and similar cultural establishments.
- (v) Banks.
- (vi) Barbershops and beauty parlors.
- (vii) Dwelling Units, but not on the first floor of a structure.
- (viii) Neighborhood Public Utilities.
- (ix) Public Parks

(Added October 8, 2013; amended July 8, 2014; July 10, 2018.)

§ 6-13.2-5. Signage. For property governed by a Neighborhood District Special Use Permit, the only allowed signage is that expressly approved in the special use permit itself.

Legislative Intent: Applicants are cautioned to seek approval of all anticipated signage.

(Added October 8, 2013)

§ 6-13.2-6. Parking. For Dwelling Units allowed under § 6-13.2-4(vii), there shall be 1.5 parking place per Dwelling Unit on the Location. For all other permitted uses under a Neighborhood Development Special Use Permit, there are no parking requirements. (Added October 8, 2013.)

§ 6-13.2-7. Dimensional Regulations. There are no setback, side yard, rear yard, maximum height or other dimensional regulations for properties governed by a Neighborhood District Special Use Permit.

Legislative Intent: Obviously dimensional regulations would be a prime topic of conditions imposed under § 6-197.

(Added October 8, 2013.)

CHAPTER 14
Conditional Zoning

§ 6-136. Legislative Intent. The intent of this chapter is to a more flexible and adaptable zoning method to cope with situations found in zoning districts whereby zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. This Chapter is enacted under the authority of § 15.2-2298 of the Code of Virginia. (Amended December 14, 2004.)

§ 6-137. Proffer of Conditions. An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in this Title, as part of an amendment to zoning district regulations or the zoning district map. (Amended December 14, 2004.)

§ 6-138. Requirements as to Conditions. The proffered conditions shall be in writing and shall be made prior to the public hearing before the Town Council. The governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. (Amended January 9, 2007.)

§ 6-139. Limitations on Conditions. The following conditions and limitations apply as to the proffered conditions:

- (a) The rezoning itself must give rise to the need for the conditions.
- (b) The conditions proffered shall have a reasonable relation to the rezoning.
- (c) (Repealed December 14, 2004.) (d) (Repealed January 9, 2007)
- (e) All conditions must be in conformity with the Town's comprehensive plan. (Added January 9, 2007)
- (f) All conditions must comply with § 15.2-2298 of the Code of Virginia. (Added January 9, 2007)

(Amended December 14, 2004.)

§ 6-140. Enforcement and Guarantees of Conditions. The zoning administrator shall be vested with all necessary authority on behalf of the town council to administer and enforce conditions attached to a rezoning or amendments to the zoning map including:

- (a) The ordering in writing of the remedy of any noncompliance with such conditions;
- (b) The bringing of legal action to insure compliance with such conditions, including an injunction, abatement, or other appropriate action or proceeding; and
- (c) Requiring a guarantee, satisfactory to the town council in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the town council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

- (d) Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

§ 6-141. *Records.* The zoning map shall show by appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone.

§ 6-142. *Petition for Review of Decision.* Any zoning applicant who is aggrieved by the decision of the zoning administrator pursuant to the provisions of § 6-140 may petition the town council for the review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the town clerk within thirty days from the date of the decision for which review is sought. All such petitions shall specify the grounds upon which the petitioner is aggrieved. (Amended December 14, 2004.)

§ 6-143. *Amendments and Variations of Conditions.* There shall be no amendment or variation of conditions created pursuant to the provisions of § 6-139 until after a public hearing before the governing body advertised pursuant to the applicable provisions of state law.

CHAPTER 15
Planned Unit Residential Development
(Extensively Amended and Reenacted September 11, 1990)

§ 6-144. *General Description.* The regulations established in this chapter are intended to provide optional methods of land development which encourage imaginative solutions to design problems. Residential areas thus established are characterized by unified building and site development programs, Open Space for recreation, and the provision for religious, educational, and cultural facilities which are integrated with the total project.

§ 6-145. *Permitted Principal and Accessory Uses and Structures.* In a planned unit development, only the following uses are permitted:

- (a) Single-family detached dwellings.
- (b) Two-family dwellings.
- (c) Townhouses. (Amended January 9, 2007.)
- (d) (Repealed December 14, 2004.)
- (e) Multiple-family dwellings.
- (f) Recreational uses including community centers, golf courses, swimming pools, parks, playgrounds or any other public recreational uses.
- (g) Nursing Homes.
- (h) Community facilities, churches and other religious institutions, and schools.

- (i) Retail Stores in which all stock is kept enclosed, convenience shops, personal service type establishments, Restaurants, food and drug stores. (This is a PUD Commercial Use.)
- (j) General service facilities. (This is a PUD Commercial Use.)
- (k) Banks. (This is a PUD commercial use.)
- (l) Barbershops, beauty parlors, chiropody, or similar personal service shops. (This is a PUD Commercial Use.)
- (m) Offices. (This is a PUD Commercial Use.)
- (n) Public utilities, as defined.
- (o) Accessory uses and buildings incidental to the principal use.

§ 6-146. Business and Commercial Uses. No more than ten percent of the gross development area shall be set aside or used for PUD Commercial Uses.

§ 6-147. Density Requirements. The overall density shall not exceed ten Dwellings per net development acre. Individual final plans are not limited to this density ceiling, but at no stage of the development shall the aggregate density of final plans approved exceed ten Dwellings per net development acre. (Amended October 8, 2013.)

Legislative Intent: The 2013 amendment changed the density measurement from Dwelling Units to Dwellings. In theory, this change could permit very dense development where multi-family housing is used. On the other hand, stormwater regulations and traffic issues require the Town to be receptive to developments which can offer housing with a minimum of vehicular traffic and impervious surfaces. This amendment, however, is not *carte blanche* for even denser development. When a development proposes undue density, the application for a PUD special use permit will be denied.

§ 6-148. Size of Planned Unit Development, Ownership, Zoning. The minimum size of any planned unit development shall be five acres of Contiguous land. The land need not be under common ownership, but subject to § 6-152.1, all owners of any portion of the land within a planned unit development must sign all applications, plans, and other documents concerning any portion of the development. Planned unit developments are permitted only where otherwise authorized by this title.

§ 6-149. Area Regulations, etc. There shall be no minimum lot area, no frontage requirements, no minimum depth, no front, no side or rear yard requirements, and no coverage maximums other than any specified in the master plan and related submissions. Furthermore, to the extent a master plan shows:

- (i) buildings taller than allowed under this Title or
- (ii) signs not in conformity with Chapter 21.1,

and the council explicitly approves thereof, the requirements of this Title shall be relaxed to the extent of the approval. (Amended December 10, 1996)

§ 6-150. Off-Street Parking. Off-Street Parking shall be as regulated in Chapter 20.

§ 6-150.1. Ownership of Streets and Common Areas. Title to private streets and other common areas shall be vested in the developer or in a nonprofit corporation of property owners consisting of property owners within the development and for which the Planning Commission has approved the articles of incorporation and by-laws.

§ 6-151. Streets. Lots are not required to front on dedicated streets, and private streets may be utilized if each lot in the development has vehicular and pedestrian access to a dedicated street through a prescribed easement or common area. Except as otherwise provided by law, the town shall have no responsibility for maintenance, snow removal, or other matters concerning private streets.

§ 6-152. Administrative Procedure for a Planned Unit Development. No planned unit development shall be permitted until the following conditions have been met:

- (a) A special use permit must be obtained under the provisions of Chapter 22 of this title. The application must be accompanied by
 - (1) A master plan which may consist of one or more sheets and shall show
 - (A) The boundaries of the proposed development.
 - (B) The overall scheme of development including the general location of the various types of uses to which the property will be put, and the provision of § 6-145 which allows the use. (For example, “single family residential - § 6-145 (a).”)
 - (C) The location of any Open Space within the development.
 - (D) For each residential area shown, the total number of dwelling units in each.
 - (E) For any Nursing Homes in the development, the maximum number of residents of each home.
 - (F) The general location of all streets and easements of right-of-way, and a notation as to whether the streets will be dedicated to the town or will be private.
 - (G) The general location of all parking areas, and a notation as to the number of parking spaces in each.
 - (H) The proposed location of all buildings and other improvements, except single-family and two-family dwellings (and accessory buildings) to be constructed by purchasers of residential lots within the development.
 - (I) Notations showing the gross development acreage, the net development acreage, acreage devoted to PUD commercial uses, and the number of dwelling units within the project.
 - (J) General plans for water, sanitary sewer, storm sewer, and other utilities.
 - (K) The manner of compliance with all applicable town ordinances, including Chapter 2 of Title 17.
 - (L) The minimum standards for residential screening, if any.
 - (2) Proposed agreements, rules, or covenants which will govern the use of any property within the development.

- (3) A statement of intention regarding future selling or leasing of land areas, dwelling units, or commercial areas.
- (4) Proposed building types, including architectural style, height, and floor areas.
- (b) The Planning Commission shall review the master plan and other documents filed and shall issue to the Council a recommendation for approval, disapproval, or approval with modification of the layout, scheme of development, deed restrictions, or other matters concerning the development.
- (c) If the Council approves the special use permit, the owner or developer may proceed to develop any section of the project upon the submission and approval of a final plan for that section. The final plan shall comply in all respects with the requirements for final plats set forth in § 5-12 of this code. The final plan need be approved only by the Planning Commission, which shall issue approval if it complies with this section and it is in substantial compliance with the master plan. Such approval shall be contingent upon the guaranty requirement of paragraph (d) of this section.
- (d) The town's standards and policies concerning streets, utilities, drainage, and monuments as expressed in Title 5 of this code and related addenda shall apply to improvements within planned unit developments. The town's standards shall apply to private streets, but the town shall incur no obligations with respect to private streets. Before a final plan is approved, the installation of all improvements required by Title 5 or any other provision of law shall be guaranteed as provided in § 5-27 of this code. [Ed: Spelling of "guaranteed." corrected.]

§ 6-152.1. *Amendment of Plans.*

- (a) If the Administrator finds that a proposed master plan amendment does not materially alter the factors required to be shown by § 6-152(a), he shall approve the amendment without further process.
- (b) If the Administrator finds that the proposed amendment would constitute a material alteration of those factors, the master plan shall be amended through the approval of a superseding plan, except as provided in paragraph (c) below. The procedure for approval of a superseding plan shall be as for the approval of a new plan.
- (c) In existing planned unit developments, the owner or owners of a portion of the property in the development may apply for the amendment of the master plan as it relates to their property only. Such amendment will be approved only if the amendment would not materially change the character of the development, all other requirements are met, and the council determines that the amendment is appropriate.
- (a) Any amendments to final plans shall be made in accordance with law pertaining to the amendment of subdivision plats. If a final plan amendment does not entail a master plan amendment, no additional procedures need be followed. If the final plan as amended would materially deviate from the master plan, the master plan must be amended also.

(Amended November 11, 2003.)

§ 6-153. Abandonment of Project. Upon the abandonment of a project authorized under this chapter or upon the expiration of two years from the authorization of the planned development which has not by then been commenced, the authorization shall expire and the land and structures thereon may be used without such approval for any other lawful purpose permissible within the use-area district in which the planned development is located.

Chapter 15.1
College Campus Enclaves
(Added September 14, 1999)

§ 6-153.1. Legislative Intent. College Campus Enclaves ("CCE's") are intended to allow residential college campuses considerable freedom in their usage of property, while protecting adjacent landowners from detrimental uses.

§ 6-153.2. Procedure & Boundaries. On property which is

- (i) Owned by a college or affiliated entity and
- (ii) Used by the college for the purposes described in § 6-153.4,

the landowner may apply for a special use permit under Chapter 22 designating the property as a CCE.

Additionally, the application shall request the designation of an "Outer Perimeter" of the CCE. This Outer Perimeter shall be reasonably compact, but it may embrace a minimal number of properties not owned by the college or an affiliate. Although within the Outer Perimeter, such non-owned properties are not included within the special use permit and are not controlled by it.

§ 6-153.3. Base Zoning Suspended. Except as provided in § 6-153.5(a)(2), all regulations of the base zoning classification shall be suspended within a CCE for so long as the special use permit remains in effect. Only regulations of this Chapter shall apply within valid CCE's.

§ 6-153.4. Permitted uses. Within a CCE, the following uses are permitted:

- (1) Housing for students, faculty, and staff of the college, and to the extent that such housing is not needed by its students, faculty or staff, the college may lease dwelling units to persons not affiliated with the college;
- (2) Offices for students, faculty, and staff;
- (3) Classrooms, libraries, laboratories, greenhouses and other facilities directly related to the instruction of students;
- (4) Restaurants and retail stores primarily serving students, faculty, and staff of the college;
- (5) Facilities supporting the education or housing of the college's students, faculty, or staff, such as printing shops and steam generation facilities;

- (6) Gymnasiums, stadiums, auditoriums, athletic fields, and other facilities designed to host convocations and athletic and cultural events.
- (7) Accessory uses and buildings provided such uses are incidental to the principal use. Accessory uses shall be adjacent to the principal use.

§ 6-153.45. Uses permitted with special use permit. Within a CCE, the following uses are permitted upon the issuance of a special use permit:

- (1) Telecommunications Towers and Telecommunications Antennas, in accordance with Chapter 27.

§ 6-153.5. *Buffer & Setback.*

(a) *Buffer.*

- (1) Except as provided in paragraph (a)(2) below, no buildings, structures, parking lots, or other improvements shall be closer to the Outer Perimeter of the CCE than 80 feet. This 80 foot buffer can be reduced to 40 feet, if the area is planted with dense landscaping sufficient to block sightlines, pedestrian traffic, and vehicular traffic within 15 years. This landscaping must be maintained and replanted as necessary for the buffer reduction to remain in force.
- (2) Single family housing within a CCE need not comply with the setback requirements of paragraph (a)(1) if it is in compliance with the front yard, side yard, and rear yard regulations of the base zoning classification.

(b) *Setback.* All structures within a CCE shall be set back from any public street by at least 35 feet; provided, however, that accessory structures located behind the principal structure need be only five feet from the street.

(c) *Exemption for Pre-Existing Structures.* Notwithstanding paragraphs (a) and (b) of this section, structures in place and within the CCE at the time of CCE designation or expansion may remain in their existing locations despite any nonconformity with paragraphs (a) or (b). Such buildings may be altered, expanded, or reconstructed without losing this exemption; provided, however, that no such alteration, expansion or reconstruction shall increase the degree of nonconformity with paragraphs (a) or (b). (Amended December 11, 2007.)

§ 6-153.6. *Building Height.* Structures may not exceed four stories or 60 feet in height, whichever is less.

§ 6-153.7. *Parking.* Parking shall not be regulated by Chapter 20, but the landowner shall be required to maintain sufficient parking within the CCE for all students, faculty, and staff. Additionally, the landowner shall maintain sufficient parking within the CCE for a reasonable number of visitors to the campus.

A condition of any special use permit creating a CCE shall be that the college require its students to refrain from parking on public streets in the Town except for occasional visits to other sites in the Town.

§ 6-153.8. *Signage.* Signs located within a CCE shall not be governed by Chapter 21.1. The following signs are permitted as a matter of right:

- (1) Signs not exceeding one square foot in area and four feet in height;
- (2) Signs not visible from a public street or from beyond the CCE;
- (3) Signs less than 12 square feet that direct attention to a building, structure, or activity located on the same premises as the Sign.

All other signs shall require a separate special use permit granted in accordance with Chapter 22. (Amended June 14, 2016.)

CHAPTER 16 **Townhouse Regulations**

§ 6-154. Zoning Districts Allowing Townhouses. Townhouses are allowed in certain zoning classifications upon the issuance of a Special Use Permit. Applicants should include detailed site plans with their applications for Special Use Permits. Such site plans allow the Town to craft appropriate conditions for any such permits, and accordingly, submitting such plans increases the chances of approval. With their applications, applicants must also submit plats satisfying the requirements of § 5-10 of the Town Code. If the Special Use Permit is granted, the plat shall constitute an approved preliminary plat for purposes of Title 5. (Amended January 9, 2007.)

§ 6-155. Height Regulations. The maximum Height of Townhouse Buildings is 40 feet. (Amended January 9, 2007.)

§ 6-156. Dimensional and Area Regulations. Where Townhouses are allowed by Special Use Permit, the dimensional and area regulations of the base zoning classification shall be superseded by the following regulations:

- (a) *Lot Size.* Each Townhouse Lot shall be at least 2,100 square feet.
- (b) *Lot Width.* Each Lot must be at least 20 feet wide.
- (c) *Lot Depth.* Each Lot must be at least 100 feet deep.
- (d) *Side Yard:* Each Townhouse Cluster shall have side yards of at least 15 feet on each side.
- (e) *No Accessory Buildings shall be erected or maintained in a Townhouse Front Yard.*

(Amended January 9, 2007.)

§ 6-157. Width Regulations. (Repealed January 9, 2007.)

§ 6-158. Yard Regulations. (Repealed January 9, 2007.)

§ 6-159. Special Regulations.

- (a) *Common Areas.* In any application for a Townhouse Special Use Permit, the applicant shall make reasonable provisions for the ongoing maintenance of any common areas, and if such a permit is granted, the Council may impose conditions concerning the maintenance of such common areas. (Amended January 9, 2007.)

- (b) *Parking.* Townhouse parking requirements are governed by Chapter 20. (Amended January 9, 2007.)
- (c) *Common Wall Architectural Treatment.* (Repealed January 9, 2007.)
- (d) *Exterior Facades.* (Repealed January 9, 2007.)
- (e) *Occupancy.* Each Townhouse must be occupied by a single Family. No Townhouse shall contain more than a single Dwelling Unit. (Added January 9, 2007.)
- (f) *Density.* The density of a Townhouse development shall not exceed 14 Dwelling Units per acre, exclusive of streets. (Added January 9, 2007.)

CHAPTER 17

Condominiums

(Repealed December 14, 2004)

CHAPTER 18

Mobile Home Parks

§ 6-162. *General Requirements.* Any mobile home placed in the Town of Bridgewater after the date of enactment or amendment of this ordinance shall meet the following requirements:

- (a) All mobile homes shall meet the plumbing requirements and the electrical wiring and connection, construction, blocking, and anchoring requirements of the Virginia State Building Code and shall display the seal of a testing laboratory approved by the State of Virginia;
- (b) All mobile homes shall be completely skirted; such that no part of the undercarriage shall be visible to a casual observer, in accordance with methods and materials approved by the zoning administrator.
- (c) All mobile homes shall be supplied with public water and wastewater disposal or such individual service evidenced by permits from the Health Department.

§ 6-163. *Mobile Home Parks and Setback Requirements.* All mobile home parks shall meet the following minimum area and setback requirements:

- (a) All mobile home parks shall have a minimum area of at least five acres. A minimum of ten spaces shall be completed and ready for occupancy before the first occupancy is permitted;
- (b) The overall density of any mobile home development shall not exceed seven units per net acre. The density of any particular area within such park shall not exceed eight units per net acre. For density purposes, net acreage shall be defined as all land within the

development except land in the 100 year flood plain, land needed for the right-of-way width of 90 feet or more, and land dedicated for other non-street public uses;

- (c) No main or accessory building shall be located closer than 25 feet to any property line of a mobile home park.

§ 6-164. *Mobile Home Park Lot Requirements.* All mobile home lots shall meet the following requirements:

- (a) The area of any mobile home lot shall not be less than 3,400 square feet. Lot coverage, herein defined as the percentage of the mobile home lot area covered by the mobile home stand and any mobile home accessory structure, driveway, and parking area, excluding patios, shall not exceed 35 percent as an average, nor 40 percent for a given lot; the minimum area of any site devoted to common open space shall be 5,000 square feet.
- (b) No mobile home or permanent building shall be closer than 20 feet to any mobile home;
- (c) The minimum length of a mobile home lot shall be 85 feet; the minimum width shall be 40 feet. On all lots larger than the minimum, the ratio of length to width shall not exceed 2.2 to 1.0;
- (d) Where laundry facilities are not made available, the rear yard of each mobile home lot shall be provided with a clothesline which shall be exempt from setback and other requirements of mobile home accessory structures;
- (e) A patio of 200 square feet in area shall be provided adjoining each mobile home stand.

§ 6-165. *Mobile Home Accessory Structures.* All mobile home accessory structures erected or constructed after the date of enactment or amendment of this ordinance must meet the following requirements:

- (a) All mobile home accessory structures must meet the plumbing, electrical connection wiring, construction, and other applicable requirements of the building code;
- (b) Except in the case of an awning, ramada, or other shade structure, where a mobile home accessory structure is attached to the mobile home unit, a substantial part of one wall of the accessory structure shall be flush with part of the mobile home unit, or such accessory shall be attached to the mobile home unit in a substantial manner of means of a roof. All mobile home accessory structures, whether attached or detached, shall be designed and constructed as free standing structures. No detached mobile home accessory structure, except ramadas, shall be erected closer than 20 feet to a mobile home;
- (c) Mobile home accessory structures, except ramadas, shall not exceed the height of the mobile home;
- (d) No mobile home accessory structure shall be erected or constructed on any mobile home lot except as an accessory to a mobile home;
- (e) Every room in a cabana, herein defined as any habitable mobile home accessory structure, shall have access to at least one exterior door opening without requiring

passage through the mobile home; shall be ventilated either by windows capable of opening to the outside with an area five percent of the floor areas, or by a ventilation system capable of producing a change of air in the room every 30 minutes, with at least 20 percent of the air supply taken from the outside; shall have a total glazed area not less than ten percent of the floor area of the cabana; and in the case of attached structures, shall not be constructed adjacent to more than one exterior door in the mobile home, nor to more than one side of the mobile home;

- (f) Awnings and other shade structures, except ramadas, shall conform to the requirements of applicable sections of the building code.
- (g) Where a ramada extends over a mobile home, it shall exceed the height of the mobile home by no more than 36 inches nor less than 18 inches and shall have a clearance of not less than six inches in a horizontal direction from each side of a mobile home. Cross braces, structural ties, or other architectural appurtenances shall not obstruct movement of any mobile home;
- (h) A ramada shall be enclosed or partly enclosed on any side, except that one side may be enclosed when the ramada roof is continuous with the roof of the cabana;
- (i) A ventilation opening of at least 28 square inches in area shall be provided at the highest point in the ramada roof; all chimneys or vents shall extend through the ramada roof and terminate a safe distance above the ramada;
- (j) Porches may be placed adjacent to mobile homes, provided they are constructed in accordance with the provisions of the building code.

§ 6-166. *Mobile Home Park Application and Site Plan.* Applicants for mobile home parks shall meet the following special requirements:

- (a) Site plans may be on one or more numbered sheets of 18 by 24 inches in size, and shall be legibly drawn at a scale consistent with its purpose;
- (b) The following information shall be required of site plans:
 - (i) The date of the site plan, the name of the surveyor or engineer preparing it, and the number of sheets comprising the site plan;
 - (ii) The scale and the north meridian, designated "true" or "magnetic";
 - (iii) The name and signature of the owner, and the name of the proposed park; said name shall not closely approximate that of any existing mobile home park or subdivision in the Town of Bridgewater;
 - (iv) A vicinity map showing the location and area of the proposed park;
 - (v) The boundary lines, areas, and dimensions of the proposed park, with the locations of property line monuments shown;
 - (vi) The names of all adjoining property owners, the location of each of their common boundaries, and the approximate area of each of their properties;

- (vii) The location and dimensions of all existing streets and street right-of-way, easements, water, sewerage, drainage facilities, and other community facilities and utilities on and adjacent to the proposed park;
 - (viii) All existing significant natural and historical features on or adjacent to the proposed park, including, but not limited to, significant vegetation; lakes, streams, swamps, lands subject to flooding, and other waterways; views from the property, and views from adjoining properties that might be affected by the proposed park; base flood elevations data; existing structures; and topographic features shown by contour lines; (Amended October 8, 2013)
 - (ix) Proposed layout, including interior streets with dimensions and such typical street cross sections and center lines profiles as may be required in evaluating the street layout; water, sewer, drainage, and utility lines, facilities and connections, with dimensions shown; location and type of solid waste collection facilities; interior monuments and lot lines, dimensions, and areas of mobile home lots, common open space and recreation areas, common parking areas, and other common areas; locations and dimensions of mobile home stands and parking spaces, management offices, laundry facilities, recreation buildings, and other permanent structures; location and nature of firefighting facilities, including hydrants, fire extinguishers, and other firefighting equipment; location of fuel storage facilities and structure of high flammability; and location and dimensions of landscaping amenities, including street lights, sidewalks, planted areas, significant natural features to be retained, and fencing and screening.
- (c) The site plan shall be accompanied by a narrative statement describing how the standards and requirements set forth herein are to be met; a statement from the health official certifying approval of the proposed site plan; and where appropriate, statements from the town council and the highway engineer certifying approval of the streets and drainage, water and sewer, or utility system layouts by owners.

§ 6-167. Streets. Internal street system shall be provided to furnish convenient access to mobile home stands and other facilities in the park, shall be designed such that connection to existing drainage and utility systems is convenient, and shall meet the following requirements, in addition to such other reasonable standards and requirements as may be established by the town council;

- (a) All internal streets shall be permanently paved with a durable dust proof, hard surface. Minimum pavement widths shall be 24 feet for streets providing access to 40 or more mobile home stands, and 18 feet for streets providing access to less than 40 mobile home stands. Widths shall be measured from curbface to curbface;
- (b) Dead end streets shall be limited in length to 400 feet, shall be provided with cul-de-sacs with turning areas of not less than 40 feet in radius, or with "T" or "Y" turning areas, and shall provide access to no more than 20 mobile home stands;
- (c) Streets shall be adapted to the topography, shall follow the contours of the land as nearly as possible, and shall have safe grade and alignments. No grade shall exceed 12 percent or no curve shall have an outside radius of less than 80 feet;

- (d) Driveway entrances to mobile home parks from any public street or road shall conform to the current construction standards of the Department of Highways and Transportation.

§ 6-168. Vehicle Parking. Off-street parking shall be provided for the use of occupants at the minimum ratio of two car spaces (each space containing a minimum of 180 square feet) for each mobile home. Each off-street parking area shall be paved or graveled and have unobstructed access to either a public or private street. Each mobile home lot shall be equipped with at least one paved or graveled parking space; the remainder of the required spaces may be located not more than 150 feet from the mobile home lot which it serves via the most direct common pedestrian route. However, in the case of a detailed development plan in which it is demonstrated that the purposes of this ordinance and the comprehensive plan will be equally well or better served by clusters or similar groupings utilizing open spaces of unusual topographical conditions, the requirements of parking may be varied so as to eliminate the requirement of having an individual parking space with each mobile home lot; provided, however, that in no case will parking be more than 150 feet from the mobile home lot. On-street parking is prohibited unless the paved street on which the mobile home fronts is expanded to accommodate additional parking lanes or parking bays.

§ 6-169. Lighting. All streets, walkways and parking bays within the mobile home development shall be lighted by a system which consists of:

- (a) A 175 watt mercury light for every 300 linear feet of roadway or;
- (b) A lighting system which supplies at least one-tenth lumen per square foot of roadway, walkway, and parking bay.

§ 6-170. Utilities. After a five year period, all utilities shall be underground, except control instrumentation and substations which must be screened by planted or ornamental walls. After five years, no overhead wires for distribution purposes shall be permitted within the development.

§ 6-171. Disposition of Garbage and Rubbish. It shall be the responsibility of the mobile home park to collect or cause to be collected, and to dispose of garbage and rubbish as frequently as may be necessary. Dumpsters may be used with the approval of the Health Department, but shall be so located as to not be more than 150 feet from any mobile home.

§ 6-172. Installation of Storage Tanks. Gasoline, liquefied petroleum, gas or oil storage tanks shall be so installed as to comply with all town, county, state and federal fire prevention and protection regulations.

§ 6-173. Individual Walks. Paved common walks of a width of at least three feet shall be provided on at least one side of all streets, and wherever concentration of pedestrian traffic can be expected, as between recreational facilities; walks may be incorporated into the street curb. Walk grades shall not exceed ten percent; lights shall be provided sufficient to illuminate steps to a level of at least 0.3 footcandles. Paved individual walks of at least two feet in width shall be provided to connect all mobile home stands with parking spaces or driveways and common walks.

§ 6-174. Open Spaces. Where mobile home lot sizes are relied on primarily to provide for open space, lots and stands shall be so grouped as to maximize the amount of usable space, while meeting the minimum yard requirements set forth in § 6-164. of this ordinance.

§ 6-175. Record of Tenants for Mobile Home Parks. The operator of a mobile home park shall keep an accurate register of all tenants occupying mobile homes located in the park. The register shall show the name and permanent residence address of the owner and occupants of any mobile home

located in the park; the make and registration of any mobile home; the time and date of arrival and departure; and such other information as might be necessary to provide information about the occupants of the mobile home. These records shall be open to the law enforcement officers and public health officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three years following the date of departure of the registrant from the park.

§ 6-176. Certificate of Use and Occupancy Required. No mobile home or accessory structure shall be occupied in any mobile home park until a certificate of occupancy shall have been issued by the zoning administrator to the effect that the mobile home park or the portion thereof for which such certificate is requested is in compliance with all applicable provisions of this chapter and the uniform building code. Such certificate shall not be issued until after the same has been approved by the Health Department, zoning administrator and other agencies concerned.

CHAPTER 19
Home Occupations
(Repealed December 14, 2004)

CHAPTER 20
Minimum Off-Street Parking Requirements

§ 6-180. General Requirement. Every use of property shall subject the property--and its owners and occupants--to the parking regulations of this chapter. (Amended March 14, 2000.)

§ 6-180.1. Parking Classification; Spaces Required. Subject to § 6-180.3 (pertaining to shopping centers) and § 6-180.4 (dealing with parking reductions), the number of parking spaces required by this Chapter shall be determined by the “Parking Classification” of the property usage, as established in this section.

If the Parking Classification of a property changes--whether due to transfer, lease, change of use, or otherwise--the property must comply with the parking requirements of the new classification. For example, a furniture store would be within the “Major Goods Retail Classification” described in paragraph (d). The premises could not be converted to the “General Retail Classification” unless the parking requirements of paragraph (c) are satisfied.

In applying these Parking Classifications, the rules of construction in § 6-180.2 shall control.

- (a) **General Residential Classification.** The General Residential Classification includes residential and accessory uses.
 - (1) If the Lot has a Main Street Entrance Point, uses within this classification must have 2.2 parking spaces per Dwelling Unit.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces per Dwelling Unit.
- (b) **Adult Residential Classification.** The Adult Residential Classification applies only to residential uses in which (i) the dwelling unit will be limited to occupancy by persons 55 years of age or older and (ii) the developer requires as a condition of occupancy that every resident refrain from parking cars on public streets in Bridgewater except when the resident uses his car to travel elsewhere in town.

- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have 1.1 parking spaces per Dwelling Unit.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have one parking space per Dwelling Unit.
- (c) *General Retail Classification.* The General Retail Classification is comprised of all retail uses not expressly included elsewhere in this section. Without limitation, this classification includes supermarkets, convenience stores, department stores, hardware stores, agricultural supply stores, jewelry stores, clothing stores, florist shops, pharmacies, auto parts stores.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 180 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 200 square feet of floor space.
- (d) *Major Goods Retail Classification.* The Major Goods Retail Classification is comprised of retail uses specializing in the sale of durable goods which are physically large and of significant cost, except as expressly included elsewhere in this section. This classification includes furniture stores, appliances stores, dealers of farm tractors and implements, large machinery.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 300 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 330 square feet of floor space.
- (e) *Office, Business & Information Service Classification.* The Office, Business & Information Service Classification is comprised of general offices and information service businesses, such as (i) professional establishments, such as doctors', lawyers', and accountants' offices, (ii) personal service establishments such as barbers and beauty salons, (iii) banks, insurance, and real estate offices, and (iv) corporate management offices.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 225 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 300 square feet of floor space.

(Amended October 13, 2009.)

- (f) *Restaurants.* The Restaurants Classification is comprised of businesses which supply prepared food or drink to the public.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 100 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 115 square feet of floor space.

(Amended October 13, 2009.)

- (g) *Automobile Repair Classification.* The Automobile Repair Classification is comprised of entities which repair motor vehicles, including those which sell and install tires, mufflers, or batteries.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 180 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 200 square feet of floor space.
- (h) *General Service Classification.* The General Service Classification is comprised of entities which (i) repair items other than motor vehicles, (ii) clean clothing (or allow customers to clean their own clothing), (iii) perform services such as house building, cleaning, plumbing, carpentry, landscaping or pest-control, or (iv) operate a printing or copying business.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 350 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 385 square feet of floor space.
- (i) *Industrial Classification.* The Industrial Classification is comprised of those activities which are permitted only within the Town's M-1 zoning classification.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 900 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 1,000 square feet of floor space.
- (Amended June 8, 2010.)
- (j) *Primary School Classification.* The Primary School Classification is comprised of day care facilities (except Limited Day Care Facilities), preschools, elementary schools, and middle schools.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have three parking spaces, plus 1.5 parking spaces per classroom.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two spaces, plus 1.1 parking spaces per classroom.
- (k) *Secondary & Higher Education Classification.* The Secondary and Higher Education Classification includes high schools, colleges, and vocational schools.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have 6.6 parking spaces per classroom.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have six parking spaces per classroom.
- (l) *Inpatient Care Classification.* The Inpatient Care Classification includes hospitals, nursing homes, and homes for adults.

- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per three beds.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 3.3 beds.
- (m) *Cultural Facility Classification.* The Cultural Facility Classification is comprised of libraries, art galleries, and museums.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 450 square feet.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 500 square feet of floor space.
- (n) *Hotel Classification.* The Hotel Classification includes hotels, motels, and boarding houses, but it does not include restaurants affiliated with hotels, which shall be treated separately under paragraph (f) of this section.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 0.9 guest rooms.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per guest room.
- (o) *Assembly Classification.* The Assembly Classification includes theatres, stadiums, auditoriums, churches and other places of worship. It does not include places of assembly associated with schools, which are treated as part of the schools under paragraphs (j) or (k) of this section.
- (1) Subject to paragraph (o)(3) below, if the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per three seats in the main seating area.
 - (2) Subject to paragraph (o)(3) below, if the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per four seats in the main seating area.
 - (3) If a use within this classification (i) was in existence on December 31, 1999 and (ii) does not regularly conduct assemblies of significant size for more than four hours per week, the requirements of this chapter shall not apply.
- (p) *Civic Group Classification.* The Civic Group Classification includes fraternities and sororities (not providing living accommodations), civic and service organizations, and country clubs.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space for each 4.5 members.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space for each five members.
- (q) *Limited Day Care Classification.* The Limited Day Care Classification includes Limited Day Care Facilities, as defined in § 6-22(19) of the Town Code.

- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have three parking spaces, plus one space for each employee not residing in the facility.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space for each employee not residing in the facility.
- (r) *Limited Bed & Breakfast Classification.* The Limited Bed and Breakfast Classification includes Limited Bed and Breakfast Facilities, as defined in § 6-22(9) of the Town Code.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have three parking spaces, plus (i) one space for each employee not residing in the facility and (ii) one space for each room available for rent.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus (i) one space for each employee not residing in the facility and (ii) one space for each room available for rent.
- (s) *Bowling Alley Classification.* The Bowling Alley Classification is comprised of Bowling Alleys.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus four spaces for each bowling lane.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus 3.6 spaces for each lane.
- (t) *Amusement Classification.* The Amusement Classification is comprised of businesses which provide amusement or recreational services, such as video arcades, batting cages, miniature golf courses, and billiard parlors.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 200 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 220 square feet of floor space.
- (u) *Wholesalers Classification.* The Wholesalers Classification is comprised of businesses within the definition set forth in § 2.01-2(q) of the Town Code.
- (1) If the Lot has a Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 150 square feet of floor space.
 - (2) If the Lot has no Main Street Entrance Point, uses within this classification must have two parking spaces, plus one space per 165 square feet of floor space.
- (v) *Home Occupation Classification.* Level One Home Occupations, as defined in § 6-22(33.1) of the Town Code require no parking other than that provided for the Dwelling housing the use. For Level Two Home Occupations, as defined in § 6-22(33.2) of the Town Code,

- (1) If the Lot has a Main Street Entrance Point, the Dwelling and home occupation together must have 2.2 parking spaces plus one space for each employee not residing in the facility, and
- (2) If the Lot has no Main Street Entrance Point, the Dwelling and home occupation together must have two parking spaces, plus one space for each employee not residing in the facility.

(Added December 14, 2004.)

(Amended March 14, 2000, January 9, 2007.)

§ 6-180.2 Rules of Construction. For purposes of § 6-180.1,

- (a) If a single enterprise engages in property usage falling into multiple parking classifications, the classification providing the greatest parking requirements shall apply. Nevertheless, the business may make application for each classification to be treated separately under the appropriate paragraph of § 6-180.1. If the enterprise can reasonably apportion its business by square footage the Administrator shall approve the request.
- (b) If multiple enterprises are conducted on the same Lot, each shall be treated separately under § 6-180.1.
- (c) Floor space shall mean gross floor area. The term shall also include outdoor space devoted to the activity conducted on the property.
- (d) Where fractional space results, the parking spaces required shall be construed to be the next whole number.
- (e) The parking space requirement for a use not specified shall be the same as required of the use found to be most similar by the Administrator.

(Amended March 14, 2000.)

§ 6-180.3 Shopping Centers—Blanket Approval. Shopping centers composed of multiple enterprises may elect at any time to be governed by this section, rather than § 6-180.1. Once the parking for a shopping center is approved under this section, it need not be reapproved as the composition of the shopping center changes (unless the composition changes so as to require a rezoning or special use permit). Shopping centers governed by this section shall maintain the following parking:

- (1) If the Shopping Center has a Main Street Entrance Point, it must have three parking spaces, plus one space per 180 square feet of floor space.
- (2) If the Shopping Center has no Main Street Entrance Point, it must have three parking spaces, plus one space per 200 square feet of floor space.

(Added January 9, 2007.)

§ 6-180.4 Parking Reductions. No more than one of the parking reductions set forth in this section may be applied to any Site. For purposes of this section, a “Site” is the broader of the following: (i) a Lot, as defined in § 6-22, or (ii) multiple Lots on which there is a single commercial

enterprise or shopping center. Further, these parking reductions shall apply to shopping centers only if the shopping center has elected to be governed by the blanket requirements of § 6-180.3

(a) *Funding Alternative Parking.*

- (1) *Finding.* The Council finds that the parking requirements set forth in § 6-180.1 are reasonable, but it also finds that the parking reductions set forth in this subsection (a), in appropriate cases, will further the welfare of the Town.
- (2) *Applicability.* This subsection (a) shall apply to non-residential parking requirements in the B-1 and B-2 zoning classifications. This section shall also apply to non-residential parking requirements on M-1 Sites of less than 40,000 square feet.
- (3) *Process.* Subject to the other paragraphs of this subsection, any Person may apply to the Administrator for a reduction of the parking requirements imposed by § 6-180.1. The Administrator shall approve the application unless he finds that the then-existing or the proposed use will, in fact, require more parking spaces than the number proposed in the application. For each parking space which is waived in this manner, the applicant shall pay to the Town \$5,000. This fee will be used by the Town to provide parking and traffic improvements in and around its business and industrial districts, but such improvements may or may not benefit the Site for which the parking requirements were reduced.
- (4) *Maximum Reduction.* The reduction authorized in paragraph (3) above shall not exceed 50% of the required spaces for Sites without a Main Street Entrance Point or 40% of the required spaces for Sites with a Main Street Entrance Point.
- (5) *Continuing Effect.* Once parking has been reduced for a Site, the reduction shall remain in place for so long as this ordinance remains in effect, despite changes in ownership or use, except no such reduction may be used in connection with a residential use.

(b) *Time-Sharing Parking.*

- (1) Multiple enterprises may share a single parking lot, but except as provided in paragraph (2) below, no parking space may be counted toward the requirements of more than one enterprise.
- (2) Upon application and approval by the Administrator, an assembly use (such as a church or theatre) may assign fifty percent of its parking spaces to another use—or be assigned fifty percent of its required spaces from another use—so long as there is substantially no overlap in the hours of significant parking demand for the assembly use and the other use. Assigned spaces must meet all the criteria in § 6-181 and elsewhere in this chapter.
- (3) The assignment must be in writing and must provide that it cannot be terminated without 30 days' advance notice to the Town. Upon termination of the assignment, any entity relied on the assignment to satisfy the requirements of this

chapter must either cease doing business or obtain alternative parking conforming to this chapter.

(4) Loading spaces can be shared in accordance with § 6-184 below.

- (c) Connected Parking Lots. Where two commercial establishments have parking lots which adjoin one another (such that vehicles and pedestrians can travel between them) and signage plainly informs the public that both parking lots are available to customers of either enterprise, the parking requirements established by this Chapter shall be reduced by 20% for each commercial establishment. Should the prerequisites of this paragraph not be met in the future, the parking reduction shall cease.

(Added March 11, 2008; amended October 13, 2009.)

§ 6-181. Parking Standards.

- (a) All parking spaces required by this chapter shall be located on the same lot with the building or use served; provided that required parking may be located on another lot if (i) the parking spaces are not more than 500 feet from the building served (measured along lines of public access) and (ii) the parking spaces are dedicated to the use of the business served through a lease, license, or easement requiring that the Town be notified at least 30 days prior to termination. Upon the termination of any lease, license, or easement for required parking spaces, the entity served by the parking must either cease doing business or obtain alternative parking conforming to this chapter.
- (b) Unenclosed parking spaces may be located within the required yard around buildings as herein specified.
- (c) Parking spaces must be at least 9 feet wide and 19 feet in length. In addition, there shall be sufficient area for maneuvering. Each parking space must allow for ingress and egress when all other parking spaces are in use. (Amended October 13, 2009.)
- (d) All parking spaces except those serving single-family and two-family dwellings must be maintained in a dust-proof condition, and shall be designed to prevent parked vehicles from extending beyond the limits of the parking area and to prevent damaging effects to adjoining or nearby properties from surface drainage from the parking facility. Lighting facilities shall be so arranged that light is reflected away from adjacent properties.
- (e) All loading spaces required under § 6-184 must be at least 12 feet wide by 60 feet in length. In addition, there shall be sufficient area for maneuvering.

(Amended March 14, 2000.)

§ 6-182. Sharing of Parking Lots.

(Amended March 14, 2000; Repealed October 13, 2009, with substantive provisions being transferred to § 6-180.4.)

§ 6-183. (Repealed March 14, 2000.)

§ 6-184. Off-Street Loading and Unloading Space. In addition to the parking required by § 6-180.1, all property used for retail, wholesale, or industrial purposes shall provide space for the loading

and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or if there is no alley, to a public street. The space requirements are as follows:

- (1) If the business has a Main Street Entrance Point, one loading space for each 9,000 square feet of floor space;
- (2) If the business has no Main Street Entrance Point, one loading space for each 10,000 square feet of floor space.

The parking standards of § 6-181 shall govern loading spaces required by this section. The rules of construction set forth in § 6-180.1 shall govern the interpretation of this section. Nevertheless, businesses are allowed to share loading spaces, provided the shared spaces are sufficient to meet the aggregate requirements of the businesses, as determined by this section. (Amended March 14, 2000.)

CHAPTER 21
Signs, Billboards, and Other Advertising Structures
(Repealed December 8, 1992.)

CHAPTER 21.1
Signs, Billboards, and Other Advertising Structures
(Enacted December 8, 1992.)
(Extensively Amended and Reenacted June 14, 2016.)

§ 6-194.0 Purpose and Interpretation. The purpose of this Chapter is to regulate the size, illumination, materials, location, height, and condition of all Signs placed upon private property for exterior observation within the Town to promote the creation of a convenient, attractive and harmonious community, ensure the safety of pedestrians and motorists, and preserve property values. This Chapter is intended to allow adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all Signs. This Chapter shall be interpreted in a manner consistent with the First Amendment of the United States Constitution. If any provision of this Chapter is found to be invalid, such finding shall not affect the validity of other provisions of the Chapter that can be given effect without the invalid provision.

§ 6-194.1 Definitions. The following definitions apply throughout this chapter:

- (a) *Area.* The Area of a Sign designed to be viewed from two directions shall be the area of the largest side. In calculating the area of a Sign, its exterior dimensions shall be used, and open space within the Sign shall be included as part of the Sign's Area. Nevertheless, if the two faces of the Sign are
 - (1) more than two feet apart, or
 - (2) neither parallel nor at an angle of less than 45°

the Area of the Sign shall be the total area of both sides. The Area of Signs with more than two sides shall be the total area of all sides. A Sign's support structure is not considered when calculating the Area of a Sign.

- (b) *Flag.* A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as a symbol or decoration; this includes pennants.
- (c) *Ground Sign.* A Ground Sign is any Sign which (1) rests directly on the ground or (2) is supported by uprights or braces placed in or upon the ground. Two separate Signs built on the same support structure shall be treated as one Ground Sign.
- (d) *Height.* The Height of a Sign is the vertical distance from the ground to the highest point on the Sign or its support structure. A berm built beneath the Sign shall not be counted as the “ground” for the purpose of calculating the height of a Sign.
- (e) *Incidental Signs.* Incidental Signs are Signs allowed under § 6-194.2(a). They shall not be treated as Ground Signs, Wall Signs, or Roof Signs.
- (f) *Location.* Location shall mean the broadest of the following: (i) a Lot, as defined in § 6-22, (ii) multiple Lots, as defined in § 6-22, if spanned by a single commercial enterprise, organization, or entity. (iii) a discrete shopping center comprised of multiple commercial enterprises.
- (g) *Minor Signs.* A Sign not exceeding one square foot in Area and four feet in Height.
- (h) *Relate.* A Sign Relates to a Location if it directs attention to a business, product, service, or activity conducted, sold or offered at that Location.
- (i) *Roof Sign.* A Roof Sign is any Sign built upon the roof of any building or other structure.
- (j) *Setback.* The Setback of a Sign is the minimum distance between any portion of the Sign and any public or private street.
- (k) *Sign.* Any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images.

For the purposes of clarification, example of items which do not satisfy the necessary elements of this definition include, but are not limited to, pavement markings, sculptures, architectural elements incorporated into the style or function of a building, and the display of merchandise for sale on the site of the display or displays which are inside a structure and visible externally only through windows.

- (l) *Temporary Signs.* A Temporary Sign is either of the following:
 - (1) Any Sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, plastic, or other light materials with or without frames, intended to be displayed for a short period of time, or
 - (2) Any Sign which, through the use of wheels or otherwise, is designed to be transported from place to place.

The category of “Temporary Signs” is not mutually exclusive with other categories. For example, a Temporary Sign may also be a Ground Sign. Therefore, a Temporary Sign must meet the requirements for Temporary Signs as well as other requirements which apply to the type of Sign involved.

- (m) *Wall Sign.* A Wall Sign is any Sign which is attached to a wall or painted on or against a flat vertical surface of a structure.

§ 6-194.2 *Allowed Signs.* Subject to the sections which follow, this section governs what signs are allowed in each zoning classification.

- (a) The following Incidental Signs are allowed in all zoning classifications and do not count against the zoning-specific allowances set forth below in subsections (b), (c), and (d):
 - (1) One Temporary Sign of not more than four feet in Height and nine square feet in Area on any property for sale or rent.
 - (2) One Temporary Sign of not more than four feet in Height and nine square feet in Area on any property with an active building permit.
 - (3) Signs or tablets not more than two square feet in Area that are written into masonry, bronze, or other materials.
 - (4) For residential subdivision entrances, one Ground Sign no more than five feet in Height and forty square feet in Area.
 - (5) Signs affixed to gasoline pumps or protective structures adjacent to such pumps, provided the Sign is not larger than the pump itself.
 - (6) Two Minor Signs on any one Lot, as defined in § 6-22.
 - (7) Flags up to 16 square feet in Area.
 - (8) Signs erected by the Town or required by law.
 - (9) Temporary Signs posted or displayed by or under the direction of any public or court officer in the performance of their official duties.
 - (10) One Ground Sign or Wall Sign on any cemetery plot, mausoleum, or above-ground burial vault.
- (b) In R-1 zones, the following Signs shall be permitted:
 - (1) One Wall Sign—no larger than six square feet.
 - (2) As an alternative to the Wall Sign permitted under paragraph (b)(1) of this section, one Ground Sign--no larger than three square feet in Area and four feet in Height.
- (c) In R-2 and R-3 zones, the following Signs shall be permitted:
 - (1) One Wall Sign--no larger than eight square feet.
 - (2) As an alternative to the Wall Sign permitted under paragraph (c)(1) of this section, one Ground Sign--no larger than eight square feet in Area and five feet in Height.

(d) In all other zoning classifications, any combination of Ground, Wall, or Roof Signs is permitted, provided:

(1) On any Lot, Ground Signs within 25 feet of a street must be placed at least 100 feet apart except for Ground Signs authorized above by subsection (a)(10), and

(2) The total Area of Ground-and Roof Signs at any Location shall not exceed 100 square feet in a B-1 zone; 150 square feet in a B-2, A-1, or A-2 zone; or 200 square feet in an M-1 zone. One Ground Sign for each Location and one Wall or Roof Sign for each separate commercial or other enterprise shall be permitted. Additionally, Minor Signs may be placed throughout the Lot.

§ 6-194.3. Location of Signs.

(a) Signs greater than 100 square feet in Area must have a Setback of at least 25 feet.

(b) All Signs must be placed at the Location to which they Relate.

§ 6-194.4. Drop Down Regulations. Wherever the principal structure or use of property complies with a more restrictive zoning classification than it is actually zoned, the Sign regulations for the more restrictive classification shall govern.

§ 6-194.5. Special Use Permits. Upon proper application, and after following the process described in Chapter 22, the Council may grant a special use permit authorizing a Sign which would otherwise be prohibited by this Chapter. The permit may contain such conditions as the Council deems proper.

Nevertheless, the Council restates its holding that the substantive provisions of this Chapter are generally in the Town's best interests, and the Council anticipates that special use permits as authorized by this section will be appropriate only in unusual circumstances.

§ 6-194.6. General Limitations.

(a) No Sign shall exceed the maximum Height for structures in the relevant zoning classification.

(b) No Sign shall be erected or maintained at any Location where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal, or device.

(c) No Sign shall contain or make use of any word, phrase, symbol, shape, form, or character so as to interfere with, mislead, or confuse traffic.

(d) No Sign having flashing, intermittent, or animated illumination shall be permitted. However, this prohibition does not extend to electronic message boards in which the flashing, intermittent, or animated illumination itself conveys information.

(e) No illuminated Sign shall be permitted within fifty feet of any residential district unless the illumination is so designed that it does not shine or reflect light onto property in the residential district.

(f) All Signs shall be neatly lettered, spelled correctly, and maintained in good repair.

§ 6-194.7. Temporary Signs. Temporary Signs must meet the requirements of this section in addition to all other applicable requirements of this chapter.

- (a) Temporary Signs are allowed for the following periods:
 - (1) For Signs on property that is for sale or rent, only until the property is sold or rented.
 - (2) For Signs on property with an active building permit, only while the permit is active (up to a maximum of 24 months).
 - (3) For Signs on a Location with a new business, 30 days.
 - (4) For Signs advertising a one-time event, a maximum of 30 days, ending on the day after the event, at which time the Sign must be removed.
 - (4) For other Signs, 60 days.
- (b) Temporary Signs may be placed on public property only with written permission of the Town Superintendent.
- (c) When a Temporary Sign is removed, it may not be replaced by the same or another Temporary Sign for 30 days.

§ 6-194.8. Application. Except for Temporary Signs and Minor Signs, no Sign shall be installed until a zoning permit is issued in accordance with § 6-11. The application for a zoning permit to install a Sign must be in the form prescribed by § 6-12 and must include a sketch of the proposed Sign, along with its support structure. The application shall specify the Area and Height of the Sign. The Zoning Administrator or his designated assistant shall promptly process applications for a sign permit and either approve the application, reject the application, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provision of this Chapter, this Title, the building code, and other applicable laws, regulations, and ordinances shall be approved. If an application is rejected, the Zoning Administrator or his designated assistant shall provide a list of the reasons for the rejection in writing.

CHAPTER 22

Special Uses and Permits

The following procedure is established to integrate properly the uses permitted on review with other land uses located in the district. These uses shall be reviewed by and authorized or rejected by the town council under the following procedures:

§ 6-195. Application. An application shall be filed with the council for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within 200 feet, and any other material pertinent to the request which the council may require.

§ 6-196. Public Hearing. Upon application, the council shall hold a public hearing as required by state law.

§ 6-196.1 Standard of Review.

- (a) In considering the issuance of a special use permit, the Council will engage in a highly fact-specific discernment of the proposed use or structure. Every property (and every application for a special use permit) presents unique facts, and the Council will consider each situation on its own merits. (Added December 14, 2004.)
- (b) The Council will grant a special use permit only if it is well convinced that the proposed use or structure will further the Town's objectives as expressed in § 6-3 of this Title. This section shall not override any specific criteria expressed elsewhere in this Title. (Added December 14, 2004.)
- (c) Adult Businesses. Notwithstanding any other provision of this Title, unless the applicant consents to a longer period of review, an application for a special use permit for an Adult Business must be approved or denied within 90 days of the filing of a complete application. In considering the application, the Town may consider the following factors as well as other appropriate land-use considerations:
 - i. The nature of the surrounding area and the extent to which the proposed use might significantly impair its present or future development;
 - ii. The proximity of dwellings, churches, schools, parks, or other places of public gathering.
 - iii. The probable effect of the proposed use on the peace and enjoyment of people in their homes;
 - iv. The preservation of cultural and historical landmarks and trees;
 - v. The probable effect of noise and glare upon the uses of surrounding properties;
 - vi. The conservation of property values, and
 - vii. The contribution, if any, such proposed use would make toward the deterioration of the area and neighborhoods.

Further, if an application for a special use permit for an Adult Business is denied and the applicant desires to appeal the denial, the Town will facilitate the applicant's obtaining prompt review of the decision from the Circuit Court of Rockingham County. Unless the applicant agrees to an extension, the Town will file a responsive pleading within 10 days of service upon the Town of an appeal, will file a responsive brief within 15 days of service of the applicant's brief and will agree to any reasonable expedited trial or hearing date. (Added January 9, 2007.)

§ 6-197. Conditions. In the exercise of its review, the council may impose such conditions regarding the location, character, or other features of the proposed use or buildings as it may deem advisable in the furtherance of the purposes of this code. (Amended October 8, 2013.)

§ 6-198. Issuance and Acceptance of Permit. Upon completion of the necessary application, hearing, and approval of the town council, the zoning administrator shall issue the special use permit subject to all applicable rules, regulations and conditions. The permit, however, shall not be valid until

signed by the applicant accepting it with all conditions. The permit must be signed and returned to the Zoning Administrator within 90 days of issuance, or it will become void, *ipso facto*. (Amended October 8, 2013.)

§ 6-199. *Validity of Plans.* All approved plans, conditions, restrictions, and rules made a part of the approval of the council, shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

CHAPTER 23
Nonconforming Uses
(Repealed August 13, 1996.)

CHAPTER 23.1
Nonconforming Lots, Uses, and Structures
(Enacted August 13, 1996)

§ 6-210.1. *Definitions.* For purposes of this chapter, the following definitions shall apply:

- (a) “Event of Prohibition” means a change in regulations applicable to a structure, use, or lot which causes the structure, use, or lot to fail to comply with the provisions of this title. An event of prohibition can occur when property is reclassified under this title or when zoning regulations are adopted or amended.
- (a1) “Nonconforming Building” means a building which is lawfully in existence at the time of an event of prohibition. (Added January 9, 2007.)
- (b) “Nonconforming Use” means an activity which is ongoing and lawful at the time of an event of prohibition.
- (c) “Nonconforming Structure” means a structure which is lawfully in existence at the time of an event of prohibition.
- (d) “Nonconforming Lot” means a lot of record, created lawfully, in existence at the time of an event of prohibition.
- (e) “Zoning Regulations” means all of the applicable requirements of this title, other than the provisions of this Chapter. (Added January 9, 2007.)

§ 6-210.2. *Continuation.*

- (a) A nonconforming use may be continued, subject only to the provisions of this chapter. A nonconforming structure may continue to be occupied and used, subject only to the provisions of this chapter.
- (b) The rights granted in paragraph (a) of this section shall continue irrespective of any change in ownership of the property.

- (c) If any nonconforming use is discontinued for a period exceeding two years, the rights granted in paragraph (a) of this section shall be deemed abandoned and any subsequent activity must conform to the Town's Zoning Regulations. (Amended January 9, 2007.)
- (d) If any nonconforming structure is unused for a period exceeding two years, the rights granted in paragraph (a) of this section shall be deemed abandoned and the structure shall not thereafter be used unless it is made to comply with the Town's Zoning Regulations. (Amended January 9, 2007.)

§ 6-210.3. Repairs and Maintenance. On any nonconforming structure or any structure containing a nonconforming use, work may be done in any of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non load bearing walls, fixtures, wiring or plumbing, to an extent not exceeding fifty percent of the current replacement value of the structure, provided that the volume of the structure (measured by exterior walls) shall not be increased.

If a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and it is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, rebuilt, or used except in conformity with the Town's Zoning Regulations. (Amended January 9, 2007.)

§ 6-210.4. Restoration.

- (a) If a structure containing a nonconforming use is destroyed or damaged to the extent that the cost of restoration to its condition before the occurrence exceeds fifty percent of the cost of reconstructing the entire structure, the rights granted by this chapter to carry on the nonconforming use shall terminate.
- (b) If a nonconforming structure is destroyed or damaged to the extent that the cost of restoration to its condition before the occurrence exceeds seventy-five percent of the cost of reconstructing the entire structure, the rights granted by this chapter shall terminate and any restoration shall comply with the Town's Zoning Regulations. (Amended January 9, 2007.)
- (c) Whenever a damaged structure may be restored under paragraphs (a) or (b) of this section, such restoration shall be commenced within twelve months and completed within eighteen months from the date of damage. If restoration is not commenced or completed within these respective periods, the rights granted by this chapter shall terminate.
- (d) Nothing in this section authorizes the maintenance of a destroyed or partially destroyed structure.
- (e) Notwithstanding the other paragraphs of this section, mobile homes may be replaced to the extent authorized by § 15.2-2307 of the Code of Virginia. (Amended November 11, 2003.)
- (f) Notwithstanding the foregoing paragraphs of this section, if a residential or commercial Nonconforming Building is damaged or destroyed by a natural disaster or other act of God, it may be repaired, replaced, or rebuilt as provided in this paragraph (f).

To the extent possible, the nonconforming features of the building shall be eliminated upon repair, replacement or reconstruction. However, if it is not possible to reduce or eliminate the nonconforming features of the building, it may be repaired, replaced, or rebuilt to its original nonconforming condition. Nevertheless, the repair, replacement, or reconstruction shall comply with the Uniform Statewide Building Code and Chapter 13.1 of this Title.

Unless such building is repaired, replaced, or rebuilt within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt, or replaced in accordance with the Town's Zoning Regulations. This two-year period shall be extended to four years if the Nonconforming Building is in an area under a federal disaster declaration and the building was damaged or destroyed as a direct result of conditions that gave rise to the declaration.

(Paragraph (f) added January 9, 2007.)

§ 6-210.5. *Expansion and Enlargement.*

- (a) Nonconforming structures shall not be extended or enlarged, except as provided in this section.
- (b) A nonconforming use may be extended throughout any structure which was arranged or designed for such activity at the time of the event of prohibition, but no such use shall be extended to occupy any land outside such structures.
- (c) Notwithstanding any other provision of this chapter, a nonconforming structure may be enlarged or extended if (i) the enlargement or extension does not worsen the structure's nonconformity (either by increasing the amount of the structure which is not in conformity or by increasing the severity of any nonconformity) and (ii) the structure--after enlargement or extension--meets all provisions of this title which it met prior to enlargement or extension.

§ 6-210.6. *Changes in use.*

- (a) Any nonconforming use may be changed to a different use, provided (i) that no structural alterations are made and (ii) that the Board of Zoning Appeals finds that the proposed use is equally appropriate or more appropriate to the district and the neighborhood than the existing use. In taking such action, the Board of Zoning Appeals shall be granting a special exception. Nothing in this section shall authorize the board to grant special exceptions in any other context.
- (a) When any nonconforming use is changed in accordance with paragraph (a) of this section, it may not be changed back to the prior use without again following the procedure in paragraph (a).
- (b) This section is intended to regulate changes in use only with respect to Title 6 of the Town Code. Nothing in this section shall negate or limit any other applicable body of law, such as the Uniform Statewide Building Code. (Paragraph (c) added, November 11, 2003.)

§ 6-210.7. Nonconforming Lots. The Board of Zoning Appeals shall determine appropriate setbacks and other dimensional regulations for nonconforming lots on a case by case basis.

§ 6-210.8. Moving Uses and Structures. No nonconforming use or structure shall be moved to any other lot or to any other portion of the lot than that already occupied by such use or structure; provided, however that a nonconforming structure may be moved to conform with the provisions of this title or reduce the degree of nonconformity.

§ 6-210.9. Interpretation and Exclusion. This chapter shall be interpreted so as to be consistent with § 15.2-2307 of the Code of Virginia. In a Floodplain District, as defined in Chapter 13.1 hereof, this Chapter shall not control the repair or replacement of Nonconforming Buildings or Nonconforming Structures but the provisions of Chapter 13.1 shall control. (Amended October 8, 2013.)

CHAPTER 24 **Board of Zoning Appeals**

§ 6-211. Appointment. A Board consisting of five members shall be appointed by the Circuit Court of Rockingham County. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. In its discretion, the Council may petition the Court to appoint up to three alternates to the Board, who shall have such rights, duties, and terms as prescribed by state law. (Amended June 14, 2016.)

§ 6-212. Terms of Office. The term of office shall be for five years except that of the first five members appointed, one shall serve for five years, one for four years, open for three years, one for two years, and one for one year.

§ 6-213. Disqualification. Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

The board shall choose annually its own chairman and the vice chairman who shall act in the absence of the chairman.

§ 6-215. Powers of the Board of Zoning Appeals. Boards of Zoning Appeals shall have the following powers and duties;

- (a) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto.
- (b) To issue upon appeal or upon direct application Variances from the other provisions of this Title, such Variance to be granted if and only if the proponent establishes by a preponderance of the evidence that
 1. The criteria for a Variance set out in § 6-22 (74.1) are satisfied, **and**
 2. (A) A strict application of this Title would unreasonably restrict the utilization of the property, **or**
 - (B) The granting of the Variance would alleviate a hardship due to a physical condition of the property or improvements thereon, such condition existing as of November 10, 1981, **or**

- (C) The granting of the Variance would alleviate a hardship by granting a reasonable modification for a person with a disability. (Added July 10, 2018.)
- 3. (A) The proponent's property interest was acquired in good faith and any hardship was not created by the proponent, *and*
- (B) The granting of the Variance would not be a substantial detriment to adjacent property and nearby properties in the proximity of that geographical area, *and*
- (C) The condition or situation complained of was of such a general nature that it could be reasonably addressed through an amendment to this Title, *and*
- (D) The granting of Variance would not result in a use that is not otherwise permitted on the property or a change in the zoning classification of the property, *and*
- (E) The relief sought in the Variance application was not available through the Special Use Permit or the process described in § 6-215.1 below. (Amended July 10, 2018.)

Legislative Intent: This paragraph (E) greatly limits the availability of Variances. Always check § 6-215.1 to determine whether relief is available under this section! (See Code of Virginia, § 15.2-2309(2).)

In granting any Variance, the Board may impose such conditions, regarding the location character and other features of the proposed structure as it may deem necessary in the public interest and may require a guaranty or bond to ensure that the conditions imposed are being and will continue to be complied with.
(See Va. Code § 15.2-2309)

Legislative Note: The three-part test for the issuance of a Variance is conjunctive: (b)(1), (b)(2), and (b)(3) all must be satisfied. Paragraph (b)(2), itself, is disjunctive: (b)(2) is satisfied if either (b)(2)(A) or (b)(2)(B) [or (b)(2)(C)-Ed.] are satisfied. Paragraph (b)(3), on the other hand is conjunctive: It is satisfied only if (b)(3)(A)-(E) are all satisfied. The Council recognizes the complexity of this arrangement, but believes that such complexity is a fair trade for tracking the language of the state statute.

(c) To ap

- (d) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by state law, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

- (e) None of the provisions in this ordinance shall be construed as granting the board any power to rezone property.
- (f) Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability shall expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 *et seq.*), as applicable. If a request for a reasonable modification is made to the Town and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 *et seq.*), as applicable, such request shall be granted by the Town staff unless a variance from the Board of Zoning appeals under this section is required in order for such request to be granted. (Added July 10, 2018.)

(Amended June 14, 2016; July 10, 2018; *see* Va. Code § 15.2-2309)

§ 6-215.1. Administrative Modifications. The Administrator may grant a modification to any provision of this Title with respect to physical requirements on a Lot or parcel of land, including but not limited to size, height, location or features of—or related to—any Building, Structure, or improvements. Requests for modifications shall be governed by the following procedure:

- (1) An application must be filed with the Administrator on forms prescribed by him.
- (2) Before granting a modification, the Administrator must find in writing (i) that the strict application of the ordinance would produce undue hardship, (ii) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity, and (iii) that the granting of the modification will not be of substantial detriment to adjacent property and will not change the character of the zoning district.
- (3) Prior to granting the modification, the Administrator shall give to all adjoining property owners written notice of the application. The notice shall afford the adjoining property owners 21 days from the date of the notice to respond.
- (4) The Administrator shall rule on the application in writing, providing copies to the applicant and any adjoining landowner who responded in writing in accordance with paragraph (3) above.
- (5) The Administrator’s decision may be appealed to the Board of Zoning Appeals under Va. Code, § 15.2-2311 and § 6-223 of this Code.

(Enacted August 13, 1996; amended January 10, 2006)

§ 6-216. Rules and Regulations. The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary not inconsistent with this ordinance.

PRACTICE NOTE: Board members and staff members should heed the limitations on *ex parte* communications found in Va. Code, § 15.2-2308.1.

§ 6-217. **Time and Meeting.** The meeting of the board shall be held at the call of its chairman or at such time as a quorum of the board may determine.

§ 6-218. **Administering of Oath.** The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

§ 6-219. **Keeping of Minutes.** The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

§ 6-220. **Public Meetings Required.** All meetings of the board shall be open to the public.

§ 6-221. **Quorum Requirement.** A quorum shall be at least three members.

§ 6-222. **Vote Required.** A favorable vote of three members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass. (See Va. Code, § 15.2-2312) (Amended June 14, 2016.)

§ 6-223. **Appeal to the Board.** An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator. Such appeal shall be taken within 30 days after the decision is appealed by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed for unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril of life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

§ 6-224. **Appeal Procedure.** Appeals shall be mailed to the Board of Zoning Appeals, c/o the Zoning Administrator.

§ 6-225. **Costs Required.** Appeals requiring an advertised public hearing shall be accompanied by such fee as is established by the town council from time to time.

§ 6-226. **Appeal from Decision of Board.** An appeal from the decision of the Board of Zoning Appeals shall be handled as provided by state law.

CHAPTER 25

Village Homes

(Enacted October 10, 1989)

§ 6-227. **Definition.** Village homes are single-family residences distinguished by smaller Area Regulations. This type of residence requires the special landscaping or architectural treatment set forth in this section. The standards contained herein are designed to reduce noise transmission between residences, reduce visual intrusion and decrease the impact of smaller area requirements on adjacent properties.

§ 6-228. **Uses Permitted.** Village Homes are permitted in R-3 residential districts subject to the issuance of a special use permit pursuant to § 6-195 *et seq.* and the approval of a tentative site plan

including the location of all proposed structures, exterior views, and preliminary landscaping proposals showing the location, quantity and type of plant materials.

§ 6-229. **Lot Area.** The minimum lot area shall be 4,500 square feet.

§ 6-230. **Lot Width.** The minimum lot width shall be 45 feet measured at the point of required setback line.

§ 6-231. **Lot Depth.** The minimum lot depth shall be 75 feet.

§ 6-232. **Front Yard.** The minimum depth of the front yard shall be 25 feet.

§ 6-233. **Rear Yard.** All dwellings shall have a minimum rear yard of 15 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than 5 feet.

§ 6-234. **Side Yard.** Side yards abutting a public street shall have a setback of not less than 10 feet, however side yards not abutting on a public street may be reduced or eliminated provided that:

- (a) At least 50% of the side yard reduced by this procedure is made up on the opposite side of the site;
- (b) Where a reduced side yard is used, the abutting site must be held under the same ownership at the time of issuance of the building permit;
- (c) Unless a zero side yard is used, the side yard shall not be less than five (5) feet;
- (d) (Repealed February 14, 2017.)
- (e) Finished grade of any proposed residence at the common property line shall not exceed finished grade on the abutting property by more than four (4) feet in height.

§ 6-235. **Height Regulations.** No dwelling shall exceed three stories or 35 feet in height whichever is less. Accessory buildings shall not exceed 15 feet in height.

§ 6-236. **Square Footage Requirements.**

- (a) Dwellings shall have a minimum of 1,200 square feet exclusive of porches and garages. Additionally, multi-story dwellings must contain at least 800 square feet on the main level, and below ground levels cannot be used to meet the required minimum area of 1,200 square feet.
- (b) In addition to the requirements of paragraph (a), all dwellings shall have 100 square feet of enclosed storage space. The storage space may be an integral part of the dwelling, or it may be in the form of an accessory building meeting the requirements of this chapter, Chapter 7 of this title, and all other applicable laws.

§ 6-237. **Landscaping Requirements.** The yards of Village Homes shall be landscaped and shall include, at a minimum, (1) the installation of one shade tree and three evergreen shrubs or decorative trees and at least one of the following three landscaping or architectural treatments or, (2) six decorative trees and at least one of the following three landscaping or architectural treatments.

- (a) A front yard raised above the grade of the sidewalk by at least three (3) inches and four flowering or evergreen shrubs.

- (b) Two decorative trees, a hedge consisting of at least twenty plants, and ten flowering or evergreen shrubs or alternatively twenty flowering or evergreen shrubs.
- (c) A berm or earth mound averaging eighteen inches above the average grade of the rest of the yard and covering twenty percent of the lot not covered by the dwelling or other structures. The berm or earth mound shall be covered with grass or ground cover and must be planted with at least four decorative trees or evergreen shrubs.

§ 6-238. Standards. For the purposes of § 6-237 the definitions of § 17-8 and the standards of §17-10 shall govern. In addition, the requirements of § 6-237 shall be met prior to issuance of an occupancy permit for any dwellings permitted under this chapter.

CHAPTER 26
Airport Safety

Article 1
Short Title

§ 6-239. This Chapter shall be known and may be cited as the Bridgewater Airport Safety Zoning Ordinance.

Article 2
Definitions

§ 6-240. As used in this Chapter, the following terms shall have the meanings respectively ascribed to them, unless the context clearly requires otherwise:

- (1) *Airport*.....Bridgewater Air Park.
- (2) *Airport Elevation* 1165 feet above mean sea level.
- (3) *Approach Surface*A surface longitudinally centered on the extended Runway centerline, extending outward and upward from the end of the primary surface, at a slope of 15 feet horizontally per one foot vertically, terminating at its intersection with the horizontal surface, where it has attained a width of 1,200 feet. [In plan] the perimeter of the Approach Surface coincides with the perimeter of the approach Zone.
- (4) *Approach, Transitional, Horizontal, and Conical Zones* The airspace Zones as set forth in Article 3 of this Chapter.
- (5) *Conical Surface*.....A surface extending horizontally fifteen feet for every one foot vertically from the periphery of the Horizontal Surface for a horizontal distance of 4,000 feet.
- (6) *Hazard to Air Navigation* An obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial

adverse effect on the safe and efficient utilization of navigable airspace in the Commonwealth.

- (7) *Height*.....For the purpose of determining the Height limits in all Zones set forth in this Chapter and shown on the zoning map, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.
- (8) *Horizontal Surface*A horizontal plane 150 feet above the established Airport Elevation, the perimeter of which is calculated in accordance with 14 CFR Part 77.25(a) of the Code of Federal Regulations.
- (9) *Obstruction*Any Structure, growth, or other object, including a mobile object, which exceeds a limiting Height, or penetrates any surface or Zone floor, set forth in Article 4 of this Chapter.
- (10) *Permit*.....A document issued by the Town allowing a person to begin an activity which may result in any structures or vegetation exceeding the Height limitations provided for in this ordinance.
- (11) *Pre-existing Obstruction*Any Structure or object of natural growth which is in place on the effective date of this Chapter, and which, on that date, is inconsistent with the provisions hereof.
- (12) *Primary Surface*A surface, 200 feet wide, longitudinally centered on a Runway. When the Runway has a specifically prepared hard surface, the primary surface extends 100 feet beyond each end of that Runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the Runway centerline.
- (13) *Runway*.....A specified area on an Airport prepared for landing and takeoff of aircraft.
- (14) *Structure*.....Any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, towers, poles, and electric lines of overhead transmission routes, flag poles, and ship masts.
- (15) *Transitional Surfaces*Surfaces which extend outward perpendicular to the Runway centerline extended at a slope of five feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
- (16) *Vegetation*Any object of natural growth.
- (17) *Zone*All areas provided for in Article 3 of this Chapter, generally described in three dimensions by reference to ground elevation, vertical distances from the ground elevation, horizontal distances from the Runway centerline and the primary and horizontal surfaces, with the Zone floor set at specific vertical limits by the surfaces found in Article 4 of this Chapter.

Article 3
Airport Safety Zones

§ 6-241. Creation and Delineation of Zones. In order to carry out the provisions of this Chapter, there are hereby established certain Zones which include all of the area and airspace of Town of Bridgewater lying equal to and above the Approach Surfaces, Transitional Surfaces, Horizontal Surfaces, and Conical Surfaces as they apply to the Airport. These Zones are established as overlay Zones, superimposed over the existing base zoning classifications, being more specifically Zones of airspace that do not affect the uses and activities of the base classifications except as provided for in Article 5 of this ordinance. An area located in more than one of the following Zones is considered to be only in the Zone with the most restrictive Height limitation. These Zones are as follows:

- (1) The Airport Zone is a Zone that is centered about the Runway and Primary Surface, with the floor set by the Horizontal Surface.
- (2) The Approach Zone is a Zone that extends away from the Runway ends along the extended Runway centerline, with the floor set by the Approach Surfaces.
- (3) The Transitional Zone is a Zone that fans away perpendicular to the Runway centerline and Approach Surfaces, with the floor set by the Transitional Surfaces.
- (4) The Conical Zone is a Zone that circles around the periphery of and outward from the Horizontal Surface, with the floor set by the Conical Surface.

Article 4
Airport Safety Zone Height Restrictions

§ 6-242. Penetration Into Zones. Except as otherwise provided in § 6-243 below or in Article 7 of this Chapter, no Structure or portion of a Structure shall be erected, altered, or maintained in any Zone established in Article 3 of this Chapter. No Vegetation shall be allowed to grow to a Height so as to penetrate any referenced surface, known as the floor, of any Zone established in Article 3 of this Chapter.

§ 6-243. Exception Concerning Natural Obstructions. Wherever the surface of the land itself is within a Zone established in Article 3 of this Chapter, or at an elevation within 45 feet vertically of such a Zone, this Chapter shall not prohibit Structures or Vegetation which are (at all points) less than 45 feet tall.

Article 5
Other Restrictions

§ 6-244. Restrictions on Property Use. Notwithstanding any other provision of this ordinance, and within the area below the horizontal limits of any Zone established by this ordinance, no use may be made of land or water in such a manner as to:

- (1) Create electrical interference with navigational signals or radio communication between the Airport and airborne aircraft;
- (2) Diminish the ability of pilots to distinguish between Airport lights and other lights;
- (3) Result in glare in the eyes of pilots using the Airport;
- (4) Impair visibility in the vicinity of the Airport;
- (5) Create the potential for bird strike hazards; or
- (6) Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the Airport.

Article 6
Pre-Existing Obstructions

§ 6-245. Continuation of Use. Except as provided in § 6-246 below, the regulations prescribed by this Chapter shall not require the removal, lowering, or other change or alteration of any Structure or Vegetation not conforming to the regulations as of the effective date of this Chapter, or otherwise interfere with the continuance of a Pre-existing Obstruction. Nothing contained in this Chapter shall require any change in the construction, alteration, or intended use of any Structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

§ 6-246. Installation of Safety Devices. Notwithstanding the provisions of § 6-245 above, the owner of any existing Pre-existing Obstruction or Vegetation is hereby required to allow the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the Administrator to indicate to operators of aircraft the presence of that Airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the Airport owners, and not the owner of the Pre-existing Obstruction in question.

§ 6-247. Modifications. No Structure constituting Pre-existing Obstruction may be modified or structurally repaired without the issuance of a permit in accordance with Article 7.

Article 7
Permits

§ 6-248. Permit Requirement. No Structure failing to comply with Article 3 of this Chapter shall be erected, modified, or structurally repaired unless the Administrator has first issued a permit under the terms of this Article. Such a permit shall be issued only if the construction is authorized under § 6-249, dealing with Pre-existing Obstructions, or § 6-250, dealing with variances.

§ 6-249. Modifications to Pre-existing Obstructions. If a Structure is a Pre-existing Obstruction, the Administrator shall issue a permit for modifications or structural repairs thereto if

- (1) The modifications or repairs would **not** allow the Structure to become a greater hazard to air navigation than it was on the effective date of this Chapter, **and**

- (2) The Structure has *not* been abandoned or more than fifty percent destroyed, deteriorated, or decayed.

§ 6-250. *Variances.*

- (a) *Procedure.* Any person desiring to erect or increase the Height or size of any Structure not in accordance with the regulations prescribed in this Chapter may apply for a variance from such regulations to the Board of Zoning Appeals. All such applications shall be accompanied by a determination from the Virginia Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Prior to acting on any such application, the Board shall conduct a public hearing, advertised as required by law.
- (b) *Airport Comments.* No application may be considered by the Board unless a copy of the application has been furnished to the Airport owner for advice as to the aeronautical effects of the variance at least 20 days before the public hearing. If the Airport owner does not respond to the application within 15 days after receipt, the Board may presume that the Airport owner has no objection to the requested variance.
- (c) *Standards to be Applied.* Such variances shall only be allowed where it is duly found that a literal application or enforcement of the regulations would result in unnecessary hardship and relief granted would not be contrary to the public interest, would not create a hazard to air navigation, would do substantial justice, and would be in accordance with the spirit of this ordinance.

§ 6-251. *Conditions.* Any Permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the Structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the Administrator. If deemed proper with reasonable cause by the Board of Zoning Appeals, this condition may be modified to require the owner of the Structure in question to permit the Airport owner, at his own expense, to install, operate, and maintain the necessary markings and lights.

Article 8
Conflicting Regulations

§ 6-252. Where there exists a conflict between any of the regulations or limitations prescribed in this Chapter and any other regulations applicable to the same subject, the more stringent limitation or requirement shall govern. Where terms are defined in this Chapter and also defined elsewhere in this Title, the definitions of this Chapter shall control, unless the context unmistakably indicates a contrary intent.

Article 9
Effective Date

§ 6-253. This Chapter shall be effective as of December 31, 1998.

CHAPTER 27
Telecommunications Towers
(Enacted June 13, 2000.)

§ 6-254. Purposes. It is the purpose of this Chapter (i) to facilitate the orderly development of structures which are needed to provide wireless telecommunications services, (ii) to encourage the location of such structures in areas whose character would not be affected by the structures, (iii) to encourage the joint use of new and existing towers and minimize the total number of towers throughout the Town, and (iv) to encourage the configuration of such structures in a way that minimizes the burdens created by them. Furthermore, it is the purpose of this Chapter to treat providers of functionally equivalent services in a reasonably like manner and to provide adequate sites for the provision of telecommunications services throughout the Town. In enacting this Chapter, no attempt has been made to address the environmental effects of radio frequency emissions.

§ 6-255. Definitions. For purposes of this Chapter, the following terms shall carry the meanings assigned in this section:

- (a) Antenna. A structure or device used to collect or radiate electromagnetic waves.
- (b) Telecommunications Antenna. An Antenna used to provide “telecommunications service,” as that term is defined in 47 U.S.C. § 153. The term Telecommunications Antenna does not include any Antenna which solely services a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.
- (c) Telecommunications Tower. A structure used primarily for the purpose of supporting one or more Telecommunications Antennas.
- (d) Height of Telecommunications Tower or Telecommunications Antenna. Height Calculation. For purposes of this Chapter, the height of an Antenna is the distance between (i) the finished grade of the ground nearest the Antenna and (ii) the tallest point of the Antenna. For purposes of this Article, the height of a Telecommunications Tower is the distance between (i) the finished grade of the ground nearest the Telecommunications Tower and (ii) the tallest point of the Telecommunications Tower or any Antenna mounted on the tower, whichever is higher.

§ 6-256. Special Use Permit Consideration. In ruling on special use permits for Telecommunications Towers or Antennas under Chapter 22, the council will not consider the effects of radio frequency emissions, if there be any. The council will consider the character of the neighborhood, conformity with the comprehensive plan, the guidelines of this section, the purposes of this Chapter, the public’s need for the facility, and any other issues bearing on the propriety of the application.

- (a) Separation from Adjacent Properties.
 - (1) Subject to paragraph (a)(2) below, Telecommunications Antennas should be separated from other parcels zoned R-1, R-2, or R-3 by a distance not less than

three times the Antenna Height, from other parcels zoned B-1 or B-2 by a distance not less than twice the Antenna Height, and from other parcels carrying any other zoning classification by a distance not less than the Antenna Height.

(2) If the Antenna is mounted on a structure other than a Telecommunications Tower, it need not comply with paragraph (a)(1) if its height is no more than 110% of the height of the structure on which it is mounted.

(b) Co-location. All Telecommunications Towers over 75 feet in height should be designed and built to accommodate a minimum of three or more Telecommunications Antennas. The owner of the tower must certify to the Town that the tower is available for use by other telecommunications service providers on a reasonable and nondiscriminatory basis.

(c) Height. All Telecommunications Towers should be designed and built so that they are as short as possible.

§ 6-257. Signs. No signs, lettering, symbols, images, or trademarks shall be placed on or affixed to any part of any Telecommunications Antenna or Telecommunications Tower, other than as required by FCC regulations or other applicable law.

§ 6-258. Inventory of Existing Towers Required. All Telecommunications Tower applications shall include a complete and accurate inventory and map of the applicant's and other known existing and proposed Telecommunications Towers and other structures on which a Telecommunications Antenna could be located or co-located within five (5) miles of the proposed Telecommunications Tower

§ 6-259. Removal of Towers. Any Telecommunications Antenna or Telecommunications Tower that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned, and its owner shall remove it within sixty (60) days notice from the Town, at the owner's expense.