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**CITY OF LEXINGTON**  
**ZONING ORDINANCE**  
**CHAPTER 420**  
**Updated 7-27-2010**  
**Ord. 2010-05**

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**ARTICLE I**  
**In General<sup>1</sup>**  
[amended Ordinance 2009-04.  
Portable signs]

**§ 420-1. Short title.**

This chapter, the full title of which is "Zoning Ordinance, City of Lexington, Virginia," may, for convenience, be referred to as the "Lexington Zoning Ordinance," and the accompanying map, titled "Zoning Map, City of Lexington, Virginia," may be referred to as the "Lexington Zoning Map."

**§ 420-2. Intent; conflicts with other provisions.**

In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the promotion of the health, safety and general welfare of the inhabitants of the City. This chapter shall not be deemed to interfere with or abrogate or annul or otherwise affect, in any manner whatever, any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall prevail.

**§ 420-3. Word usage and definitions. [Added by Ord. No. 00-4; amended by Ord. No. 04-7; Ord. No. 04-10; Ord. No. 04-12, Ord. 08-02]**

A. Generally. Words used in the present tense include the future tense. Words in the singular include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise. The word "shall" is mandatory; the word "may" is directory. "Person" includes a firm, association, organization, partnership, trust, company, corporation or any other business entity, by whatever title known, as well as an individual. All distances and areas refer to measurements in a horizontal plane.

B. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**ACCESSORY USE OF LAND** -- A subordinate use of land incidental to and located on the same lot occupied by the main use or structure.

**ACCESSORY USE OF STRUCTURE OR BUILDING** -- A subordinate use of a structure or building incidental to and located upon the same lot occupied by the main use or structure. A structure or building used for housekeeping purposes shall not be considered an accessory structure. Garages and other structures, such as carports, porches and stoops attached to the main building, shall be considered part of the main building.

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1. Editor's Note: For state law as to municipal zoning generally, see Code of Virginia, 15.2-2280 et seq. As to preparation and adoption of zoning ordinance, see Code of Virginia, 1502-2285. As to purpose of zoning ordinances, see code of Virginia, 15.2-2283.

**ADMINISTRATIVE OFFICIAL; ZONING ADMINISTRATOR** -- The official charged with the enforcement of this chapter, who shall be the City Manager or his designated agent.

**ALLEY** -- A passage or way open to public travel, affording generally a secondary means of vehicular access to abutting lots or upon which service entrances of buildings abut, not intended for general traffic circulation.

**ALTERATION** -- Any change in the total floor area, use or external appearance of an existing structure.

**ANTENNA** -- Any exterior apparatus designed for commercial telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.

**APARTMENT HOUSE** -- A building used or intended to be used as the residence of three or more household units living independently of each other.

**AVIARY** -- Any lot, building, structure, enclosure or premises where breeding, boarding, training or selling of birds is conducted as a business.

**BASE FLOOD; ONE-HUNDRED-YEAR FLOOD** -- A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

**BASEMENT** -- A portion of a building having part, but not more than 1/2, of its height below grade. A basement shall be counted as a story, for the purpose of height regulations, if it is subdivided and used for business purposes or for dwelling purposes.

**BED-AND-BREAKFAST HOMESTAY** -- A single-family dwelling unit occupied by the owner which is used and regulated primarily as a private residence but which provides up to two bedroom accommodations and breakfast to transients.

**BED-AND-BREAKFAST INN** -- A single-family dwelling occupied by the owner which provides more than two, but no more than five, bedroom accommodations and breakfast to transients. Buildings being used as a tourist home or bed-and-breakfast inn at the time of adoption of this chapter and having more than five bedrooms and/or occupied by a resident manager rather than the owner may continue to operate with the same or a lesser number of bedrooms and/or may continue to be occupied by a resident manager rather than by the owner of the building.

**BILLBOARD or POSTER PANEL** -- Any sign or advertisement used as an outdoor display for the purpose of making anything known about the matter advertised or displayed, being remote from its origin or point of sale.

**BOARDINGHOUSE** -- A building, other than a hotel, where lodging or meals are provided for not fewer than five or more than 15 nontransient, unrelated persons and which is occupied by the owner.

**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 and to authorize, upon appeal, variances from the terms of this chapter when justified by special conditions.

**BUILDING** -- Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.

**BUILDING FACE** -- Any one of the four principal exposures, front, sides or back, of a building. For purposes of sign regulations, the face of a building is that portion exposed to a street, alley or lot and is measured at ground level on a linear basis from exposed corner to exposed corner.

**BUILDING HEIGHT** -- The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of a building to the highest point of the roof, if a flat roof, to the declivity of a mansard roof or to the mean height level between the eaves and ridge of a gable, hip 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.

**BUILDING, MAIN** -- The principal building or one of the principal buildings upon a lot or the building or one of the principal buildings housing the principal use upon the lot.

**BUILDING OFFICIAL** -- The City Manager or his designated agent.

**BUILDING, PORTABLE** -- A structure that is built off site and moved to a lot for use as storage, office, or commercial purposes, and/or that does not have a concrete slab or perimeter footings. All portable buildings shall be anchored.

**CARE HOME** -- A facility or dwelling unit housing more than four persons, but no more than 10 persons (including residential supervisory personnel, counselors and staff persons), unrelated by blood, marriage, adoption or guardianship, who are not a danger to themselves and who fall into the following categories:

- (1) Physically handicapped, mentally ill, mentally retarded or developmentally disabled persons;
- (2) Orphans and foster children;
- (3) Battered children and women;
- (4) Pregnant teenagers;
- (5) Indigents; or
- (6) The elderly.

**CELLAR** -- A portion of a building having more than 1/2 of its height below grade and which may not be occupied for dwelling purposes; not to be counted as a story for the purpose of height regulations.

CITY COUNCIL -- The governing body of the City.

CLINIC -- An establishment where persons are given medical, dental, surgical or mental health diagnosis, treatment, or counseling on an outpatient basis.

COMMISSION -- The City Planning Commission.

COMMON ELEMENTS -- All portions of a cooperative other than the units.

CONDOMINIUM -- A dwelling unit in an apartment building or residential development which is individually owned but in which the common areas are owned, controlled and maintained through an organization consisting of all individual owners.

CONVERSION BUILDING -- A building that at any time before establishment of the cooperative was occupied wholly or partially by persons other than persons with an ownership interest in the cooperative organization owning or leasing the cooperative.

COOPERATIVE -- Real estate owned or leased by a cooperative organization.

COOPERATIVE INTEREST -- A leasehold interest under a proprietary lease coupled with ownership of an interest in the cooperative organization.

COOPERATIVE ORGANIZATION -- Any corporation or entity which owns or leases real estate and disposes of cooperative interests in such real estate.

COOPERATIVE UNIT -- A physical portion of the cooperative designed for separate tenancy.

DEVELOPMENT -- Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DISTRICT -- A district as referred to in § 15.1-486 of the Code of Virginia <sup>2</sup>

DRIVEWAY -- A private road giving access from a public way to parking spaces on abutting lots.

DWELLING -- Any building or portion thereof which is designed for use for residential purposes, except hotels, boardinghouses, lodging houses and motels.

DWELLING, MULTIPLE-FAMILY -- A building arranged or designed to be occupied by three or more household units.

DWELLING, SINGLE-FAMILY -- A building arranged or designed to be occupied by one household unit, the structure having only one dwelling unit.

DWELLING, TWO-FAMILY -- A building arranged or designed to be occupied by two household units, the structure having only two dwelling units.

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2. Editor's Note: See now Code of Virginia, 15.2-2280 and 15.2-2281.

**DWELLING UNIT** -- One or more rooms in a dwelling designed for living or sleeping purposes and having at least one kitchen. Only one household unit may occupy a dwelling unit.

**FAMILY** -- One or more persons related by blood, adoption or marriage, living or cooking together as a single housekeeping unit. The persons constituting a family may include foster children and domestic servants.

**FAMILY HOME DAY CARE** -- The accessory use of a dwelling unit to provide day care for more than five children or in which a person other than the immediate family which resides in the home is employed. Care may be provided for up to 12 children. One person may be employed who does not reside in the home. Certification by the Commonwealth of Virginia is required.

**FLOOD** --

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(c) Mud slides (i.e., mud flows) which are proximately caused by flooding as defined in Subsection (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence 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 an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) of this definition.

**FLOODPLAIN** --

(1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation.

(2) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

**FLOOD-PRONE AREA** -- Any land area susceptible to being inundated by water from any source.

**FLOODWAY** -- The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this chapter, the floodway shall be capable of accommodating a flood of one-hundred-year magnitude.

FRATERNITY HOUSE AND SORORITY HOUSE, UNIVERSITY-ADMINISTRATED -- A fraternity or sorority house owned and directly administered by the college or university with which it is affiliated.

GARAGE, PRIVATE -- An accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory.

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.

GARDEN APARTMENT -- A building of one or two stories used or intended to be used as a residence of three or more families living independently of each other and constructed in such a manner as to define an inner court or garden area.

GOVERNING BODY -- The Mayor and Council of the City.

HIGH-RISE APARTMENT -- A building used or intended to be used as a residence of three or more household units living independently of each other and constructed 35 or more feet in height.

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 or a district preliminarily determined by the Secretary to qualify as 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:
  - (a) By an approved state program as determined by the Secretary of the Interior, or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

HOME GARDENS -- Gardens in residential districts for the production of vegetables, fruits and flowers generally for use or consumption by the occupants of the premises.

HOME OCCUPATION -- Any business, occupation or activity undertaken for financial gain within a residential structure, accessory structure or on a lot in a residential district that is incidental and secondary to the use of the property for residential purposes.

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.

**HOTEL** -- A building designed or occupied as the more or less temporary abiding place of 15 or more transient individuals who are, for compensation, provided lodging, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

**HOUSEHOLD UNIT** -- A family and/or a specified number of persons not related by blood, adoption or marriage living and cooking together as a single housekeeping unit.

**JUNKYARD** -- An establishment or place of business which is maintained, operated or used for storing, keeping, housing or buying junk or for the maintenance or operation of an automobile graveyard, which is any lot or place, exposed to the weather, upon which more than five motor vehicles of any kind, incapable of being operated, are placed.

**KENNEL** -- Any lot, building, structure, enclosure or premises where grooming, breeding, boarding, training or selling of animals is conducted as a business.

**LODGING HOUSE** -- A building, other than a hotel, where lodging is provided for not fewer than five nor more than 15 nontransient, unrelated persons and which is occupied by the owner.

**LOT** -- A unit of land usable as a building site and having frontage on a public street in compliance with the requirements of the district in which it is situated.

**LOT, CORNER** -- A lot abutting on two or more streets at their intersection; of the two sides of a corner lot abutting streets, the front shall be deemed to be the shortest of the two sides abutting streets.

**LOT DEPTH** -- The average horizontal distance between the front and rear lot lines.

**LOT, INTERIOR** -- Any lot other than a corner lot.

**LOT OF RECORD** -- A lot which has been recorded in the Clerk's office of the Circuit Court.

**LOT WIDTH** -- The average horizontal distance between the side lot lines.

**MAJOR RECREATIONAL EQUIPMENT** -- Boats, boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, etc., and cars or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

**MANUFACTURED HOME** -- A structure subject to federal regulations which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode or is 320 or more square feet when erected on site; is built on a permanent chassis; and is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required facilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure.

**MANUFACTURE; MANUFACTURING** -- The processing and/or converting of raw, unfinished materials or products into articles or substances of different character or for use for a different purpose.

**MOBILE HOME** -- An industrialized building unit constructed on a chassis for towing to the point of use and designed to be used for continuous year-round occupancy as a dwelling; also, two or more such units separately livable but designed to be joined together at the point of use to form a single dwelling and designed for removal to and installation or erection on other sites.

**MOBILE HOME LOT** -- A lot within a mobile home park for the use of a single mobile home conforming to the special lot requirements of these regulations and having direct access to a street within the mobile home park.

**MOBILE HOME STAND** -- A space on a mobile home lot designed to be occupied by a mobile home.

**MOBILE HOME TRAVEL TRAILER PARK** -- A planned development designed for mobile home or travel trailer use.

**MODULAR HOME** -- A building assembly or system of building subassemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off site and transported to the point of use for installation or erection, with or without other specified components, as a finished building or as part of a finished building comprising two or more industrialized building units and not designed for ready removal to or installation or erection on another site.

**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 FIRM (Flood Insurance Rate Map) or after December 31, 1974, whichever is later, and includes any subsequent improvements of 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.

**NONCONFORMING LOT** -- An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

**NONCONFORMING STRUCTURE** -- An otherwise legal building or structure that does not conform to the lot area, yard, height, lot coverage or other area regulations of this chapter or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

**NONCONFORMING USE** -- The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

**OFF-STREET PARKING AREA** -- Space provided for vehicular parking outside a dedicated street right-of-way.

**PARKING SPACE** -- An area not less than 10 feet wide by 20 feet long for an automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

**PORTABLE SIGN** -- Any sign which is not permanently affixed to the ground or to a building or structure and which can be picked up and moved by hand.

**POSTER PANEL** -- Any sign or advertisement used as an outdoor display for the purpose of making anything known about the matter advertised or displayed, being remote from its origin or point of sale.

**PRIMARY RESIDENCE WITH AN ACCESSORY APARTMENT** -- A residential use having the external appearance of a single-family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet.

**PUBLIC UTILITY** -- Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing, under federal, state or municipal regulations, to the public electricity, gas, steam, communications, telegraph, transportation or water.

**RECREATIONAL VEHICLE** -- A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

**REQUIRED OPEN SPACE** -- Any space required in any front, side or rear yard.

**RETIREMENT HOME** -- A place, establishment or institution, public or private, operated or maintained for the purpose of providing maintenance and minimal care for two or more elderly persons. "Minimal care," as used herein, is a lesser degree of care than that provided by hospitals and nursing homes, as defined in § 32.1-123 of the Code of Virginia.

**SETBACK** -- The minimum distance by which any building or structure must be separated from the front lot line.

**SIGN** -- A structure or device designed or intended to convey information to the public in written or pictorial form. The term shall not be construed to include any display of merchandise or temporary signage displayed within a show window of a business and intended for a limited period of display.

**SIGN AREA OR SURFACE** -- That area enclosed by one rectangle, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display. The area of a sign composed of characters or words attached directly to a building wall surface shall be the smallest rectangle which encloses the whole group. The maximum allowable area for projecting and freestanding signs having not more than two faces directly opposed to each other, not more than one foot apart, supported by the same structure, shall be determined by measuring one face only. The total area of any two-faced sign other than that described above shall not exceed a maximum of 110 square feet. For signs having more than two faces which form a regular geometric shape of 360° from a top and/or side view, the total area of all sign faces shall be divided by two for the purpose of calculating the permitted sign area in the C-2 and C-3 Commercial Districts.

**SIGN, DIRECTORY** -- A device, as defined under "sign," affixed to a freestanding structure in a central location to list the persons, firms or corporations located in a given C-2 District.

**SIGN, FLAT WALL** -- A sign affixed directly to or painted on or otherwise inscribed on an exterior wall, and confined within the limits thereof, of any building and which projects from such surface less than 18 inches at all points.

**SIGN, PROJECTING** -- A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

**SIGN STRUCTURE** -- The supports, uprights, bracing and framework of any structure, be it single-faced, double-faced, V-type or otherwise constructed, exhibiting a sign.

**SIGN, WINDOW** -- A sign affixed directly to or painted on or otherwise inscribed on a windowpane, or affixed to a window frame, ceiling, or wall behind the pane, and which is greater than one square foot in area.

**START OF CONSTRUCTION** -- The date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, 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 on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**STORY** -- That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

**STREET LINE** -- The dividing line between a street or road right-of-way and the contiguous

property.

**STREET; ROAD** -- A dedicated and opened public thoroughfare which affords a principal means of access for motorized vehicles to abutting property and to other streets.

**STRUCTURE, MAIN** -- Anything constructed or erected the use of which requires more or less permanent location on the ground, or which is attached to something having a permanent location on the ground, including advertising signs and billboards.

**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% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** -- Any reconstruction, rehabilitation, addition, or other improvement of a structure the cost of which equals or exceeds 50% 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**SUBSTANTIAL RENOVATION/REHABILITATION** -- Improvements, not primarily cosmetic in nature, whose cost should equal at least 25% of the value of the structure after the renovation/rehabilitation is completed.

**TELECOMMUNICATION TOWER** -- Any structure used for the purpose of supporting one or more antennas or microwave dishes, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, alternative antenna support structures, such as buildings and rooftops, and other existing support structures.

**TELECOMMUNICATION TOWER HEIGHT** -- The distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**TOURIST COURTS; AUTO COURTS; MOTELS; MOTOR LODGES** -- A group of buildings containing individual sleeping rooms designed for or used temporarily by automobile tourists or transients, with garages or parking spaces, conveniently located, for each unit. Cooking facilities may be provided for each unit.

**TOWNHOUSE** -- A unit (for rent or sale) separated from adjacent units by a vertical wall with no openings, providing a dwelling for a single household unit, in which separate access to the outside is provided and in which the major orientation of the unit is vertical rather than horizontal. The lots, utilities and other improvements for each townhouse are designed to permit

individual and separate ownership of such lots and dwelling units.

**TOWNHOUSE DEVELOPMENT** -- One or more single-family dwellings containing townhouses, with accessory parking, open space and recreational and management facilities.

**TRAILER, TRAVEL** -- A vehicular, portable structure designed as a temporary dwelling for travel, recreational and vacation use which is identified on the unit by the manufacturer as a travel trailer and does not exceed 4,500 pounds gross weight.

**TRANSIENT** -- A paying guest staying for no more than 14 days at a time in any bed-and-breakfast homestay or inn, hotel or motel.

**USE** -- The purpose or activity for which land or buildings thereon are designed, arranged or intended, or for which they are occupied or maintained, and any manner of performance of such activity with respect to the performance standards of this chapter.

**VARIANCE** -- A relaxation of the terms of this chapter where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of a structure or size of yards and open spaces; the establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

**YARD** -- An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

**YARD, FRONT** -- An open space on the same lot as is 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.

#### **§ 420-4. Districts established and designated.**

For the purposes of this chapter, the area within the incorporated City, as it exists at the time of the enactment of this chapter, is hereby divided into classes of districts, which are established as follows:<sup>3</sup>

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3. Editor's Note: See also the Suburban Residential R-1A, Art. IV; the Professional Services - Residential Zone PSR, Art. VIII; the Residential - Light Commercial District R-LC, Art. XIII; the Entrance Corridor Overlay District EC, Art. XV; the Institutional District I-1, Art. XVI; the Historic Downtown Preservation District, Art. XVII; and the Residential Historic Neighborhood Conservation District, Art. XVIII.

- A. General Residential District R-1.
- B. Multifamily Residential District R-M
- C. Multifamily High-Rise District R-H.
- D. Multifamily Mobile Home District R-MH.
- E. Commercial District (Central Business) C-1.
- F. Commercial District (Central Business) C-1A.
- G. Commercial District (Shopping Centers) C-2.
- H. Commercial District (General Commerce) C-3.
- I. General Floodplain District FP.

**§ 420-5. Zoning Map.<sup>4</sup>**

The locations and boundaries of districts established in the City shall be shown on a map titled "Zoning Map, City of Lexington, Virginia." The same map may be amended subsequent to the adoption thereof. The Zoning Map, as well as all notations, dimensions, designations, references and other data shown thereon, is made a part of these regulations to the same extent as if the information set forth on such map were fully described and incorporated herein. A certified official copy of the Zoning Map, with all map amendments indicated thereon, shall be on file in the office of the City Zoning Administrator.

**§ 420-6. Determination of uncertain boundaries.**

Where uncertainty exists as to the boundaries of the districts established in § 420-4 and as shown on the Zoning Map, the following rules shall apply:

- A. In a case where a boundary line is located within a street or alley or a navigable or nonnavigable stream, it shall be deemed to be in the center of the street or alley right-of-way or stream.
- B. In a case where a boundary line approximately follows a lot line or the City corporate line and is not more than 10 feet in distance therefrom, such lot line or City corporate line shall be the boundary.
- C. In a case of unsubdivided property or where a zoning line divides a lot, the location of any such line shall be controlled by the dimension stated on the Zoning Map.

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4. Editor's Note: For state law as to preparation and adoption of zoning map amendments thereto, see Code of Virginia, 15.2-2285.

**§ 420-7. Annexations.**

Any area annexed by the City after the effective date of this chapter shall immediately, upon the effective date of the annexation, be automatically classified as a General Residential District until a zoning plan for the area shall be adopted by the Council. The Planning Commission shall prepare and present to the Council a zoning plan for the annexed area within six months of the effective date of annexation.

**§ 420-8. Enforcement.**

A. This chapter shall be enforced by the Administrator, who shall be appointed by the City Council. The Administrator shall serve at the pleasure of that body. Compensation for such service shall be fixed by resolution of the governing body.

B. Nothing contained in this chapter shall require any change in the plans of construction of any building or structure for which a permit was granted prior to the effective date of this chapter; however, such construction must commence within 30 days after this chapter becomes effective and be completed within a period of one year after construction is initiated. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located.

**§ 420-9. Zoning permits.**

A. Required. Buildings or structures shall be started, repaired, reconstructed, enlarged or altered only after a zoning permit has been obtained from the Zoning Administrator.

B. Review by Planning Commission. The Zoning Administrator may request a review by the Planning Commission of a request for a zoning permit prior to the issuance of such zoning permit, in order to determine if the contemplated use is in accordance with the district for which the permit will apply.

C. Application; fee; scale drawing. Each application for a zoning permit shall be accompanied by a fee of \$3 and by three copies of a scale drawing which shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the location of any rights-of-way of any street or highway adjoining such parcel of land, the location of any required building lines, the exact sizes and locations on the lot of the structures and accessory structures then existing, the lines within which the proposed building or structure shall be erected, the existing and intended use of each structure or part thereof, and such other information, with regard to the lot and neighboring lots, as may be necessary to determine and provide for the enforcement of this chapter.

D. Issuance. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the Zoning Administrator. One copy of the drawing shall be returned to the applicant with the permit.

**§ 420-10. Certificates of occupancy.**

Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the Administrator. Such a permit shall state that the building or the proposed use of land complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, reviewing, changing or extending a nonconforming use.

**§ 420-11. Conditional use permits. [Added by Ord. No. 99-12]**

A. Purpose. To provide for certain uses that either have unusual characteristics or have characteristics that are sufficiently different from those of their surroundings or are generally of a public or semipublic character, conditional use permits are authorized by this chapter in certain circumstances and upon the exercise of planning judgment respecting location, site plan and other factors.

B. Public notice.

(1) The Planning Commission shall not recommend nor shall the City Council approve any conditional use until public hearings have been held by both the Planning Commission and the City Council. Notice of public hearings shall be published once a week for two successive weeks in some newspaper published or having general circulation in the City, provided that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of a hearing at which persons affected may appear and present their views, not less than six days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the proposed plans, ordinances or amendments may be examined. The Planning Commission and City Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth above need be given only by the City Council. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

(2) The applicant shall give written notice to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice shall give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the Planning Commission public hearing. The list of property owners and the content of the notice shall be approved by the Zoning Administrator prior to mailing.

(3) The applicant shall place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from

the street.

C. Conditions of issuance.

(1) Conditional use permits may be issued for any of the uses for which a conditional use permit is required by the provisions of this chapter, provided that the governing body, upon a recommendation by the Planning Commission, shall find that:

(a) The proposed use will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use.

(b) The proposed use will not be detrimental to the public welfare or unduly injurious to property values or improvements in the neighborhood.

(c) The proposed use will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan.

(d) Adequate public services, including streets and other trafficways, utilities, police and fire protection, are or reasonably will be available to support the proposed use.

(2) Where the provisions of this chapter require conditional use permits for certain parking lots and drive-in facilities in the Commercial District (Central Business) C-1, due consideration shall be given in general to the purposes of the C-1 District and specifically to the effect of such parking lot or drive-in facility on the historic pattern of buildings and, in particular, on the maintenance of a compact, efficient and attractive retail facade and arrangement of buildings; on the use of off-street circulation ways, including use of alleys; on the location of access points and relationship to traffic and pedestrian flow; and on the adequacy of off-street waiting area at drive-in facilities.

(3) In granting any conditional use permit, the governing body shall give due consideration to factors relevant to the findings required by Subsection C(1) and (2), as well as to any other reasonable land use and zoning considerations as may be required by the nature of the proposed use or as may be otherwise appropriate to effectuate the intent of this chapter, and the governing body shall designate such conditions as it deems necessary to carry out the intent of this chapter. The application for such conditional use permit shall be accompanied by such written and graphic material as may be necessary to enable the Planning Commission and the governing body to make the recommendation and findings set forth above.

D. Commencement of construction. Construction or operation shall commence within one year of the date of issuance or the conditional use permit shall become void.

E. Reapplication. No reapplication for a conditional use permit for the same or substantially the same application shall be considered by the governing body within a period of one year from its last consideration. This provision, however, shall not impair the right of the governing body to propose a conditional use permit on its own motion.

F. Should the use approved by the conditional use permit cease for any twenty-four-month period during the life of the permit, the conditional use permit shall become void.

**§ 420-12. General procedure for proposed variances.**

A. If, in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner or his agent to the Zoning Administrator for such use, the application shall be referred to the Planning Commission. The Planning Commission may hold a public hearing, as set forth in § 420-13B, and shall advise the governing body, within 90 days of the application, whether to:

- (1) Amend this chapter, making the use applied for a permitted use in that district;
- (2) Amend this chapter, making the use applied for a permitted use with a conditional use permit in that district;
- (3) Amend this chapter by rezoning, thereby allowing the use; or
- (4) Deny the use in that district.

B. If after 90 days no recommendation has been made, the governing body shall assume that the Planning Commission concurs with the applicant and supports amending this chapter, and the City Council shall thereafter take any action it deems appropriate.

**§ 420-13. Amendments. [Added by Ord. No. 98-1; amended by Ord. No. 99-12]**

A. Procedure. The regulations, restrictions and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by a majority of favorable votes of the City Council, subject to the following:

(1) This chapter shall not be amended or reenacted unless the City Council has referred the proposed amendment or reenactment to the Planning Commission for its recommendations. Failure of the Commission to report 90 days after the first meeting of the Commission after the proposed amendment or reenactment has been referred to the Commission shall be deemed approval.

(2) Public notice.

(a) The Planning Commission shall not recommend nor shall the City Council adopt any plan, ordinance or amendment until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the City, provided that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of a hearing at which persons affected may appear and present their views, not less than six days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the proposed plans, ordinances or amendments may be examined. The Planning Commission and City Council may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth above need be given only by the City Council. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at

least twice in such newspaper, with not less than six days elapsing between the first and second publications.

(b) When a proposed amendment of this chapter involves a change in the zoning classification of 25 or fewer parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved, to the owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected, and, if any portion of the affected property is within a planned unit development, then to such incorporated property owners' association within the planned unit development that has members owning property located within 2,000 feet of the affected property. Notice shall also be given to the owner, the owner's agent or the occupant of all abutting property and property immediately across the street from the property affected which lies in Rockbridge County. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed.

(3) Individual property owners may petition the City Council to have their property rezoned by submitting their requests in writing, accompanied by payment of applicable fees to defray the cost of advertising and administration, to the Administrator. Action shall be taken on each such petition in conformity with the provisions of this section, including the requirements for public notice. The applicant shall also place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.

#### B. Conditional zoning.

(1) Purpose. The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which unique, specific circumstances indicate that the existing zoning ordinance district regulations are not adequate. In these instances, reasonable conditions voluntarily proffered by the owner of the property to which the proffered conditions will be applicable for the protection of the community when combined with existing zoning ordinance district regulations would cause the requested rezoning to be compatible with existing zoning and land uses in the area.

(2) Proffer of conditions. Any owner of property making application for a change in zoning or an amendment to the Zoning Map may, as part of the application, voluntarily proffer in writing reasonable conditions which shall apply to the subject property in addition to the regulations provided for in the zoning district sought in the rezoning application. Any such proffered conditions must be made prior to any public hearing before the City Council (including joint public hearings with the Planning Commission) and shall be subject to the following limitations:

- (a) The rezoning itself must give rise to the need for the conditions;
- (b) The conditions shall have a reasonable relation to the rezoning;
- (c) The conditions shall not include a cash contribution to the City;

(d) The conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities, except for the dedication of any street, curb, gutter, sidewalk, bicycle trail, or drainage, water or sewage systems, but may include voluntary dedication of real or personal property for such purposes;

(e) The conditions shall not include payment for or construction of off-site improvements except for a pro rata share of sewage and drainage facilities;

(f) No condition shall be proffered that is not related to the physical development or physical operation of the property;

(g) The requested rezoning will be an extension of similarly zoned property or the parcel shall be of such size to warrant consideration for rezoning; and

(h) All such conditions shall be in conformity with the Comprehensive Plan

(3) Effect of conditions. Upon the approval of any such rezoning, all conditions proffered and accepted by the governing body shall be deemed a part thereof and nonseverable therefrom and shall remain in force and effect until amended or varied by City Council. All such conditions shall be in addition to the regulations provided for in the zoning district to which the land is rezoned.

(4) Zoning Map notation and records. Each conditional rezoning shall be designated on the Zoning Map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain a conditional zoning index which shall provide ready access to the ordinance creating such conditions and which shall be available for public inspection.

(5) Submittal requirements. Each application for rezoning which proposes proffered conditions to be applied to the property shall be accompanied by the following items beyond those required by conventional rezoning requests:

(a) A statement describing the nature of the proposed development and explaining the relationship of the development to the Comprehensive Plan.

(b) A statement setting forth a maximum number of dwelling units or lots proposed, including density and open space calculations where applicable to any residential development, or a statement describing the types of uses proposed and the approximate square footage for each nonresidential development.

(c) A statement detailing any special amenities that are proposed.

(d) A statement of the public improvements both on and off site that are proposed for dedication and/or construction and an estimate of the date for providing such improvements.

(e) A site plan listing and detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions.

(f) A statement setting forth the proposed approximate development schedule.

(g) A signed statement by both the applicant and owner in the following form: "I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

(6) Time period for conditional zoning authorization. A conditional zoning authorization shall expire 12 months after its adoption if a building permit has not been issued for the proffered development and construction initiated. A twelve-month extension to a conditional zoning authorization may be granted by the Planning Commission.

(7) Procedural regulations and requirements. Proffered conditions shall include written statements, development plans and materials proffered in accordance with the provisions of this section and approved by the governing body in conjunction with the approval of an amendment to the Zoning Map. Upon approval, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in substantial conformance with all proffered conditions, and no development shall be approved by any City official in the absence of substantial conformance. For the purpose of this section, "substantial conformance" shall be defined as that conformance which leaves a reasonable margin for adjustment due to final engineering data but conforms to the general nature of the development, the specific uses and the general layout depicted by the plans and other materials presented by the applicant and/or the owner.

(8) Enforcement and guarantees.

(a) The Zoning Administrator shall be vested with all necessary authority on behalf of the City to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

[1] Ordering in writing of the remedy of any noncompliance with such conditions;

[2] Bringing legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

[3] Requiring a bond or other surety in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be released by the Zoning Administrator upon the submission of satisfactory evidence that the construction of such improvements has been completed in whole or in part.

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

(9) Petition for review of decision. Any zoning applicant who is aggrieved by the decision of the Zoning Administrator under Subsection B(8) of this section may petition the

governing body for review of such decision. Any such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the Zoning Administrator and with the City Manager a notice of appeal specifying the grounds therefor. The Zoning Administrator shall transmit to the governing body all of the papers constituting the record upon which the action appealed from was taken, and the governing body shall proceed to hear the appeal at its next regularly scheduled meeting. An appeal shall stay all proceedings and furtherance of the action appealed from unless the Zoning Administrator certifies to the governing body, after the notice of appeal has been filed with him, that by reason of the fact stated in the certificate a stay will, in his opinion, cause imminent peril to life or property. In such case, the proceeding shall not be stayed otherwise than by a restraining order which may be granted by the governing body or by a court of record on application or notice to the Zoning Administrator and on due cause shown.

(10) Amendments to adopted conditions. All amendments to adopted conditions shall be made in the same manner as the original application.

(11) Time limit for reconsideration of applications. After the City Council has taken official action denying an application for conditional zoning or for an amendment to the approved conditions for a conditional zoning, no other application for substantially the same changes shall be again considered until 12 months from the date of such official action.

#### **§ 420-14. Compliance required.**

All departments, officials and public employees of this jurisdiction who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter.

#### **§ 420-15. Violations and penalties.**

A. Any person, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be fined not less than \$10 nor more than \$250.

B. Such person shall be deemed to be guilty of a separate offense for every day during which any portion of any violation of this chapter is committed, continued or permitted by such person and shall be punishable as herein provided.

**ARTICLE II,  
Regulations of General Applicability**

**§ 420-16. Uses generally. [Amended 11-1-1984]**

- A. Conformance with chapter. No building or structure shall be erected, and no existing building shall be moved, altered, added to or enlarged, nor shall any land, building or structure be used, occupied, designed or arranged to be used for any purpose or in any manner not in conformance with the regulations of this chapter.
- B. Uses not specifically listed prohibited. For the purposes of this chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited.
- C. Lots. Every building hereafter erected shall be located on a lot as herein defined, and, except as herein provided, there shall be not more than one building on one lot.
- D. Dwellings. A dwelling of any type erected, altered or maintained as such in a less restricted district than that for which the regulations governing such dwelling are specified shall comply with the regulations governing the use, area, building height, yard and other requirements of the respective type of dwelling as if such dwelling were erected, altered or maintained in the district in which the regulations apply.

**§ 420-17. Care homes. [Added 11-5-1987]**

The intent of this chapter is to permit the development of care home facilities in appropriate locations throughout the City, so as to afford groups needing such housing the benefits of normal residential surroundings, to ensure compatibility of those uses within the neighborhoods in which they are located and to establish standards to encourage an adequate quality of service to the users of such facilities. It is the intent that such facilities permitted be limited to serve the needs of those from the Lexington-Rockbridge area. In addition to specific requirements that may be imposed by conditional use permit, the following standards shall apply:

- A. The number of occupants permitted shall be based on the size of the facility, the availability of parking and the needs of the occupants. The maximum number of occupants shall not exceed 10, including residential supervisory personnel, counselors and staff persons, provided that every room occupied for sleeping purposes shall meet the requirements of the BOCA Basic Building Code as specified in Chapter 134, § 134-3 of this Code. Each permitted facility shall further have a separate living room, a separate dining room and a separate kitchen.
- B. No signage other than that normally allowed in the district shall be permitted.
- C. No changes shall be made to the exterior of a building serving as a care home that would detract from its appearance as a family dwelling.
- D. Landscaping, buffers and/or fences may be designated as a permit condition in order to

mitigate potentially negative impacts on adjoining properties.

E. Depending on the intended use of the care home, off-street parking may be required on the basis of one space for each two occupants permitted.

F. Special restrictions shall be considered in the event that a care home is located closer than 500 feet to another care home.

G. Conditional use permits associated with care homes shall not be granted in perpetuity but instead for specific periods of time.<sup>5</sup>

**§ 420-18. Bed-and-breakfast establishments. [Added by Ord. No. 96-9]**

The intent of this section is to permit and regulate the operation of bed-and-breakfast homestays and inns in appropriate locations throughout the City in an effort to stimulate tourism. In addition to applicable restrictions in each district and requirements that may be imposed by conditional use permit, the standards listed below shall apply.

A. Bed-and-breakfast homestays shall be subject to the following restrictions:

(1) No signs will be placed on the property advertising its use as a bed-and-breakfast homestay.

(2) The operator shall hold a valid business license from the City and, where applicable, a permit from the Department of Health.

(3) A registration book must be maintained for one year and be made available for review by the City upon request.

B. Bed-and-breakfast inns shall be subject, but not limited, to the following restrictions:

(1) Every room occupied for sleeping purposes shall comply with BOCA Basic Building Codes.

(2) Signage must comply with Article XXI of this chapter.

(3) No changes shall be made to the building exterior that would detract from its appearance as a family dwelling.

(4) Off-street parking shall be provided in compliance with Article XX of this chapter. The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.

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5. Editor's Note: Original 28-16.2, which immediately followed this section, was repealed by Ord. No. 91-15.

(5) Bed-and-breakfast establishments shall only be permitted in existing structures and may not increase the size of the structure, including accessory structures, by more than 25% of the original square footage. Any additions or modifications shall be residential in appearance and compatible with the original structure and surrounding structures and the overall footprint of the structure, and parking shall not be excessive for the size and shape of the lot.

(6) Landscaping, buffers and/or fences may be required as a permit condition in order to mitigate potentially negative impacts on adjoining properties and to maintain the appearance of the district.

(7) The operator shall hold a valid business license from the City and, where applicable, a permit from the Department of Health.

(8) Bed-and-breakfast inns are to be integrated into the residential fabric of the neighborhood in which they are located. A proposed bed-and-breakfast inn should not affect the integrity or character of the single-family residential neighborhood for which it is proposed.

(9) Off-street parking shall be screened from surrounding family residences by landscaping or fencing which is compatible with the neighborhood.

(10) Existing structures and landscaping determined to contribute to the character of the neighborhood shall not be removed.

(11) Guest rooms shall not have cooking facilities.

(12) The maximum stay for a guest shall be 14 days.

(13) Conditional use permits for bed-and-breakfast inns shall normally be issued for a ten-year period.

(14) Bed-and-breakfast establishments are permitted solely to provide lodging and breakfast accommodations. Additional activities, including receptions, parties and other events, are not permitted unless specifically authorized by the conditional use permit. Authorization for additional activities will be based on the suitability of the house and property for hosting such events. Specific consideration will be given to the floor plan of the house, the proximity of the house to neighboring houses, the size of the lot, provisions to buffer the effects of such activities from adjacent property and the ability to provide parking for such events.

(15) A registration book must be maintained for one year and made available for review by the City upon request.

**§ 420-19. Home occupations. [Added by Ord. No. 04-7]**

A home occupation shall be subject to the following restrictions:

A. No sign or nameplate shall be used.

- B. No artificial lighting shall be used on the exterior.
- C. No display shall be utilized which indicates from the exterior that the building is used for any purpose other than a dwelling.
- D. No merchandise shall be sold on the premises.
- E. No person shall be employed in the home occupation other than members of the resident family.
- F. The equipment used by the home-based business and the operation of the business shall not create any noise, vibration, heat, glare, dust, odor or smoke discernible at the property lines or use or store hazardous materials in excess of quantities permitted in residential structures.
- G. The business shall not use more than 25% of the total floor area of the residence and accessory structures. There shall be no outdoor storage.
- H. Convalescent nursing homes, tourist homes, lodging or boarding houses, motor vehicle or small engine repair, cabinetry and woodworking shops, barbershops, massage parlors or similar establishments shall not be considered to be customary home occupations. Massage therapists and massage practitioners who have completed a professional massage technician curriculum certified by the Board of Education of the Commonwealth of Virginia, the American Massage Therapy Association or the Associated Bodywork and Massage Professionals or a massage therapist who is able to furnish a diploma from a recognized educational institution or other indicia of completion of a course in massage therapy which requires at a minimum 350 hours of course work, which may include practical training if such training is a normal part of the course, are exempted from this subsection. Massage therapists and practitioners must provide one off-street parking space for clients.

**§ 420-20. Major recreational equipment on residential lots.**

No major recreational equipment shall be parked or stored on any lot in a residential district on that portion of the lot lying between the center line of the street and the front of the structure; provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed 24 hours during loading and unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

**§ 420-21. Building height.**

No building or structure shall be erected, reconstructed or structurally altered to exceed in height the limit designated in this chapter for the district in which such building is located.

**§ 420-22. Areas and yards.**

A. No building or structure shall be erected, nor shall any existing building or structure be altered, enlarged or rebuilt, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the district in which such building, structure or open space is located.

B. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter which is considered as a yard or open space on one lot shall be considered as a yard or open space for a building on any other lot.

C. All yards and courts required by this chapter shall be open and unobstructed to the sky.

**§ 420-23. Fences, walls and hedges. [Amended 1-20-1983]**

Except as otherwise provided, fences, walls and hedges may be permitted in any required yard, provided that no fence, wall or hedge along any yard shall be over seven feet in height. The aforesaid provision notwithstanding, no fence, hedge, wall or barricade of any kind shall be constructed on or between abutting properties in commercial districts, both of which are utilized for off-street customer parking and/or traffic flow, unless it is determined by the Planning Commission that such fence, hedge, wall or barricade will promote the general welfare of the public and decrease traffic hazards in the general vicinity.

**§ 420-24. Street frontage.**

No lot shall be used in whole or in part for dwelling purposes unless such lot abuts upon a street in accordance with the minimum frontage requirements of this chapter. No lot or parcel of land abutting the terminus of a public street shall be deemed to comply with street frontage requirements unless such lot abuts an approved, permanent cul-de-sac.

**§ 420-25. Widening of streets and highways.**

Whenever there shall be plans in existence, approved by either the State Department of Highways and Transportation or by the governing body, for the widening of any street or highway, the Zoning Administrator may require additional front yard setback for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

**§ 420-26. Visibility at intersections in residential districts.**

On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision between a height of 2 1/2 and 10 feet above the center lines of such corner lots and a line joining points along such street lines 50 feet from the point of the intersection.

**§ 420-27. Dish antennas. [Added 11-6-1986; amended by Ord. No. 90-3]**

- A. Communication antennas, commonly called "dish" antennas, which do not comply with the restrictions listed below may be allowed with conditional use permits, subject to the applicant's ability to satisfactorily mitigate negative aesthetic impacts on adjoining properties. Dish antennas shall be permitted in all districts but shall be limited to one exterior antenna per parcel except with conditional use permit.
- B. Ground-mounted antennas shall be limited to the rear yard, and in the case of a corner lot no antenna shall be nearer than 25 feet to the side street adjacent to the property.
- C. A ground-mounted antenna shall be screened from view from a public street and from adjacent properties.
- D. No ground-mounted antenna shall exceed the main building in height.
- E. Roof-mounted antennas, when designated for that purpose, shall be permitted, except that a roof-mounted antenna shall not be more than 48 inches in diameter and shall not be visible from any street.
- F. Antennas shall be permanently and securely installed.

**§ 420-28. Telecommunication towers. [Added by Ord. No. 00-4]**

The intent of this section is to establish general guidelines for the siting of towers and antennas.

- A. The goals of this section are to:
  - (1) Provide adequate sites for the provision of telecommunication services with minimal negative impact on the resources of the community.
  - (2) Encourage the location of towers in nonresidential areas and minimize the total number of towers and tower sites throughout the community.
  - (3) Strongly encourage the joint use of new and existing tower sites.
  - (4) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
  - (5) Encourage users of towers and antennas to configure them in a way that minimizes their adverse visual impact.
- B. Applicability. The requirements set forth in this section shall control all antennas and telecommunication towers except any antenna that is under 50 feet in height and is owned and operated by a federally licensed amateur radio station operator.
- C. General guidelines and requirements.
  - (1) A different existing use or an existing structure on the same lot shall not preclude

the installation of an antenna or towers on that lot. Antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.

(2) Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the City an inventory of its existing facilities that are either within the City or within five miles of the City limits, including specific information about the location, height, and design of each tower. The City may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the City; provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics; lighting. The guidelines set forth in this section shall govern the location of all towers and the installation of all antennas governed by this section; provided, however, that the City may waive any of these requirements if it determines that the goals of this section are better served thereby.

(1) Towers, dish antennas and the design of the buildings and related structures at a facility site shall, to extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the built environment or the natural setting. Structures will be of a neutral, nonreflective color without any logos.

(2) The design of the buildings and related structures at a facility site shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the built environment or the natural setting.

(3) Antennas and their supporting facilities proposed for placement on buildings shall be evaluated not only for compatibility with their surroundings but also by the extent of visual clutter they create. The number of antennas and equipment shelters may be limited to ensure compliance with this standard.

(4) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(5) Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

65) No advertising of any type may be placed on the tower or accompanying facility.

E. Federal requirements; building codes.

(1) All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the

federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards as required. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(2) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state and local building codes and regulations.

F. Information required. Each applicant requesting a conditional use permit under this section shall submit:

(1) A scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses and other information deemed by the City to be necessary to assess compliance with this section.

(2) Actual photographs of the site from designated relevant views that include a simulated photographic image of the proposed tower. The photograph with the simulated image shall include the foreground, the midground and the background of the site.

(3) An engineering report certifying that the proposed tower is compatible for collocation for a minimum of three similar users, including the primary user.

(4) Copies of the collocation policy of the applicant.

(5) Copies of propagation maps demonstrating that antennas and sites for possible collocators are no higher in elevation than necessary.

G. Factors considered in granting conditional use permits for new towers or poles. The governing authority shall consider the following factors in determining whether to issue a conditional use permit, although the City may waive or reduce the burden on the applicant of one or more of these criteria if it concludes that the goals of this section are better served thereby:

(1) Height of the proposed tower or pole.

(2) Proximity of the tower or pole to residential structures and residential district boundaries.

(3) Nature of the uses on adjacent and nearby properties.

(4) Surrounding topography.

(5) Surrounding tree coverage and foliage.

(6) Design of the tower or pole, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

(7) Proposed ingress and egress.

(8) Collocation policy.

(9) Language of the lease agreement.

(10) Availability of suitable existing towers and other structures as discussed below.

H. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

(1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

(2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

(3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

(4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

I. Setbacks. The following setback requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the City may reduce the standard setback requirements if the goals of this section would be better served thereby:

(1) Towers must be set back a distance equal to 200% of the height of the tower from any off-site residential structure and in no case less than 400 feet.

(2) Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.

J. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticlimbing device; provided, however,

that the City may waive such requirements, as it deems appropriate. Fencing shall be painted or coated to reduce its visibility.

K. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; provided, however, that the governing authority may waive such requirements if the goals of this section would be better served thereby:

(1) Tower facilities shall be landscaped with a buffer of plant materials that effectively permanently screens the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound. Landscaping shall provide an effective buffer throughout the year.

(2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether by the City.

(3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

L. Removal of abandoned antennas and towers. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the City notifying the owner of such removal requirement. Removal includes the removal of the tower, all tower and fence footers, underground cables and support buildings. The buildings may remain with the City's approval. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is not removed, the City may require the landowner to have it removed.

#### **§ 420-28 A. Portable Buildings [ Added by Ord. 2008- 04]**

A. Portable buildings, except those specifically exempted below, may be located on a lot only upon the issuance of a Conditional Use Permit, in accordance with Section 420-11. Where a lot is used for retail, commercial or industrial purposes, one or more such buildings may be located on a lot. Portable buildings must be used as a subordinate building, the use of which is incidental to and used only in conjunction with the main building's use. Such buildings must conform to the yard requirements for the zoning district in which they are located. The placement of such a building shall require an Entrance Corridor Certificate of Appropriateness if it is to be located in an Entrance Corridor Overlay District and a Certificate of Appropriateness if it is to be located in the Downtown Historic Preservation District. Such a building is for temporary use only and must be replaced with a permanent building or removed within two years. One extension may be requested and approved for not more than one additional year.

B. Exemptions:

(1) In all residential districts portable buildings may be used as accessory structures, the use of which is incidental to, and used only in conjunction with the primary

structure.

- (2) Contractor's temporary office and storage sheds incidental to a construction project. Such buildings shall be placed on the construction site only after a building permit has been issued for on-site construction work. When such construction work is completed or abandoned, or when the building permit expires or is revoked, such offices or sheds shall be removed.
  - (3) Temporary restroom facilities
- C. Bond required - A cash or other bond may be required to cover the cost of removal and disposal of a temporary building when the Conditional Use Permit expires.

**ARTICLE III,  
General Residential District R-1**

**§ 420-29. Intent. [Added by Ord. No. 98-8]**

This district is composed of certain low-density residential areas, plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district and to promote and encourage, insofar as is compatible with the intensity of land use, a suitable environment for family life composed of a family population. For this reason the number of unrelated individuals permitted to constitute a household unit is limited to a maximum of three in this district. Residential structures for both permanent and transient occupancy, including institutions, may be authorized.

**§ 420-30. Permitted uses. [Added by Ord. No. 98-8; amended 1-4-2007 by Ord. No. 2007-01]**

- A. Single-family dwellings. A maximum of three unrelated individuals may constitute a household unit.
- B. Two-family dwellings. A maximum of three unrelated individuals may constitute a household unit in each dwelling unit.
- C. Signs in accordance with Article XXI of this chapter.
- D. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- E. Accessory buildings.
- F. Home occupations.
- G. Public utilities, such as poles, lines, distribution transformers, pipes, meters and/or facilities for their provision and maintenance, except that treatment facilities are prohibited.
- H. Bed-and-breakfast homestays.

**§ 420-31. Conditional uses. [Added by Ord. No. 00-4; amended by Ord. No. 04-10; 1-4-2007 by Ord. No. 2007-01]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Care homes.
- B. Bed-and-breakfast inns, boarding or lodging houses, retirement homes, fraternity or sorority houses and headquarters on both sides of Nelson, Main and Washington Streets, all of which shall be subject, but not limited, to restrictions normally imposed on bed-and-breakfast inns as specified in § 420-18.

C. Fraternity or sorority house or other similar Washington and Lee University student housing organized around an academic theme and including seminars and discussions related to that theme and supervised by a resident adult at 106 Lee Avenue, subject to, but not limited to, the conditions referred to in Subsection B above.

D. Single-family dwellings which have previously been granted conditional use permits to allow more than four unrelated individuals to constitute a single household unit may continue to operate and may apply for renewal of their conditional use permits when they expire subject to their compliance with the following restrictions:

(1) The number of unrelated individuals occupying a housekeeping unit permitted beyond the limit prescribed by code shall be based on the size of the facility and the applicant's ability to meet the regulations provided herein; however, the maximum number of individuals permitted shall in no event exceed six individuals. Structures for which such permits are granted shall minimally have one bedroom per occupant permitted.

(2) An application for renewal of a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall include a building sketch depicting the lot, its size, placement of the house and off-street parking and illustrating the location, dimension and use of all rooms making up the dwelling unit.

(3) Any structure granted a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall fully comply with the most current edition of the Building Officials and Code Administrators (BOCA) Existing Structures Code. An annual inspection shall be performed by the City to confirm that all BOCA code provisions have been met.

(4) No changes shall be made to the exterior of a permitted housing unit that would alter its appearance as a single-family dwelling.

(5) Off-street parking, landscaping, buffers and fences may be designated as permit conditions in order to mitigate potentially negative impacts on adjoining properties.

(6) Conditional use permits associated with this provision shall not be granted in perpetuity but instead for specific periods of time.

(7) A copy of the conditional use permit issued in accordance with this section shall be posted within the dwelling unit.

E. Commercial antennas and dish antennas designed to receive radio or electromagnetic waves, telecommunication towers, and antennas located on the site of the old municipal water treatment plant on Enfield Road.

F. Family home day care, subject to compliance with the following restrictions:

(1) One additional parking space which conforms to the requirements of Article XX, Off-Street Parking, shall be provided if there is an employee who does not reside in the home.

(2) The maximum number of children for whom care may be provided will be determined by the City and specified in the conditional use permit. This determination will be based upon the exercise of planning judgement respecting location, size and floor plan of the house, site plan, including the size of the available yard, and other appropriate factors.

G. Schools.

H. Churches.

I. Parks and playgrounds.

J. Libraries.

**§ 420-32. Lot area. [Amended by Ord. No. 95-16, and Ord. 2010-05]**

A. Except as specified below, the minimum lot area shall be 8,000 square feet for any main building.

B. For two-family dwellings:

(1) The minimum lot size shall be 12,000 square feet for any given structure. Lots for individual dwelling units in the structure may be less than 6,000 square feet provided that the total lot area for the two lots is 12,000 square feet or greater. If lots of less than 6,000 square feet are proposed for individual dwelling units, the adequacy of the lots shall be evaluated during the subdivision review process.

(2) Two-family dwellings in single ownership which were in existence prior to July 1, 2010 and which contain less than 12,000 square feet may be subdivided provided that:

- (a) the yard and setback requirements for this District are complied with; or
- (b) a variance to the nonconforming yard and/or setback requirements is obtained from the Zoning Board of Appeals.

C. For lots serviced by individual water and/or sewage disposal systems, the required area shall be determined by the Health Official but shall not be less than is required by Subsection A or B above.

**§ 420-33. Lot width; street frontage. [Added by Ord. No. 97-1]**

A. Except as specified below, the minimum width of any lot at the setback line shall be not less than 60 feet.

(1) For two-family dwellings, such minimum width shall be 80 feet.

B. No building shall be erected on a lot which does not have immediate access to and abut upon a dedicated and opened public street for at least 35 feet.

**§ 420-34. Building setback. [Amended by Ord. No. 95-16]**

Buildings shall be set back a minimum of 25 feet from any public street right-of-way, and under no condition shall a building be sited any closer than 50 feet to the center line of a public street right-of-way.

**§ 420-35. Building height. [Added by Ord. No. 00-4]**

Buildings may be erected up to 35 feet in height, except that:

- A. The height limit for dwellings may be increased up to 45 feet, provided that each side yard is 30 feet plus at least one foot for each additional foot of building height over 35 feet.
- B. Antennas and telecommunications towers when authorized by a conditional use permit, church spires, belfries, cupolas, municipal water towers, chimneys, flues, and noncommercial television and radio aerials less than 50 feet in height are exempt.
- C. No accessory building which is within 20 feet of any party lot line shall be more than 20 feet in height. No accessory building shall exceed the main building in height.

**§ 420-36. Yards. [Added by Ord. No. 97-1]**

- A. Side yards. The minimum side yard shall be not less than 10 feet except for lots which were platted prior to October 19, 1995, and which have a lot width of 60 feet or less; the minimum side yard for such lots shall not be less than five feet, and the sum of both side yards shall not be less than 15 feet.
- B. Rear yards. Each main building shall have a rear yard depth of not less than 25 feet and a minimum open area of 1,000 square feet.

**§ 420-37. Corner lots. [Amended by Ord. No. 95-16]**

- A. The side yard on the side facing the side street shall be not less than 15 feet for both main and accessory buildings.
- B. For subdivisions platted after the enactment of this chapter, each corner lot in the R-1 District shall have a minimum width at the setback line of not less than 60 feet.

**ARTICLE IV,  
Suburban Residential District R-1A [Added by Ord. No. 95-16]**

**§ 420-38. Intent.**

This district is composed of low-density residential areas containing mostly single-family homes as well as vacant areas where development of a similar nature is most appropriate. The regulations for this district are designed to stabilize and protect the essential characteristics of the district and to promote and encourage a suitable environment for family life composed of a family population. For this reason the number of unrelated individuals permitted to constitute a household unit is limited to a maximum of three in this district. Residential structures for both permanent and transient occupancy, including institutions, may be authorized.

**§ 420-39. Permitted uses. [Amended 1-4-2007 by Ord. No. 2007-02]**

- A. Single-family dwellings. A maximum of three unrelated individuals may constitute a household unit.
- B. Primary residence with an accessory apartment. A maximum of three unrelated individuals may constitute a household unit in the primary residence. A maximum of two unrelated people may constitute a household unit in the accessory apartment.
- C. Signs in accordance with Article XXI of this chapter.
- D. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- E. Accessory buildings.
- F. Home occupations.
- G. Public utilities, such as poles, lines, distribution transformers, pipes, meters and/or facilities for their provision and maintenance, except that treatment facilities are prohibited.
- H. Bed-and-breakfast homestays.

**§ 420-40. Conditional uses. [Added by Ord. No. 96-9; amended by Ord. No. 04-10; 1-4-2007 by Ord. No. 2007-02]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Care homes.
- B. Bed-and-breakfast inns, boarding or lodging houses, and retirement homes on Main Street, all of which shall be subject, but not limited, to restrictions normally imposed on bed-and-breakfast inns as specified in § 420-18.

C. Offices on Main Street, subject to, but not limited to, the following restrictions:

(1) The use of a building for both residential purposes and as an office or clinic must be specifically provided for in the conditional use permit, otherwise use of a building for both residential and office or clinic use shall not be allowed unless the use qualifies as a home occupation as defined in § 420-3.

(2) No signage other than that permitted in the R-1 District shall be permitted.

(3) No changes shall be made to the exterior of the building that would detract from its appearance as a family dwelling.

(4) Landscaping, buffers and/or fences may be designated as a permit condition in order to mitigate potentially negative impacts on adjoining properties.

(5) Off-street parking shall be provided on the basis of one space for each 300 square feet of office floor area.

(6) Additions or expansions of existing buildings to be used in part or whole as offices or clinics will comply with setback, lot and yard requirements regulating single-family dwellings.

(7) Use of a building as a clinic shall not be permitted in instances where all directly abutting and across-street properties are in use as single-family dwellings.

D. Single-family dwellings which have previously been granted conditional use permits to allow more than four unrelated individuals to constitute a single household unit may continue to operate and may apply for renewal of their conditional use permits when they expire subject to their compliance with the following restrictions:

(1) The number of unrelated individuals occupying a housekeeping unit permitted beyond the limit prescribed by code shall be based on the size of the facility and the applicant's ability to meet the regulations provided herein; however, the maximum number of individuals permitted shall in no event exceed six individuals. Structures for which such permits are granted shall minimally have one bedroom per occupant permitted.

(2) An application for renewal of a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall include a building sketch depicting the lot, its size, placement of the house and off-street parking and illustrating the location, dimension and use of all rooms making up the dwelling unit.

(3) Any structure granted a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall fully comply with the most current edition of the Building Officials and Code Administrators (BOCA) Existing Structures Code. An annual inspection shall be performed by the City to confirm that all BOCA code provisions have been met.

(4) No changes shall be made to the exterior of a permitted housing unit that would

alter its appearance as a single-family dwelling.

(5) Off-street parking, landscaping, buffers and fences may be designated as permit conditions in order to mitigate potentially negative impacts on adjoining properties.

(6) Conditional use permits associated with this provision shall not be granted in perpetuity but instead for specific periods of time.

(7) A copy of the conditional use permit issued in accordance with this section shall be posted within the dwelling unit.

E. Commercial antennas and dish antennas designed to receive radio or electromagnetic waves when located on municipally owned land.

F. Family home day care, subject to compliance with the following restrictions:

(1) One additional parking space which conforms to the requirements of Article XX, Off-Street Parking, shall be provided if there is an employee who does not reside in the home.

(2) The maximum number of children for whom care may be provided will be determined by the City and specified in the conditional use permit. This determination will be based upon the exercise of planning judgement respecting location, size and floor plan of the house, site plan, including the size of the available yard, and other appropriate factors.

G. Schools.

H. Churches.

I. Parks and playgrounds.

J. Libraries.

#### **§ 420-41. Lot area.**

The minimum lot area shall be 15,000 square feet.

#### **§ 420-42. Lot width; street frontage.**

A. The minimum width of any lot at the setback line shall be not less than 80 feet.

B. No building shall be erected on a lot which does not have immediate access to and abut upon a dedicated and opened public street for at least 35 feet.

#### **§ 420-43. Building setback.**

Buildings shall be set back a minimum of 25 feet from any public street right-of-way, and under no condition shall a building be sited any closer than 15 feet to the center line of a public street right-of-way.

**§ 420-44. Building height.**

Buildings may be erected up to 35 feet in height, except that:

- A. The height limit for dwellings may be increased up to 45 feet, provided that each side yard is 30 feet plus at least one foot for each additional foot of building height over 35 feet.
- B. Church spires, belfries, cupolas, municipal water towers, chimneys, flues, noncommercial television and radio aerials and commercial antennas when authorized by a conditional use permit are exempt.
- C. No accessory building which is within 12 feet of any party lot line shall be more than 20 feet in height. No accessory building shall exceed the main building in height.

**§ 420-45. Yards.**

- A. Side yards. The minimum side yard shall be not less than 15 feet.
- B. Rear yards. Each main building shall have a rear yard depth of not less than 25 feet and a minimum open area of 1,000 square feet.

**§ 420-46. Corner lots.**

The side yard on the side facing the side street shall be not less than 15 feet for both main and accessory buildings.

**ARTICLE V,  
Multifamily Residential District R-M**

**§ 420-47. Intent. [Amended by Ord. No. 91-15; Ord. No. 95-16; 1-4-2007 by Ord. No. 2007-03]**

This district is intended to establish areas where housing of a medium-density capacity can be located. For this reason, a maximum of four unrelated individuals are authorized to constitute a household unit in all types of dwelling units in this district. The regulations of this district provide that multiple-family dwellings, such as apartment houses, townhouses, garden apartments, etc., may be developed in appropriate areas, well located with respect to major roads, shopping facilities and employment centers. Such developments are allowed in a manner which provides a suitable and comfortable living environment for people of all ages. Community facilities needed to support these developments are permitted. While these developments are of a medium density, they tend to be small in scale and therefore would be compatible with adjacent land uses.

**§ 420-48. Permitted uses. [Amended 3-5-1981; 8-20-1987; 11-5-1987; by Ord. No. 89-6; Ord. No. 91-15; Ord. No. 95-16; 1-4-2007 by Ord. No. 2007-03]**

A building and/or land may be used only for the following purposes:

- A. Single-family dwellings. A maximum of four unrelated individuals may constitute a household unit.
- B. Two-family dwellings. A maximum of four unrelated individuals may constitute a household unit in each dwelling unit.
- C. Apartment houses. A maximum of four unrelated individuals may constitute a household unit.
- D. Townhouses. A maximum of four unrelated individuals may constitute a household unit.
- E. Signs in accordance with Article XXI of this chapter.
- F. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- G. Accessory buildings.
- H. Home occupations.
- I. Public utilities, such as poles, lines, distribution transformers, pipes, meters and/or facilities for their provision and maintenance, except that sewage treatment facilities are prohibited.
- J. Bed-and-breakfast homestays.

**§ 420-49. Conditional uses. [Added by Ord. No. 96-9; amended 1-4-2007 by Ord. No. 2007-03]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Care homes, boarding or lodging houses, fraternity and sorority houses and headquarters, offices and bed-and-breakfast inns.
- B. Single-family dwellings which have previously been granted conditional use permits to allow more than four unrelated individuals to constitute a single household unit may continue to operate and may apply for renewal of their conditional use permits when their current conditional use permits expire, subject to their compliance with the following restrictions:
  - (1) The number of unrelated individuals occupying a housekeeping unit permitted beyond the limit prescribed by code shall be based on the size of the facility and the applicant's ability to meet the regulations provided herein; however, the maximum number of individuals permitted shall in no event exceed six individuals. Structures for which such permits are granted shall minimally have one bedroom per occupant permitted.
  - (2) An application for a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall include a building sketch depicting the lot, its size, placement of the house and off-street parking and illustrating the location, dimension and use of all rooms making up the dwelling unit.
  - (3) Any structure granted a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall fully comply with the most current edition of the Building Officials and Code Administrators (BOCA) Existing Structures Code. An annual inspection shall be performed by the City to confirm that all BOCA code provisions have been met.
  - (4) No changes shall be made to the exterior of a permitted housing unit that would alter its appearance as a single-family dwelling.
  - (5) Off-street parking, landscaping, buffers and fences may be designated as permit conditions in order to mitigate potentially negative impacts on adjoining properties.
  - (6) Conditional use permits associated with this provision shall not be granted in perpetuity but instead for specific periods of time.
  - (7) A copy of the conditional use permit issued in accordance with this section shall be posted within the dwelling unit.
- C. Parks and playgrounds.
- D. Schools.
- E. Churches.

F. Libraries.

**§ 420-50. Lot area. [Amended 3-5-1981; 6-17-1983; by Ord. No. 95-16]**

The minimum lot size shall be 8,000 square feet for any main building, with the following exceptions:

- A. For two-family dwellings, the minimum lot size shall be 12,000 square feet.
- B. For garden apartments, the minimum lot size shall be 3,630 square feet for each dwelling unit.
- C. For apartment houses, the minimum lot size shall be 10,000 square feet, plus 1,500 square feet for each dwelling unit in excess of four contained in the development, with the maximum percentage of lot coverage being 50%.
- D. For townhouses, the minimum lot size shall be 5,445 square feet for each dwelling unit.

**§ 420-51. Lot width; street frontage. [Amended 3-5-1981; 6-17-1983; by Ord. No. 95-16]**

A. The minimum width of any lot at the setback line shall be not less than 60 feet, with the following exceptions:

- (1) For two-family dwellings, such minimum shall be 80 feet.
- (2) For garden apartments and townhouses, the minimum width shall be 75 feet.
- (3) For apartment houses, the minimum lot width at the setback line shall be 50 feet plus 10 feet additional width per dwelling unit above four units, up to a maximum required width of 100 feet.

B. No building shall be erected on a lot which does not abut on at least one dedicated and opened public street for at least 35 feet.

**§ 420-52. Building setback. [Amended by Ord. No. 95-16]**

Buildings shall be set back a minimum of 25 feet from any public street right-of-way, and under no condition shall a building be sited any closer than 50 feet to the center line of a public street right-of-way.

**§ 420-53. Building height. [Amended 6-17-1983; by Ord. No. 95-16]**

Buildings may be erected up to 35 feet in height from the average level of the ground adjacent to the front exterior wall, except that:

- A. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles and noncommercial television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

B. No accessory building which is within 20 feet of any party lot line shall be more than 20 feet in height. No accessory building shall exceed the main building in height.

**§ 420-54. Yards. [Amended 3-5-1981; 6-17-1983; by Ord. No. 95-16]**

A. Side yard. The minimum side yard shall be not less than 10 feet, with the following exceptions:

(1) For any garden apartment, the minimum side yard shall be 20 feet.

(2) For any apartment house, the minimum side yard shall be 20 feet.

B. Rear yard. The minimum rear yard shall be 25 feet, with the following exceptions: the minimum rear yard for any garden apartment or apartment house shall be 40 feet.

C. Additional requirements for garden apartments and apartment houses. For garden apartments and apartment houses, more than one main building per lot is allowed, provided that, in addition to all other yard regulations, no main building may be closer than 25 feet to another main building.

**§ 420-55. Corner lots. [Amended by Ord. No. 95-16]**

A. The side yard on the side facing the side street shall be not less than 15 feet for both main and accessory buildings.

B. For a subdivision platted after the enactment of this chapter, each corner lot in the R-M District shall have a minimum width at the setback line of not less than 60 feet.

**§ 420-56. Provisions for townhouses. [Amended 6-17-1983; by Ord. No. 95-16]**

A. Height. Townhouses may be erected up to 35 feet in height from the average level of the ground adjacent to the front exterior wall.

B. Area regulations. The minimum lot area associated with each individual townhouse shall be 1,600 square feet. Lot areas may be measured from the front facades of individual units.

C. Width regulations. The minimum lot width at the setback line shall be 20 feet.

D. Yard regulations.

(1) Side. Each townhouse group shall have minimum side yards of 10 feet. When the townhouse group adjoins a single-family district, the side yard shall be 20 feet on the side adjoining that district. In the case of townhouse projects of two or more townhouse groups, the minimum distance between groups of structures shall be 20 feet.

(2) Corner lots. The side yard on the side facing the side street shall be not less than 20 feet for both main and accessory buildings.

(3) Rear. Each townhouse shall have a minimum rear yard depth of 25 feet. Each unit shall have direct rear access to an access easement of at least five feet. This easement may be included within the minimum yard depth.

(4) Building setback. Townhouse buildings, measured from the nearest unit, shall be set back a minimum of 25 feet from any public or private street right-of-way, and under no condition shall a building be sited any closer than 50 feet to the center line of a public street right-of-way.

E. Special regulations.

(1) No more than eight townhouses shall be included in any townhouse grouping.

(2) Attached dwellings shall be separated by a noncombustible party wall to the roofline with a fire resistance of not less than two hours' duration or the current requirements of the Virginia Uniform Statewide Building Code.

(3) Each townhouse building shall front on a dedicated public street or, if access is to be provided by means of private streets, Chapter 360, § 360-14C of this Code notwithstanding, the means of access, including curbs, gutters and sidewalks, shall be developed according to standards found in "Subdivision Street Requirements" by the State Department of Highways and Transportation by authority of §§ 33.1-12, 33.1-69 and 33.1-229 of the Code of Virginia, as amended. If access is by private streets, the final plat will indicate clearly that the streets neither have been dedicated to the City by the developer nor accepted by the City into the City street system, and maintenance thereof shall be in accordance with Subsection E(4) of this section.

(4) Common areas shall be maintained by and be the sole responsibility of the developer-owner of the townhouse development until such time as the developer-owner conveys such common area to a homeowners' association whose members shall be all the individual owners of the townhouses in the townhouse development. Such land shall be conveyed to and be held by such homeowners' association solely for purposes of the owners of the individual townhouse lots in the development. In the event of such conveyance by the developer-owner to a homeowners' association, deed restrictions and covenants shall provide, among other things, that any assessments charged for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual townhouse lots. Maintenance of townhouse exteriors, lawns, refuse handling, taxes, lighting and drainage shall be provided in a similar manner so as to discharge any responsibility from the City.

(5) Required off-street parking spaces shall be provided on the individual lots or within a common area maintained by the homeowners' association or the developer, as described in Subsection E(4) above, and within 500 feet of each townhouse building which they are intended to serve, measured along lines of public access to the nearest point of the off-street parking facilities and the principal use.

(6) The facades of dwelling units in a townhouse development shall be varied by changed front yards of not less than two feet and variations in materials or design, so that no more than four abutting units will have the same front yard depth or the same or essentially the same architectural treatment of facades and rooflines.

**ARTICLE VI,  
Multifamily High-Rise District R-H**

**§ 420-57. Intent. [Amended by Ord. No. 95-15; Ord. No. 95-16]**

This district is composed of a high concentration of residential units of multiple-story design. The regulations for this district are designed to provide apartment residences with a high intensity of land use, including certain limited commercial uses of a character primarily to serve the occupants of the structure, without creating a commercial environment or encroaching upon the atmosphere of adjacent development. A maximum of four unrelated individuals may constitute a household unit in this district.

**§ 420-58. Permitted uses. [Amended 11-5-1987; by Ord. No. 89-6; Ord. No. 91-15; Ord. No. 95-16; 1-4-2007 by Ord. No. 2007-04]**

- A. Single-family dwellings. A maximum of four unrelated individuals may constitute a household unit.
- B. Two-family dwellings. A maximum of four unrelated individuals may constitute a household unit.
- C. High-rise apartments. A maximum of four unrelated individuals may constitute a household unit.
- D. Limited medical office facilities within a high-rise apartment building, such as the office of a physician, surgeon or dentist.
- E. Limited commercial establishments within a high-rise apartment building, such as drugstores, perfumeries, florists, barber or valet shops, beauty parlors, newsstands, coffee shops, delicatessens or such similar uses, provided that such facilities are operated primarily for the use of the residents of the high-rise apartments, with no entrances direct from the street to such facility and no signs or other evidence indicating the existence of such facility visible from the outside of the building.
- F. Garden apartments and townhouse apartments, in accordance with Article V of this chapter. A maximum of four unrelated individuals may constitute a household unit.
- G. Bed-and-breakfast homestays.
- H. Signs in accordance with Article XXI of this chapter.
- I. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- J. Accessory buildings.
- K. Home occupations.

L. Public utilities, such as poles, lines, distribution transformers, pipes, meters and/or facilities for their provision and maintenance, except that sewage treatment facilities are prohibited.

**§ 420-59. Conditional uses. [Added by Ord. No. 96-9; amended 1-4-2007 by Ord. No. 2007-04]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Care homes, boarding or lodging houses, fraternity or sorority houses and headquarters, and bed-and-breakfast inns.
- B. Parks and playgrounds.
- C. Schools.
- D. Churches.
- E. Libraries.

**§ 420-60. Lot area. [Amended by Ord. No. 95-16]**

A. The minimum area required for a permitted use shall be 8,000 square feet, with the following exception:

- (1) For two-family dwellings, the minimum lot size shall be 12,000 square feet.
- (2) High-rise apartment building.

(a) For a high-rise apartment building, there shall be a minimum lot area of 12,500 square feet, but not less than a total area computed on the basis of the number of dwelling units on the lot and the number of rooms per dwelling, as follows:

<b>Number of Rooms Per Dwelling Unit</b>	<b>Lot Area Per Dwelling Unit (square feet)</b>
1	800
2	1,200
3	1,600
4 or more	2,000

(b) Any floor space exceeding 40 square feet, enclosed by partitions or walls having a door or other opening for access, shall be deemed to be a room. The use of all rooms shall be clearly defined on the plans submitted with the application for a building permit. Rooms containing bath or kitchen facilities are not included in the room count used in the apartment determination.

B. The maximum percentage of lot coverage for the main structure shall be 25%; an additional 25% of the lot may be covered by accessory structures.

C. For zoning purposes, any underground parking structure shall not be counted as part of the main or any accessory structures.

**§ 420-61. Lot width. [Amended by Ord. No. 95-16]**

The minimum width of any lot at the setback line shall be not less than 60 feet, with the following exceptions:

A. For two-family dwellings, such minimum width shall be 80 feet.

B. For a high-rise apartment building, such minimum width shall be 75 feet.

**§ 420-62. Building setback. [Amended by Ord. No. 95-16]**

A. Except as specified below, buildings shall be set back a minimum of 25 feet from any public street right-of-way, and under no conditions shall a building be sited any closer than 50 feet to the center line of a public street right-of-way.

B. For a high-rise apartment building, the required setback shall be not less than 50 feet from any street right-of-way 50 feet or greater in width or 100 feet from the center line of any street right-of-way less than 50 feet in width.

**§ 420-63. Building height. [Amended by Ord. No. 95-16]**

Buildings may be erected up to 35 feet in height, with the following exceptions:

A. A high-rise apartment building may be erected up to 70 feet in height from grade, provided that setback and yard requirements are met.

B. Belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles and noncommercial television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

C. No accessory building which is within 20 feet of any party lot line shall be more than 20 feet in height. No accessory building shall exceed the main building in height.

**§ 420-64. Yards. [Amended by Ord. No. 95-16]**

A. Side yards. The minimum side yard shall be 10 feet, with the following exception: for a high-rise apartment building, the minimum side yard for each side shall be 25 feet plus one foot for each one foot of building height that exceeds 35 feet.

B. Rear yards. Each building shall have a minimum rear yard of 40 feet, with the following exception: single-family and two-family dwellings shall have a rear yard depth of not less than 25 feet and a minimum open area of 1,000 square feet.

**ARTICLE VII,  
Multifamily Mobile Home District R-MH**

**§ 420-65. Intent. [Amended by Ord. No. 91-15; Ord. No. 95-16]**

The purpose of this district is to provide for well-designed mobile home parks and subdivisions. The establishment of these regulations will serve to protect the welfare, safety, morals and health of the community by regulating the general location and density of and access to such developments. Other forms of single-family residential development are permitted as well as garden apartments and townhouses. Due to the character of this district, a maximum of four unrelated individuals may constitute a household unit. Public, semipublic and limited commercial uses necessitated by the residential development are also permitted.

**§ 420-66. Permitted uses. [Amended 6-17-1983; by Ord. No. 91-15; Ord. No. 95-16; 1-4-2007 by Ord. No. 2007-05]**

A building and/or land may be used only for the following purposes:

- A. Single-family dwellings. A maximum of four unrelated individuals may constitute a household unit.
- B. Mobile home parks and subdivisions. A maximum of four unrelated individuals may constitute a household unit in each dwelling unit.
- C. Garden apartments and townhouse apartments, in accordance with Article V of this chapter. A maximum of four unrelated individuals may constitute a household unit.
- D. Convenience establishments of a commercial nature, including small food stores, coin-operated laundries and dry-cleaning establishments, laundry and dry-cleaning agencies, beauty agencies, beauty shops and barbershops as part of a mobile home park or subdivision.
- E. Signs in accordance with Article XXI of this chapter.
- F. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- G. Home occupations.
- H. Accessory buildings.
- I. Public utilities, such as poles, lines, distribution transformers, pipes, meters and/or facilities for their provision and maintenance, except that sewage treatment facilities are prohibited.

**§ 420-67. Conditional uses. [Added 1-4-2007 by Ord. No. 2007-05]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Schools.
- B. Churches.
- C. Parks and playgrounds.
- D. Libraries.

**§ 420-68. Lot area. [Amended by Ord. No. 95-16]**

The minimum area required for a permitted use shall be 8,000 square feet, with the following exception: mobile home parks and subdivisions shall contain sufficient land for a minimum of 25 spaces of at least 4,000 square feet each, plus walkways, roads and common open space as required. Up to 10% of the gross land area may be used for convenience establishments, as permitted by § 420-66D, and their required parking.

**§ 420-69. Lot width. [Amended by Ord. No. 95-16]**

The minimum width of any lot at the setback line shall be not less than 60 feet at the setback line, with the following exceptions:

- A. For mobile home parks or subdivisions, such minimum width shall be 150 feet.
- B. For a mobile home lot within a mobile home park or subdivision, such minimum width shall be 50 feet.

**§ 420-70. Building setback. [Amended by Ord. No. 95-16]**

Buildings and mobile homes shall be set back a minimum of 25 feet from any public street right-of-way, and under no condition shall a building be sited any closer than 50 feet to the center line of a public street right-of-way.

**§ 420-71. Building height. [Amended by Ord. No. 95-16]**

Buildings may be erected up to 35 feet in height, with the following exceptions:

- A. Belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, and noncommercial television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- B. No accessory building which is within 20 feet of any party lot line shall be more than 20 feet in height. No accessory building shall exceed the main building in height.

**§ 420-72. Yards. [Amended by Ord. No. 95-16]**

The minimum side yard shall be not less than 10 feet, with the following exception: in a mobile home park or subdivision, no mobile home shall be parked closer than 15 feet to the mobile home park or subdivision boundary or to any other mobile home or to any service building. No part of a mobile home shall be closer than five feet to the boundaries of the individual mobile home site.

**§ 420-73. Mobile home parks and subdivisions.**

**A. Stands.**

(1) Placement. The mobile home stand placement shall provide for the practical placement on and removal from the lot of both the mobile home and its appurtenant structures and the retention of the home on the lot in a stable condition and in satisfactory relationship to its surroundings.

(2) Size. The size of the mobile home stand shall be suitable for the general market to be served by the individual proposal and suitable to fit the dimensions of the mobile homes anticipated, including appurtenant structures or appendages.

(3) Location. The location of each mobile home stand shall be at such elevation, distance and angle, in relation to the accessway, that placement and removal of the mobile home are practicable.

(4) Construction. The mobile home stand shall be of appropriate material properly graded, placed and compacted so as to be durable and adequate for the support of the anticipated maximum loads during all seasons.

(5) Gradient. There shall be 0% to 5% longitudinal and adequate crown or cross-gradient for surface drainage.

**B. Markers for lots.** Every mobile home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained, in a conspicuous place on each lot, a number corresponding to the number of each lot as shown on the submitted plot plan.

**C. Private streets.**

(1) General requirements. The minimum right-of-way width of the lane or private street on which an individual mobile home lot fronts shall be 30 feet. In cases where private streets dead end, there shall be constructed, at each such dead end, a cul-de-sac with a minimum turning radius of 40 feet. Streets shall be six inches in depth and be of stone, gravel or other satisfactory material approved by the State Department of Highways. All private streets or lanes shall have unobstructed access to a public street or highway. Private street entrances to mobile home parks from any public street shall conform to the current construction standards of the State Department of Highways. Any public street within the mobile home park shall conform to the State Department of Highways standards.

(2) Pavement widths. Pavements shall be of adequate widths to accommodate the contemplated parking and traffic load, in accordance with the type of street, with twelve-foot minimum moving lanes for collector streets, ten-foot minimum moving lanes for minor streets, an eight-foot minimum lane for parallel guest parking and two feet of additional width for pedestrian use where an adjacent sidewalk is not provided. All entrance streets and other collector streets with guest parking on both sides shall have a minimum pavement width of 40 feet. All collector streets with no parking shall have a minimum pavement width of 32 feet. Common or cul-de-sac streets with no parking shall have a minimum pavement width of 32 feet.

(3) Alignment and gradient. Streets shall be adapted to the topography and shall have suitable alignment and gradient for the safety of traffic, satisfactory surface and ground water drainage and proper functioning of sanitary and storm sewer systems.

(4) Intersections. Street intersections shall generally be at right angles. Offsets at intersections and intersections of more than two streets at one point shall be avoided.

(5) Improvements. Street improvements shall extend continuously from the existing public street system to provide suitable access to the mobile home stands and other important facilities on the property, to provide adequate connections to existing or future streets at the boundaries of the property and to provide convenient circulation of vehicles with origins or destinations on the property.

(6) Grading. Grading shall be for the full width of the street, to provide suitable finish grades for pavement and any sidewalks with adequate surface drainage and convenient access to the mobile home stand and other important facilities on the property.

(7) Curbs and gutters. Pavement and surfacings, other than cement concrete, shall be protected by curbs and gutters where necessary to prevent ravelling of the wearing surface and shifting of the pavement base.

#### D. Walks.

(1) Generally. Walks shall be provided for safe, convenient, all-season pedestrian access, shall be of adequate width for intended use and shall be durable and convenient to maintain. There shall be individual walks to each mobile home stand from a paved street or from a paved driveway or parking space connecting to a paved street, and there shall be common walks in locations where pedestrian traffic is congested. Such walks should be through interior areas removed from the vicinity of streets, if possible.

(2) Width and gradient. Width, alignment and gradient of walks shall be appropriate for safety, convenience and appearance and shall be suitable for use both by pedestrians and for the circulation of small-wheeled vehicles, such as baby carriages and service carts. The width of walks will be at least four feet for common walks, with a grade of not more than 5%.

(3) Construction. Construction of walks shall be the same as for streets in curb and gutter and subgrading, with pavements the same as for streets, except that contraction joints in cement concrete walk shall be at regular intervals, not exceeding twice the width of the walk.

E. Water. An adequate supply of potable water, approved by the Health Officer, shall be furnished from a public water supply system, with supply outlets located on each mobile home lot.

F. Sewage. In each mobile home park, all waste or wastewater from a faucet, toilet, tub, shower, sink, slop sink, drain, washing machine, garbage disposal unit or laundry shall empty into an approved sewer system. The discharge of waste or wastewater into a septic tank is hereby prohibited.

G. Garbage and trash disposal. Corrosion-resistant metal garbage cans or other noncombustible containers, with tight-fitting covers, shall be provided in quantities adequate to permit disposal of all garbage and rubbish. Each mobile home lot shall have at least one garbage can within 100 feet of it. The cans shall be kept in a sanitary condition, as determined by inspection of the Health Officer. Garbage and rubbish shall be collected and assembled at one point convenient for pickup by the City's garbage and rubbish collectors.

H. Electric lighting and outlets. All entrances, exits and driveways shall be lighted at night. Not less than 100 watts of electric light shall be provided for each 200 linear feet of internal driveway and at each entrance and exit to the mobile home park. At least one receptacle outlet for each mobile home space shall be provided, and this receptacle and other electric wiring shall conform to all requirements of the City.

I. Storage tanks.

(1) Generally. Gasoline, liquefied petroleum, gas or oil storage tanks shall be so installed as to comply with all City, state and national fire prevention code regulations.

(2) Oil heating. Where oil heating of a mobile home is provided, a minimum fifty-gallon fuel storage facility shall be provided in each mobile home lot in an inconspicuous location or manner. In lieu of this, a central storage facility may be constructed to serve the mobile home park.

J. Playgrounds. Each mobile home park shall provide at least one multiple-purpose playground of 4,000 square feet. Any additional multiple-purpose playground must have a minimum size of 2,000 square feet. The total amount of land area devoted to multiple-purpose playgrounds shall be a minimum of 5% of the gross land area of the mobile home park.

K. Certificate of occupancy. No mobile home or accessory structure shall be occupied in any mobile home park until a certificate of use and occupancy shall have been issued by the Administrator to the effect that the mobile home park or the portion thereof for which such certificate is requested is in compliance with this chapter. The Administrator shall not issue such certificate until after such mobile home park or portion thereof has been approved by the Planning Commission, Health Officer and other agencies concerned.

L. Standards.

(1) Compliance. Every mobile home occupied as a dwelling unit, located in the City after the date of the adoption of this chapter, shall meet the minimum standards for plumbing, heating and electrical systems as defined by the American Standards Association, Project

A119.1, approved March 12, 1963, as revised periodically. Mobile homes that display the official seal and register number of the Mobile Home Manufacturers Association and/or the Trailer Coach Association will be considered to comply with the American Standards Association, Standard A119.1. Mobile homes that do not meet these minimum standards for plumbing, heating and electrical systems will not be issued a certificate of use and occupancy permit by the Zoning Administrator.

(2) Inclusion by reference. The minimum standards for plumbing, heating and electrical systems as defined by the American Standards Association, Project A119.1, 1963, as amended and revised periodically, are hereby made a part of and incorporated by reference into this chapter.

M. Miscellaneous.

(1) Homes outside parks.

(a) Electricity. Electricity will not be furnished to mobile homes located outside of parks. It shall be unlawful for any electric company to furnish electricity to any mobile home that is to be used as a dwelling or living quarters in the City unless it is parked in a mobile home park licensed by the City.

(b) Prohibited. Allowing mobile homes to be used for dwelling outside of parks is prohibited. It shall be unlawful for any property owner, tenant, lessee or administrator of any real estate in the City to rent, lease or allow any mobile home that is to be used as a dwelling or living quarters to be parked on the land under his supervision unless it is in a legal mobile home park licensed by the City and maintained in accordance with the provisions of this chapter.

(2) Selling of sites. No mobile home sites shall be offered for sale or sold.

(3) Skirting of open space. The open space beneath each mobile home shall be skirted with appropriate material in accordance with the requirements of the Administrator.

**ARTICLE VIII,  
Professional Services - Residential Zone PSR  
[Added 2-16-1978; amended by Ord. No. 95-16]**

**§ 420-74. Intent. [Added by Ord. No. 98-8]**

The primary purpose of this district is to provide an area which serves the needs of the community as such needs relate to professional services and residential dwelling units to provide a mutually compatible district in which such uses exist. Residential development is of low density, designed to promote and encourage, insofar as is compatible with the intensity of land use, a suitable environment for family life composed of a family population. For this reason, the number of unrelated individuals permitted to constitute a household unit is limited to a maximum of three in this district.

**§ 420-75. Permitted uses. [Added by Ord. No. 98-8; amended 10-5-2006 by Ord. No. 2006-8; 2-1-2007 by Ord. No. 2007-08]**

A building and/or land may be used only for the following purposes:

- A. Single-family dwelling. A maximum of three unrelated individuals may constitute a household unit.
- B. Accountant, architect, attorney at law, auditor, bondsman, bookkeeper, chiropodist, chiropractor, dentist, doctor of medicine, engineer, ophthalmologist, osteopath, surveyor, or psychologist, including associations of structures containing multiple units housing any of the above.
- C. Hospitals, nursing homes and clinics.
- D. Home occupations.
- E. Accessory buildings.
- F. Signs in accordance with the standards specified in § 420-199 for residential districts.
- G. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- H. Public utilities, such as poles, lines, distribution transformers, pipes, meters and/or facilities for their provision and maintenance, except that sewage treatment facilities are prohibited.

**§ 420-76. Conditional uses. [Added by Ord. No. 00-4; amended 2-1-2007 by Ord. No. 2007-08, amended by Ord 08-04]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Optometrists.
- B. Opticians.
- C. Pharmacies limited to the compounding and/or dispensing of prescription and nonprescription drugs and the sale or rental of sickroom and hospital supplies and equipment.
- D. Single-family dwellings which have previously been granted conditional use permits to allow more than four unrelated individuals to constitute a single household unit may continue to operate and may apply for renewal of their conditional use permits when they expire subject to their compliance with the following restrictions:
  - (1) The number of unrelated individuals occupying a housekeeping unit permitted beyond the limit prescribed by code shall be based on the size of the facility and the applicant's ability to meet the regulations provided herein; however, the maximum number of individuals permitted shall in no event exceed six individuals. Structures for which such permits are granted shall minimally have one bedroom per occupant permitted.
  - (2) An application for renewal of a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall include a building sketch depicting the lot, its size, placement of the house and off-street parking and illustrating the location, dimension and use of all rooms making up the dwelling unit.
  - (3) Any structure granted a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall fully comply with the most current edition of the Building Officials and Code Administrators (BOCA) Existing Structures Code. An annual inspection shall be performed by the City to confirm that all BOCA code provisions have been met.
  - (4) No changes shall be made to the exterior of a permitted housing unit that would alter its appearance as a single-family dwelling.
  - (5) Off-street parking, landscaping, buffers and fences may be designated as permit conditions in order to mitigate potentially negative impacts on adjoining properties.
  - (6) Conditional use permits associated with this provision shall not be granted in perpetuity but instead for specific periods of time.
  - (7) A copy of the conditional use permit issued in accordance with this section shall be posted within the dwelling unit.
- E. Public buildings such as government offices, first aid and rescue squad buildings, fire stations and community centers.
- F. Antennas and telecommunication towers in accordance with § 420-28.
- G. Parks and playgrounds.

- H. Churches.
- I. Schools, including associations of structures.
- J. Libraries.
- K. Portable Buildings in accordance with § 420-28A.

**§ 420-77. Single-family and multiple-family dwellings and multiple-family high-rise residential units.**

Restrictions and requirements for lot area, width, building setback lines, building height and side yards for single-family and multiple-family dwellings and multiple-family high-rise residential units shall be the same as those applied under Articles V and VI of this chapter as each is applicable to the permitted uses recited therein.

**§ 420-78. Professional zones.**

- A. Lot area. The minimum lot area required for a permitted use shall be 8,000 square feet.
- B. Lot width. The minimum width of any lot at the setback line shall not be less than 60 feet at the setback line.
- C. Building setback. Buildings shall be set back a minimum of 25 feet from any public street right-of-way and under no condition shall a building be sited closer than 50 feet to the center line of a public street right-of-way.
- D. Building height. [Added by Ord. No. 00-4]
  - (1) Antennas and telecommunications towers, when authorized by a conditional use permit, church spires, belfries, cupolas, municipal water towers, chimneys, flues, and noncommercial television and radio aerials less than 50 feet in height are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
  - (2) No accessory building which is within 20 feet of any party lot line shall exceed 20 feet in height, and no accessory building shall exceed the main building in height or size.
- E. Yards.
  - (1) The minimum side yard requirement shall be not less than 10 feet.
  - (2) The minimum rear yard requirement shall be not less than 25 feet.
- F. Site plan review. Site plans are required and shall be submitted for all new structures, all renovated structures and all additions to existing structures in accordance with Article XVI of this chapter, except that site plans are not required for development of and construction on property for those uses where site plans are not required under other articles of this chapter.

**ARTICLE IX,  
Commercial District (Central Business) C-1**

**§ 420-79. Intent. [Added by Ord. No. 98-7]**

A. The purposes of this district are to enhance the utility, safety and attractiveness of the historic downtown business area for residents and visitors alike; to encourage the continuation of a compact, efficient and attractive retail facade and arrangement of buildings in the downtown area; and to minimize traffic congestion and its effects in the downtown area, all of which purposes are served by encouraging a compact and convenient arrangement of retail stores, offices, compatible service uses and the use of community parking areas and by discouraging those uses which are incompatible with permitted uses or which would tend to be disruptive of traffic and pedestrian flow and historic building patterns. To assist with the accomplishment of this purpose, certain uses, such as major parking lots, amusement places and drive-in facilities, are to be reviewed on a case-by-case basis and permitted, if at all, only by means of conditional use permit procedures.

B. Furthermore, the historic area regulations of Article XVII of this chapter apply to the Central Business District as a means of protecting this important element of the City's historic and architectural heritage.

**§ 420-80. Permitted uses. [Added by Ord. No. 00-4]**

A building or land shall be used only for the following purposes:

A. Garden apartments and townhouses in accordance with the requirements of Article V of this chapter (except as otherwise provided in this article), single-family dwellings existing on the effective date of this section and dwelling units in a building, the entire first floor of which building is used for another permitted, nonresidential use. A maximum of four unrelated individuals may constitute a household unit.

B. Churches and other places of worship, rectories and parish houses.

C. Offices and office buildings.

D. Banks, savings and loans or small loan offices.

E. Stores or shops for conducting of the following retail businesses: sale of accessories, antiques, home or office appliances, art or art supplies, new auto parts and accessories, beverages (alcoholic or otherwise), bicycles, books, carpets, clothing, drugs, fabrics, flowers, food, furniture, groceries, hardware, hobby supplies, jewelry, office supplies and stationery, paint, wallpaper, sporting goods, cameras, electronic equipment for use in the home and similar stores, and shops, but excluding the sale, service and rental of new or used automobiles and other vehicles, the title of which is required by law to be registered with the Division of Motor Vehicles or other governmental agency.

F. Personal service uses, such as clinics, barbershops and beauty parlors, dry cleaning and laundry using a non-petroleum-based solvent, catering establishments, travel agencies, health clubs, custom printing, shoe repair and tailoring.

- G. Bakeries, with a total floor area for production of baked goods not exceeding 2,500 square feet.
- H. Studios or shops for artists, photographers, writers, teachers, dancers, weavers or other craftsmen, sculptors or musicians, including painting of signs not manufactured on the premises and handcrafted furniture.
- I. Restaurants, delicatessens or ice cream parlors in which the majority of the food is to be consumed on the premises.
- J. Public utilities, such as poles, lines, transformers, pipes, meters, substations and other facilities for the provision and maintenance of public utilities, including sewage facilities, but not noncommercial radio or television towers, antennas or aerials 50 feet or more in height from grade.
- K. Shops for the repair of household appliances, such as toasters, televisions, radios, phonographs and similar small appliances.
- L. Off-street parking areas or structures which contain five spaces or fewer and which do not have frontage upon or direct access from a public street in accordance with Article XX of this chapter.
- M. Signs in accordance with Article XXI of this chapter.
- N. Accessory buildings.

**§ 420-81. Conditional uses. [Added by Ord. No. 02-8, Amended by Ord. 08-04]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

A. Single-family dwellings which have been previously granted conditional use permits to allow more than four unrelated individuals to constitute a single household unit may continue to operate and may apply for renewal of their conditional use permits when their permits expire subject to their compliance with the following restrictions:

(1) The number of unrelated individuals occupying a housekeeping unit permitted beyond the limit prescribed by code shall be based on the size of the facility and the applicant's ability to meet the regulations provided herein; however, the maximum number of individuals permitted shall in no event exceed six individuals. Structures for which such permits are granted shall minimally have one bedroom per occupant permitted.

(2) An application for a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall include a building sketch depicting the lot, its size, placement of the house and off-street parking and illustrating the location, dimension and use of all rooms making up the dwelling unit.

(3) Any structure granted a conditional use permit to exceed restrictions on the number of unrelated individuals constituting a housekeeping unit shall fully comply with the most current edition of the Building Officials and Code Administrators (BOCA) Existing

Structures Code. An annual inspection shall be performed by the City to confirm that all BOCA code provisions have been met.

(4) No changes shall be made to the exterior of a permitted housing unit that would alter its appearance as a single-family dwelling.

(5) Off-street parking, landscaping, buffers, and fences may be designated as permit conditions in order to mitigate potentially negative impacts on adjoining properties.

(6) Conditional use permits associated with this provision shall not be granted in perpetuity but instead for specific periods of time.

(7) A copy of the conditional use permit issued in accordance with this section shall be posted within the dwelling unit.

B. Restaurants, delicatessens or ice cream parlors or establishments for preparation or serving of food, a substantial portion of which is to be consumed off the premises or in a motor vehicle on the premises.

C. Boarding or lodging houses, bed-and-breakfast inns, hotels, inns and motels.

D. Theaters (other than drive-in theaters), public billiard parlors and pool rooms, game rooms, bowling alleys and similar amusement places.

E. Semipublic uses, such as art galleries, museums, libraries, assembly halls, private schools and recreational facilities and hospitals.

F. Public or governmental buildings and uses, such as schools, fire stations, libraries, parks and playgrounds.

G. Drive-in facilities, whether independent or accessory to a permitted use, but excluding drive-in facilities for the sale of motor fuel.

H. Off-street parking areas and structures which exceed five parking spaces or which have frontage upon or direct access from a public street, in accordance with Article XX of this chapter.

I. Dwelling units on the first floor of an existing building when the first floor has not been used for commercial space for the previous five years and dwelling units on the first floor of an existing building when the building does not front on a public street. If the building fronts on a public street, the residential portion of the first floor shall be required to be shielded by office or retail space or a lobby that maintains the commercial appearance. In addition to the evaluation criteria established in § 420-11 for all conditional use permits, consideration should be given to the following when evaluating conditional use applications authorized by this subsection:

- (1) The stated purposes of the C-1 District.
- (2) The need to maintain a compact, efficient commercial core in the downtown area.
- (3) The potential impact of the proposed use on the viability of nearby businesses and

the downtown commercial area.

(4) The uses of buildings and land in the immediate vicinity.

(5) The present condition and previous uses of the building for which the conditional use is requested.

(6) The presence of unique development problems related to the building or lot which are addressed by the proposed use.

J. Facilities which provide minor automobile repairs and maintenance existing on the effective date of this section. Expansion of these facilities will require the issuance of a new conditional use permit as authorized in § 420-11.

K. Portable Buildings in accordance with § 420-28 A.

**§ 420-82. Building setback. [Amended 11-1-1984]**

No setback is required in this district.

**§ 420-83. Building height. [Added by Ord. No. 04-3]**

Buildings may be erected up to 45 feet in height from grade, except that:

A. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles and noncommercial television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

B. Public or governmental buildings may be erected up to 60 feet in height only when this height is authorized by a conditional use permit.

**§ 420-84. Yards.**

For all structures abutting a residential district line, the minimum yard, side and rear, shall be 10 feet.

**ARTICLE X,  
Commercial District (Central Business) C-1A**

**§ 420-85. Intent. [Amended 11-1-1984; by Ord. No. 95-7]**

The purpose of this district is to supplement the services available to the community and tourists in the nearby C-1 Commercial District by providing for somewhat less restricted retail and service uses, including drive-in facilities and automobile service stations which may provide minor repairs and maintenance. Furthermore, the historic area regulations of Article XVII of this chapter apply to this district as a means of protecting this important element of the City's historic and architectural heritage.

**§ 420-86. Permitted uses. [Added by Ord. No. 00-4]**

A building or land shall be used only for the following purposes:

- A. Garden apartments and townhouses in accordance with the requirements of Article V of this chapter, single-family dwellings existing on the effective date of this section and dwelling units in a building, the entire first floor of which building is used for another permitted, nonresidential use. A maximum of four unrelated individuals may constitute a household unit.
- B. Churches and other places of worship, rectories and parish houses.
- C. Offices and office buildings.
- D. Banks, savings and loans or small loan offices.
- E. Stores or shops for conduct of the following retail businesses: sale of accessories, antiques, home or office appliances, art or art supplies, new auto parts and accessories, beverages (alcoholic or otherwise), bicycles, books, carpets, clothing, drugs, fabrics, flowers, food, furniture, groceries, hardware, hobby supplies, jewelry, office supplies and stationery, paint, wallpaper, sporting goods, cameras, electronic equipment for use in the home and similar stores and shops, but excluding the sale, service and rental of new or used automobiles and other vehicles, the title of which is required by law to be registered with the Division of Motor Vehicles or other governmental agency.
- F. Personal service uses, such as clinics, barbershops and beauty parlors, dry cleaning and laundry using a non-petroleum-based solvent, catering establishments, travel agencies, health clubs, custom printing, shoe repair and tailoring.
- G. Bakeries, with a total floor area for production of baked goods not exceeding 2,500 square feet.
- H. Studios or shops for artists, photographers, writers, teachers, dancers, weavers or other craftsmen, sculptors or musicians, including painting of signs not manufactured on the premises and handcrafted furniture.
- I. Restaurants, delicatessens or ice cream parlors, drive-in or otherwise.

J. Automobile filling stations or service stations with bulk storage of inflammable liquids underground, which may provide minor repairs and maintenance, but not including towing service or body work or sale or rental of new or used automobiles or other vehicles, the title of which is required by law to be registered with the Division of Motor Vehicles or other governmental agency. All services and repairs shall be conducted inside a completely enclosed building.

K. Hotels, inns and motels with up to 25 guest rooms or suites.

L. Public utilities, such as poles, lines, transformers, pipes, meters, substations and other facilities for the provision and maintenance of public utilities, including sewage facilities, but not noncommercial radio or television towers, antennas or aerials 50 feet or more in height from grade.

M. Shops for the repair of household appliances, such as toasters, televisions, radios, phonographs and similar small appliances.

N. Signs in accordance with Article XXI of this chapter.

O. Accessory buildings.

**§ 420-87. Conditional uses. [Added by Ord. No. 00-4, Amended by Ord. 08-04]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

A. Theaters (other than drive-in theaters), public billiard parlors and pool rooms, game rooms, bowling alleys and similar amusement places.

B. Semipublic uses such as art galleries, museums, libraries, assembly halls, private schools and recreational facilities, hospitals and clinics.

C. Public or governmental buildings and uses, such as schools, libraries, fire stations, parks and playgrounds.

D. Car washes or automobile laundries, automatic or otherwise, operated in conjunction with automobile filling or service stations.

E. Hotels, inns and motels with 25 or more guest rooms or suites.

F. Antennas and telecommunication towers in accordance with § 420-28.

G. Portable Buildings in accordance with § 420-28 A.

**§ 420-88. Building setback.**

Structures shall be located five feet or more from any publicly dedicated right-of-way.

**§ 420-89. Building height. [Added by Ord. No. 00-4]**

Buildings may be erected up to 45 feet in height from grade, except that antennas and telecommunications towers, when authorized by a conditional use permit, church spires, belfries, cupolas, municipal water towers, chimneys, flues, and noncommercial television and radio aerials less than 50 feet in height are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

**§ 420-90. Yards.**

For all structures abutting a residential district line, the minimum yard, side and rear, shall be 10 feet.

**§ 420-91. Screening.**

Automobile service stations and filling stations are required to be screened from abutting property, in accordance with the standards specified in § 420-106.

**ARTICLE XI,  
Commercial District (Shopping Centers) C-2  
[Added by Ord. No. 02-7]**

**§ 420-92. Intent.**

This district covers commercial areas and shopping centers which are located away from the center of the City. The purpose of this district is to provide for attractive and efficient retail shopping facilities in appropriate locations. It is intended that shopping center uses in the district be laid out and developed as a unit according to an approved plan. Adequate provisions for parking and smooth movement of a large number of automobiles must be made. Adjacent residential areas will be protected by use, setback, yard and height regulations.

**§ 420-93. Permitted uses.**

A building and/or land shall be used for the following purposes:

- A. Shopping centers, as regulated by § 420-99.
- B. Restaurants.
- C. General and specialty food and beverage stores, drugstores, clothing and dry goods stores, bakeries and candy shops, hardware stores, and other similar establishments selling goods at retail and conducted entirely within an enclosed building.
- D. Computer, telecommunications and similar electronic equipment sales, service and repair.
- E. Wholesale sales, with storage under cover and screened from adjacent property owners.
- F. Gas stations with bulk storage of inflammable liquids underground.
- G. Automobile or truck sales, service and repair, but not including body or fender repair, and auto salvage or junkyards. Any major repair or storage of equipment or materials or damaged vehicles shall be completely screened.
- H. Medical offices, including clinics, banks and other financial institutions, government and professional offices, health clubs and funeral homes.
- I. Personal service establishments which perform services on the premises such as repair shops, tailor shops, beauty parlors and barbershops, shoe repair and tailoring, photographic studios, catering establishments, custom printing, travel agencies, coin-operated laundry and dry-cleaning establishments, and dry cleaning and laundry pickup stations.
- J. Furniture refinishing, laboratories, sign shops, printing, publishing and engraving shops, photographic processing, blueprinting, upholstering shops, cabinetmaking shops, appliance repairs and general service repair establishments and tire sales and services, not including vulcanization and recapping or manufacturing.

- K. Hotels, inns and motels with up to 25 guest rooms or suites.
- L. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- M. Signs in accordance with Article XXI of this chapter.
- N. Public utilities, such as poles, lines, transformers, pipes, meters, substations and other facilities necessary for the provision and maintenance of public utilities, including sewage facilities.

**§ 420-94. Conditional uses. [Amended by Ord. 08-04]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Research, design and product development.
- B. The processing, conversion, fabrication or assembly, packing and distribution of material, products, or equipment into articles, substances or products of a different character for a different use, which will not create smoke, dust, noise, obnoxious fumes, vibration, odor or other cause that can be detected beyond the perimeters of the property. Such operation shall not create anything detrimental to the health, safety or general welfare of the surrounding area.
- C. Commercial recreation uses, such as public billiard parlors and pool rooms, bowling alleys, indoor theaters and movie houses and similar forms of public amusement.
- D. Hotels, inns and motels with 25 or more guest rooms or suites.
- E. Open air markets.
- F. Car washes.
- G. Building supplies.
- H. Antennas and telecommunications towers in accordance with § 420-28.
- I. Portable Buildings in accordance with § 420-28A.

**§ 420-95. Building setback.**

Buildings shall be located 30 feet or more from any publicly dedicated and opened street right-of-way, provided that awnings and canopies may extend to the property line, but in no event closer than 20 feet to the edge of public street pavement, where such street is physically delineated by a six-foot-wide curbed strip, traffic island or other approved barrier.

**§ 420-96. Building height.**

Buildings may be erected up to 45 feet in height from grade, except that antennas and telecommunication towers, when authorized by a conditional use permit, church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles and noncommercial television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

**§ 420-97. Yards.**

For all structures abutting a residential district line, the minimum yard, side and rear, shall be 30 feet.

**§ 420-98. Screening.**

Structures and uses are required to be screened from abutting residential development. The screen shall be within one foot of the common property line and be a solid masonry wall, a uniformly painted solid board fence or an evergreen hedge eight feet in height, except in areas requiring natural air circulation, unobstructed view, access or other technical considerations necessary for proper operation.

**§ 420-99. Shopping centers.**

A. In order that the purposes of this district shall be realized, the land and the buildings and appurtenances of a shopping center facility shall:

(1) Be owned by an individual or individuals, a partnership or a corporation, or any other legal entity, by whatever term customarily known, and be under the management or supervision of a central authority, or be subject to such other supervisory lease, ownership control or agreement as may be necessary to carry out the provisions of this chapter related to shopping centers in the C-2 District.

(2) Contain three or more individual and distinct business establishments.

(3) Have a minimum lot size of one acre or more.

(4) Have a minimum of 15,000 square feet of building space under roof.

B. The aggregate plan area of all buildings shall not exceed 25% of the entire lot area of the project.

C. Any part of the project area not used for buildings or other structures, parking, loading and accessways shall be landscaped with grass, trees, shrubs or pedestrian walks.

D. The shopping center buildings shall be designed and built as a whole, unified, single project but may be built in stages in accordance with a construction timing schedule approved by the City Planning Commission.

**ARTICLE XII,  
Commercial District (General Commerce) C-3  
[Added by Ord. No. 02-7]**

**§ 420-100. Intent.**

The primary purpose of this district is to provide outlying areas for heavier businesses and light industrial uses. Businesses will be conducted in completely enclosed structures. Noxious fumes, excessive noise and other environmental pollutants will not be permitted regardless of the nature of the business.

**§ 420-101. Permitted uses.**

A building and/or land shall be used for the following purposes:

- A. Shopping centers, as regulated by § 420-99.
- B. Restaurants.
- C. General and specialty food and beverage stores, drugstores, clothing and dry goods stores, bakeries and candy shops, hardware stores, and other similar establishments selling goods at retail and conducted entirely within an enclosed building.
- D. Computer, telecommunications and similar electronic equipment sales, service and repair.
- E. Wholesale sales, with storage under cover and screened from adjacent property owners.
- F. Gas stations with bulk storage of inflammable liquids underground.
- G. Automobile or truck sales, service and repair, but not including body or fender repair, and auto salvage or junkyards. Any major repair or storage of equipment or materials or damaged vehicles shall be completely screened.
- H. Medical offices, including clinics, banks and other financial institutions, government and professional offices, health clubs and funeral homes.
- I. Personal service establishments which perform services on the premises, such as repair shops, tailor shops, beauty parlors and barbershops, shoe repair and tailoring, photographic studios, catering establishments, custom printing, travel agencies, coin-operated laundry and dry-cleaning establishments, and dry cleaning and laundry pickup stations.
- J. Furniture refinishing, laboratories, sign shops, printing, publishing and engraving shops, photographic processing, blueprinting, upholstering shops, cabinetmaking shops, appliance repairs and general service repair establishments, tire sales and services, not including vulcanization and recapping, or manufacturing, bottling works, plumbing and heating shops, painting shops and tinsmithing shops.

- K. Research, design and product development.
- L. The processing, conversion, fabrication or assembly, packing and distribution of material, products, or equipment into articles, substances, or products of a different character for a different use, which will not create smoke, dust, noise, obnoxious fumes, vibration, odor or other cause that can be detected beyond the perimeters of the property. Such operation shall not create anything detrimental to the health, safety or general welfare of the surrounding area.
- M. Hotels, inns and motels with up to 25 guest rooms or suites.
- N. Public and semipublic buildings, such as fire stations and rescue squads.
- O. Off-street parking as an accessory use, in accordance with Article XX of this chapter.
- P. Signs in accordance with Article XXI of this chapter.
- Q. Public utilities, such as poles, lines, transformers, pipes, meters, substations and other facilities necessary for the provisions and maintenance of public utilities, including sewage facilities.
- R. Accessory buildings.

**§ 420-102. Conditional uses. [Amended by Ord. 08-04]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Repairing, renovating, painting, and cleaning of goods, merchandise or equipment, wholesaling, industrial, and warehousing activities and other uses of a similar character which will not be injurious, noxious or offensive to the surrounding area because of the emission of odors, fumes, dust, smoke, vibration, noise or other cause.
- B. Veterinary or dog or cat hospitals or kennels.
- C. Aboveground petroleum bulk storage.
- D. Antennas and telecommunications towers in accordance with § 420-28.
- E. Car washes.
- F. Automobile or truck body and fender repair.
- G. Stone monument works.
- H. Blacksmith, welding, or machine shops.
- I. Open air markets.
- J. Portable Buildings in accordance with § 420-28 A.

**§ 420-103. Building setback.**

Buildings shall be located 30 feet or more from any publicly dedicated and opened street right-of-way, provided that awnings and canopies may extend to the property line, but in no event closer than 20 feet to the edge of public street pavement, where such street is physically delineated by a six-foot-wide curbed strip, traffic island or other approved barrier.

**§ 420-104. Building height.**

Buildings may be erected up to a height of 45 feet from grade, with the following exceptions:

A. Antennas and telecommunications towers, when authorized by a conditional use permit, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles and noncommercial television antennas and radio aerials are exempt.

B. Parapet walls may be up to four feet above the height of the building on which the walls rest.

**§ 420-105. Yards.**

The minimum side yard or rear yard adjoining or adjacent to a residential district shall be 30 feet.

**§ 420-106. Screening.**

Structures and uses are required to be screened from abutting residential development. The screen shall be within one foot of the common property line and be a solid masonry wall, a uniformly painted solid board fence or evergreen hedge eight feet in height, except in areas requiring natural air circulation, unobstructed view, access or other technical considerations necessary for proper operation.

**§ 420-107. Performance standards.**

It is the intent of this chapter to prevent any building, structure or land in the C-3 Zone from being used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable condition. All developments in the C-3 Zone shall be in conformity with state and federal requirements for environmental safeguards. In addition, the following performance standards shall apply:

A. Sound. The sound-pressure level or sound radiated from an establishment, measured at the lot line of the site thereof that is the nearest thereto, shall not exceed the values in any octave band of frequency that are specified in Table I below, or in Table I as modified by the correction factors set forth in Table II below. The sound-pressure level shall be measured with a sound-level meter and an associated octave band analyzer conforming to standards prescribed by the American Standards Association.

**Table I**  
**Maximum Permissible Sound Pressure Levels Measured**  
**Re 0.0002 Dyne per Square Centimeter (cm<sup>2</sup>)**

<b>Frequency Band (cycles per second)</b>	<b>Decibels</b>
20 to 75	74
75 to 150	62
150 to 300	57
300 to 600	51
600 to 1,200	47
1,200 to 2,400	42
2,400 to 4,800	38
4,800 to 10,000	35

**Table II**  
**Correction Factors**

<b>Condition</b>	<b>Correction in Decibels</b>
On a site contiguous to or across a street from the boundary of any residential district established by this chapter or by the zoning ordinance of any other county of any municipality	Minus 5
Operation between the hours of 10:00 p.m. and 7:00 a.m.	Minus 5
Sound of impulsive character (e.g., hammering)	Minus 5
Sound of periodic character (e.g., hum or screech)	Minus 5
Sound source operates less than:	
20% in any 1-hour period	Plus 5*
5% in any 1-hour period	Plus 10*
1% in any 1-hour period	Plus 15*

\*Apply only one of these corrections. All corrections, including any one of the footnoted corrections, are cumulative.

B. Radioactivity. There shall be no radioactive emission that would be dangerous to public health.

C. Electrical interference and electromagnetic radiation. There shall be no electrical disturbance adversely affecting the operation of any equipment other than that disturbance or otherwise causing, creating or contributing to the interference with electronic signals (including

television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

D. Glare and heat. Any industrial operation producing intense direct or sky-deflected light or glare, as differentiated from interior illumination, shall be shielded so that the operation is not visible beyond the property line. This regulation shall not apply to signs or to the lighting of parking areas.

E. Disposal of liquid waste. No permitted or conditional use may discharge any waste contrary to the provisions of Department of Environmental Quality regulations governing discharges of radiological, chemical or biological waste into surface or subsurface waters or discharge into the City sewage treatment facilities any waste that cannot be adequately treated by biological means.

**ARTICLE XIII,**  
**Residential - Light Commercial District R-LC**  
**[Added 7-9-1981; amended 11-5-1981; by Ord. No. 89-2; Ord. No. 89-6; Ord. No. 89-22,**  
**Ord. No. 91-15; Ord. No. 95-16]**

**§ 420-108. Intent.**

This district is established to provide areas where housing of low- and medium-density capacity can be located adjacent to or in conjunction with light commercial operations compatible in nature with residential land use. For this reason, a maximum of four unrelated individuals are authorized to constitute a household unit in all types of dwelling units in this district. The regulations applicable to this district provide that single-family dwellings and multiple-family dwellings, such as apartment houses, townhouses, garden apartments, etc., may be developed in appropriate areas well located with respect to major roads, shopping facilities and employment centers. Community facilities needed to support these developments are permitted. Small manufacturing and light commercial facilities are allowed in a manner which will provide for a suitable and comfortable living environment for people of all ages. These developments and light commercial and manufacturing facilities are of medium density, tending to be small in scale. They are harmonious with and complementary to adjacent land uses.

**§ 420-109. Permitted uses.**

A building and/or land may be used only for the following purposes:

- A. Single-family dwellings. A maximum of four unrelated individuals may constitute a household unit.
- B. Two-family dwellings. A maximum of four unrelated individuals may constitute a household unit in each dwelling unit.
- C. Apartment houses. A maximum of four unrelated individuals may constitute a household unit.
- D. Garden apartments. A maximum of four unrelated individuals may constitute a household unit.
- E. Townhouses. A maximum of four unrelated individuals may constitute a household unit.
- F. Home occupations.
- G. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, capacitors, transformers and crystal holders.
- H. Building supply outlets, furniture refinishing shops, laboratories, sign shops, printing, publishing and engraving shops, photographic processing shops, blueprinting operations, upholstering shops, tinsmithing shops, cabinetmaking shops, appliance repair shops, general service repair establishments, excluding sales, service or repair of licensed motor vehicles, and

establishments manufacturing, compounding, packaging or treating bakery goods, candy, or food products.

- I. Manufacture of musical instruments, toys and novelties.
- J. Personal service uses, including clinics, banks, barbershops, beauty shops, shoe repair shops, tailoring and/or garment repair shops, self-service laundry, dry cleaning pickup stations and artists' and artisans' studios.
- K. Wholesale and retail sales with storage under cover and screened from adjacent property owners.
- L. Retail sales of gasoline and petroleum products only as a subsidiary activity in wholesale or retail sales operations.
- M. Parks and playgrounds.
- N. Signs in accordance with Article XXI of this chapter.
- O. Off-street parking as an accessory use in accordance with Article XX of this chapter.
- P. Accessory buildings.
- Q. Public utilities, such as poles, lines, distribution transformers, pipes, meters and/or facilities for their provision and maintenance, except that treatment facilities are prohibited.
- R. Churches and libraries.
- S. Combined residential and other uses as permitted in this section within the same structure, provided that where two are combined the provisions controlling side yards, rear yard, setback, building height, etc., within this zone shall be the most restrictive applicable to either or any of the combined uses.
- T. Theaters.

**§ 420-110. Conditional uses. [Added by Ord. No. 00-4, Amended by Ord. 08-04]**

A building and/or land may be used for the following purposes subject to the issuance of a conditional use permit as authorized in § 420-11:

- A. Offices.
- B. Boarding or lodging houses, fraternity and sorority houses and headquarters.
- C. Antennas and telecommunication towers in accordance with § 420-28.
- D. Portable Buildings in accordance with § 420-28 A.

**§ 420-111. Lot area.**

The minimum lot size shall be 8,000 square feet for any main building, with the following exceptions:

- A. For townhouses, the minimum lot size shall be 5,445 square feet for each dwelling unit, with the maximum percentage of lot coverage being 50%.
- B. For garden apartments, the minimum lot size shall be 3,630 square feet for each dwelling unit.
- C. For apartment houses, the minimum lot size shall be 10,000 square feet, plus 1,500 square feet for each dwelling unit in excess of four contained in the development, with the maximum percentage of lot coverage being 50%.

**§ 420-112. Lot width; street frontage.**

A. The minimum width of any lot at the setback line shall be not less than 60 feet, with the following exceptions:

- (1) For townhouses, the minimum width shall be 75 feet.
  - (2) For garden apartments, the minimum width shall be 75 feet.
  - (3) For apartment houses, the minimum lot width at the setback line shall be 50 feet plus 10 feet additional width per dwelling unit above four units, up to a maximum required width of 100 feet.
- B. No building shall be erected on a lot which does not abut on at least one dedicated and opened public street for at least 35 feet.

**§ 420-113. Building setback.**

Buildings shall be set back a minimum of 25 feet from any public street right-of-way, and under no condition shall a building be sited any closer than 50 feet to the center line of a public street right-of-way.

**§ 420-114. Building height. [Added by Ord. No. 00-4]**

Buildings may be erected up to 35 feet in height, except that:

- A. The height limit for dwellings may be increased up to 45 feet, provided that each side yard is 20 feet, plus at least one foot for each additional foot of building height over 35 feet.
- B. Antennas and telecommunications towers, when authorized by a conditional use permit, church spires, belfries, cupolas, municipal water towers, chimneys, flues, and noncommercial television and radio aerials less than 50 feet in height are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

C. No accessory building which is within 20 feet of any party lot line shall be more than 20 feet in height. No accessory building shall exceed the main building in height.

**§ 420-115. Yards.**

A. Side yard. The minimum side yard shall be not less than 10 feet, with the following exceptions:

- (1) For any garden apartments, the minimum side yard shall be 20 feet.
- (2) For any townhouse having a side yard, the minimum of that side yard shall be 20 feet.
- (3) For any apartment house, the minimum side yard shall be 20 feet.
- (4) For any commercial structure, the minimum side yard shall be 30 feet.

B. Rear yard. The minimum rear yard shall be 25 feet, with the following exceptions: the minimum rear yard for any townhouse, garden apartment, apartment house or commercial structure shall be 30 feet.

C. Additional requirement for garden apartments. For garden and other apartment buildings, more than one main building per lot is allowed, provided that, in addition to all of the yard regulations, no main building may be closer than 25 feet to another main building.

**§ 420-116. Corner lots.**

A. The side yard on the side facing the side street shall be not less than 15 feet for both main and accessory buildings.

B. For a subdivision platted after July 9, 1981, each corner lot in the R-LC District shall have a minimum width at the setback line of not less than 60 feet.

**§ 420-117. Townhouses.**

Townhouses shall conform to the requirements of § 420-56, Provisions for townhouses.

**§ 420-118. Screening.**

Screening, where required, shall be within one foot of the common property line and be a solid masonry wall, a uniformly painted solid board fence or an evergreen hedge eight feet in height, except in areas requiring natural air circulation, unobstructed view, access or other technical considerations necessary for proper operation.

**ARTICLE XIV,  
General Floodplain District FP  
[Added by Ord. No. 00-7]**

**§ 420-119. Intent.**

The purpose of these provisions 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 uses, 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 districts subject to flooding.
- C. Requiring all those uses, activities and developments that do occur in flood-prone districts 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.

**§ 420-120. Applicability.**

These provisions shall apply to all lands within the City and identified as being in the one-hundred-year floodplain by the Federal Emergency Management Agency.

**§ 420-121. 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 article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.
- B. The degree of flood protection sought by the provisions of this article 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 article does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.
- C. This article shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

## **§ 420-122. Abrogation and greater restrictions.**

This article supersedes any article currently in effect in flood-prone districts. However, any underlying article shall remain in full force and effect to the extent that its provisions are more restrictive than this article.

## **§ 420-123. Description of districts.**

A. Basis of districts. The various floodplain districts shall include areas subject to inundation by waters of the one-hundred-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) for the City prepared by the Federal Emergency Management Agency, effective April 6, 2000.

(1) The floodway district is delineated, for purposes of this article, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one-hundred-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in of the above-referenced Flood Insurance Study and shown on the accompanying Flood Insurance Rate Map.

(2) The flood-fringe district shall be that area of the one-hundred-year floodplain not included in the floodway district. The basis for the outermost boundary of the district shall be the one-hundred-year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and as shown on the accompanying Flood Insurance Rate Map.

(3) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a one-hundred-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one-hundred-year flood elevations and floodway information from federal, state and other acceptable sources shall be used, when available. Where the specific one-hundred-year flood elevation cannot be determined for this area, using other sources of data, such as the United States Army Corps of Engineers Floodplain Information Reports, United States 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, computation, etc., shall be submitted in sufficient detail to allow a thorough review by the City.

B. Overlay concept.

(1) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

(2) In case of any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

(3) In the event that any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

**§ 420-124. District boundaries.**

The boundaries of the floodplain districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this article and which shall be kept on file in the office of the Zoning Administrator.

**§ 420-125. District boundary changes.**

The delineation of any of the floodplain districts may be revised by the City Council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or an individual documents the need for such a change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

**§ 420-126. Interpretation of district boundaries.**

Initial interpretations of the boundaries of the floodplain districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the districts, 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/her case to the Board and to submit his/her own technical evidence if he/she so desires.

**§ 420-127. General provisions.**

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 this article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building and the City of Lexington Subdivision Regulations.<sup>6</sup> Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodway 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 United States Army Corps of Engineers, the Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Emergency Management Agency.

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6. Editor's Note: See Ch. 360. Subdivision

C. Site plans and permit applications. All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- (1) The elevation of the one-hundred-year flood.
- (2) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929.
  - (a) For structures to be elevated, the elevation of the lowest floor (including basement).
  - (b) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
- (3) Information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one-hundred-year flood, if available.
- (4) Documentation, certified by a registered engineer or architect, which states that the proposed construction or development, including floodproofing and anchoring methods, has been adequately designed to withstand the pressures, velocities, and impact and uplift forces associated with the one-hundred-year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.
- (5) Topographic information showing existing and proposed ground elevations.

D. Manufactured homes. Manufactured homes that are placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

**§ 420-128. Floodway district.**

In the floodway district, 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-year flood elevation.

**§ 420-129. Permitted uses in the floodway district.**

The following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying area and are not prohibited by any other ordinance and provided that they do not require structures, fill, or storage of materials and equipment:

- A. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop farming.
- B. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
- C. Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.
- D. Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

**§ 420-130. Flood-fringe and approximated floodplain districts.**

- A. In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area, provided that all such uses, activities and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.
- B. Within the approximated floodplain district, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the one-hundred-year flood elevation more than one foot at any point. The engineering principle, equal reduction of conveyance, shall be used to make the determination of increased flood heights.
- C. Within the floodway area delineated by the applicant, the provisions of § 420-127 shall apply.

**§ 420-131. 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 floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.
- B. Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters 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 on-site waste disposal sites. The City Council 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 and 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 flood 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.

#### **§ 420-132. Variances.**

A. Factors to be considered. In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:

(1) 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 district that will cause any increase in the one-hundred-year flood elevation.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

(12) 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 an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(13) Such other factors which are relevant to the purposes of this article.

B. 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.

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

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

E. 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-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

F. 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.

### **§ 420-133. Existing structures in floodplain districts.**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

A. Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the one-hundred-year flood elevation.

B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50% of its market value shall be elevated and/or floodproofed to the greatest extent possible.

C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area, to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of this article and the Virginia Uniform Statewide Building Code.

**ARTICLE XV,  
Entrance Corridor Overlay District EC  
[Added by Ord. No. 98-12]**

**§ 420-134. Intent.**

The purpose of this district is to protect and enhance the City's attractiveness; protect the City's scenic, historic, architectural and cultural resources; support and stimulate development which is appropriate and complimentary to the numerous properties of historic, architectural and cultural significance throughout the City; protect and enhance the architectural and scenic character of significant access routes to the City's historic downtown; promote orderly and attractive development along these significant access routes; and ensure that development within this district is compatible with these resources through architectural control of development.

**§ 420-135. Area created; boundaries.**

In order to execute the intent of this article, there are hereby created two entrance corridor overlay districts:

- A. The boundaries of one entrance corridor overlay district shall be the boundaries of the Commercial District (Shopping Centers) C-2.
- B. The boundaries of one entrance corridor overlay district shall be the boundaries of the Commercial District (General Commercial) C-3 located on the east side of South Main Street.

**§ 420-136. Permitted uses.**

A building and/or land shall be used for the following purposes: uses which are permitted in the underlying district shall be permitted in the EC District.

**§ 420-137. Conditional uses.**

A building and/or land may be used for the following purposes subject to the issuance of conditional use permit as authorized in § 420-11: uses permitted by conditional use permit in the underlying district shall be permitted by conditional use permit in the EC District.

**§ 420-138. Area and bulk regulations.**

Uses, buildings and structures shall be subject to regulations for lot area, lot width, street frontage, setback, height, yards, parking and signs applicable in the underlying district in which they are located.

**§ 420-139. Certificate of appropriateness required.**

A certificate of appropriateness is required for the following:

- A. No building permit shall be issued involving construction or exterior modifications to a building until a certificate of appropriateness has been issued in accordance with § 420-140 for

improvements subject to such building permit.

B. No site plan shall be approved until a certificate of appropriateness has been issued in accordance with § 420-140 for all buildings and improvements shown thereon.

C. No changes shall be made to the exterior color or colors of a building or sign until a certificate of appropriateness has been issued in accordance with § 420-140 for such color changes.

**§ 420-140. Administration.**

A. The Planning Commission shall be responsible for the issuance of certificates of appropriateness required by this article. Application for a certificate of appropriateness shall be filed with the Zoning Administrator. Materials submitted shall include a preliminary site plan, landscaping plan, elevations of all buildings facades visible from public streets, samples of proposed building materials, lighting plan and details and scale drawings of proposed signage, to include materials, colors and proposed lighting. Architectural and landscaping plans should include elevations and renderings that depict colors, materials and designs. The Planning Commission shall review the application and, if approved, shall issue a certificate of appropriateness, with or without conditions, together with any modifications deemed necessary to ensure compliance with this section. Failure of the Planning Commission to act within 60 days from the date of application shall constitute approval of the application.

B. In making its determinations, the Planning Commission may consider any architectural feature which influences appearance, such as, but not limited to, motif and style, color, texture and materials, configuration, orientation, mass, shape, height and location of buildings, location and configuration of parking areas, landscaping and buffering.

**§ 420-141. Design standards.**

All applications for certificates of appropriateness must satisfy the design standards contained in this section.

A. Landscaping.

(1) Landscaping shall be used to soften the visual impact of development and enhance the appearance of the area.

(2) Landscaping shall be sufficient to soften the visual effects of parking lots, reduce the effective visual mass of large buildings and provide screening between development, the street and surrounding lots.

(3) Landscape buffers shall be provided adjacent to public streets of sufficient size to permit street trees and plantings to be installed to reduce the visibility into parking lots.

(4) Landscaping shall be compatible with landscaping on adjacent properties.

B. Signage.

(1) Each parcel shall have an overall sign plan which reflects a consistent style and specifies the size and color scheme for proposed signage.

(2) Materials used in signs and their support structures should reflect the building served by the sign.

(3) Sign colors should be harmonious with the building which they serve.

C. Architecture.

(1) Materials, colors and general style of buildings within a development should be coordinated.

(2) Heating and air-conditioning units, ventilation units, and mechanical equipment shall be screened from view from public streets.

(3) Loading docks, trash containers and mechanical equipment shall be screened from view from public streets.

(4) The effective visual mass of large buildings should be reduced by variations in roofline, building angles, dimensional relief, color, architectural detailing and landscaping.

(5) Architectural styles, building and roofing materials, and colors shall be reflective of the traditional architecture of Lexington. This may be accomplished through building scale, materials and forms, all of which may be embodied in architecture which is contemporary as well as traditional.

(6) Trademark buildings and related features shall be modified to meet these design standards.

D. Site planning.

(1) Parking lot layouts shall respond to the topographic characteristics of the site.

(2) The number of access points to parking lots from a street will be minimized and shall relate to other existing curb cuts whenever possible.

(3) Parking lots will be interconnected on adjacent parcels whenever possible.

(4) Small, landscaped and interconnected parking lots, rather than large, central parking lots, shall be encouraged.

(5) Parking lots shall not dominate the image of a site.

(6) Pedestrian access from the sidewalk into individual project sites, as well as within sites and between sites, shall be provided.

E. Lighting.

- (1) Lighting should be of uniform style for each project site.
- (2) Lighting should be contained within the site and designed to limit spillover and minimize the amount of light that is directed to the sky.
- (3) Light poles shall not exceed 24 feet in height.

**§ 420-142. Appeals.**

Appeals may be taken from any action or decision of the Zoning Administrator and Planning Commission by granting or refusing to grant a certificate of appropriateness pursuant to the provisions of this article. Appeals shall be taken to the Lexington City Council within 30 days of the action taken by the Planning Commission. Appeals shall be made by letter addressed to the City Manager noting the particular action being appealed. Any owner or other party aggrieved by the decision of the Lexington City Council shall have the right to appeal to the Circuit Court of the City of Lexington within 30 days of the action taken by the Lexington City Council.

**ARTICLE XVI,  
Institutional District I-1  
[Added by Ord. No. 99-7]**

**§ 420-143. Intent.**

The purpose of this district is to provide for orderly development of major institutions such as colleges, universities and medical campuses in accord with approved master plans for these institutions, with minimum procedural delay, and at the same time to ensure coordination of institutional development with surrounding land uses and the overall fabric of the City, the City's Comprehensive Plan and applicable City codes and ordinances.

**§ 420-144. Overlay concept.**

To enable the district to operate in harmony with the plan for land use and population density embodied in this chapter, the Institutional District I-1 is created as a special district to be superimposed on base districts contained in this chapter and is to be so designated by a special symbol on the Zoning District Map.

**§ 420-145. Permitted uses.**

A building and/or land shall be used for the following purposes:

A. Insofar as uses are generally consistent with the base district, public and private schools, colleges, universities, medical campuses and other educational or research institutions which have been approved as part of a master plan as set forth hereinbelow, and including hospitals and other medically related facilities, dormitory or other student housing, university-administered fraternity and sorority houses, other fraternity and sorority houses with conditional use permits, staff and faculty housing, classroom, library, religious, administrative, recreational, athletic, alumni, parking and service facilities, signs and other accessory uses owned by or operated under the control of such institution.

**§ 420-145(A). Conditional uses. [Added by Ord. 08-04]**

A. Facilities such as those set forth in § 420-145 Subsection A, but which have not been approved as a part of a master plan as set forth below.

B. Portable Buildings in accordance with § 420-28 A.

**§ 420-146. Area and bulk regulations.**

For uses, buildings and structures approved as a part of an institutional master plan, the approved conditions shall control all matters covered by the plan, including lot area, lot width, street frontage, setback, height, yards, parking and signs. Uses, buildings and structures not within the area of or not a part of an approved institutional master plan shall be subject to regulations for lot area, lot width, street frontage, setback, height, yards, parking and signs applicable in the district where they are located.

**§ 420-147. Master plan.**

A. Contents. The City Planning Commission may recommend to the City Council a master plan for all or part of the I-1 District. Such master plan shall be submitted to the Commission by the owner or owners of the property. The plan shall include a graphic representation of the following information at a suitable scale, together with necessary explanatory material:

(1) The boundaries of the area involved and the ownership of properties contained therein, as well as all existing public streets and alleys within and adjacent to the site.

(2) The location and use of all existing buildings on the site, as well as the approximate location, height, dimensions and general use of all proposed buildings or major additions to existing buildings.

(3) The location of all existing parking facilities and the approximate location of all proposed parking facilities, including the approximate number of parking spaces at each location and all existing and proposed means of vehicular access to parking areas and to public streets and alleys. Any proposed changes in the location, width or character of public streets and alleys within and adjacent to the site shall also be shown on the plan.

(4) The general use of major existing and proposed open spaces within the site and specific features of the plan, such as screening, buffering or retention of natural areas, which are intended to enhance compatibility with adjacent and nearby properties.

B. Action by Planning Commission; amendments.

(1) The Planning Commission shall approve the master plan when it finds, after reviewing a report from the Zoning Administrator and after holding a public hearing thereon, that the development shown on the master plan is in compliance with the requirements of the Institutional District I-1 and other applicable provisions of this chapter; that such development will not be detrimental to the public health, safety and welfare or unduly injurious to property values or improvements in the neighborhood and will not be in conflict with the policies and principles of the City's adopted Comprehensive Plan; and that adequate public services are or reasonably will be available. Otherwise, the Commission shall disapprove the plan.

(2) The action of the Commission shall be based upon a finding of fact, which shall be reduced to writing and preserved among its records. The Commission shall submit to the Council a copy of its finding and a copy of the master plan, together with its recommendations.

(3) Amendments to the master plan may be accomplished by the same procedure as for an original application.

**§ 420-148. Approval of zoning permits; notification of violation.**

Upon approval of the master plan by the City Council, following a public hearing thereon, necessary zoning permits may be approved by the Administrator, if such permits are deemed to be in compliance with the provisions of this chapter and substantially in accordance with the approved master plan or subsequent amendment thereto. If at any time after approval of a plan or its amendment the Administrator finds the plan or provisions of this chapter to have been

violated, the City Council shall be so informed.

**§ 420-149. Site plan required.**

Site plans are required to be submitted in accordance with the requirements of Article XXII of this chapter. Where construction of major facilities, such as new buildings, major additions, vehicular accessways, or parking areas, is proposed within 200 feet of the boundaries of an area for which a master plan has been approved or within 200 feet of a public street, the site plan must be submitted to the City Council for approval after receiving a recommendation from the Planning Commission. In addition, if the base district is part of the City's historic area, construction, reconstruction, alterations, repairs or demolitions shall be subject to architectural review in accordance with the requirements of Article XVII of this chapter.

**§ 420-150. Design review required.**

Design review is required for all facilities in accordance with the requirements of Article XV of this chapter.

**ARTICLE XVII,  
Historic Downtown Preservation District  
[Added by Ord. No. 03-6]**

**§ 420-151. Intent.**

The purposes and objectives of this article are to:

- A. Bring attention to the architectural excellence and historic importance of certain buildings, structures, places and areas in the City.
- B. Improve the land values, business climate, environmental quality, facilities and services of the City, while keeping the unique and distinctive character of certain sections.
- C. Foster a more favorable climate in the City, especially in the Central Business District, for the development of tourism as a basic and vital industry in the community.
- D. Encourage the development of off-street parking in the Central Business District for the convenience of shoppers, City and county employees and tourists.
- E. To assist private organizations within the City in furthering a deeper appreciation of the rich cultural heritage of the community.
- F. To promote a broad program, within the scope of this article, for preserving, rehabilitating and maintaining architecturally fine structures, monuments, walkways, places and areas within the entire City.

**§ 420-152. Scope.**

Any building wholly or partially included within the Historic Downtown Preservation District shall fall within the concept of this article. The building regulations of the Historic Downtown Preservation District will conform to the existing zoning districts that the Historic Downtown Preservation District is superimposed upon, except that anything in this chapter to the contrary notwithstanding, any existing structure located in the Historic Downtown Preservation District and listed as an historic structure, as per § 420-159, may be used as a single-family or multifamily dwelling unit.

**§ 420-153. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ARCHITECTURAL BOARD** -- An Architectural Board has been established under Chapter 10, Article II of this Code for the purpose of administering this chapter as applicable to the Historic Downtown Preservation District, the Residential Historic Neighborhood Conservation District established by Article XVIII below, and buildings outside the Historic Downtown Preservation District designated as historical buildings or areas, and which shall be referred to in this article as the "Board."

**OWNER** -- The owner of any building, structure or property shall, for the purposes of this

article, be defined to include any person having the legal or equitable right to locate, construct, reconstruct, alter, repair or demolish such building, structure or other improvement.

**§ 420-154. Area created; boundaries.**

In order to execute the purposes and objectives of this article, there is hereby created in the City an Historic Downtown Preservation District. The boundaries of the Historic Downtown Preservation District shall fall within the classification of the C-1 and C-1A zones.

**§ 420-155. Investigation of prospective areas.**

It shall be a function of the Board to investigate and delineate buildings, structures, places and areas in the City having historic interest or value which should be preserved and protected in the execution and attainment of the purposes and objectives declared in § 420-151 and to report thereon from time to time to the Council for consideration as to whether such areas should be set apart for preservation and recognition, through whatever means possible.

**§ 420-156. Permit.**

A. Certificate of appropriateness required. No improvement, structural or otherwise, in the Historic Downtown Preservation District shall be located, constructed, reconstructed, altered, repaired or demolished unless a permit therefor is issued by the Zoning Administrator. No such permit shall be issued unless a certificate of appropriateness is issued for such purpose by the Architectural Board and unless the location, construction, reconstruction, alteration, repair or demolition thereof otherwise complies with the requirements of the Building Code and other ordinances and laws applicable and relating thereto.

B. Application. Application for a certificate of appropriateness to locate, construct, reconstruct, alter, repair or demolish a building, structure or any other improvement in the Historic Downtown Preservation District shall be made to the Zoning Administrator, in writing, by the owner of such building, structure or property. The application for such certificate of appropriateness shall be accompanied by plans and specifications of the parts of the building, structure or other improvement which are or will be subject to public view from a public street, public way or public place. Such plans and specifications shall show the proposed exterior architectural features of such building, structure or improvement and shall include, but not necessarily be limited to, the general design, arrangement, textures, materials, planting and color proposed to be used in the location, construction, reconstruction, alteration or repair of the building, structure or improvement and the types of windows, exterior doors, lights, landscaping, parking, signs and other exterior fixtures and appurtenances which will be subject to public view from a public way or other public place. In the case of an application for demolition, the application shall be accompanied by plans and specifications of the remaining and/or adjacent structure(s) and, if none, then the lot or remaining improvements on the site. Such plan shall address the view from a public way or public place of such lot or remaining structure(s). Upon the filing of such application, the Zoning Administrator shall transmit it, with such plans and specifications, to the Board.

**§ 420-157. Certificate of appropriateness.**

A. Action by Architectural Review Board.

(1) Upon receipt of the application and the plans and specifications required by § 420-156B, the Architectural Review Board shall confer with the applicant for the certificate of appropriateness and shall approve or disapprove such plans and specifications and, if such plans are approved, shall issue a certificate of appropriateness therefor, with or without conditions, or with such modifications of the plans and specifications as the Board deems necessary to execute the purposes and objectives of and to require compliance with the regulations and restrictions set out in this article. Otherwise, the Board shall reject such plans and specifications and shall not issue the certificate of appropriateness. The failure of the Board to approve or disapprove such plans and specifications, with or without conditions or modifications, within 60 days from the date of application for the certificate of appropriateness shall be deemed to constitute approval of the plans and specifications as submitted and the Zoning Administrator shall issue the permit, provided that the work to be done under the permit complies with the requirements of the Building Code and other ordinances and laws applicable or relating thereto.

(2) Razing or demolition.

(a) In addition to the right of appeal as set forth in § 420-162, the owner of a building or structure located in the Historic Downtown Preservation District set forth in § 420-154, the razing or demolition of which is subject to the provisions of this article, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:

[1] He has applied for such right;

[2] The owner has, for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to the City or to any person, firm, corporation, government or agency thereof, or political subdivision thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto; and

[3] No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

(b) Any appeal which may be taken to the Circuit Court from the decision of the Lexington City Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the Lexington City Council, but thereafter the owner may renew his request to the Lexington City Council to approve the razing or demolition of the historic building or structure.

(c) The time schedule for offers to sell shall be as follows: three months when the offering price is \$25,000 or less; four months when the offering price is \$25,000 or more but

less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and 12 months when the offering price is \$90,000 or more.

B. Considerational factors. Before a certificate of appropriateness is issued by the Board, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to other pertinent factors which may be involved in the execution of the purposes and objectives declared in § 420-151, shall consider:

(1) The historical or architectural value and significance of the building or structure and its relationship to or congruity with the historic value of the land, place or area in the Historic Downtown Preservation District upon which it is proposed to be located, constructed, reconstructed, altered or repaired.

(2) The appropriateness of the exterior architectural features of such building or structure to such land, place or area and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Historic Downtown Preservation District and environs.

(3) The general exterior design, arrangement, textures, materials, planting and color proposed to be used in the location, construction, alteration or repair of the building, structure or improvement and the types of windows, exterior doors, lights, landscaping and parking viewed from a public street, public way or other public place and their relationship to or congruity with the other factors to be considered by the Board under this section.

C. Factors not necessarily considered. The Board shall not necessarily consider detailed designs, interior arrangement or features of a building or structure which are not subject to public view from a public street, public way or other public place and shall not impose any requirements except for the purpose of preventing developments incongruous with the historic aspects of the surroundings and the Historic Downtown Preservation District.

#### **§ 420-158. Maintenance and repair.**

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any exterior architectural feature now or hereafter located in an Historic Downtown Preservation District.

#### **§ 420-159. Inventory of buildings.**

The Board, in order to further execute the purposes and objectives declared in § 420-151, may make an inventory or list of all existing buildings in the City which it deems to be of historic interest because of their architecture, persons who have resided there or events which have occurred therein or for other historic reasons. Such inventory or list shall give a brief description of each building, the date of its construction, as nearly as can be ascertained, the reasons for including it in such inventory or list, and the names and addresses of its present owners, as shown on the current land books of the City. In this inventory, the Board may ask the assistance and cooperation of the local historical organizations, as the Board sees fit.

#### **§ 420-160. Building markers.**

The Board shall encourage one or all of the local historical organizations to design an appropriate marker for the proposed Historic Downtown Preservation District and place such recommendations before the Board for adoption and shall invite each owner of an historic building described in the inventory to display the marker thereon. If such owner agrees to display the marker, he shall signify such agreement by executing an instrument approved by the City Attorney, a copy of which shall be filed in the office of the Building Official. The Building Official shall thereupon cause to be erected and thereafter shall maintain such marker on or adjacent to such building, on which shall be inscribed the name of the building or its builder and the original owner or the date of construction of the building. The cost of marking, inscribing, installing and maintaining such marker shall be paid through public funds raised for this purpose.

#### **§ 420-161. Signs.**

The Board shall prescribe the character, type, color and materials used in the erection, posting, display or maintenance of signs permitted in the Historic Downtown Preservation District, and, in so doing, the Board shall give due consideration to the purposes of such signs and require that they be in harmony with the exterior general design, arrangement, textures, materials, color and use of the building or structure on or at which they are erected, posted, displayed or maintained and congruous with the purposes and objectives declared in § 420-151, without defeating the purpose for which such signs are intended.

#### **§ 420-162. Appeals.**

Appeals may be taken from any action or decision of the Zoning Administrator and Board in granting or refusing to grant a certificate of appropriateness pursuant to the provisions of this article. Appeals shall be taken to Lexington City Council within 30 days of the action taken by the Architectural Review Board. An appeal shall be noted by letter addressed to the City Manager noting the particular action appealed from. Further, any owner or any party aggrieved by the decision of the Lexington City Council shall have the right to appeal to the Circuit Court of the City of Lexington within 30 days of the action taken by the Lexington City Council.

**ARTICLE XVIII,**  
**Residential Historic Neighborhood Conservation District**  
**[Added by Ord. No. 03-6]**

**§ 420-163. Intent.**

The purposes and objectives of this article are to:

- A. Bring attention to the architectural excellence and historic importance of certain buildings, structures, places and residential areas in the City.
- B. Preserve and improve the unique and distinctive character of certain residential sections.
- C. Enhance the quality of life for residents by preserving the historic resources of the City.
- D. Maintain and improve property values, encourage sound stewardship and be minimally intrusive on property owners.
- E. Assist private organizations within the City in furthering a deeper appreciation of the rich cultural and historic heritage of the community.

**§ 420-164. Scope.**

Any building wholly or partially included within any Residential Historic Neighborhood Conservation District shall fall within the concept of this article. The building regulations of any Residential Historic Neighborhood Conservation District will conform to the existing zoning districts upon which such area is superimposed.

**§ 420-165. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ACCESSORY STRUCTURE** -- A subordinate structure incidental to and located on the same lot occupied by the main structure and requiring a building permit under the Virginia Uniform Statewide Building Code.

**ARCHITECTURAL BOARD** -- An Architectural Board has been established under Chapter 2, Article II of this Code for the purpose of administering this chapter as applicable to the Residential Historic Neighborhood Conservation District and buildings outside the Residential Historic Neighborhood Conservation District designated as historical buildings or areas, and which shall be referred to in this article as the "Board."

**DEMOLISH** -- The dismantling, destruction, razing, or tearing down of a building.

**MOVING** -- The placement or removal of an existing building or structure as a whole from its existing site to a new site.

**NEW CONSTRUCTION** -- Any construction which is independent and exclusive of an existing

building or structure or part thereof.

OWNER -- The owner of any building, structure or property shall, for the purposes of this article, be defined to include any person having the legal or equitable right to locate, construct, reconstruct, alter, repair or demolish such building, structure or other improvement.

**§ 420-166. Areas created; boundaries.**

In order to execute the purposes and objective of this article, there are hereby created in the City one or more Residential Historic Neighborhood Conservation Districts. The boundaries for such district or districts shall be designated on the City of Lexington Zoning Map.

**§ 420-167. Approval of major actions by Architectural Board.**

The following major actions shall be approved only after a public meeting and favorable action by a majority of the members of the Architectural Board:

- A. Demolishing or moving of a main or accessory building.
- B. Construction of a new main building or a new accessory building.

**§ 420-168. Certificate of appropriateness required.**

No permit shall be issued for any improvement requiring approval by the Architectural Board by § 420-167 above unless a certificate of appropriateness is issued for such purpose by the Architectural Board and unless the construction or demolition complies with the requirements of the Building Code and other ordinances and laws applicable and relating thereto.

**§ 420-169. Application for certificate of appropriateness.**

Application for a certificate of appropriateness shall be made to the Zoning Administrator, in writing, by the owner of such building, structure or property. Application for new construction shall be accompanied by plans and specifications, sketches or other documentation of the parts of the building, structure or other improvement which are or will be subject to public view from the contiguous public street or streets in the case of corner lots. Such documentation shall show the proposed exterior architectural features of such building, structure or improvement and shall include, but not necessarily be limited to, the general design, arrangement, textures, and materials proposed to be used. In the case of an application for demolition the application shall be accompanied by plans and specifications, photographs or other appropriate documentation of the remaining and/or adjacent structure(s) and, if none, then the lot or remaining improvements on the site. Such plan shall address the view from the public street of such lot or remaining structure(s). Upon the filing of such application, the Zoning Administrator shall transmit it, with such plans and specifications, to the Board.

**§ 420-170. Action by Architectural Board.**

- A. Upon receipt of the application and the plans and specifications required above, the Architectural Board may confer with the applicant for the certificate of appropriateness and shall approve or disapprove such plans and specifications and, if such plans are approved, shall issue a

certificate of appropriateness therefor, with or without conditions, or with such modifications of the plans and specifications as the Board deems necessary to execute the purposes and objectives of and to require compliance with the regulations and restrictions set out in this article. Otherwise, the Board shall reject such plans and specifications and shall not issue the certificate of appropriateness. The failure of the Board to approve or disapprove such plans and specifications, with or without conditions or modifications, within 60 days from the date of application for the certificate of appropriateness shall be deemed to constitute approval of the plans and specifications as submitted, and the Zoning Administrator shall issue the permit, provided that the work to be done under the permit complies with the requirements of the Building Code and other ordinances and laws applicable or relating thereto.

B. The Architectural Board shall be guided in its decisions by the purposes and objectives declared in § 420-163 and by the standards and guidelines established in §§ 420-171 and 420-173 below. The Board shall have the authority to request modification of proposed actions in order to comply with said standards and guidelines.

C. The Architectural Board shall approve any application which conforms to the purposes and objectives declared in § 420-163 and the standards and guidelines established in §§ 420-171 and 420-173. The Board shall give reasons for its decisions, shall act promptly on applications before it, and shall coordinate its procedures with those of other agencies and individuals charged with the administration of this article. The Board may seek advisory assistance from experts in such fields as the Board's work requires.

#### **§ 420-171. Considerational factors.**

Before a certificate of appropriateness is issued by the Board for work within these Residential Historic Neighborhood Conservation Districts, and upon conferring with the applicant for the certificate of appropriateness, the Board, in addition to considering the purposes and objectives specified in § 420-163, shall consider:

A. The appropriateness of the exterior architectural features of the building and its relationship to or congruity with the exterior architectural features of other land, places, areas, buildings or structures in the Residential Historic Neighborhood Conservation District and environs.

B. The general exterior design, arrangement, textures, and materials proposed to be used in the construction of the building when viewed from the public street (or streets in the case of a corner lot) along the lot front of said building and its relationship to the other factors to be considered by the Board under this section. Among other things, the Board is to consider the overall architectural design, form and style, including the height, mass, proportion and scale; architectural details, such as the design and style of decorative or functional fixtures, such as lighting, windows and doors; the design and arrangement of buildings on the site; and the texture and materials of a proposal when assessing architectural compatibility.

#### **§ 420-172. Factors not to be considered.**

A. The Board shall not consider the interior arrangement of a building or features of a building which are not subject to public view from the contiguous public street or streets.

B. The Board shall not impose any requirements except for the purpose of preventing developments incongruous with the historic and architectural aspects of the building and its surroundings or the character of the Residential Historic Neighborhood Conservation District.

**§ 420-173. Considerational factors for demolition, moving or razing.**

When reviewing requests for demolition, moving, or razing, the Board shall also consider whether:

A. The loss of the building will be adverse to the district or to the public interest by virtue of its uniqueness or its architectural or historic significance.

B. The demolition, moving or razing will have an adverse effect on the character and surrounding environment of the district.

C. The historic, archaeological, or architectural value of a structure and its contribution to the historic value of the surrounding area.

D. The building is of such significance that it would qualify on its own merit for designation as a state or local historic building or for listing in the landmarks registry, or

E. The building is of such old and uncommon design, texture and/or material that it could be reproduced only with great difficulty and/or expense.

**§ 420-174. Appeals.**

Appeals of any decision of the Zoning Administrator in granting or refusing to grant a certificate of appropriateness or building permit pursuant to the provisions of this article may be taken in accordance with procedures set forth below. Appeals are limited to owners of the property affected by such decision, residents of adjacent properties, and the Lexington City Council. Appeals of any decision of the Board in granting or refusing to grant a certificate of appropriateness or building permit pursuant to the provisions of this article may be taken in accordance with the procedures set forth below. Appeals are limited to owners of the property affected by such decision, residents of adjacent properties, and the Lexington City Council. The City Council may appeal the decision of the Zoning Administrator and the Board. In such instance the appeal shall be directed to the Circuit Court.

A. The appeal process shall be as follows:

(1) Appeals of decisions of the Zoning Administrator and Architectural Board shall be taken to the Lexington City Council within 30 days of the action taken by the Architectural Board. An appeal shall be noted by letter addressed to the City Manager noting the particular action appealed from. Further, any appellant aggrieved by the decision of the Lexington City Council shall have the right to appeal to the Circuit Court within 30 days of the action taken by the Lexington City Council.

(2) Appeals by the Lexington City Council of any decision of the Architectural Board shall be directly to the Circuit Court.

B. Razing or demolition.

(1) In addition to the right of appeal as set forth above, the owner of a building or structure located in a Residential Historic Neighborhood Conservation District set forth in § 420-166, the razing or demolition of which is subject to the provisions of this article, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure, provided that:

(a) He or she has applied for such right;

(b) The owner has, for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to the City or to any person, firm, corporation, government or agency thereof, or political subdivision thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto; and

(c) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

(2) Any appeal which may be taken to the Circuit Court from the decision of the Lexington City Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the Lexington City Council, but thereafter the owner may renew his or her request to the Lexington City Council to approve the razing or demolition of the historic building or structure.

(3) The time schedule for offers to sell shall be as follows: three months when the offering price is \$25,000 or less; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and 12 months when the offering price is \$90,000 or more.

**§ 420-175. Investigation of prospective areas.**

The Board may investigate and propose buildings, structures, places and areas in the City having historic interest or value which should be preserved and protected in the execution and attainment of the purposes and objectives declared in § 420-163 and report thereon from time to time to the Planning Commission for consideration as to whether such areas shall be set apart for preservation and recognition, through whatever means possible.

**§ 420-176. Maintenance and repair.**

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any exterior architectural feature now or hereafter located in a Residential Historic Neighborhood Conservation District.

**ARTICLE XIX,  
Planned Unit Development  
[Added by Ord. No. 90-10, Amended by  
Ord. No. 2008-2, 2009-11]**

**§ 420-177. Intent and purpose.**

The planned unit development (PUD) concept encourages and permits variation in residential developments. It's intent is to permit greater flexibility in order to allow more creative, innovative, imaginative and, where possible, environmentally sensitive development than may be possible if the underlying zoning district's regulations are strictly applied. A PUD is intended to provide both for development flexibility of undersized parcels and to allow the use of diversified development techniques for larger parcels. The PUD overlay is intended to expand housing opportunities for persons of all income levels.

**§ 420-178. Applicable districts.**

The PUD overlay may be authorized in all residential districts.

**§ 420-179. Permitted uses.**

Any use permitted in the particular district in which the PUD is overlaid is allowed. Housing types authorized in any of the city's residential districts may be considered but the project's density shall be no greater than that specified in the underlying district. Nonresidential uses of public or semipublic, cultural or recreational character shall be permitted uses, provided such nonresidential uses shall be compatible with and secondary to the primary residential use.

**§ 420-180. Development standards.**

Relaxation of the following development standards may be considered when to do so is in keeping with this article's intent and objectives: lot area, lot width, lot coverage, building type, building height, building setback, yard requirements, street frontage, and street width.

**§ 420-181. Open space.**

For PUDs consisting of two contiguous acres or more, total usable open space shall be at least 20% of the gross acreage of the development. No more than 25% of the required percentage of usable open space shall be in the form of water surfaces or wetlands. Streets, parking areas and land with slopes of greater than 20% shall not count toward open space requirements. Recreation facilities and/or areas may be constructed within the open space.

**§ 420-182. Utilities, services and easements.**

Residential structures within the PUD shall be connected to city water and sewer lines. In PUDs of 2 contiguous acres or more, utility cables other than major electrical transmission lines shall be placed underground. PUDs must provide adequate on-site and off-site drainage and easements

for maintenance of utilities.

**§ 420-183. Access and circulation.**

The PUD provisions may not be utilized for projects in which only existing public streets provide access to residential structures. A PUD's internal vehicular circulation system may incorporate public and/or private streets. Construction of all new public streets shall comply with the street and right of way widths required by the Virginia Department of Transportation. In the case of private streets, evidence of the developer's responsibility for continuous maintenance shall be required before approval of the PUD. The PUD's vehicular and pedestrian circulation systems must permit safe and convenient access to dwelling units, open space, community facilities and other nonresidential areas. Adequate access and circulation for emergency and service vehicles shall also be provided.

**§ 420-184. Management.**

Common open space, facilities and utilities shall be managed as follows:

- A. All common open space, properties and facilities shall be preserved for their intended purpose as expressed in the approved PUD application. The developer shall establish an association or nonprofit corporation of all individuals or corporations owning property within the PUD to ensure adequate maintenance of all common open space, properties and facilities.
- B. All property deeds shall include appropriate restrictions and covenants to ensure that common open space is permanently preserved according to the site plan and that commonly owned facilities are appropriately maintained. Deed restrictions and covenants shall run with the land; shall benefit present, as well as future, property owners and shall provide that the same may be enforced by the City; and shall contain a prohibition against partition.
- C. Membership in the association or nonprofit corporation shall be mandatory for all owners within the PUD.
- D. Documents of incorporation, partnership or organization shall set forth the purposes of the organization under which common ownership is to be established, how it shall be governed and administered, the provision made for permanent care and maintenance of common holdings, methods of assessing cost shares and the extent of common interest held by the owner of each individual parcel in the PUD.

**§ 420-185. Administration. [Added by Ord. No. 99-12]**

Issuance of permits for new PUDs or for excavation, addition, alteration, construction; reconstruction or change of use within existing PUDs shall require review by the Lexington Planning Commission and approval by the City Council. The procedure for review by the Planning Commission shall be as provided herein.

A. Any person who owns or exercises control over a tract of land may apply for a PUD permit. If the tract is jointly owned, all owners must concur in the application.

- (1) Prior to the formal submission of a proposed plan of development, the applicant or representative should confer with the Planning Director or designee concerning the proposed plan of development.
- (2) Following this preapplication review, the developer may apply for a PUD permit. The contents of the formal application shall be those required under Article XXII, § 420-220 and 420-221 of this chapter.
- (3) Drafts of legal documents which provide for the maintenance of common open space, streets, utilities or other facilities shall be submitted to staff prior to Planning Commission review. Final documents shall be submitted and approved by the City prior to the issuance of any permit.

B. Public notice.

(1) Notice of public hearings shall be published once a week for two successive weeks in some newspaper published or having general circulation in the City; provided that such notice for both the Planning Commission and the City Council may be published concurrently. Such notice shall specify the time and place of a hearing at which persons affected may appear and present their views, not less than six days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the proposed plans, ordinances or amendments may be examined. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

(2) The city shall give written notice to those persons who own property any portion of which abuts the subject property and all property which is across the street from any portion of the subject property as determined by the City's real property tax records. This notice shall give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. The notice shall be mailed a minimum of 10 days prior to the date of the Planning Commission public hearing. The list of property owners and the contents of the notice shall be approved by the Zoning Administrator prior to mailing.

(3) The city shall also place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.

C. Following a duly advertised public hearing and upon the approval of the Planning Commission, the application shall be submitted to the City Council. A report accompanying its submission shall state the reasons for recommending denial or approval (with conditions as appropriate), and if relevant define the stages which constitute minimum acceptable increments

for development. The City Council shall hold a second public hearing on the PUD application. Notice of the time and place of the public hearing shall be published as provided by law for other amendments to this chapter.

D. Objectives and Application Review. In reviewing the application for a planned unit development (PUD) or an application seeking amendment of an approved PUD, the City Council and Planning Commission shall consider whether the application meets the intent of this chapter and Lexington's Comprehensive Plan. The proposed project must also not be inconsistent with the objectives of the PUD district, which are:

- (1) To encourage design and amenities to those resulting from the strict application of the underlying zoning district and the City's subdivision regulations;
- (2) To encourage innovative arrangements of buildings and open spaces to provide efficient, attractive, flexible and environmentally sensitive design;
- (3) To encourage the development of a variety of housing types;
- (4) To encourage the clustering of single-family dwellings for more efficient use of land and the preservation of open space and significant natural features;
- (5) To enable developments designed to function as cohesive, unified projects;
- (6) To ensure that a development harmonizes with existing adjacent properties, uses, and development patterns;
- (7) To ensure preservation of cultural features, scenic assets and natural features such as flood plains, streams, natural drainage ways, wooded areas, steep slopes, or other areas of sensitive or valuable environmental character;
- (8) To provide for coordination (but not uniformity) of architectural styles within the development and in relation to adjacent properties around the development;
- (9) To provide adequate utilities, access roads, parking, and drainage facilities;
- (10) To ensure that the streets, sidewalks, pedestrian and bicycle ways are appropriate for the PUD and the neighborhood; that they are adequate to ensure safe and efficient circulation, provide ingress and egress sufficient to minimize traffic congestion in the area, and maintain the safety and capacity of adjacent streets;
- (11) To assure that the establishment, maintenance or operation of the PUD as proposed is not detrimental to or endanger the public health, safety or general welfare, is not injurious to the use and enjoyment of other properties in its vicinity, does not seriously impair property values or environmental quality in the neighborhood, and does not impeded the orderly development of surrounding property;

(12) To assure that the proposed project furthers the goals and objectives of the City's Comprehensive Plan.

E. The City Council, subsequent to the public hearing, shall take one of the following actions:

- (1) Approve the application;
- (2) Approve the application with appropriate modifications to the plan or imposed conditions;
- (3) Deny the application.

F. Should City Council's approval of the PUD be conditional, the developer shall resubmit a final, modified PUD plan for review and approval by the Zoning Administrator.

G. Building permits shall be issued only after the final PUD plan is approved. Connections to City utilities, other than temporary service for construction, shall not be provided until the developer has furnished a surety bond for the appropriate stage of development in an amount equal to the City's estimate of the costs of installation of the improvements for that stage, which are ultimately to be dedicated for public use and accepted by the City for perpetual maintenance. The various methods of bonding as set forth in the subdivision regulations will be acceptable.<sup>8</sup>

H. If the developer is not following the approved plan, the Zoning Administrator shall issue a stop order which will remain effective until the developer comes into compliance.

I. The following kinds of changes shall be considered in the same manner as a new request: changes which would increase the density of any proposed use, which change the exterior boundary of the PUD, which materially change the location of any proposed uses or the height of buildings or which change the amount of land devoted to the various proposed uses within the PUD. Lesser changes must be approved by the Planning Commission.

J. Any PUD permit shall expire 12 months after issuance if development has not proceeded according to plan and the Planning Commission, on request of the developer, has not granted an extension. Extensions may be granted for a period of 12 months by the Planning Commission.

K. If the present or future owner of the PUD designated area does not follow the approved site plan, the remaining undeveloped property shall automatically revert back to the original zoning.

**ARTICLE XX,  
Off-Street Parking**

**§ 420-188. Intent.**

- A. The purpose of this article is to regulate the design, location and maintenance of parking areas, to meet the expanding needs of a growing City and to furnish adequate facilities to satisfy those who live, shop and work within the City.
- B. It is the intent of this article to have adequate parking designed and constructed during the erection of all new structures and the modifications to existing structures.
- C. These parking areas are to be designed for the convenience of all who use them and shall be located so as to improve traffic flow, promote traffic safety and add to the beautification of the City.

**§ 420-189. Location generally. [Amended by Ord. No. 89-14]**

- A. Off-street parking required by this chapter shall not occupy any part of any required setbacks in the General Residential District R-1.
- B. There shall be provided, at the time of the erection of any principal building or structure or at the time any principal building or structure is altered, enlarged or increased in capacity by adding dwelling units, guest rooms, floor areas or seats, not less than the amounts of parking space given in § 420-195. Such space shall be maintained and shall not be encroached upon so long as such principal building or structure remains, unless an equivalent number of such spaces is provided elsewhere in conformance with the article.
- C. Loading space, as required in § 420-196, shall not be construed as supplying off-street parking space.
- D. Notwithstanding any contrary provision of this chapter, buildings in the historic area shall be exempt from the requirements of this article.

**§ 420-190. Location in relation to use. [Amended by Ord. No. 89-14]**

The parking spaces required shall be located on the same lot as is the principal use; provided, however, that upon the recommendation of the Planning Commission and made part of a conditional use permit by the City Council, a portion of required off-street parking for uses in districts other than residential may be located in a remote parking lot which is within 500 feet measured along lines of public access from the principal use. A remote parking lot to satisfy this requirement shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in

accordance with the terms of this article.

**§ 420-191. Reduction.**

Off-street parking space required under this article may be reduced at a time when the capacity or use of a building is changed in such a manner that the new use or capacity would require less space than before the change. Such reduction may not be to a level below the standards set forth in this article.

**§ 420-192. Joint use of spaces.**

A. Churches. Parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums and other places of public assembly, stores, office buildings and industrial establishments, lying within 500 feet of a church, as measured along lines of public access, that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays and that are made available for other parking may be used to meet not more than 75% of the off-street parking requirements of a church.

B. Other places of public assembly. Parking spaces already provided to meet off-street parking requirements for stores, office buildings and industrial establishments, lying within 500 feet of a place of public assembly, as measured along lines of public access, that are not normally in use between the hours of 6:00 p.m. and 12:00 midnight and that are made available for other parking may be used to meet not more than 50% of the total requirements of parking space.

**§ 420-193. Design standards. [Amended 8-20-1987; by Ord. No. 89-14]**

A. Surfacing. Depending on the site's topography and conditions, the Planning Commission may require that off-street parking areas for six or more vehicles be surfaced with an erosion-proof asphaltic, bituminous, cement or other properly bound pavement.

B. Drainage and maintenance. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys. Off-street parking areas shall be maintained in a clean, orderly and, to the extent possible, dust-free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

C. Separation from walkways and streets. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device, or by distance, so that vehicles cannot protrude over publicly owned areas.

D. Entrances and exits. The location and design of entrances and exits shall meet regular traffic safety and design standards. In general, there shall not be more than one entrance and one exit or one combined entrance and exit along any one street.

E. Interior drives. Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, except that no driveway shall be less than eight feet in width.

F. Marking. Parking spaces in lots of more than 10 spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used to ensure efficient traffic operation on the lot.

G. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare on property in a residential district.

H. Screening. Where off-street parking areas for five or more automobiles are located closer than 50 feet to a dwelling in a residential district and where such parking areas are not entirely screened visually from the dwelling by an intervening building or structure, a continuous visual screen, with a minimum height of six feet, shall be provided between the parking area and the dwelling. Such screen shall be a solid masonry wall, a uniformly painted solid board fence or evergreen hedge six feet in height, except in areas requiring natural air circulation, unobstructed view or other technical considerations necessary for proper operation.

I. Shared access. Access to required parking spaces for single-and two-family residences may be provided by a shared driveway when each abutting side yard has a minimum width of 10 feet.

#### **§ 420-194. Obligations of owner.**

A. The requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner of the real estate on which any structure or use is located as long as such structure or use is in existence and its use, requiring vehicle parking or vehicle loading facilities, continues. It shall be unlawful for the owner of any structure or use affected by this article to discontinue, change or dispense with or to cause the discontinuance or change of the required vehicle parking or loading space, apart from the alternate vehicle parking or loading space which meets with the requirements of and is in compliance with this article. It shall be unlawful for any firm or corporation to use such structure without acquiring such land or other suitable land for vehicle parking or loading space which meets the requirements of and is in compliance with this chapter.

B. Whenever off-street parking is required and cannot be provided within the principal structure or on the same lot as the principal structure and is located on another parcel of property, as permitted by this article, such parcel of property provided and utilized for off-street parking shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this article.

#### **§ 420-195. Schedule of required spaces. [Added by Ord. No. 89-5; amended by Ord. No. 91-2; Ord. No. 95-16]**

Off-street parking shall be provided according to the following schedule. Where application of the schedule creates a fractional number of spaces, the parking spaces required shall be construed

to be the next highest whole number.

<b>Use</b>	<b>Parking Spaces Required</b>
Assembly halls, auditoriums, theaters, churches and fraternal organizations	1 for each 6 seats or 10 feet of benches or pews, based on fixed seating capacity in the main place of assembly therein; 1 for each 200 square feet of assembly floor space in buildings without fixed seating
Automobile services and repair and car washes	3 for each bay, stall, rack or pit, plus 1 for each 2 gasoline pumps; minimum 5 spaces
Auto sales lots (outdoors)	1 for each 1,000 square feet of site area
Boardinghouses, lodging houses, tourist houses, bed-and-breakfast inns and dormitories	1 for each sleeping room in addition to parking spaces required for permanent residents of the building
Care homes	1 for every 2 occupants
Drive-in establishments (with no indoor service)	1 for each 50 square feet of floor space
Entertainment establishments, bowling alleys and pool halls	1 for 100 square feet of floor space, plus required Parking spaces for bar, restaurant or assembly space Supplemental to the primary use
Fraternity or sorority	1 space for each bed provided in the house's designed capacity or 15 spaces, whichever is greater
Funeral homes and mortuaries	1 for each 100 square feet of floor space of assembly rooms used for service
Garden apartments, apartment buildings and high-rise apartments	2 for each dwelling unit or 1 per bedroom, Whichever is greater
Hospitals, general acute care	2 for each bed
Hotels and motels	1 for each guest room or resident unit, plus Required parking for any restaurant or assembly Space
Industrial/manufacturing	1 for each 2 employees, based on estimated maximum daily or maximum 8-hour shift requirements in a 24-hour period

Laundromats	1 or each 2 washing machines
<b>Use</b>	<b>Parking Spaces Required</b>
Libraries	1 for each 500 square feet of floor space
Nursing homes for the aged	1 for every 2 beds
Offices and services	1 for each 250 square feet of floor space for clinics, barbershops, beauty salons, or other personal service establishments; 1 for each 400 square feet of floor space for banks, general offices and all other offices
Restaurants, nightclubs or private clubs	1 for each 200 square feet of floor space
Retail	1 for each 300 square feet of floor space for general stores or shops; 1 for each 800 square feet of floor space for furniture stores
Single-family homes, duplexes, accessory apartments and townhouses	2 for each dwelling unit
Sports arenas or stadiums	1 for each 6 seats or 10 feet of benches
Warehouses, enclosed storage and wholesale	1 for each 1,000 square feet of floor space

**§ 420-196. Off-street loading.**

A. On the same premises with every building or structure or part thereof erected and occupied for manufacturing, storage, warehousing, goods display or as a department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry-cleaning establishment or other use similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services, in order to avoid interference with public use of the streets and alleys.

B. Such loading and unloading space, unless otherwise adequately provided for, shall be an area 10 feet by 50 feet, with fifteen-foot height clearance, and shall be provided according to the following schedule:

**Gross Floor Area  
(square feet)**

0 to 1,400  
1,401 to 20,000  
20,001 to 100,000  
100,001 to 500,000  
  
Over 500,000

**Loading and Unloading Spaces Required in Terms of  
Usable Floor Area**

None  
1 space  
1 space, plus 1 space for each 20,000 square feet  
5 spaces, plus 1 space for each 40,000 square feet in excess  
of 100,000 square feet  
15 spaces, plus 1 space for each 80,000 square feet

**ARTICLE XXI,  
Signs**

**§ 420-197. Purpose and findings.**

A. The purpose of this article is to regulate all exterior signs so as to protect the public health, safety and morals and to promote the public welfare. The principal features are the restriction of advertising to the business of the premises on which a sign is located and the restriction of the total sign area permissible per site.

B. In order to maintain the same level of attention, signs have had to become more aggressive, more numerous and more expensive. In some areas they threaten to go and in others already have gone out of control, thus defeating the very purpose for which they were created. Accordingly, it becomes necessary to reduce destructive competition with regard to signs.

C. Furthermore, lack of control has caused dangerous conflicts between advertising signs on the one hand and traffic control signs and signals on the other, thus destroying the effectiveness of both. The great increase in automobile traffic in the City has greatly aggravated this danger. There should be no dispute over the priority in importance between traffic controls and advertising signs.

D. Furthermore, outdoor signs suspended from or placed on top of structures and otherwise erected above the ground frequently are dangerous to the public, especially during high winds.

E. Furthermore, the uncontrolled use of signs and of their shapes, motion, colors, and illumination and their insistent and distracting demand for attention can be injurious to the mental and physical well-being of the public and can be destructive to adjacent property values and to natural beauty.

F. Accordingly, it has become necessary, in the public interest, to regulate the size, location, character and other pertinent features of all exterior signs in the City.

**§ 420-198. District standards established; new or omitted districts.**

A. The sign standards set forth in this article are established according to districts and are intended to include every district in the City. The districts are as defined by this chapter and the Official Zoning Map. Only signs as described herein and as may be described under §§ 420-205 and 420-215 will be permitted in each particular zone.

B. If any district is omitted from this chapter or if a new district is created after the enactment of this chapter, no signs shall be permitted therein until this chapter shall be amended to include such zone.

**§ 420-199. Residential districts.**

A. Applicability of section. This section shall apply to all districts designated by this chapter as being General Residential R-1, Multifamily Residential R-M, Multifamily High-Rise R-H, or Multifamily Mobile Home R-MH.

B. Size. One sign, not exceeding one square foot in area, shall be permitted per dwelling unit. For multiple dwellings, one or more additional signs, no one of which exceeds one square foot, having a total of 12 square feet in area, shall be permitted.

C. Location. Permitted signs may be anywhere on the premises, except as restricted by this chapter, except that they may not project beyond any property line and except that, if ground mounted, the top shall be not over five feet above the ground and, if building mounted, such sign shall be flush mounted, shall not be mounted on any roof of the building and shall not project above the roofline.

D. Content. The sign per dwelling unit shall indicate only the name of the occupant and may include the address. The additional sign area permitted for multiple dwellings shall be only for identification of the building.

E. Illumination. Illumination, if used, shall be what is known as "white" and not colored light and shall not be blinking, fluctuating or moving. Light rays shall shine only upon the sign or upon the property within the premises and shall not spill over the property line in any direction, except by indirect reflection.

**§ 420-200. Professional Services - Residential District. [Added by Ord. No. 92-2]**

A. Applicability of section. This section shall apply to all areas designated by this chapter as the Professional Services - Residential PSR District.

B. Single-family dwellings shall conform to the requirements specified in § 420-199 for residential districts.

C. Each parcel of property containing less than 15,000 square feet occupied by a building containing one or more of the professional services authorized in the district shall be permitted one flat wall sign not exceeding six square feet.

D. Each parcel of property containing 15,000 square feet or more occupied by a building containing one or more of the professional services authorized in the district shall be permitted one freestanding sign or one flat wall sign not exceeding 15 square feet.

E. All signs erected for authorized professional services shall conform to the following requirements:

(1) Location. If they are freestanding signs, they shall be placed a minimum of 10 feet behind the front property line and shall not be more than five feet in height. Wall-mounted signs may not project more than 12 inches beyond the building face, shall not be more than eight feet above the ground, shall not be mounted on any roof and shall not project above the roofline.

(2) Content. Signs shall be identification signs only. They may incorporate a firm's name and logo and description of the business or service and may direct traffic movement on the premises or within the premises but shall not include advertising slogans or telephone numbers.

(3) Illumination. Illumination, if used, shall be white light only and shall not be blinking, fluctuating or moving. The light source shall be flush ground mounted. Light rays shall shine only upon the sign and shall not spill over the property line in any direction.

(4) Approval by Planning Commission. All signs, except those which conform to § 420-199, shall be reviewed and approved by the Planning Commission, which shall consider the proposed general design, arrangement, materials, colors, lighting, placement and appropriateness of the proposed sign to ensure that it is in harmony with its associated buildings and the surrounding area. The purpose of this review is to ensure that the sign is congruous with the purpose and objectives declared in § 420-74.

**§ 420-201. Commercial C-1 and C-1A Districts. [Amended 7-9-1981; by Ord. No. 89-13; Ord. No. 90-5, Ord. No. 04-12]**

A. Applicability of section. This section shall apply to all areas designated by this chapter as Commercial C-1 and Commercial C-1A, the City's historic area that is otherwise regulated through Article XVII of this chapter. In allowing signage in the historic area, the Architectural Board shall be guided, but not restricted by, the number, size and location provisions stated herein. As provided for in § 420-161, the Board's overriding concern shall be that signage is in harmony with its associated building in particular and the historic area in general.

B. Size.

(1) The total sign area for the face of any building, however allocated among sign types (flat wall, projecting, freestanding, awning, window and/or marquee), shall be computed on the ratio of one square foot of sign for each linear foot of building face, except that no sign shall exceed 30 square feet in area. Maximum signage allocated to a building's business occupants shall be limited to one square foot of sign per linear foot of building face occupied by each business. A building owner may allocate up to 15 square feet of the building's available signage to each business occupant located in an upper story, basement or interior space not sharing the building face.

(2) Projecting or freestanding signs shall have no more than two sides and shall have a maximum size per side of nine square feet for building faces with fewer than 30 linear feet of frontage and a maximum of 15 square feet per sign face for building faces with 30 or more linear feet of frontage. The larger sign size is restricted to buildings with single occupants or, for buildings with multiple occupancy, to one projecting sign shared by all.

(3) In the absence of a building, the total sign area shall not exceed nine square feet.

C. Number. Three signs per business occupant shall be allowed, provided that no more than two signs shall be allowed per building face and not more than one of each sign type (whether flat, projecting, freestanding, window, awning, or marquee) shall be allowed per face. More than

one sign may be hung per bracket, provided that other requirements relating to height are met.

D. Location:

(1) Signs may be flat wall signs and located anywhere on the surface of the building. No portion of a wall sign shall project above the cornice, roofline or coping.

(2) Signs may be projecting signs, provided that such sign shall extend no closer than one foot to the curblin, that such sign shall have a minimum clearance of eight feet above a public sidewalk, and that no such sign shall project over a public street or vehicular alley. Neither the bracket nor any portion of a projecting sign may be placed more than 20 feet above the front sidewalk or, in the absence of a sidewalk, above the street.

(3) Signs may be freestanding, provided that they are placed behind the property line.

(4) Signs may be on the faces of a marquee or awning and may not project below the lower edge of the marquee or awning. The bottoms of marquee signs shall be not less than eight feet above the sidewalk or grade at any point.

(5) In the case of projecting signs, there shall be no more than one bracket for every full 15 feet of building frontage.

E. Content. Signs allowed in these districts shall be identification signs only. They may incorporate a firm's name and logo and a description of the business or service but shall not include advertising slogans, telephone numbers, web sites, or e-mail addresses.

F. Illumination. External illumination of signs is permitted, but in accordance with the restrictions hereinafter especially set forth for illumination in § 420-206 of this chapter.

**§ 420-202. Residential - Light Commercial R-LC and Commercial C-2 and C-3 Districts.  
[Added by Ord. No. 01-8]**

A. Applicability of section. This section shall apply to the Residential-Light Commercial District R-LC, Commercial District C-2, and Commercial District C-3.

B. Size and height.

(1) Each parcel of property occupied by a building shall be permitted one freestanding sign, whose size shall not exceed 25 square feet on each face. Automobile service stations shall be permitted an additional 20 square feet on each face to advertise the price of their fuel.

(2) Freestanding signs shall be mounted on bases a maximum of three feet high. If the specific location of the sign requires a base of more than three feet to provide adequate visibility, the Planning Commission may approve a taller base. No freestanding sign shall exceed 15 feet in height from grade.

(3) Each building shall be permitted a total amount of sign area, for all sizes other

than freestanding signs, computed in accordance with the following: two square feet of sign area per linear foot of building frontage on the designated front of the building, plus 1 1/2 square feet of sign area on each wall per linear foot of wall space on a per-wall basis, provided that such wall is not a common party wall.

C. Location by permitted sign type.

(1) Any freestanding sign shall be located between the building and the street right-of-way. If the nearest point of the sign is located within five feet of the street right-of-way, its location must be approved by the City's Director of Public Works, who will evaluate the location for sight line and other traffic safety considerations. Signs may be located within the street right-of-way in front of the business if approved by the City's Director of Public Works, who will evaluate the location for sight lines and other traffic safety considerations; however, no sign shall be located less than seven feet from the curb.

(2) Flat wall signs may be located on any wall of the building in accordance with § 420-201D above. No flat wall sign shall project beyond the surface of the building or above the roofline of the building.

(3) Signs may be on the vertical face of a marquee, in accordance with § 420-201D above. The bottom of a marquee sign shall be not less than eight feet above the sidewalk or grade at any point. No part of a marquee sign shall project closer than five feet to a public right-of-way or project above the roofline.

D. Content. Signs allowed in this district shall be identification signs only, as defined in this chapter.

E. Illumination. Illumination of signs is permitted, but only in accordance with the restrictions hereinafter for illumination in § 420-206.

F. Shopping centers. Notwithstanding any contrary provision in this chapter, the following regulations shall apply to signs for shopping centers:

(1) Freestanding signs.

(a) Freestanding signs may be identification signs for the shopping center, with or without a list of the business establishments contained in the shopping center, or such identification signs may advertise a business unit contained in the shopping center.

(b) Each shopping center shall be allowed 10 square feet of freestanding sign area per business establishment. An additional 25 square feet shall be allowed to identify the shopping center. If individual businesses located within the shopping center are not included on the freestanding sign, the shopping center identification sign may be 45 square feet in area.

(c) No freestanding sign shall be located within 50 feet of another freestanding sign, measured from the nearest point of each sign to the other. More than one business may be identified on each freestanding sign.

(d) Any freestanding sign shall be located between the building and the street right-of-way. If the nearest point of the sign is located within five feet of the street right-of-way, its location must be approved by the City's Director of Public Works, who will evaluate the location for sight line and other traffic safety considerations. Signs may be located within the street right-of-way in front of the business if approved by the City's Director of Public Works, who will evaluate the location for the sight lines and other traffic safety considerations; however, no sign shall be located less than seven feet from the curb.

(e) Freestanding signs shall be mounted on bases a maximum of three feet high. If the specific location of the sign requires a base of more than three feet to provide adequate visibility, the Planning Commission may authorize a taller base; however, no freestanding sign shall exceed 15 feet in height from grade.

(f) The sign plan for a shopping center shall be approved by the Zoning Administrator and the Planning Commission.

(2) Flat wall signs. Each business within a shopping center shall be permitted a maximum of two flat wall signs, with a total amount of sign area computed in accordance with the following formula: two square feet of sign area for each linear foot of building frontage.

(a) A flat wall sign may be allowed on any exterior wall.

(b) No flat wall sign shall project beyond the surface of the building or above the roofline of the building.

(3) Content. Signs allowed in this district shall be identification signs only, as defined in this chapter.

(4) Illumination. Illumination of signs is allowed, but only in accordance with the restrictions hereinafter specifically set forth for illumination in § 420-206.

G. Nonconforming existing signs.

(1) A nonconforming sign shall either be eliminated or made to conform to the requirements of this section when any proposed change, repair or maintenance would constitute an expense of more than 25% of the lesser of the original value or replacement value of the sign.

(2) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this chapter.

#### **§ 420-203. Nonconforming uses.**

Any building or land use not conforming to the provisions of this chapter for the zone in which it is located shall nevertheless comply with all provisions of this article. Nonconforming signs shall not be allowed, except in accordance with § 420-204.

#### **§ 420-204. Nonconforming signs. [Amended by Ord. No. 89-13]**

Nonconforming signs shall be allowed only under the circumstances designated in this article.

**§ 420-205. Temporary signs.**

The following signs shall be permitted anywhere within the City and shall not require a permit:

- A. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any products, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, to a maximum area of 16 square feet for each firm. Such signs shall be confined to the site of the construction and shall be removed prior to the opening of the intended use of the project.
- B. Real estate signs advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed, up to a total area of six square feet. Such signs shall be removed upon the execution of a valid contract of sale or on the date of sale, contract or lease. A realtor sign shall not be permitted which has a superimposed sign indicating that the property has been sold.
- C. Political campaign signs announcing the candidates seeking public political office and other data pertinent thereto, up to an area of 32 square feet for each premises. These signs shall be confined within private property and removed within 14 days after the election for which they were made.
- D. Street banners advertising a public entertainment or event, if specially approved by the City Manager, and only for locations designated by the City Manager, during and for 14 days before and seven days after such event.
- E. Show window signs in a window display of merchandise, when incorporated with such a display. Such signs need not be related in content to the display.

**§ 420-206. Illuminated signs.**

- A. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas.
- B. No sign shall have blinking, flashing or fluttering lights or any other illumination device which has a changing light intensity, brightness or color. Beacon lights shall not be permitted.
- C. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- D. Neither direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- E. No exposed reflective bulbs and no strobe light or incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light

or lamp to any public street or adjacent property.

**§ 420-207. Prohibited signs.**

Prohibited signs are signs which:

- A. Contain statements, words or pictures of an obscene, indecent or immoral character, such as will offend public morals or decency.
- B. Contain or are imitations of official traffic signs or signals or contain the words "stop," "go slow," "caution," "danger," "warning" or similar words and which are so located as to be visible and apparently applicable to operators of motor vehicles on a public street.
- C. Are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as traffic control devices or which hide from view any traffic or street sign or signal.
- D. Advertise any activity, business, product or service no longer conducted on the premises upon which such sign is located.
- E. Move in any manner or have a moving part.
- F. Contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners or other similarly moving devices. These devices, when not part of any sign, are similarly prohibited, unless they are permitted specifically by other legislation.

**§ 420-207.1 Portable signs. [ Added permanently by Ord. 2010-03]**

Portable signs shall be permitted only within the Historic Downtown Preservation District and may be placed only outside restaurants and retail premises. These signs are subject to the following restrictions:

- (1) These signs shall include, but not be limited to, single sided boards, double sided, hinged boards, and flags containing simple messages. Signs may be free standing, or mounted to the structure in a manner that allows for the removal of the sign.
- (2) Each business may display one free standing sign and one flag. Such signs shall be displayed only during business hours.
- (3) The content of these signs shall be temporary and may be changed, may be written or pictorial and must utilize chalk or washable inks. The name of the business may be permanently displayed on the sign. Phone numbers and web sites are prohibited.
- (4) Sign design and colors shall be in keeping with the character of the Historic Downtown Preservation District. The sign should be constructed of weatherproof and durable materials and present a finished appearance.

- (5) The maximum size for sign boards shall be 6 square feet for each face including the frame. The legs or other means for placing or mounting the sign shall not be included. Flags shall be limited to 8 square feet.
- (6) Signs must be placed to maintain at least 4 feet of clear passage between the edge of the sign and the curb and should not otherwise compromise public safety. Flags must be mounted so that the lowest point of the flag is a minimum of 7 feet above the sidewalk.
- (7) Signs shall be stabilized or weighted to ensure that they remain safely in place.
- (8) These signs may not be illuminated, must not include any unfinished metal, may not contain ribbons, streamers, spinners, or strings of light bulbs, and must be nonreflective.

#### **§ 420-208. Permits.**

##### **A. Generally.**

(1) Required. No sign shall be erected, altered or relocated without a permit issued by the Building Official, except as otherwise provided herein. Where electrical permits are required, they shall be obtained at the same time as is the sign permit.

(2) Application. The permit application shall contain the location of the sign structure, the name and address of the sign owner and of the sign erector, a drawing showing the design and location of the sign, and such other pertinent information as the Building Official may require to ensure compliance with this chapter or other ordinances of the City.

(3) Fees. Fees for sign permits shall be as fixed from time to time by the governing body of the City.

(4) Nullification. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit.

**B. Exemptions.** Except as prohibited elsewhere in this chapter or in other ordinances, the following operations shall not be considered as creating a sign and therefor shall not require a sign permit:

(1) Replacing copy. The changing of the advertising copy or message on approved painted or printed signs or on theater marquees or similar approved signs which are specifically designed for the use of replaceable copy.

(2) Maintenance. Painting, repainting, cleaning and other normal maintenance and repair of signs or sign structures, unless a structural change is made.

(3) Temporary and exempt signs. The signs described in §§ 420-205 and 420-215 are also exempt from permit requirements.

**§ 420-209. Compliance with Building Code.**

All signs shall comply with the pertinent requirements of the Building Code.<sup>9</sup>

**§ 420-210. Inspections.**

Signs for which permits are required may be inspected periodically by the Building Official for compliance with this chapter and other ordinances of the City.

**§ 420-211. Tags.**

All signs requiring permits shall display, in a place conspicuous to inspectors, a tag supplied by the Building Official and containing such data as he may designate.

**§ 420-212. Maintenance.**

All signs and components thereof shall be kept in good repair and in a safe, neat, clean and attractive condition.

**§ 420-213. Removal of signs in violation.**

The Zoning Administrator may order the removal of any sign erected or maintained in violation of this article. He shall give 30 days' notice in writing to the owner of such sign or of the building, structure or premises on which such sign is located to remove the sign or to bring it into compliance with this article. The Zoning Administrator may remove a sign immediately and without notice if, in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public. Any surface exposed by the removal of a sign shall be restored to its original condition and be compatible with adjacent surfaces.

**§ 420-214. Removal of abandoned signs.**

A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove such sign, the Zoning Administrator shall give the owner 15 days' written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator or his duly authorized representative may remove the sign at cost to the owner.

**§ 420-215. Exemptions. [Added by Ord. No. 97-10]**

The following types of signs are exempted from all the provisions of this article, except for construction and safety regulations and the following requirements:

A. Public signs. Signs of a noncommercial nature and in the public interest, erected by or on the order of a public officer in the performance of his public duty, such as safety signs, danger

signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, etc.

B. Trailblazer signs. Signs setting forth the names of businesses in a commercial area when authorized by City Council.

C. Institutional signs. Signs setting forth the name or any simple announcement for any public, charitable, educational or religious institution, located entirely within the premises of that institution, up to an area of 24 square feet. Such signs may be illuminated in accordance with the regulations contained in § 420-206. If building mounted, these signs shall be flat wall signs and shall not project above the roofline. If ground mounted, the top shall be not more than eight feet above ground level.

D. Integral signs. Names of buildings, dates of erection, monumental citations, commemorative tablets, etc., when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent construction and made an integral part of the structure.

E. Private traffic direction signs. Signs directing traffic movement onto a premises or within a premises, not exceeding three square feet in area for each sign. Illumination of these signs shall be permitted in accordance with § 420-206. Horizontal directional signs on and flush with paved areas are exempt from these standards.

F. Menu signs. Menu(s) affixed directly to the inside of a door or window, or an exterior glass-fronted display case not exceeding four square feet in area and not protruding more than four inches from the surface on which it is mounted, stationary and attached flat against a building, fence or wall, in which is posted the menu(s) for a restaurant; provided, however, that there is but one menu sign per restaurant.

G. Rental signs. Signs on a premises announcing rooms for rent, table board, or apartment or house for rent and not exceeding four square feet in area.

H. Vehicle signs. Signs on trucks, buses, trailers or other vehicles, while such vehicles are in use in the normal course of business. This subsection is not to be interpreted to permit the parking, for display purposes, of any vehicle or trailer to which signs or portable signs are attached in a district or on a lot of land where such signs are not permitted.

#### **§ 420-216. Enforcement.**

A. The Zoning Administrator is hereby authorized and directed to enforce all of the provisions of this article. Upon presentation of proper credentials, the Zoning Administrator or his duly authorized representative may enter, at reasonable times, any building, structure or premises in the City to perform any duty imposed upon him by this article.

B. Where there is any ambiguity or dispute concerning the interpretation of this article, the decision of the Zoning Administrator shall prevail, subject to appeal as provided in § 420-218.

#### **§ 420-217. Violations and penalties.**

Any person who violates this article shall be guilty of a misdemeanor and, upon conviction, shall

be punishable by a fine of not more than \$500 or by imprisonment for no more than one month, or by both such fine and imprisonment.

**§ 420-218. Appeals.**

Any person aggrieved by any decision or order of the Zoning Administrator may appeal to the Board of Zoning Appeals by serving written notice to the Zoning Administrator, who, in turn, shall immediately transmit the notice to the Board, which shall meet to hear it within 30 days thereafter. The Zoning Administrator shall take no further action on the matter, pending the Board's decision, except concerning unsafe signs which present an immediate and serious danger to the public, as provided in § 420-213.

**ARTICLE XXII,  
Site Plans  
[Added by Ord. No. 97-3]**

**§ 420-219. Required; exceptions.**

Site plans are required and shall be submitted for all new structures, all renovated structures and all additions to existing structures, with the following exceptions:

- A. Single-family dwellings.
- B. Two-family dwellings.

**§ 420-220. Contents.**

For relatively minor developments, requirements of this article may be waived upon recommendation of the City Manager or his authorized agent and with the approval of the Planning Commission, provided that the intent of this chapter may not be circumvented. Otherwise, every site plan prepared as hereinafter provided and submitted in accordance with this article shall contain the following information:

- A. A boundary survey of the tract.
- B. A certificate, signed by the surveyor or engineer, setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chain of title.
- C. All existing and proposed streets and easements, their names, numbers and widths, existing and proposed utilities, owners, zoning and present use of adjoining property.
- D. Location, type and size of vehicular entrances to the site.
- E. Locations, types, sizes and heights of fencing, retaining walls and screen planting where required.
- F. All off-street parking, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required in accordance with Article XX.
- G. Number of floors, floor area, height and location of each building and proposed general use for each building. If a multifamily residential building, the number, size and type of dwelling units.
- H. All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and where connection is to be made.

- I. Provisions for the adequate disposition of natural and storm water, indicating locations, sizes, types and grades of ditches, catch basins and pipes and connections to existing drainage system.
- J. Existing topography, with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than 2%, either one-foot contours or spot elevations where necessary, but not more than 50 feet apart in both directions.
- K. Proposed finished grading by contours, supplemented where necessary by spot elevations.
- L. A landscape plan if requested by the City Manager, his authorized agent or the Planning Commission.

**§ 420-221. Preparation and submission.**

- A. Site plans, or any portion thereof, involving engineering, architecture, landscape architecture or land surveying shall be prepared and certified respectively by an engineer, architect, landscape architect or land surveyor duly authorized by the state to practice as such.
- B. Site plans shall be prepared on a scale of one inch equals 50 feet or larger.
- C. A clear, legible, blue or black line copy of the site plan shall be submitted to the Zoning Administrator. The Zoning Administrator shall be responsible for checking the site plan for general completeness and compliance with such administrative requirements as may be established prior to routing copies thereof for review.

**§ 420-222. Public notice; approval; issuance of permit. [Added by Ord. No. 99-12]**

- A. All site plans which are appropriately submitted and which conform to the standards and requirements set forth in this article shall be forwarded to the Planning Commission for approval.
- B. Public notice.

(1) The applicant shall give written notice to those persons who own property any portion of which abuts the subject property and all property which is across the street from any portion of the subject property as determined by the City's real property tax records. This notice shall give the date, time and place of the Planning Commission meeting at which the site plan is being reviewed, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the meeting of the Planning Commission at which the site plan is first considered. The list of property owners and the contents of the notice shall be approved by the Zoning Administrator prior to mailing.

(2) The applicant shall also place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.

C. The site plan shall be approved by the Planning Commission if it is found to be adequate with respect to:

(1) Locations and design of vehicular entrances and exits in relation to streets giving access to the site and in relation to pedestrian traffic.

(2) Locations and adequacy of automobile parking areas.

(3) Adequate provision for traffic circulation and control within the site and provision for access to adjoining property.

(4) Compliance with the requirements for setback and screening.

(5) Adequacy of drainage, water supply, fire protection and sanitary sewer facilities.

(6) Compliance with applicable established design criteria, construction standards and specifications for all improvements.

(7) Approval by the City Health Officer or his agents if septic tank and other sewage disposal facilities other than sanitary sewers are involved.

(8) Adequacy of proposed landscaping for softening the harsh visual effects of parking lots and for providing screening between the development and the street and surrounding lots.

D. Approval of a site plan submitted under the provisions of this article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith.

E. No permit shall be issued for any structure in any area covered by the site plan that is required under the provisions of this article except in conformity with such site plan which has been duly approved.

#### **§ 420-223. Required improvements.**

A. In furtherance of the purposes of this article and to ensure the public safety and general welfare, the City departments, divisions and agencies charged with the responsibility for the review and approval of site plans shall require such of the following improvements as fall within their respective assignments:

(1) Screening, fences, walls, curbs and gutters as required.

(2) Easements of rights-of-way for all facilities to be publicly maintained. Such easements shall be clearly defined for the purpose intended.

(3) Curbs and gutters for travel lanes or driveways that provide vehicular travel to and from adjacent parking areas or adjacent property for the purpose of separating such areas or

property from parking areas and walkways.

(4) Adequate "no parking" signs along such travel lanes or driveways to prohibit parking on such.

(5) An adequate drainage system for the disposition of storm and natural waters.

(6) Landscaping sufficient to soften the visual effects of parking lots and to provide screening between the development, the street and surrounding lots.

B. The installation of improvements, as required in this section, shall in no case serve to bind the City to accept such improvements for the maintenance, repair or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

#### **§ 420-224. Revisions and waivers.**

Any site plan may be revised in the same manner as originally approved, and any requirement of this article may be waived by the City Council in specific cases where such requirement is found to be unreasonable in such cases. Such waiver will not be adverse to the purposes of this chapter.

#### **§ 420-225. Violations and penalties.**

A. Any person, whether as owner, lessee, principal, agent, employee or other, who violates any of the provisions of this article or permits any such violation or fails to comply with any of the requirements hereof or who erects any building or uses any building or any land prior to the approval of an as-built site plan by the Zoning Administrator shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided by § 420-15. Each day that such violation continues shall constitute a separate offense.

B. Any building erected or improvement constructed contrary to any of the provisions of this article, or any use of any building or land which is constructed, operated or maintained contrary to any provision of this article, shall be and is hereby declared to be unlawful. The City Manager may initiate an injunction, mandamus or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this article.

C. Such action may also be instituted by any property owner who may be particularly damaged by any violation of any provision of this article. Upon his becoming aware of any violation of this article, the City Manager shall serve notice of such violation on the person committing or permitting such violation, and if such violation has not ceased within such reasonable time as the City Engineer has specified, he shall institute such action as may be necessary to terminate the violation. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

#### **§ 420-226. Appeals.**

Any person aggrieved by any decision of the City Manager may, within 10 days of such decision, appeal to and have a determination made by the City Planning Commission. Any applicant or

adjoining property owner who is aggrieved by the decision of the Planning Commission may, within 10 days of the mailing of written notice to the applicant and adjoining property owners of such decision, appeal to and have a determination made by the City Council.

**ARTICLE XXIII,  
Nonconforming Uses**

**§ 420-227. Continuation. [Amended by Ord. No. 91-15]**

If, at the time of the enactment of this chapter or any subsequent amendment thereto, any legal activity is being pursued or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter, such manner of use or purpose may be continued as herein provided:

- A. If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.
- B. If any nonconforming use, structure or activity is discontinued for a period exceeding two years after the enactment of this chapter or any amendment thereto, it shall be deemed abandoned, and any subsequent use shall conform to the requirements of this chapter.
- C. A nonconforming structure, lot or use may be changed only to another use of a substantially similar character as the original use or to a more restrictive use.
- D. Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such existing use may be changed only to an even more limited use.
- E. When any nonconforming use is superseded by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.

**§ 420-228. Prior building permits.**

The construction or use of a nonconforming building or land area for which a building permit was legally issued prior to the adoption or amendment of this chapter may proceed, provided that such building is completed within one year or such use of land established within 30 days after the effective date of this chapter.

**§ 420-229. Certificate of occupancy required to exceed restrictions on number of individuals constituting a household unit. [Added by Ord. No. 91-15]**

All single-family dwellings which become nonconforming as a result of amendments to this chapter concerning the number of unrelated individuals who may constitute a household unit must apply for and be issued a certificate of occupancy within six months of the date of adoption of such amendments. Failure to obtain a certificate of occupancy shall invalidate any claim for nonconforming use status, and the dwelling will be required to conform to all applicable sections of this chapter.

**§ 420-230. Changes in district boundaries.**

Whenever the boundaries of a district are changed, any uses of land or buildings which become

nonconforming as a result of such change shall become subject to the provisions of this article.

**§ 420-231. Repairs and maintenance.**

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 20% of the current replacement value of the structure, provided that the cubic content of the structure, as it existed at the time of passage or amendment of this chapter, shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**§ 420-232. Extensions or enlargements.**

- A. A nonconforming structure shall not be extended or enlarged.
- B. A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of passage or amendment of this chapter.

**§ 420-233. Major restoration. [Amended by Ord. No. 95-13]**

- A. If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 50% of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this chapter.
- B. If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 75% of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this chapter. However, structures which are nonconforming only because of inadequate street frontage or lot width may be reconstructed provided that a variance of yard and/or setback requirements, if required, is obtained from the Board of Zoning Appeals.
- C. Where a conforming structure devoted to a nonconforming activity is damaged less than 50% of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than 75% of the cost of reconstructing the entire structure, either may be repaired or restored, provided that any such repair or restoration is started within 12 months and completed within 18 months from the date of such partial destruction.
- D. The cost of land or any factor other than the cost of the structure shall be excluded in the determination of the cost of restoration for any structure or activity devoted to a nonconforming use.

**§ 420-234. Nonconforming lots. [Amended by Ord. No. 91-15]**

Any lot of record at the time of the adoption or amendment of this chapter which is less in area or in width than the minimum required by this chapter may be used or built upon, provided that a variance of yard and/or setback requirements, if required, is obtained from the Board of Zoning Appeals.

**ARTICLE XXIV,  
Board of Zoning Appeals**

**§ 420-235. Membership.**<sup>10</sup>

- A. Composition; compensation and removal of members; vacancies. A Board consisting of five persons who are residents of the City shall be appointed by the Circuit Court of the county. The Board shall serve without pay other than for traveling expenses, and members shall be removable for cause upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- B. Terms; representative of Planning Commission. The term of office shall be for five years. One of the five appointed members shall be an active member of the Planning Commission.
- C. Conflict of interests. 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.
- D. Organization. The Board shall choose annually its own Chairman and its own Vice Chairman, who shall act in the absence of the Chairman.
- E. Incumbent members. Members of the present Board of Zoning Appeals, duly appointed under the zoning ordinance in effect immediately preceding the enactment of this chapter, shall remain in office for the balance of the term for which each was originally appointed under the prior ordinance.

**§ 420-236. Powers and duties.**<sup>11</sup>

- A. The Board of Zoning Appeals shall have the following powers and duties:
  - (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant hereto.
  - (2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary, exceptional and peculiar hardship, provided that the spirit of this chapter shall be observed and substantial justice done, as follows:

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10. Editor's Note: For state law as to creation, membership and organization of boards of zoning appeals, see Code of Virginia, 15.2-2308.

11. Editor's Note: For state law as to powers and duties of Board of Zoning Appeals, see Code of Virginia, 15.2-2309.

(a) When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

(b) A variance shall be authorized by the Board when it determines that:

[1] The strict application of this chapter would produce undue hardship;

[2] Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

[3] The authorization of such variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance.

(c) A variance shall be authorized only after a hearing, advertised according to § 420-13, shall have been held.

(d) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

(e) Variances for maximum allowable sign area shall not be deemed to be within the hardship rule and shall not be granted.

B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

C. In exercising its powers, the Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the Zoning Administrator.

**§ 420-237. Organizational rules and procedures.**

- A. The Board shall adopt such rules and regulations as it may consider necessary.
- B. Meetings of the Board shall be held at the call of its Chairman or at such time as a quorum of the Board may determine.
- C. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses.
- D. 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 public record.
- E. All meetings of the Board shall be open to the public.
- F. A quorum shall be at least three members.
- G. 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 on which the Board is required to pass.

**§ 420-238. Appeals and variances.**

- A. Generally.<sup>12</sup> An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Administrator. Such an appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator and with the Board a notice of appeal specifying the grounds thereof. The 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 from, unless the Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to 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 notice to the Administrator and for good cause shown.
- B. Mailing procedure. Appeals shall be mailed to the Board, care of the Administrator, and a copy of the appeal mailed to the Secretary of the Planning Commission. A third copy shall be mailed to the individual, official, department or agency concerned, if any.
- C. Hearing. [Added by Ord. No. 99-12]
  - (1) The Board shall fix a reasonable time for the hearing of an application or appeal and decide such appeal within 60 days.

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12. Editor's Note: For state law as to appeals to zoning board, see Code of Virginia, 15.2-2311.

(2) Public notice shall be provided as specified below and due notice given to the parties in interest:

(a) Notice of the hearing shall be published once a week for two successive weeks in some newspaper published or having general circulation in the City. Such notice shall specify the time and place of the hearing at which persons may appear and present their views, not less than six days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the City where copies of the appeal or variance request may be examined. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

(b) For variance requests, the applicant shall give written notice to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the City's real property tax records. This notice shall give the date, time and place of the hearing, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the public hearing. The list of property owners and the content of the notice shall be approved by the Zoning Administrator prior to mailing.

(c) For variance requests, the applicant shall also place a sign provided by the City on the subject property which indicates that this request is pending. This sign shall be located to be clearly visible from the street.

D. Decision. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. [Added by Ord. No. 99-12]

**§ 420-239. Appeal from Board decision. [Added by Ord. No. 99-12]**

A. Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, board or bureau of the municipality, may present to the Circuit Court of the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.

B. Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made to serve upon the realtor's attorney, which shall not be less than 10 days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

C. The Board shall not be required to return the original papers acted upon by it, but it shall

be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

D. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report such evidence to the Court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

E. Costs shall not be allowed against the Board unless it shall appear to the Court that the Board acted in bad faith or with malice in making the decision appealed from.