OCCOQUAN CODE

Chapter 66

ZONING*

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*** Updated and approved by Town Council XX XX, 2017**
Updated sections shall have the date of latest amendment noted at the start of modified section.
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ARTICLE I. IN GENERAL

Sec. 66-1. Purpose and legislative authority.

This chapter is adopted for the purpose of protecting and promoting the public health, safety and general welfare in the town and accomplishing the goals, policies and programs of the Comprehensive Plan. This chapter is established in accordance with the provisions of Code of Virginia, § 15.2-2280 et seq., to:

a) Provide for regulations governing non-conforming uses and structures;

b) Provide a board of zoning appeals and for its powers and duties;

c) Provide for permits;

d) Establish and provide for the collection of fees;

e) Provide for the administration of this chapter and for the official whose duty it shall be to enforce the provisions of this chapter;

f) Provide penalties for the violation of this chapter; and

g) Provide for conflicts with other ordinances or regulations.

Sec. 66-2. Assumption of validity of conditions or limitations.

Whenever any condition or limitation is included for a conditional use permit, variance, zoning permit, certificate of occupancy, site plan, or subdivision approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirement of some provision of this chapter, and to protect the public health, safety and welfare, and that the officer or board would not grant the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

Sec. 66-3. Relationship to other laws.

Whenever regulations or restrictions imposed by this chapter are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulation, the regulations, rules or restrictions that are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this chapter, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

Sec. 66-4. Scope of chapter.

(a) No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose other than as included among the uses listed as permitted in the district in which such building or land is located, nor in any manner contrary to any other requirements specified in this chapter.

(b) The regulations listed for each district are hereby adopted and prescribed for each district and shall be deemed to be the minimum requirements in every instance of their application, subject to the provisions of other articles of this chapter.

Sec. 66-5. Adoption of zoning map.

The incorporated territory of the town is divided into districts as set forth and indicated on the map entitled "Zoning Map," which map, properly identified and dated, is adopted as a part of this chapter insofar as it indicates such designations, locations and boundaries; and the map shall be deemed to be as much a part of this chapter as if the information set forth on the map were fully described and incorporated in this chapter.

Zoning Map is available at Town Hall and on the Town website.

Sec. 66-6. Interpretation of Comprehensive Plan, this chapter, and map.

The Town Comprehensive Plan is intended to be no more than a textual and visual statement of goals and policies that will guide public actions, including land use regulation. This chapter, in addition to the Zoning Map of the town comprise the only definitive statement of land use.

Sec. 66-7. Zoning map.

The zoning map serves as the best and most practical implementation of land use objectives of the town and supersedes all zoning maps and Comprehensive Plan maps in existence on the effective date of the ordinance from which this section derives.

Sec. 66-8. Definitions.

For purposes of this chapter, the following definitions shall apply. Additional definitions specific to their application in a division may be found in sections 66-193 and 66-220. Sign definitions contained in section 42-36 of this Code also apply to this chapter.

Abandon — To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abattoir	A commercial slaughterhouse.
Abutting/adjoining	Having a common point or border; having property or district lines in common. Properties separated from such a common border by public street or railroad right-of-way, etc., shall be deemed adjacent but not be deemed abutting. Property separated by an alley shall be deemed to abut.
Accessory building, use or structure	A separate building, use or structure on the same lot with and customarily incidental to the principal use of the parcel or principal structure.
Accessway	Landscaped strip of land intended for the passage of pedestrians but not vehicles.
Acreage	parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.
Active storage	The holding or safekeeping of goods in an area for use as a part of the routine operation of the business.
Adult business	Any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matters relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.
Adult day-care facility	A facility operated for the purpose of providing care, protection and guidance to adults during normal business hours. No overnight facilities permitted.
Adult entertainment	Dancing, modeling or other live entertainment, if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CDs, DVDs, streaming video, or other media that are characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.
Adult merchandise	Magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CDs, DVDs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or

leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

Adult model studio A commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons.

Adult motel A motel, hotel, or similar commercial establishment that: (i) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or (ii) offers a sleeping room for rent for a time period less than ten hours; or (iii) allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

Adult movie theater An enclosed building regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G," "PG," "PG-13," or "R" by the Motion Picture Association of America.

Adult nightclub A restaurant, bar, club, or similar establishment that regularly features adult entertainment.

Adult store An establishment dealing in adult merchandise as a principal portion of its business.

Alley A permanent service right-of-way providing a secondary means of access to abutting properties.

Alteration Any change, reduction, or addition to part or all of the exterior of any structure including, but not limited to, color, height, floor area, use or adaptability.

Apartment house see Dwelling, multi-family.

Architect An individual who is qualified to engage in the practice of architecture as attested by the issuance of a currently valid license to such person as an architect by the state board for architects, professional engineers, land surveyors, certified interior designers and landscape architects.

Architectural features The exterior details of a building, created by the type of construction, the manner of assembly of the materials and the use of decorative details that establishes the overall appearance, period and style of the structure but are generally not necessary for the structural integrity of the structure. Features include, but are not limited to, fanlights, cornice designs, corner boards, window trim, gingerbread, and similar such items.

Assembly or Assembling Conversion of finished material and/or subcomponents into a major product or component.

Assembly, Place of Land and/or structures used as a meeting place where persons gather together for purposes of attending civic, social, and/or religious functions, recreational events, or entertainment performances on a regular or recurring basis including, but not limited to, religious institutions, banquet facilities, funeral homes, theaters, conference centers, stadiums, or indoor or outdoor recreational facilities. Excluded are Public Dancehalls and Restaurants as defined by this chapter. A gathering of less than 25 persons shall not be considered a Place of Assembly provided the gathering is accessory and incidental to the Principal Use.

Auto services A facility where motor vehicle maintenance and repairs are conducted for compensation, such as body work, welding, painting, motor repairs, detailing, upholstery, installation of accessories and like activities, but not including storage of junk vehicles.

Bank Any establishment in which the primary business is concerned with state regulated activities, including banking, savings and loans, and consumer loan companies. A bank may not have a drive-in window.

Basement A story partly underground having more than half its floor-to-ceiling height below grade.

Bed and breakfast An owner or operator-occupied single-family detached dwelling containing no more than one kitchen and ten or fewer guest rooms, occupied for sleeping purposes by guests for compensation with at least one meal being offered to guests of the establishment.

Big Box A large single occupant building or unit used for retail or wholesale purposes exceeding eighty thousand (80,000) square feet of gross floor area located in a building or unit, or within a building group of less than five (5) units connected by party walls, partitions, canopies and similar features, and designed as a single or freestanding commercial use or group, which may be included or be part of a shopping center, possibly sharing parking areas and

vehicular travel ways with other buildings or uses and which may be connected by walkways and access ways to other buildings or uses.

Boardinghouse A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

Building Any enclosed or open structure other than a tent or mobile home having a roof supported by columns or walls designed to support, shelter, house or enclose persons, animals or property of any kind.

Building, height of, The vertical distance measured from the average elevation 10 feet out from the finished grade adjoining the building on all exterior walls to the highest point of the roof for a flat roof or to the mean elevation between the main eaves and highest ridge or point of other types of roof. The term "actual height of building" as used in this chapter shall not be deemed to include any part of a building wall erected above a flat roof for the purpose of creating a false mansard or parapet to screen rooftop mechanical equipment or housings from public view.

Building, main, A building in which the principal use of the lot is conducted.

Building/Code Official The person appointed by the Town Council who issues the building permits for the structural design, construction, alteration, reconstruction, repair, restoration, demolition or razing of all or part of any building. It includes a Deputy Building/Code Official.

Building permit An approval statement signed by the Zoning Administrator and the code official authorizing the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or a part of any building.

Building repair Any or all work involving the replacement of existing architectural or structural components with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.

Carnival An aggregation of shows, amusements, concessions, eating places and riding devices, or any combination thereof, operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether or not they are owned and actually operated by separate persons.

Certificate of appropriateness The approval statement signed by the architectural review board which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, moving, relocation, demolition, or razing of all or part of any building within the historic district, subject to

the issuance of all other permits needed for the matter sought to be accomplished.

Child care facility — Any enterprise or facility operated for the purpose of providing care, protection and guidance for more than five children separated from their parents or guardians during a part of a day. No overnight facilities permitted.

Church — See Assembly, Places of

Circus — A traveling or transportable show or exhibition of performances by persons and animals under at least one tent or similar structure with or without other sideshows.

Club or lodge — A facility used by a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. Clubs and lodges may engage in any activity that is consistent with non-profit status.

Commercial amusement/recreation facility — Any establishment where for coin, slug, ticket, pass, token or other compensation more than five devices such as pinball, billiards, pool, foosball, table tennis, shuffleboard, electronic or video game, or any other game of recreation or amusement are displayed for public patronage, and/or any courts, fields, or arena designed for commercial lease on an hourly, daily, or event basis for athletic activity such as basketball, hockey, skating, virtual reality games, wrestling or other such sports or athletic activities not under the control of a public or semi-public agency.

Condominium — A group of dwellings, offices or stores situated on a single lot wherein ownership of individual units is conveyed separately with an undivided vested interest in the common elements pertaining to that unit as defined under the Condominium Act (Code of Virginia, § 55-79.39 et seq.) or any successor law.

Congregate/ continuing care facility — A housing project designed for the care of ambulatory elderly persons, with spouses or companions when applicable. Such facilities shall provide a community atmosphere by providing amenities for the residents including, but not limited to, a minimum of one prepared meal per day in a central dining area, recreational areas, social activities and 24-hour staffing, in addition to other conditions as may be required by the special use permit to minimize impact on surrounding residential communities.

Construction standards	The technical design standards as outlined in this chapter, and the Prince William County design and construction standards manual, as adopted periodically.
Dead storage	Holding or safekeeping goods in a warehouse or other depository to await the happening of some future event or contingency, which will call for the removal of the goods.
Demolition	The dismantling or tearing down of all, or part, of any building and incidental accessory buildings.
Domesticated animal	Any dog or cat over four months of age that is maintained for companionship on residential property.
Driveway	That space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.
Duplex	A building situated on a single lot and containing two dwelling units structurally attached, each having separate entrances.
Dwelling, attached,	One of a series of three or more dwelling units separated from one another by common party walls without openings, i.e., townhouses.
Dwelling, multi-family,	A building, or portion of a building, designed for occupancy by three or more dwelling units with shared principal entryways, including rental apartments and apartment condominiums.
Dwelling, semidetached,	A dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures except accessory buildings.
Dwelling, detached single-family,	A detached dwelling designed for occupancy by only one family and not attached, duplex, or semidetached.
Dwelling unit	A room, or interconnected rooms, constituting a separate independent housekeeping establishment intended for permanent, full-time human occupancy and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.
Easement	A grant or reservation by a property owner to another person for the use of a specified portion, or all, of his property for a specific purpose, without including title to the property.
Eating place	See Restaurant.

Engineer An individual who is qualified to engage in the practice of engineering or land surveying as attested by the issuance to such person of a currently valid license as a professional engineer by the state board for architects, professional engineers, land surveyors, certified interior designers and landscape architects.

Family May be any of the following

(1) An individual;

(2) Two or more persons related by blood, marriage, adoption or guardianship, living and cooking together as a single housekeeping unit, exclusive of not more than one additional nonrelated person;

(3) A number of persons, not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, marriage, adoption or guardianship; or

(4) Not more than two unrelated persons and their dependent children living and cooking together as a single housekeeping unit.

Any family meeting one of the four definitions above may have up to four residential guests, as defined in this section. Also see Group home.

Family day center A dwelling unit providing as an accessory use in return for compensation, care, protection and/or guidance for more than five children under the age of 13, separated from their parents or guardian during a part of a day, exclusive of the provider's own children and any children who reside in the structure as part of the family residing there and meeting the definition of *family*.

Family day home A dwelling unit providing as an accessory use in return for compensation, care, protection and/or guidance for five or fewer children under the age of 13, separated from their parents or guardians during a part of a day, exclusive of the provider's own children and any children who reside in the structure as part of the family residing there and meeting the definition of *famil*y.

Floor area, leasable, Gross floor area less area devoted to common corridors, stairs, elevators, utility spaces, enclosed parking areas and general maintenance spaces.

Food truck Any modular unit, trailer, or self-propelled motor vehicle (such as a truck, bus, van, camper, or semi-trailer truck), not located on a permanent foundation, and used for the purpose of dispensing in exchange for compensation food and/or beverages to the public from the unit.

Frontage See Lot Frontage

Funeral home A structure designed specifically for the purpose of conducting the ritual ceremonies held in connection with the burial of the dead.

Garage, private, An accessory building or space within a dwelling unit designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multi-family dwelling, a garage may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units.

Gasoline station A facility for the retail sale and direct delivery to motor vehicles of fuel, lubricants, minor accessories, and including the sale of cigarettes, candy, soft drinks and related items for the convenience of the motoring public.

Group home A residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons. The terms "mental illness" and "developmental disability" shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia § 54.1-3401 or any successor statute. The residential facility, to qualify as a group home, must have a license from the state department of mental health, mental retardation and substance abuse services. For all purposes of this chapter, a group home is a single-family dwelling.

Historic district An area designated by the Town Council as an overlay district within which are found:

(1) Historic landmarks as established by the state board of historic resources;

(2) Any historic structure;

(3) Any historic areas;

(4) Areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts; and/or

(5) Parcels of land contiguous to arterial streets or highways found by the Town Council to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts in the town or a contiguous locality.

Home business occupation — Any commercial activity that is conducted within a dwelling unit as an accessory use to the principal residential use and that does not adversely impact or change the character of the neighborhood. A home business occupation is permitted only with a Home Occupation Certificate issued by the town and subject to the standards of § 66-10 of this Chapter.

Hospital — An institution that renders two or more of the following services: medical and surgical services with associated bed space, obstetrical or convalescent care, or urgent care services, including nursing homes and sanitariums.

Hospital, animal, — A building designed or occupied for the medical care of animals with ancillary overnight supervision of animals in recovery.

Hotel — Any facility, with or without separate cooking facilities within individual units, where overnight lodging is provided to the public with compensation on a nightly, weekly, or monthly basis for a period of less than 91 nights per individual per year. This definition includes hotels and motels.

Junkyard — Any land or building used for the storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for the storage of automobiles or other vehicles not in running condition or the storage of machinery or parts thereof.

Kennel — Any place where for hire, as part of the customary and routine activity of the premises, more than two dogs, or five cats, that are more than four months of age are kept for the purpose of providing care, protection, guidance, breeding, training or exercise.

Library — Any place where books are loaned, with or without compensation, as a major part of the enterprise operated on the premises.

Lot — A parcel of land created by a metes and bounds description or plat of subdivision meeting minimum zoning requirements for area, coverage, setbacks and other spaces as required at time of recordation.

Lot area — The total horizontal area included within lot lines.

Lot, corner, — Means a lot abutting upon two or more streets, at their intersection; the shortest side, fronting upon a street, shall be considered the front of the lot, and the longest side, fronting upon a street, shall be considered the side of the lot.

Lot frontage — The distance measured from side lot line to side lot line, along a line parallel to the street line at the required minimum front yard depth.

Lot, interior, Any lot other than a corner lot.

Lot line Any line or curve in the boundary of a lot.

Lot line, front, A street right-of-way line which forms the boundary of a lot, or in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of, or approach to, the main building. On a corner lot, the shorter street right-of-way line shall be deemed to be the front lot line, regardless of the location of the principal entrance, or approach to the main building. On a corner lot, when sides abutting the streets are of equal length, the lot shall be considered to front on that street having the longest frontages within the same block. When frontage is on more than one street, all lot lines not otherwise defined as a front lot line shall be considered side lot lines.

Lot line, rear, That lot line which is generally opposite the front lot line. If the lot is irregular in shape the following criteria will be used to determine the rear lot line:

(1) If a rear lot line is less than ten feet in length, or if the side lot lines come to a point at the rear, the rear lot line shall be deemed to be a line drawn parallel to the front lot line, that is not less than ten feet long, lying wholly within the lot and located as far as possible from the front lot line.

(2) If the lot has more than four contiguous lot lines that are not parallel to the front lot line, but all are greater than ten feet in length, the rear lot line shall include all the lot lines that have a beginning point greater than 65 feet from the front line and have an interior angle of 135 degrees or less.

(3) Any lot line ten feet or less that has both ends intersecting with two lot lines with the same designation shall be deemed as being part of the same line.

Lot line, side, Any lot line not otherwise defined as a front or rear lot line.

Lot of record A lot which has been legally recorded in the Clerk's Office.

Lot, through, An interior lot, fronting on two parallel or approximately parallel streets.

Low-intensity professional, medical office or facility A facility where there are no more than three clients on premises at a time.

Manufactured home A structure subject to federal regulation that 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; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. For purposes of this chapter, a manufactured home must meet the standards promulgated by the United States Department of Housing and Urban Development (HUD), published at 24 CFR part 3280, including the ANSI standards incorporated therein by reference. For purposes of this chapter, a manufactured home must bear a data plate declaring that it meets HUD standards. A recreational vehicle does not meet the definition of a manufactured home.

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

Medical Use A facility providing emergency or non-emergency medical care, including surgery to patients on an outpatient basis.\

Mixed use development Property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

Mobile home See Manufactured home.

Mobile or Manufactured home park or subdivision Any area designed to accommodate two or more independent mobile or manufactured homes intended for residential use where residence is in mobile or manufactured homes exclusively.

Mortuary or morgue A place where dead human bodies are prepared or kept for identification prior to arrangement for burial.

Motel See Hotel.

Non-conforming lot An otherwise legally platted lot that has less than the minimum specifications required by this chapter, either on the effective date of this chapter or at the date of subsequent amendments to this chapter.

Non-conforming structure An otherwise legal building or structure not complying with minimum lot area, yard, height, lot coverage or other area or dimensional requirements of this chapter, either on the effective date of this chapter or at the date of subsequent amendments to this chapter.

Non-conforming use A use that was legal upon its inception but does not conform to the use regulations of this chapter, either on its effective date or at the date of subsequent amendments to this chapter.

Office building A facility in which the administrative activities, recordkeeping, clerical work and other similar affairs of a business, professional service, industry, or government are conducted and, in the case of professions such as dentists, physicians, lawyers or engineers, the facility where such professional services are rendered.

Off-site All area and structures not falling within the boundary of the land to be developed or under review.

On-site All land and structures falling within the boundary of the land to be developed, or contiguous, under the same ownership, and with a common plan of development.

Open space Land area set aside for recreation, landscaping or natural preservation and not used for residences or business activities. Open space may not be occupied by a patio, deck, or other structure. Open space on which an approved landscaping plan is in effect is considered Landscaped Open Space.

Parking structure, multi-level, A structure with multiple stories designed for the parking of passenger vehicles.

Patio An exterior living space designed and constructed in a manner that no portion of it is more than eight inches above the adjacent yard surfaces. For the purpose of this chapter, a patio is not a structure nor can any part of it be counted as landscaped space. A patio may intrude into a required side or rear yard no more than six feet. A patio intruding into the front yard is permitted as a stoop in front of the front door and may be no larger than sixteen square feet.

Person Any individual, firm, corporation, partnership, association, company, business, trust, joint venture, organization or other legal entity, by whatever term customarily known.

Professional office Any office for the practice of a profession, including, but not limited to, architecture, engineering, law, medicine, psychology, theology, real estate and accounting.

Personal improvement service A facility providing informational, instructional, and similar services for personal improvement. Typical uses include, but are not limited to, driving

instruction, health or physical fitness studios, dance studios, handicraft, or hobby instruction.

Public access easement — A right of ingress and egress granted by a property owner over his privately owned land for the use of the public to travel to a public street in which right to enjoyment is vested in the public generally or in an entire community.

Public dancehall — The use of any structure, or structure and premises, open to the general public on a regular basis regardless of whether or not an admission fee is charged, where dancing, or the rhythmic movement of body and feet ordinarily accompanied by music, is permitted and the occupancy load of the premises is greater than 50 persons.

Public use — Any holding, use or control, exclusively for public purposes, of any facility, place, site or structure by any department or branch of government of the federal government, Commonwealth or any political subdivision, public authority, or school board, or any combination thereof.

Public utility — A business or service having an appropriate franchise from the Commonwealth engaged in regularly supplying the public with a commodity or service of public consequence and need such as electricity, gas, water, sanitary sewer, stormwater management, transportation or communications.

Reconstruction — Work required to remake or rebuild all or a part of any building to a sound condition, but not necessarily using original materials.

Recreational vehicle — Any vehicle, trailer, or semi-trailer designed for human occupation and not meeting the definition of manufactured home and is not meant for permanent occupancy.

Residential guest — Any person not included in the definition of Family who sleeps, eats or otherwise is sheltered by the legal family unit for a period of not more than 30 consecutive days, or 104 calendar days in a single calendar year and who does not compensate the legal family unit for room or board except to defray actual expenses incurred.

Restaurant — A building designed or altered, in whole or part, for the purpose of preparation and serving of food and/or beverage for consumption on the premises in exchange for compensation, except for an establishment that meets the definition of “drive-through restaurant” or “public dancehall restaurant” below. At no time shall a restaurant dispense food directly to persons in a vehicle.

Restaurant, drive-through, A building designed or altered, in whole or part, to cater to or accommodate the consumption of food and/or beverage on premises, and to customers awaiting the dispensing of such food while in their motorized vehicles, in exchange for compensation.

Restaurant, public dancehall, A formal or informal restaurant with an occupancy load of more than 50 persons and which meets the definition of "public dancehall" above.

Restoration Work connected with the returning to or repair of a building, or a part of any building, to its original condition through the use of original or nearly original materials.

Retail store A building in which merchandise is displayed and sold or personal services rendered to the general public, including an aerobic and dance studio, hardware store, or wellness facility, but not including an adult business, big box, commercial amusement/recreation facility, dead storage, gasoline station, hospital, animal hospital, junkyard, kennel, massage establishment as defined in § 14-157 of this Code, multilevel parking structure, restaurant, truck terminal.

Roominghouse See Boardinghouse.

Semi-public Any nonprofit use of a building, facility, structure, or land area by the general public for civic or philanthropically oriented uses not under the general supervision or responsibility of a government or governmental franchised utility. This term includes civic center, cultural arts and similar activities.

Service station See Gasoline Station.

Setback The minimum distance by which a structure must be separated from a lot line, measured from the nearest vertical wall of the structure to the property line. The term “nearest vertical wall” does not include bay windows, chimneys, eaves, and similar architectural features no more than two feet in depth. For portions of structures without vertical walls, such as decks, the setback is measured to the nearest corner or edge of the structure instead.

Shelter, residential, A structure operated not for profit, and licensed by the state welfare division as transient housing providing short term or long-term occupancy by more than eight residents, with associated administrative offices.

Sign Any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or character) visible to and designed to communicate information to persons in a public area. However, the term

"sign" does not include architectural features, except those that identify products or services or advertise a business use. The term "sign" also does not include the display of merchandise for sale on the site of the display.

Site plan, final, A plan delineating the overall scheme of development of a tract of land, including, but not limited to, grading, engineering design, construction details, survey data for existing and proposed improvements, public utility, storm drainage, landscaping, lighting detail, and erosion and sediment control plans.

Site plan, preliminary, A plan showing the proposed general layout, the general location of the various types of land uses, the proposed number of dwelling units and layout of lots, general location of streets, and a plan showing the location of recreational spaces, parks, schools, and other public or community uses, where applicable.

Space, loading, Any off-street parking space designed, designated, and available for loading and unloading of bulk goods.

Space, off-street parking, A space adequate for the temporary storage of a motor vehicle with room for opening doors on both sides, together with properly related access to a public street and maneuvering room, all located outside the dedicated street right-of-way.

Special exception A use or activity which is not permitted by the provisions of this chapter within a specific zoning district, without being reviewed and authorized by legislative action of the Town Council through the issuance of a special use permit.

Special use permit A permit issued by the Town Council for a special exception after determining such permit to be in keeping with the provisions and intent of this chapter.

Story That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if it is the topmost story, the portion included between the surface of its floor and the ceiling next above it.

Story, half, A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

Street A strip of land, including the entire right-of-way intended to be dedicated for use as a means of vehicular and pedestrian circulation by the public at large. The term "street" includes avenues, boulevards, highways, roads, bridges and the approaches thereto and all other public thoroughfares, but not alleys,

in the town, and shall mean the entire width thereof between abutting property lines.

Structure — Any assembly of materials forming a construction or fixture for occupancy or use on, under, or over (or any combination thereof) land or water, including (but not limited to) stadiums, tents, reviewing stands, platforms, stages, observation towers, telecommunications towers, solar energy devices, water tanks, trestles, piers, wharfs, swimming pools, storage bins, fences, private or public utility lines and other facilities, signs, buildings, parking lots, driveways, decks, gasoline pumps and pump islands, underground storage tanks, storm water management and retention facilities. The word "structure" shall be construed as though followed by the words “or parts thereof” unless the context clearly requires a different meaning. The word "structure" includes the word "building."

Structure, contributing, — Any structure more than 50 years old at the time under consideration and that represents the period in which it was built by material, design or other physical features, or is a place of significance that preserves, protects or enhances the character of the historic district in which it is located as determined by the Zoning Administrator.

Structure, historic, — Any building or physical improvement built before 1900.

Structure, non-contributing, — Any structure found within an historic overlay district that has not been identified and listed on the historic district structures list adopted by the Town Council.

Subdivision — Any division or re-division of a lot, tract or parcel of land into lots, tracts or parcels for the purpose of recordation of any single division and subject to the provisions of Chapter 54, as amended.

Townhouse — See Dwelling, attached.

Travel trailer — See Recreational vehicle.

Truck terminal — A structure and site designed and used primarily for the loading, unloading, storage, refueling and maintenance (limited to the changing of tires, fuses and lights) of tractor trailers or other commercial vehicles.

Veterinary — See Hospital, animal.

Wellness facility — A structure and use designed primarily to provide at least two of the following services: physical therapy, class instruction on physical fitness, aerobics, weight training, nutritional consultation, classes on personal hygiene, and similar activities.

Wholesale business A business selling merchandise to retailers, industrial, commercial, institutional, or professional business users, or to other wholesalers, but not including a Big Box, as defined herein.

Yard An open area on a lot between the lot line and the building, measured from the nearest vertical wall of the building to the property line. The term "nearest vertical wall" does not include bay windows, chimneys, eaves, and similar architectural features no more than two feet in depth. A yard shall be open space except as otherwise provided in this chapter.

Yard, front, A yard provided along any street frontage for the full width of the lot and whose depth is measured from the street line perpendicular to the lot frontage to the nearest vertical wall of the structure. For portions of structures without vertical walls, such as decks, the yard is measured to the nearest corner or edge of the structure instead.

Yard, rear, A yard provided between a structure and the rear lot line and measured perpendicular to the rear lot line to the nearest vertical wall of the structure. For portions of structures without vertical walls, such as decks, the yard is measured to the nearest corner or edge of the structure instead.

Yard, side, A yard provided between a structure and the side lot line and measured perpendicular to the side lot line to the nearest vertical wall of the structure. For portions of structures without vertical walls, such as decks, the yard is measured to the nearest corner or edge of the structure instead.

Yard sale, residential, A limited customary accessory use permitted in all residential districts which includes display and noncommercial sales, for the disposal of personal property accumulated by the family of a residential unit for family use and not for resale.

Zoning Administrator The public official charged with interpretation and enforcement of the articles of this chapter.

Zoning certification An official document signed by the Zoning Administrator, or the designated agent, that certifies a specific use, or construction on a specific parcel in the town is consistent with the provisions and conditions of this chapter. An official certification must contain notice of appeal as required under Code of Virginia, § 15.2-2311 or successor statute.

Sec. 66-9. Disclosure of interests.

(a) Any applicant for a special exception, a special use permit, an amendment to the zoning ordinance, or a variance shall make complete disclosure of the equitable ownership of the

real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers and directors and in any case the names and addresses of all the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 stockholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

(b) The disclosure of interests shall be made under oath, notarized, and provided to the body receiving the application simultaneously with the submission of the application.

Sec. 66-10. Home Occupation Certificate.

A Home Occupation Certificate shall be required for all Home Business Occupations and is subject to the following standards:

1. No outside employees shall be permitted to work on the premises, except for family members residing in the dwelling.

2. No employee, agent, customer, or client shall be permitted to come to the dwelling unit for business related purposes.

3. No business signs, freestanding or otherwise, shall be permitted on site.

4. On-site storage of materials, merchandise, or equipment is limited to materials customarily found within a residential dwelling. Such as yarn, cloth, paint and cosmetic or similar nontoxic or nonhazardous material, and a telephone, computer or other typical light office equipment necessary to the home business occupation.

5. One company vehicle shall be permitted. A company vehicle is a passenger motor vehicle or light duty truck less than 7,500 pounds gross vehicle weight exclusively used in a business or commercial activity and **shall not include** any of the following: contractor's equipment or other heavy equipment, a garbage truck, tractor or trailer of a tractor-trailer truck, dump truck, tow truck, passenger bus, cement truck, and step vans. The company vehicle must be kept in a garage, accessory building or in designated parking spaces within off-street parking areas in such a manner that meets or exceeds other provisions of the Town Code.

6. The operation must be conducted entirely within the dwelling (not in any accessory structure, i.e., detached shed/garage) by the owner/occupant residing in the dwelling, and shall not change the character of the dwelling unit nor exhibit any exterior evidence of nonresidential use. No outside storage shall be permitted. Commercial deliveries and pickups of supplies associated with the use shall be limited to not more than one per day and shall be made only during business hours.

7. The area devoted to the home occupation shall not exceed 25 percent of the gross floor area of the dwelling unit.

Sec. 66-11. Extension of zoning approvals to address housing crisis.

Provisions for extension of zoning approvals shall be in conformance with the Code of Virginia § 15.2-2209.1.

Sec. 66-12. Setback encroachments for ADA ramps, structures, and equipment.

(a) Notwithstanding the setback requirements set forth in this Ordinance, upon application and demonstration to the satisfaction of the Zoning Administrator that the same is reasonably necessary to allow for access or egress or for emergency services ("Modification"), the Zoning Administrator shall allow a reasonable modification of setback requirements by permitting ramps, structures, and equipment needed to provide access or egress or for emergency services for a specific, identified individual with disabilities under the United States Americans with Disabilities Act of 1990 to encroach into any setback to the minimum distance necessary to provide the access or egress or for emergency services.

(b) The Zoning Administrator may seek guidance from appropriate governmental building and life safety officials when considering the application for Modification. The Zoning Administrator shall report approval of such Modification to the Town Council at the next regularly scheduled meeting.

(c) Any such Modification approved by the Zoning Administrator shall:

1. Be constructed in accordance with the Virginia Uniform Statewide Building Code and is subject to all applicable review permitting and inspections requirements and fees, and

2. Be promptly removed and the setback restored to conform to this Ordinance upon discontinuance of the need.

(d) The Zoning Administrator may require reasonable documentation and access to the property to substantiate the extent of the need for the Modification.

Secs. 66-13 - 66-40. Reserved.

ARTICLE II. DISTRICTS

DIVISION 1. GENERALLY

Sec. 66-41. Establishment of districts.

(a) For purposes of this chapter, the incorporated areas of the town are hereby divided into the following districts:

1. District R-1, limited residential, low-density
2. District R-2, general residential, medium-density
3. District R-3, general residential, high-density
4. District R-4, residential, high-density
5. District B-1, generally business, with mixed-use components

(b) The locations and boundaries of these districts are shown on the zoning map.

Secs. 66-42—66-60. Reserved.

DIVISION 2. R-1 DISTRICT

Sec. 66-61. Statement of intent.

The R-1 district consists of low-density residential areas, together with open areas, wherein further low-density residential development appears likely to occur. The regulations for this district are designed to protect and promote the essential characteristics of this district, to promote and encourage a healthy and suitable environment for family life, especially for families that include children, and to ensure that the limited physical size of the town is developed in accordance with its historical character as a town that is primarily residential, with concentrated commercial uses. To this end, development in district R-1 is limited to low-concentration residential use, mostly detached single-family residences, together with certain additional uses that would serve the residents of this district, including schools, parks, and utilities. To preserve the character of this district, no commercial or industrial use is allowed.

Sec. 66-62. Uses permitted.

Structures to be erected or maintained, or land to be used, shall be restricted to one or more of the following uses:

(a) Uses permitted by-right

1. Detached single-family dwellings.

2. Schools.

3. Town parks.

4. Places of assembly with less than 25 seats, as an accessory to the principal use.

5. Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a Home Occupation Certificate in accordance with Section 66-10 of this Chapter.

6. Accessory buildings; except that a garage or other accessory structure, such as a carport, porch or stoop, when attached to the main building, shall be considered part of the main building, subject to any property line or setback restrictions in effect at the time of construction.

7. Public utilities, including poles, lines, distribution transformers, pipes, meters or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.

(b) Uses permitted by Special Exception Permit approved by Town Council

1. Bed and Breakfast

2. Professional offices within detached single-family dwellings, operated by a resident and occupant.

3. Roominghouses and boarding houses operated by a resident and occupant.

Sec. 66-63. Signs permitted.

Signs shall be in conformance with Article VIII of this Chapter.

Sec. 66-64. Area regulations.

A residential lot containing or intended to contain a detached single-family dwelling, served by public water and sewage disposal, shall have a minimum lot area of 10,000 square feet.

Sec. 66-65. Setback regulations.

Buildings shall be located 35 feet or more from any street right-of-way that is 50 feet or more in width, or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

Sec. 66-66. Frontage regulations.

Detached single-family dwellings, the minimum lot width at the setback line shall be 70 feet. The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets. For subdivisions platted after January 1962, each corner lot shall have a minimum width at the setback line of 100 feet.

Sec. 66-67. Yard regulations.

(a) *Side.* The minimum side yard shall be ten feet, and the total minimum width of the two required side yards shall be 25 feet. For corner lots, the side yard on the side facing the side street shall be 20 feet or more for both main and accessory buildings. Decks are not permitted in the minimum side yard area.

(b) *Rear.* The minimum rear yard, measured from the largest structure upon the premises, shall be 40 feet, of which no more than 15 feet may be occupied by a deck. However, the Zoning Administrator shall issue a zoning permit reducing the rear yard to 25 feet if the existing or planned building will not have any provision for a deck and a note is placed on all site plans, subdivision plans, building plans, and record plats associated with the property that no deck is permitted on the lot. No deck may be built in any rear yard subject to such a zoning permit. The Zoning Administrator shall issue a zoning permit for a deck larger than 15 feet, if the distance from the rear edge of the deck to the property line is at least 25 feet.

Sec. 66-68. Height regulations.

(a) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(b) Public or semi-public buildings, such as a school, library or hospital, may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(c) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt.

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

(e) No accessory building shall be closer than five feet to any lot line, nor shall it be more than one story high. All accessory buildings shall be less than the main building in height.

Secs. 66-69--66-90. Reserved.

DIVISION 3. R-2 DISTRICT

Sec. 66-91. Statement of intent.

The R-2 district consists of certain medium-density residential uses, generally located between detached single-family residential and commercial areas, together with 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, to promote and encourage, with compatible intensities of land use, a suitable environment for family life composed of an adult population with some children, and to permit certain commercial uses of a character unlikely to develop a general concentration of traffic, crowds of customers and general outdoor advertising. To this end, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses. All residential types of structures for both permanent and transient occupancy, including institutions, are permitted, as well as structures for commercial uses conforming to the pattern of the district. This residential district is not completely residential as it includes public, semi-public, institutional and other related uses. However, it is mostly residential in character, and, as such, shall not be spotted with commercial and industrial uses.

Sec. 66-92. Uses permitted.

Structures to be maintained or erected or land to be used shall be restricted to one or more of the following uses:

(a) Uses permitted by-right

1. Detached single-family dwellings.

2. Two-family or duplex dwellings.

3. Places of assembly with less than 25 seats, as an accessory to the principal use.

4. Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a Home Occupation Certificate in accordance with Section 66-10 of this Chapter.

5. Accessory buildings; except that a garage or other accessory structure, such as a carport, porch or stoop, when attached to the main building, shall be considered a part of the main building and shall be subject to any property line or setback restrictions in effect within the town.

6. Public utilities, including poles, lines, distribution transformers, pipes, meters or other facilities necessary for the provision and maintenance of public facilities, including water and sewerage facilities.

(b) Uses permitted by Special Exception Permit approved by Town Council

1. Bed and breakfast.

2. Low-intensity professional and medical offices and facilities within detached single-family dwellings, not conducted by a resident and occupant.

3. Roominghouses and boarding houses operated by a resident and occupant.

4. Professional offices within detached single-family dwellings, operated by a resident and occupant.

Sec. 66-93. Signs permitted.

Signs shall be in conformance with Article VIII of this Chapter.

Sec. 66-94. Area regulations.

(a) Residential lots containing or intended to contain a detached single-family dwelling served by public water and sewage disposal, shall have a minimum lot area of 10,000 square feet.

(b) Residential lots containing or intended to contain two-family or duplex dwellings served by public water and sewage disposal, the minimum lot area shall be 12,000 square feet. Further, that portion of the lot area used or intended to be used for erection or maintenance of a building shall not be less than 3,600 square feet in area. That portion of the total lot area used for property line setbacks, walkways and outdoor recreational areas shall not be less than 6,600 square feet in area. That portion of the total lot area used for off-street parking shall not be less than 1,800 square feet in area.

Sec. 66-95. Setback regulations.

Dwellings shall be located 35 feet or more from any street right-of-way that is 50 feet or more in width, or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

Sec. 66-96. Frontage regulations.

(a) Detached single-family dwelling, the minimum lot width at the setback line shall be 70 feet. For subdivisions platted after January 1962, each corner lot shall have a minimum width, at the setback line, of 100 feet.

(b) For two-family or duplex dwellings, the minimum lot width at the setback line shall be 80 feet.

(c) The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets.

Sec. 66-97. Yard regulations.

(a) *Side.* The minimum side yard for detached single-family dwellings shall be ten feet, and the minimum total width of the two required side yards shall be 25 feet. The minimum side yard for two-family or duplex dwellings shall be 15 feet, and the minimum total width of the two required side yards shall be 35 feet. For corner lots, the side yard on the side facing the side street shall be 20 feet or more for both main and accessory buildings. Decks are not permitted in the minimum side yard area.

(b) *Rear.* Each main building shall have a rear yard of 40 feet or more, of which no more than 15 feet may be occupied by a deck. However, the Zoning Administrator shall issue a zoning permit reducing the rear yard to 20 feet if the existing or planned building will not have any provision for a deck and a note is placed on all site plans, subdivision plans, building plans, and record plats associated with the property that no deck is permitted on the lot. No deck may be built in any rear yard subject to such a zoning permit. The Zoning Administrator shall issue a zoning permit for a deck larger than 15 feet if the distance from the rear edge of the deck to the property line is at least 25 feet.

Sec. 66-98. Height regulations.

(a) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(b) Public or semi-public buildings, such as a school, library or hospital, may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(c) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt.

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

(e) No accessory building shall be closer than five feet to any lot line, nor shall it be more than one story high. All accessory buildings shall be less than the main building in height.

Secs. 66-99—66-110. Reserved.

DIVISION 4. R-3 DISTRICT

Sec. 66-111. Statement of intent.

The R-3 district consists of areas in which residential development is likely to take the form of dwellings designed to accommodate more than two families, such as two-family or duplex dwellings, or townhouse projects. When possible, these higher density dwellings shall be built as unified projects rather than on a lot-by-lot basis. This district further consists of open areas which shall be preserved for use as parks and recreation property to ensure a healthful family environment in an area of high population density. This district shall not be spotted with business or commercial uses.

Sec. 66-112. Uses permitted.

Structures to be maintained or erected or land to be used shall be restricted to one or more of the following uses:

(a) Uses permitted by-right

1. Detached single-family dwellings.

2. Duplex dwellings.

3. Townhouse development.

4. Roominghouses and boardinghouses, operated by a resident and occupant.

5. Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a Home Occupation Certificate in accordance with Section 66-10 of this Chapter.

6. Professional offices within detached single-family dwellings, operated by a resident and occupant.

7. Accessory buildings; except that a garage or other accessory structure, such as a carport, porch or stoop, when attached to the main building, shall be subject to any property line or setback restrictions in effect within the town.

8. Public utilities, including poles, lines, distribution transformers, pipes, meters or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.

9. Private or public recreation facilities - events shall be scheduled to complete all activity before or as near to 11:00 p.m., as practical.

(b) Uses permitted by Special Exception Permit approved by Town Council

1. Bed and breakfast

2. Child care facilities

3. Professional offices within townhouse dwellings, operated by a resident and occupant

4. Private club facilities

Sec. 66-113. Signs permitted.

Signs shall be in conformance with Article VIII of this Chapter.

Sec. 66-114. Area regulations.

(a) Residential lots containing or intended to contain detached single-family dwellings served by public water and sewage disposal, shall have a minimum lot area of 6,000 square feet.

(b) Residential lots containing or intended to contain duplex dwellings served by public water and sewage disposal, shall have a minimum lot area of 12,000 square feet.

(c) The average lot width for any group of townhouses shall be at least 20 feet. At least 40 percent of the total area of any townhouse project, including area on individual lots, shall be devoted to landscaped open space. Preservation of desirable natural vegetation may substitute for landscape plantings upon approval of the Town Council. The maximum number of attached units in any one group or series shall be eight. No townhouse lot shall be arranged or developed in such a way as to necessitate vehicles backing out onto any public street. Individual townhouse lots may front on private streets, provided there is an access easement to a publicly maintained street. Individual townhouse lots shall be platted outside of any private streets or common parking areas. Private streets shall be constructed in accordance with section 54-169(b). The provisions of this subsection (c) may be modified by the Town Council as part of the approval of a rezoning or special use permit.

(d) The minimum lot area for any multi-family structure shall be at least 10,000 square feet, and the minimum width shall be 100 feet. Not more than 16 multi-family units may be established per acre. At least 30 percent of the land area in any project shall be devoted to landscaped open space.

Sec. 66-115. Setback regulations.

(a) Single-family dwellings within the R-3 district shall be located 25 feet or more from any public street right-of-way that is 50 feet or more in width, or 60 feet or more from the centerline of any public street right-of-way less than 50 feet in width. This shall be known as the setback line.

(b) Duplex and townhouse dwellings shall be set back at least 25 feet from the public or private street right-of-way; except that when parking is provided in the rear or side of a unit, the setback from a public or private street right-of-way or easement shall be a minimum of ten feet. In all cases, a minimum front yard of ten feet shall be required; and such front yard shall not be encumbered by common parking areas, private streets, travelways, or sidewalks other than the entrance walk to the individual unit or parking spaces for the individual unit. No more than two abutting attached units shall have the same setback. Minimum setback variations shall be two feet.

(c) Multi-family dwellings shall be set back at least 25 feet from street right-of-way or the private street portion of access easements, whichever is closer.

(d) The setback regulations in this section shall not apply in the Old and Historic Occoquan District.

Sec. 66-116. Frontage regulations.

The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets.

Sec. 66-117. Yard regulations.

(a) *Side.*

1. The minimum side yard for detached single-family dwellings shall be ten feet on each side.

2. The minimum side yard for duplex dwellings shall be ten feet on each side.

3. For townhouse lots, there shall be no side yard required except for end units, which shall have a minimum ten-foot side yard for each end unit.

5. Multi-family dwellings shall have a minimum side yard on each side of at least 25 feet.

6. Decks are not permitted in the minimum side area.

7. Side yards within the Old and Historic Occoquan District shall be exempt

(b) *Rear.* Each main building shall have a rear yard of at least 20 feet, of which no more than 10 feet may be occupied by an uncovered deck.

(c) No accessory building shall be closer than five feet to any lot line.

Sec. 66-118. Height regulations.

(a) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(b) Public or semi-public buildings, such as a school, library, or hospital, may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(c) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt.

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

(e) Accessory buildings shall not be more than one story. All accessory buildings shall be less than the main building in height.

(f) The height limitations contained in this section may be modified as part of the approval of a special use permit or rezoning.

DIVISION 4A. R-4 DISTRICT

Sec. 66-119. Statement of intent.

The R-4 district consists of areas in which residential development is likely to take the form of dwellings designed to accommodate multi-family dwellings, garden and high-rise apartment projects. When possible, these higher density dwellings shall be built as unified projects rather than on a lot-by-lot basis. This district further consists of open areas which shall be preserved for use as park and recreation property to ensure a healthful family environment in an area of high population density. This district shall not be spotted with business or commercial uses.

Sec. 66-120. Uses permitted.

Structures to be maintained or erected, or land to be used, shall be restricted to the following uses:

(a) Uses permitted by-right

1. Multi-family dwellings or apartment houses, upon site plan approval by the Planning Commission.

2. Accessory buildings; except that a garage or other accessory structure, such as a carport, porch or stoop, when attached to the main building, shall be subject to any property line or setback restrictions in effect at the time of approval.

3. Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a Home Occupation Certificate in accordance with Section 66-10 of this Chapter.

4. Public utilities, including poles, lines, distribution transformers, pipes, meters or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.

5. Private or public recreation facilities - events shall be scheduled to complete all activity before or as near to 11:00 p.m. as practical.

(b) Uses permitted by Special Exception Permit approved by Town Council

1. Child care facilities.

2. Garden and high-rise apartment projects.

3. Private club facilities.

Sec. 66-121. Signs permitted.

Signs shall be in conformance with Article VIII of this Chapter.

Sec. 66-122. Area regulations.

The minimum lot area for any multi-family structure, served by both public water and sewage disposal shall be at least 10,000 square feet, and the minimum width shall be 100 feet. No more than 16 multi-family units may be established per acre. At least 30 percent of the land area in any project shall be devoted to landscaped open space.

Sec. 66-123. Setback regulations.

(a) Multi-family dwellings shall be set back at least 25 feet from street right-of-way or the private street portion of access easements, whichever is closer.

(b) The setback regulations in this section shall not apply in the Old and Historic Occoquan District

Sec. 66-124. Frontage regulations.

The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets.

Sec. 66-125. Yard regulations.

(a) *Side*. Multi-family dwellings shall have a minimum side yard on each side of at least 25 feet.

(b) *Rear*. Each main building shall have a rear yard of at least 20 feet.

(c) No accessory building shall be closer than five feet to any lot line.

(d) The side and rear yards required by this section shall not apply in the Old and Historic Occoquan District.

Sec. 66-126. Height regulations.

(a) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(b) Public or semi-public buildings, such as a school, library, or hospital, may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(c) Sprires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, 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.

(d) No accessory structure shall be more than one story high. All accessory buildings shall be less than the main building in height.

(e) The height limitations contained in this section may be modified as part of the approval of a special use permit or rezoning.

Secs. 66-127—66-140. Reserved.

DIVISION 5. B-1 DISTRICT*

Sec. 66-141. Statement of intent.

Generally, the B-1 district covers that portion of the town intended for the conduct of general business to which the public requires direct and frequent access, but is not characterized either by constant heavy trucking, other than stocking and delivery of light retail goods, or by any nuisance factors, other than incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, restaurants, and taverns. The B-1 district is also encouraged to incorporate mixed-use designs, characterized by business uses along the street or water front with high-density residential above, as new developments and redevelopment occurs.

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*__Cross reference(s)__—Businesses, ch. 14.

Sec. 66-142. Uses permitted.

Structures to be maintained or erected, or land to be used, shall be restricted to one or more of the following uses:

(a) Uses permitted by-right

1. Home appliance services.
2. Bakeries.
3. Banks.
4. Barbershops and beauty shops.
5. Bed and breakfasts.
6. Clubs and lodges.
7. Drugstores.
8. Festivals, Town sponsored.
9. Hotels.
10. Laundry facilities.
11. Libraries.
12. Machinery sales and service.
13. Medical uses.
14. Office buildings.
15. Places of Assembly with less than 25 seats, as an accessory to the principal use.
16. Plumbing and electrical supply stores (with storage under cover).
17. Public utilities, including poles, lines, distribution transformers, pipes, meters or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.
18. Restaurants, eating places.

19. Retail food stores.

20. Retail stores.

21. Waterfront business activities:

    a. Wholesale and retail marine, such as boat docks, piers, small boat docks, yacht clubs and marine servicing facilities;

    b. Dock and areas for receipt, storage and transshipment of waterborne commerce; and

    c. Recreational activities, primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.

(b) Uses permitted by Special Exception Permit approved by Town Council

1. Auto services

2. Child Care Facilities.

3. Funeral homes.

4. General residential uses - low, medium and high density.

5. Lumber and building supply stores (with storage under cover).

6. Mixed Use Development

7. Places of Assembly

8. Wholesale businesses.

Sec. 66-143. Signs permitted.

Signs shall be in conformance with Article VIII of this Chapter.

Sec. 66-144. Repealed

Sec. 66-145. Setback regulations.

Buildings shall be located five feet or more from any street right-of-way that is 50 feet or more in width, or 35 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

For those lots included in the plat recorded in the clerk's office of the county circuit court on January 7, 1805, the setback line may be 30 feet from the center of the street.

Sec. 66-146. Height regulations.

Buildings may be maintained or erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls; except that:

(a) A public or semi-public building, such as a school, library or general hospital, may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(b) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt. Parapet walls may be up to four feet above the height of the buildings on which the walls rest.

(c) No accessory building may be more than one story tall.

Secs. 66-147—66-165. Reserved.

DIVISION 6. PARKS AND PUBLIC UTILITY DISTRICT (PPU)

Sec. 66-166. Statement of Intent.

The Parks and Public Utility district (PPU) covers the portion of the Town located along the Occoquan River and formerly used as a water treatment facility. This district is intended to provide for public water utility uses, as well as a riverfront public park.

Sec. 66-167. Uses Permitted.

Structures to be maintained or erected or land to be used shall be restricted to the following:

(a) Public park

(b) Trails/boardwalk

(c) Open space.

(d) Public Water Utilities including, but not be limited to, water supply intakes, water purification facilities; water storage, control and pumping facilities; water utility transmission and distribution facilities, including but not limited to pipes, conduits, vaults, laterals, valves, hydrants, or other similar equipment for the transmission and distribution of water; office and maintenance space related to water utility functions; and supporting utility infrastructure (electricity, telecommunications, gas, sanitary and storm sewer) incidental to

any use set forth in this paragraph including poles, structures, wires, conduits, cables or other similar equipment.

(e) Uses ancillary to the permitted uses, including, but not limited to, service roads and storage.

Secs. 66-168—66-190. Reserved.

DIVISION 7. CHESAPEAKE BAY PRESERVATION OVERLAY DISTRICT*

Sec. 66-191. Findings of fact.

(a) The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the town and the commonwealth. The health of the bay is vital to maintaining the town's economy and the welfare of its citizens.

(b) The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including non-point-source pollution from land uses and development. Existing high-quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. With proper management, significant ecological benefits can be achieved by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. The lands designated by the Town Council as Chesapeake Bay Preservation Areas, need to be protected from destruction and damage in order to protect the quality of water in the bay and consequently the quality of life in the town and the commonwealth.

Sec. 66-192. Purpose and intent.

(a) This division is enacted to implement the requirements of Code of Virginia, §62.1-44.15:72 et seq. (The Chesapeake Bay Preservation Act), and 9VAC25-830-20 et seq. Chesapeake Bay Preservation Area Designation and Management Regulations.

(b) The intent of the Town Council and the purpose of the overlay district is to:

1. Protect existing high-quality state waters;

2. Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, that might reasonably be expected to inhabit them;

3. Safeguard the clean waters of the commonwealth from pollution;

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*__Cross reference(s)__—Environment, ch. 18.

4. Prevent any increase in pollution;

5. Reduce existing pollution; and

6. Promote water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of the town.

(c) This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by this chapter. Unless otherwise stated in the overlay district, the review and approval procedures provided for in chapter 14, article II; chapter 18, article II; and chapters 26 and 54 of this code shall be followed in reviewing and approving development, redevelopment, and uses governed by this division.

(d) This division is enacted under the authority of Code of Virginia, §62.1-44.15:72 et seq. (The Chesapeake Bay Preservation Act), and 9VAC25-830-20, and Code of Virginia, §15.2-2283, stating that "such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in §62.1-255."

Sec. 66-193. Definitions.

The following words and terms used in this overlay district have the following meanings unless the context clearly indicates otherwise. Words and terms not defined in this division but defined in this chapter shall be given the meanings previously set forth.

Applicant	A person seeking any determination under this part or permit required by this division.
Best management practices (BMPs)	A practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by non-point-sources to a level compatible with water quality goals.
Buffer area	Natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.
Chesapeake Bay Preservation Area (CBPA)	Any land designated by the Town Council pursuant to part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-70 et. Seq and §62.1-44.15:72. A CBPA shall consist of a resource protection area and a resource management area.

Construction footprint	The area of all impervious surface, including but not limited to buildings, roads and drives, parking areas, sidewalks, and the area necessary for construction of such improvements.
Development	The construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.
Diameter at breast height (dbh)	The diameter of a tree measured outside the bark at a point 4.5 feet above ground.
Dripline	A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.
Floodplain	All lands that would be inundated by flood water as a result of a storm event of a 100 year return interval.
Highly erodible soils	Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight (8). The erodibility index for any soil is defined as the product of the formula RKLS/T, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.
Highly permeable soils	Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six (6) inches of water movement per hour in any part of the soil profile to a depth of seventy-two (72) inches, permeability groups rapid and very rapid, as found in the National Soil Survey Handbook of November 1996, in the Field Office Technical Guide of the U.S. Department of Agricultural Natural Resources Conservation Service.
Impervious cover	A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted gravel surface.
Intensely developed areas (IDAs)	A portion of a resource protection area or a resource management area designated by the Town Council where development is concentrated and little of the natural environment remains.
Non-point source pollution	Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

Non-tidal wetlands	Wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act, in 33 CFR 328.3b.
Noxious weeds	Weeds that are difficult to control effectively, such as Johnson grass, kudzu, and multi-flora rose.
Plan of development	The process for site plan or subdivision plat review to ensure compliance with 9VAC25-830, and this division prior to any clearing or grading of a site or the issuance of a building permit.
Private road	A privately owned and maintained road designed and constructed in accordance with the Virginia Department of Transportation standards.
Public road	A publicly owned road designed in accordance with the Virginia Department of Transportation standards.
Redevelopment	The process of developing land that is or has been previously developed, including in-fill development in intensely developed areas.
Resource management area (RMA)	That component of the CBPA that is not classified as the resource protection area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.
Resource protection area (RPA)	That component of the CBPA comprised of lands adjacent to water bodies with perennial flow, that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts that may result in significant degradation to the quality of state waters. See Section 66-194 for areas of applicability.
Substantial alteration	The expansion or modification of a building or development within the Resource Management Area that would result in land disturbance exceeding 2,500 square feet.
Tidal shore or shore	Land contiguous to a tidal body of water between the mean low water level and the mean high water level.
Tidal wetlands	Vegetated and non-vegetated wetlands as defined in Code of Virginia, §28.2-1300.

Water-dependent facility — Development of land that cannot exist outside of the RPA and must be located on the shoreline due to the intrinsic nature of its operation. These facilities include, but are not limited to:

1. Ports;
2. The intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers;
3. Marinas and other boat docking structures;
4. Beaches and other public water-oriented recreation areas;
5. Fisheries or other marine resources facilities.

Wetlands — Tidal and non-tidal wetlands.

Sec. 66-194. Areas of applicability.

(a) The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the Town Council and as shown on the Occoquan Chesapeake Bay Preservation Area Map. This map, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this division.

1. The resource protection area (RPA) is here by established and shall consist of lands adjacent to water bodies with perennial flow that include:

   a. Tidal wetlands;

   b. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

   c. Tidal shores;

   d. A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections (a)(1) a. through c. of this section and along both sides of any water bodies with perennial flow.

2. The RMA is composed of concentrations of the following land categories:

   a. Floodplains;

   b. Highly erodible soils, including steep slopes;

   c. Highly permeable soils;

d. Non-tidal wetlands not included in the RPA; and

e. Other lands, including all areas in the town necessary to protect the quality of state waters.

(b) The Occoquan Chesapeake Bay Preservation Area Map shows the general location of CBPAs and should be consulted by persons contemplating activities within the town prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under section 66-199 of this division.

(c) All areas within the town limits north of and including Mill Street and Poplar Lane are designated as IDAs. These areas shall serve as redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards for redevelopment in section 66-200.

Sec. 66-195. Use regulations.

Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district unless specifically modified by the requirements set forth in this division.

Sec. 66-196. Lot size.

Lot size shall be subject to the requirements of the underlying zoning district, provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in section 66-200, when such development is not otherwise allowed in the RPA.

Sec. 66-197. Required conditions.

(a) All development and redevelopment exceeding 2,500 square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of Chapter 46 or a subdivision plat in accordance with Chapter 54 of this code.

(b) Development in RPAs may be allowed only when permitted by the Zoning Administrator and if it is (i) water-dependent, (ii) constitutes redevelopment; or (iii) constitutes development or redevelopment in the IDA.

1. A new or expanded water-dependent facility must meet the following criteria:

a. It does not conflict with the Comprehensive Plan,

b. It complies with all performance standards of section 66-200 of this division,

c. All non-water-dependent components must be located outside of the RPA, and

d. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

2. Redevelopment on isolated redevelopment sites outside of locally designated Intensely Developed Areas sites shall be permitted only if there is not an increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to the stormwater management requirements outlined under section 66-200(b)(7) of this division.

(c) A water quality impact assessment shall be required for any proposed land disturbance, development, or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of section 66-201.

Sec. 66-198. Conflict with other regulations.

In any case where the requirements of this division conflict with any other provision of the ordinances of the town or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.

Sec. 66-199. Interpretation of RPA boundaries.

(a) Delineation by the applicant. The site-specific boundaries of the RPA shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Zoning Administrator and in accordance with section 66-202 or through the submission of a Water Quality Impact Assessment in accordance with section 66-201 of this division. The Occoquan Chesapeake Bay Preservation Area Map shall be used as a guide to the general location of RPAs.

(b) Delineation by the Zoning Administrator. The Zoning Administrator, when requested by an applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Zoning Administrator may use hydrology, soils, plant species and other data, and consult other appropriate resources as needed to perform the delineation.

(c) Where the applicant has provided a site-specific delineation of the RPA, the Zoning Administrator will verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with section 66-202 or section 66-201 (Water Quality Impact Assessment) of this division. If the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of section 66-202(i).

Sec. 66-200. Performance standards.

(a) Purpose and intent.

1. The purpose and intent of this division is to prevent a net increase in non-point-source pollution from new development and achieve a ten percent reduction in non-point-source pollution from redevelopment

2. The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, is an especially effective filter of stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

(b) General performance standards for development and redevelopment.

1. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

   a. In accordance with an approved site plan, the limits of land disturbance, including clearing or grading, shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.

   b. Ingress and egress during construction shall be limited to one access point unless otherwise approved by the Zoning Administrator.

2. Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use or development proposed, and in accordance with the Virginia Erosion and Sediment Control Handbook.

   a. Existing trees over six inches dbh shall be preserved outside the construction footprint. Diseased trees or trees weakened by age, storm, fire or other injury may be removed.

   b. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the Zoning Administrator.

   c. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected one foot outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain erected throughout all phases of

construction. The storage of equipment, materials, debris or fill shall not be allowed within the area protected by the barrier.

3. Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development permitted.

4. Notwithstanding any other provisions of this division or exceptions or exemptions to this division, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of Chapter 18, Article II of this Code.

5. All existing sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years, in accordance with the provisions of the county health code. New septic tanks and private sewage plants are not permitted.

6. For any development or redevelopment, stormwater runoff shall be controlled by the use of BMPs that achieve the following:

   a. For development, the post-development non-point-source pollution runoff load shall not exceed the pre-development load, based on a Chesapeake Bay watershed-wide average impervious surface cover of 16%.

   b. For any redevelopment site and for sites within IDAs, the non-point-source pollution load shall be reduced by at least ten percent. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated BMPs for stormwater runoff quality control, provided the following provisions are satisfied:

      i. In no case may the post-development non-point-source pollution runoff load exceed the pre-development load;

      ii. Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling non-point-source pollution;

      iii. If BMPs are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this division.

   c. For redevelopment, both the pre- and post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development non-point-source pollution loadings can be substituted for the existing development loadings.

7. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator, in accordance with section 66-202.

8. Clearing, land disturbance or development exceeding 500 square feet, on a recorded lot of record as of the date of this ordinance amendment, on slopes 20 percent or greater is prohibited.

(c) Buffer area requirements.

1. To minimize the adverse effects of human activities on the other components of RPAs, state waters, and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering non-point-source pollution from runoff shall be retained if present and established where it does not exist.

2. The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any waterbody with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with sections 66-194 and 66-202.

3. The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

4. The buffer area shall be maintained to meet the following additional performance standards:

   a. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, as permitted by the Zoning Administrator, to provide for reasonable sight lines, access paths, general woodlot management practices, including those that prevent upland erosion and concentrated flows of stormwater and BMPs, as follows:

      i. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering non-point-source pollution from runoff.

      ii. Any path shall be constructed and surfaced to effectively control erosion.

      iii. Dead, diseased, or dying trees or shrubbery and noxious weeds may be removed and thinning of trees may be allowed pursuant to sound horticulture practice as recommended by the town.

iv. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

b. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may allow encroachments into the buffer area in accordance with section 66-202 and the following criteria:

i. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

ii. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and

iii. The encroachment may not extend into the seaward 50 feet of the buffer area.

c. Redevelopment within IDAs may be exempt from the buffer area, in accordance with section 66-202. Where possible a buffer area shall be provided in order to remove pollutants and protect water quality. Any and all buffer exemptions are to be granted by the Zoning Administrator.

Sec. 66-201. Water quality impact assessment.

(a) The purpose of the water quality impact assessment is to:

1. Identify the impacts of proposed development on water quality and lands within RPAs and other environmentally sensitive lands;

2. Ensure that, where development does take place within RPAs and other sensitive lands, it will be in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;

3. Protect individuals from investing funds for proposed improvements on lands not suited for such development because of high groundwater, erosion, or vulnerability to flood and storm damage;

4. Provide for administrative relief from the terms of this division when warranted and in accordance with the requirements contained in this division; and

5. Specify mitigation that will address water quality protection.

(b) A water quality impact assessment is required for any proposed land disturbance, development or redevelopment within an RPA, including any buffer area modification or encroachment as provided for in section 66-200; and any development in an RMA, floodplain, area of highly erodible soils, or 20 percent or greater slopes.

(c) There shall be two levels of water quality impact assessments, minor and major.

1. Minor water quality impact assessment.

a. A minor water quality impact assessment pertains only to development within an RPA and its 100-foot buffer strip under the following conditions:

i. No more than 6,000 square feet of land disturbance.

ii. No disturbance of the seaward 50 feet of the 100-foot buffer area.

b. A minor assessment must demonstrate that the undisturbed buffer area, enhanced vegetative plantings and any required BMPs will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater runoff. It must also demonstrate that it will retard runoff, prevent erosion, and filter non-point source pollution the equivalent of the full undisturbed 100-foot buffer area. A minor assessment shall include a site drawing to scale, which shows the following:

i. Location of the components of the RPA, including the 100-foot buffer area.

ii. Location and nature of the proposed encroachment into the buffer area, including type of paving material; areas of clearing or grading; location of any structures, drives or other impervious cover; and sewage disposal systems or reserve drainfield sites.

iii. Type and location of proposed BMPs to mitigate the proposed encroachment.

iv. If development is in an IDA, proposed measures to restore all or part of the buffer strip, if possible.

v. Location of existing vegetation on site, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification.

vi. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion, and runoff control.

2. Major water quality impact assessment.

a. A major water quality impact assessment shall be required for any development that:

i. Exceeds 6,000 square feet of land disturbance within an RPA or its buffer strip;

ii. Disturbs any portion of the seaward 50 feet of the 100-foot buffer area; or

iii. Is located in an RMA and includes areas of floodplain, highly erodible soils, or 20 percent or greater slopes.

The information required in this subsection shall be considered a minimum unless the Zoning Administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

b. The following elements shall be included in the preparation and submission of a major water quality assessment:

i. All of the information required in a minor water quality impact assessment, as specified in subsection (c) of this section.

ii. A hydrogeological element that:

a) Describes the existing topography, soils, hydrology and geology of the site and adjacent lands.

b) Describes the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.

iii. Indicates the following:

a) Disturbance or destruction of wetlands and justification for such action.

b) Disruptions or reductions in the supply of water to wetland, streams, lakes, rivers or other water bodies.

c) Disruptions to existing hydrology, including wetland and stream circulation patterns.

d) Source location and description of proposed fill material.

e) Location of dredge material and location of dumping area for such material.

f) Location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas.

g) Estimation of pre- and post-development pollutant loads in runoff.

h) Estimation of percentage of increase in impervious surface on the site and types of surfacing materials used.

i) Percentage of site to be cleared for the project.

j) Anticipated duration and phasing schedule of the construction project.

k) Listing of all requisite permits from all applicable agencies necessary to develop the project.

iv. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:

a) Proposed erosion and sediment control concepts; concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection.

b) Proposed stormwater management system.

c) Creation of wetlands to replace those lost.

d) Minimizing cut and fill.

c. A landscape element that:

i. Identifies and delineates the location of all significant plant material on site, including all trees six inches or greater dbh. Where there are groups of trees, stands may be outlined.

ii. Describes the impacts of the development or use on the existing vegetation, including:

a) General limits of clearing, based on all anticipated improvements, including buildings, drives and utilities.

b) Clear delineation of all trees to be removed.

c) Description of plant species to be disturbed or removed.

iii. Describes the potential measures for mitigation. Possible mitigation measures include:

a) Replanting schedule for trees and other significant vegetation removed for construction, including a list of possible plants and trees to be used.

b) Demonstration that the design of the plan will preserve, to the greatest extent possible, any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation.

c) Demonstration that indigenous plants are to be used to the greatest extent possible.

d. Submission and review requirements.

i. Ten copies of all site drawings and other applicable information as required by subsections (c) 1. and (c) 2. of this section shall be submitted to the Zoning Administrator for review.

ii. All information required in this section shall be certified as complete and accurate by a professional engineer.

iii. A water quality impact assessment shall be prepared and submitted to and reviewed by the Zoning Administrator in conjunction with section 66-202.

iv. As part of any major water quality impact assessment submittal, the Zoning Administrator may require review by the Chesapeake Bay Local Assistance Department (CBLAD). Upon receipt of a major water quality impact assessment, the Zoning Administrator will determine if such review is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the Zoning Administrator, provided that such comments are provided by CBLAD within 90 days of the request.

e. Evaluation procedure.

i. Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine if any proposed modification or reduction to the buffer area is consistent with the provisions of this division and make a finding based upon the following criteria:

a. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area.

b. Impervious surface is minimized.

c. Proposed BMPs, where required, achieve the requisite reductions in pollutant loadings.

d. The development, as proposed, meets the purpose and intent of this division.

e. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

ii. Upon the completed review of a major water quality impact assessment, the Zoning Administrator will determine if the proposed development is consistent with the purpose and intent of this division and make a finding based upon the following criteria:

a. The proposed development within the RPA is water-dependent.

b. The disturbance of any wetlands will be minimized.

c. The development will not result in unnecessary disruption of the hydrology of the site.

d. The development will not result in unnecessary degradation to aquatic vegetation or life.

e. The development will not result in unnecessary destruction of plant materials on the site.

f. Proposed erosion and sediment control concepts are adequate to achieve the reductions in erosion and minimize off-site sedimentation.

g. Proposed stormwater management concepts are adequate to control the stormwater runoff and achieve the required performance standard for pollutant control.

h. Proposed re-vegetation of disturbed areas will provide effective erosion and sediment control benefits.

i. The development, as proposed, is consistent with the purpose and intent of the overlay district.

j. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

k. The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria listed in subsections e. i. and e. ii. of this section.

l. The Zoning Administrator shall find the proposal to be inconsistent with the purpose and intent of this division when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator based on the criteria listed in subsections e. i. and e. ii. of this section.

Sec. 66-202. Plan of development process.

(a) Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing, grading or filling of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this division.

(b) In addition to the requirements of this section and chapter 46 and 54 of this Code, the plan of development process shall consist of the plans and studies identified in this subsection. These required plans and studies may be coordinated or combined, as deemed appropriate by the Zoning Administrator. The Zoning Administrator may determine that some of the following information is unnecessary due to the scope and nature of the proposed development. The following plans or studies shall be submitted unless otherwise provided for:

1. A site plan in accordance with the provisions of chapter 46 of this code or a subdivision plat in accordance with the provisions of chapter 54 of this code, as necessary;

2. An environmental site assessment;

3. A landscaping plan;

4. A stormwater management plan; and

5. An erosion and sediment control plan in accordance with the provisions of Chapter 18, Article II of this Code.

(c) An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.

1. The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:

a. Tidal wetlands;

b. Tidal shores;

c. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

d. A 100-foot buffer area located adjacent to and landward of the components listed in subsections (c)(1)a.--c. of this section and along both sides of any water body with perennial flow; and

e. Other sensitive environmental features as determined by the Zoning Administrator.

2. Wetlands delineations shall be performed consistent with the procedures specified in the current edition of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, or as determined by the Army Corps of Engineers (ACOE).

3. The environmental site assessment shall delineate the site-specific geographic extent of the RPA.

4. The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat and shall be certified as complete and accurate by a professional engineer. This requirement may be waived by the Zoning Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area.

5. Any request for exemption from the buffer requirements for properties contained wholly within designated IDAs, as allowed by section 66-200(c)(3), must be submitted in writing with the assessment.

(d) A landscaping plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval. No clearing, grading or filling of any lot or parcel shall be permitted without an approved landscaping plan.

1. Contents of the plan.

a. The landscaping plan shall be drawn to scale and clearly delineate the location, size and description of existing and proposed plant material. All existing trees on the site six inches or greater dbh shall be shown on the landscaping plan. Where there are groups of trees, stands may be outlined instead. The specific number of trees six inches or greater dbh to be preserved outside the construction footprint shall be indicated on the plan. Trees to be removed to create a desired construction footprint shall be clearly delineated.

b. Any required buffer area shall be clearly delineated, and any plant material to be added to establish or supplement the buffer area as required by this division shall be shown.

c. Within the buffer area, trees to be removed for sight lines, vistas, access paths and BMPs, as provided for in this division, shall be shown. Vegetation required by this division to replace any existing trees within the buffer area shall also be shown.

d. Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this division shall be shown on the landscaping plan.

e. Grade changes or other work adjacent to trees that would affect adversely them. Specifications shall be provided as to how grade, drainage and aeration will be maintained around trees to be preserved.

f. Specifications for the protection of existing trees during clearing, grading, and all other phases of construction.

2. Plant specifications.

a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.

b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.

c. Where areas that are to be preserved, as designated on an approved landscaping plan, are disturbed or encroached, replacement of existing trees and other vegetation will be achieved at a ratio of one planted tree to one removed. Replacement trees shall be of a similar species, a minimum of 12 feet in height and 1.5 inches dbh at the time of planting.

3. Maintenance.

a. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this division.

b. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris for a period of one year after the developer has completed all real estate sales in the developed property. Unhealthy, dying or dead plant materials shall be

replaced during the next planting season, as required by the provisions of this division.

(e) A stormwater management plan shall be submitted in accordance with Chapter 18, Article III of the Town Code in conjunction with site plan or subdivision plan approval. The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this division.

1. At a minimum, the stormwater management plan must contain the following:

   a. Location and design of all proposed stormwater control devices.

   b. Procedures for implementing non-structural stormwater control practices and techniques.

   c. Pre- and post-development non-point-source pollutant loadings with supporting documentation of all utilized coefficients and calculations.

   d. For facilities, verification of structural soundness, including a professional engineer certification.

2. All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Virginia Stormwater Management Handbook.

3. The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities that including all maintenance requirements and persons responsible for performing said maintenance. If the designated maintenance responsibility is with a party other than the town, a maintenance agreement shall be executed between the responsible party and the town.

(f) An erosion and sediment control plan shall be submitted that satisfies the requirements of this division and in accordance with chapter 18, article II of this code, in conjunction with site plan or subdivision plan approval.

(g) Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in chapters 46 and 54 of this code.

1. Final plans for all lands within CBPAs shall include the following additional information:

   a. The delineation of the RPA boundary;

   b. The delineation of required buffer areas;

c. All wetlands permits required by law;

d. A maintenance agreement, as deemed necessary and appropriate by the Zoning Administrator, to ensure proper maintenance of BMPs in order to continue their functions; and

e. Measures to be taken for the protection of the resource protection areas (RPAs) during clearing, grading and all other phases of construction. The following notations shall be included:

i. All existing vegetation within the RPA shall remain in its undisturbed natural state, except as allows by the Code of the Town of Occoquan.

ii. Permissible development in the RPA is limited to water dependent facilities, redevelopment, or other uses specifically allowed by the Code of the Town of Occoquan.

f. Gross acreages of the following physical land units shall be tabulated and computed by accurate planimetric methods at the final plan scale:

i. 100-year floodplains;

ii. Wetlands;

iii. Existing water features (bodies of water, drainage channels, streams, etc.); and

iv. Resource protection areas and resource management areas as specified by Chapter 66, Article II, Division 7, Chesapeake Bay Preservation, of the Town Code.

g. Buildable areas allowed on each lot based on the performance criteria specified in the Chesapeake Bay Preservation Area Regulations in this Chapter; front, side, and rear yard setback requirements established pursuant to this Chapter, and any other relevant easements or limitations regarding lot coverage shall be graphically depicted on the site plan:

2. Installation and bonding requirements.

a. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed in accordance with the approved site plan.

b. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities or other specifications of an

approved plan, a certificate of occupancy may be issued only if the applicant provides to the town a form of surety satisfactory to the Zoning Administrator in an amount equal to the remaining plant materials, related materials, and installation costs of the landscaping or other specifications and/or maintenance costs for any required stormwater management facilities.

c. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy, or the surety may be forfeited to the town.

d. All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the town. The town may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

e. After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection with the as-built site plan or subdivision plan. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended or unobligated portion of the surety held shall be refunded in accordance with chapters 46 and 54 of this code. The Zoning Administrator may require a certificate of substantial completion from a professional engineer before making a final inspection.

(h) Administration of the plan of development process shall be in accordance with chapter 46 and 54 of this code.

1. If the final plan or any component of the plan of development process, as related to this chapter, is not approved by the Zoning Administrator and/or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Planning Commission.

2. The appeal shall be made in writing to the Planning Commission. The Planning Commission shall review the appeal and make recommendation to the Town Council. In reviewing the appeal, the Planning Commission shall determine if:

a. The plan is in accordance with all applicable ordinances and includes the necessary elements to mitigate any detrimental impact on water quality, adjacent properties and the surrounding area; or

b. Such plan meets the purpose and intent of the performance standards in this division.

3. If the Planning Commission finds that the applicant's plan does not meet the criteria stated in subsection (i)(2) of this section, they shall recommend denial of the plan to the Town Council. If the applicant's plan is found to meet the criteria stated in subsection (i)(2) of this section, the Planning Commission shall recommend approval of the plan to the Town Council.

4. The Town Council shall consider the findings and rationale of the Planning Commission when voting to deny or approve the applicant's appeal.

Sec. 66-203. Non-conforming uses and non-complying structures.

(a) The lawful use of a building or structure existing on the effective date of the ordinance from which this section derives or which exists at the time of any amendment to this division, and which is not in conformity with the provisions of the overlay district may be continued in accordance with Article III of this chapter.

(b) No change or expansion of use shall be allowed, with the exception that:

1. The Town Council may grant a non-conforming use and development waiver for structures on legal non-conforming lots or parcels to provide for remodeling and alterations to such non-conforming structures, provided that:

    1. There will be no increase in non-point-source pollution load; and

    2. Any development or land disturbance exceeding 2,500 square feet in area complies with all erosion and sediment control requirement of this division.

2. An application for a non-conforming use and development waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include, for the purpose of proper enforcement of this division, the following information:

    a. Name and address of the applicant and the property owner.

    b. Legal description of the property

    c. Type of proposed use and development.

    d. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the RPA.

    e. Location and description of any existing private water supply or sewerage system.

3. Requests for a non-conforming use and development waiver shall be reviewed by the Planning Commission, who shall forward a recommendation to the Town Council.

4. A non-conforming use and development waiver shall become null and void 12 months from the date issued if no substantial work has commenced.

5. An application for the expansion of a non-conforming principal structure may be approved by the Town Council after an administrative review process provided that the following findings are made:

   a. The request for the waiver is the minimum necessary to afford relief:

   b. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this division to other property owners in similar situations;

   c. The waiver is in harmony with the purpose and intent of this division and does not result in water quality degradation;

   d. The waiver is not based on conditions or circumstances that are self-created or self-imposed;

   f. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing degradation of water quality;

   g. Other findings, as appropriate and required by the town, are met; and

   h. In no case shall this provision apply to accessory structures.

Sec. 66-204. Exemptions.

(a) Exemptions for utilities and public roads. Construction, installation, and maintenance of water, sewer, roads, natural gas lines, underground telecommunications, and cable television lines owned, permitted by the town, shall be exempt from the overlay district provided that:

   1. To the extent possible, the location of such utilities and facilities shall be outside RPAs;

   2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;

   3. All construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and

   4. Any land disturbance exceeding 2,500 square feet in area shall comply with all town erosion and sediment control requirements.

(b) Water wells; passive recreation facilities such as boardwalks, trails and pathways; and historic preservation and archaeological activities within the RPAs may be exempted from

the overlay district, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

1. Any required permits, except those to which this exemption specifically applies, shall have been issued;

2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;

3. The intended use does not conflict with nearby planned or approved uses; and

4. Any land disturbance exceeding 2,500 square feet in area shall comply with all town erosion and sediment control requirements.

Sec. 66-205. Exceptions [Repealed]

Secs. 66-206—66-219. Reserved.

DIVISION 8. OLD AND HISTORIC OCCOQUAN DISTRICT

Sec. 66-220. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board The Architectural Review Board.

Sec. 66-221. Creation of boundaries.

In order to preserve the unique cultural heritage represented by the original section of the town, there is established in the town a district to be known as the "Old and Historic Occoquan District." The boundaries of this district are shown on the official zoning map of the Town as an overlay district.

Sec. 66-222. Certificate of appropriateness required to erect, reconstruct, alter, restore or raze a building.

In order to promote the general welfare, through the preservation and protection of historic places and areas of historic interest, no building listed in this section and titled “Historic Occoquan Landmarks” may be demolished, in whole or in part, nor may any architectural features of such buildings, which are subject to public view from a public street, be altered, without prior application to the board created in Chapter 2, Article IV, Division 4. Neither shall any building or structure be erected, reconstructed, altered or restored within the Old and Historic Occoquan District, unless an application for a certificate of appropriateness shall have been approved by the board. Review of

such application by the board will include analysis of external architectural features, including signs, which are subject to public view from a public street, way or place.

Historic Occoquan Landmarks

Commerce Street: 202, 204, 205, 206, 208, 209, 303, 304, 306, 308, 309, 310, 312
Mill Street: 206, 301, 302, 304, 306, 308, 309, 314, 400-402, 404, 406, 413, 440
Washington Street: 202, 203, 205, 206, 207, 209
Union Street: 201, 202, 203, 204, 205, 206

Sec. 66-223. Application for certificate of appropriateness.

Application for a certificate of appropriateness shall be made through the town clerk for any modifications described in Section 66-224 within the boundaries of the Old and Historic Occoquan District.

Sec. 66-224. Matters to be considered by the Board

The Board shall not consider interior arrangement, relative size of the building or structure, detailed design or features not subject to any public view. The Board shall not make any requirements, except for the purpose of preventing developments obviously incongruous to the old and historic aspect of the surroundings. The Board shall consider the following in passing upon the appropriateness of architectural features:

(a) Exterior architectural features, including all signs that are subject to public view from a public street, way or place;

(b) General design and arrangement;

(c) Texture, material, and color;

(d) The relation of the factors, (1), (2) and (3) of this section, to similar features of the buildings and structures in the immediate surroundings;

(e) The extent to which the building or structure would be in harmony with the old and historic aspect of the surroundings;

(f) In the case of a building to be razed, a primary consideration will be the extent to which its continued existence would tend to protect irreplaceable historic places and preserve the general historic atmosphere of the town; and

(g) The extent to which the building or structure will promote the general welfare by:

1. Preserving and protecting historic places and areas;

2. Maintaining and increasing real estate value;

3. Generating business;

4. Creating new positions;

5. Attracting tourists, students, writers, historians, artists and artisans, and new residents;

6. Encouraging study of and interest in American history;

7. Stimulating interest in and study of architecture and design;

8. Educating citizens in American culture and heritage; and

9. Making the town a more attractive and desirable place in which to live.

Sec. 6-225. Issuance of certificate of appropriateness.

Approval by the Board will be incorporated into certificates of appropriateness. Immediately upon approval by the Board of any application to erect, reconstruct, alter, restore or raze a building, a certificate of appropriateness, signed by the chairman of the Board and bearing the date of issuance, shall be made available to the applicant. The Zoning Administrator shall refuse to honor any request for a zoning certificate without such certificate of appropriateness, but a certificate of appropriateness will in no way affect the requirement to comply with the other provisions necessary to obtain a zoning certificate.

Sec. 66-226. Right of appeal.

Whenever the Board shall deny an application for a certificate of appropriateness, it shall be done in writing. Any person shall have the right to appeal and be heard before the Town Council provided the person files, with the Zoning Administrator, on or before 14 days after the decision of the Board, a written notice of intention to appeal. Upon receipt of such notice, the Zoning Administrator shall schedule a public hearing before the Town Council, at a time not more than 30 days after the receipt of such notice of appeal. Such hearing shall be advertised in accordance with Code of Virginia, § 15.2-2204.

Sec. 66-227. Appeal to Circuit Court.

Any person, following the final decision of the Town Council on an appeal of a denial of an application for a certificate of appropriateness, shall have the right to file a petition for appeal to the Circuit Court. Such petition must be filed within 30 days after the final decision is rendered by the Town Council and must otherwise comply with the requirements of Code of Virginia, §15.2-2306.A.3.

DIVISION 9. OFF-STREET PARKING STANDARDS*

Sec. 66-228. Statement of intent.

The intent of this division is to regulate off-street parking in all zoning districts.

Sec. 66-229. General provisions.

(a) Parking spaces shall be located on the same parcel as the principal use. However, with approval of the Zoning Administrator, the required parking may be provided on an adjacent or nearby parcel, provided a legally sufficient easement is approved by the town attorney and recorded among the county land records to ensure the perpetual availability of the parking spaces for the principal use.

(b) No structure or site shall be altered in any manner that would enable the structure or site to accommodate any increase in business capacity unless the requirements of this division are satisfied with respect to such alteration and increase in capacity. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this division for an increase in parking spaces of ten percent or more, such additional spaces shall be provided on the basis of the change or enlargement. Under no circumstances shall alterations to existing structures reduce existing parking below that which would be required for the entire structure as altered.

(c) All off-street parking facilities shall be used solely for the parking of vehicles by patrons, occupants or employees of the use to which such parking is accessory. No motor vehicle repair work, except emergency service, no storage of merchandise, and no motor vehicles for sale, shall be permitted in association with any required off-street parking facilities.

(d) Required off-street parking spaces may be provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Zoning Administrator. The amount of such combined space shall equal the sum of the amounts required for the separate uses; however, the Zoning Administrator may reduce the total number of parking spaces required by strict application of these requirements when it can be determined the same spaces may adequately serve two or more uses by reason of the hours of operation of such uses.

(e) If a question shall arise regarding the classification of a use for application of this division, the Zoning Administrator shall determine the classification/basis of the number of spaces to be provided.

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*__Cross reference(s)__—Traffic and vehicles, ch. 62.

(f) Due to the unique character of existing structures and amenities in the Old and Historic Occoquan District, the Zoning Administrator shall have the authority to waive the requirements of sections 66-168 and 66-169 to approve non-standard spaces.

(g) For the purposes of this section, net floor space is equal to 75 percent of the gross floor area.

Sec. 66-230. Required parking.

(a) Residential uses: Townhouse, multi-family, duplex, and single family units:

1. One bedroom unit: 2.0 spaces

2. Units with two or more bedrooms shall have one (1) additional parking space per bedroom (i.e.: three bedroom unit is required to have 4 parking spaces).

(b) Business uses (other than places of assembly) require the following spaces per 400 square feet (net floor space); except that in the Old and Historic Occoquan District, the number of required spaces shall be one for each 800 square feet (net floor space) or portion thereof:

1. Commercial: 1.0 space

2. Office: 1.0 space

(c) Places of assembly require one space per four seats; except that in the Old and Historic Occoquan District, the required number of spaces shall be one per eight seats or portion thereof, except that no parking spaces shall be required for restaurants and places of assembly in the Old and Historic Occoquan District with fewer than 50 seats.

(d) Mixed use developments shall provide spaces in accordance with the percentage of floor space devoted to each use.

(e) For uses not otherwise set forth in this section, parking spaces shall be provided in sufficient quantity to accommodate the parking demand generated by the proposed use as determined by the Zoning Administrator.

(f) Parking areas shall be graded at a slope not to exceed five percent. Slope may be up to ten percent, with approval of the town engineer.

(g) Parking computations yielding fractional spaces of 0.5 and above shall be rounded up to the next whole number, and fractional yields below 0.5 shall be rounded down to the nearest whole number.

(h) Parking spaces expressly designated for compact cars may be provided. Each space must be clearly marked by an above-grade sign. Such spaces shall not constitute more than 30 percent

of the entire parking space requirements and meet the minimum dimensions outlined in table B.

(i) All off-street parking spaces shall have an all-weather, dust-free, and impervious surface, where appropriate.

(j) Under no circumstances shall alterations to existing structures reduce existing parking below that which would be required for the entire structure as altered.

Sec. 66-231. Geometrics.

The following tables represent the minimum size requirements for required automobile parking spaces (see section 66-168(a)--(c) for the required number of parking spaces per use):

TABLE A. STANDARD SIZE CAR SPACES

Parking Angle (degrees)	Stall Width (feet)	Depth of Stall Perpendicular to Aisle (feet)	One-Way Aisle Width (feet)	Two-Way Aisle Width (feet)
30	9	16.8	11	22
45	9	19.0	11	22
60	9	20.0	11	22
90	9	18.0	17	22
Parallel	9	22.0	11	22

TABLE B. COMPACT CAR SPACES

Parking Angle (degrees)	Stall Width (feet)	Depth of Stall Perpendicular to Aisle (feet)	One-Way Aisle Width (feet)	Two-Way Aisle Width (feet)
30	8	15.0	11	22
45	8	16.0	11	22
60	8	17.0	11	22

Parking Angle (degrees)	Stall Width (feet)	Depth of Stall Perpendicular to Aisle (feet)	One-Way Aisle Width (feet)	Two-Way Aisle Width (feet)
90	8	15.5	17	22
Parallel	9	22.0	11	22

Sec. 66-232. Disabled parking provisions.

(a) Disabled parking and building or sidewalk accessibility shall be provided in accordance with the current adopted edition of the Virginia Uniform Statewide Building Code.

(b) Disabled parking spaces shall be identified by above-grade signs and demarcated per typical detail HP-1 and HP-2 of the Virginia Uniform Statewide Building Code.

(c) Disabled parking spaces shall be located as close as possible to a main building entrance, ramp or walkway.

(d) Inclined approaches shall be provided and arranged so as to allow convenient access to a building entrance. This approach shall have a slope of not more than one foot in 12 feet and be three feet wide exclusive of flare sides.

Secs. 66-233—66-235. Reserved.

ARTICLE III. NON-CONFORMING USES, LOTS AND STRUCTURES

Sec. 66-236. Purpose.

(a) Within the districts established by this chapter or amendments that may later be adopted there exist lots, structures and uses of land and structures that were lawful before this chapter was passed or amended, but would be prohibited or restricted under the terms of this chapter or amendment. It is the purpose of this chapter to permit these non-conformities to continue.

(b) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in building plans if a permit for construction was issued prior to the effective date of adoption or amendment of this chapter and where actual building construction is carried on diligently. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Sec. 66-237. Non-conforming lots of record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, except where specific limitations are imposed by other provisions of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and requirements, other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

Sec. 66-238. Non-conforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) Such non-conforming structure may be enlarged or altered to an extent not to exceed 20 percent of its original size. Such enlargement or alteration may be done only with approval from the Zoning Administrator and only if such action shall not increase the degree of non-conformance.

(b) Should such non-conforming structure or non-conforming portion of structure be destroyed or damaged by any means, it may be reconstructed, but not to an extent exceeding 50 percent of the current replacement cost of the original structure and only if such reconstruction shall not increase the degree of non-conformance.

(c) Where a non-conforming structure devoted to a non-conforming activity is damaged less than 50 percent of the cost of reconstructing the entire structure, or where a non-conforming

structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.

(d) Should such structure be moved for any reason to another parcel of land, regardless of distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(e) Should any non-conforming structure be changed to a more limited non-conforming use, such newly created use may be changed only to an even more limited use.

Sec. 66-239. Non-conforming uses; permits required.

All operators or owners of non-conforming uses, lots or structures shall, within six months after the adoption of the ordinance from which this section derives obtain from the Zoning Administrator a non-conforming use permit; and such non-conforming use, lot or structure shall be recorded as part of the records of the town. Whenever the boundaries of a district are changed, any uses of land or buildings that become non-conforming as a result of such change shall be recorded as part of the records of the town.

Secs. 66-240—66-270. Reserved.

ARTICLE IV. ENFORCEMENT OF ZONING BY ZONING ADMINISTRATOR*

Sec. 66-271. Right of entry.

The provisions of this chapter shall be enforced by the Zoning Administrator, who shall serve at the pleasure of the council, and whose compensation, if applicable, shall be fixed by the council. The Zoning Administrator or any of his authorized assistants, upon proper identification, shall have the right to enter upon any land or into any building for the purpose of making an inspection or acquiring information to determine whether the property and its use conform to the requirements of this chapter.

Sec. 66-272. Questions of interpretation.

(a) Unless otherwise provided in this chapter, the Zoning Administrator shall make all determinations and issue all rulings and orders authorized in this chapter or otherwise necessary in the interpretation and enforcement of this chapter.

(b) Any person aggrieved by a zoning violation, written order or determination issued by the Zoning Administrator may appeal as provided in section 2-281. Decisions of the Zoning Administrator shall be final and not appealable if not appealed within 30 days.

Sec. 66-273. Written order, requirement, decision or determination by the Zoning Administrator.

(a) Notwithstanding the provisions of Town Code § 66-272, the Zoning Administrator may issue a written order, requirement, decision or determination regarding the permissibility of a specific use or density of a landowner's property only in accordance with this section and with the concurrence of the Town Attorney. Except to the extent expressly delegated in writing, no other Town officer or employee is authorized to issue such orders, requirements, decisions or determinations.

(b) The Zoning Administrator does not have the authority to issue an order, requirement, decision or determination regarding the permissibility of a specific use or density of a landowner's property that is inconsistent with the Town's zoning ordinance. Such an inconsistency, if it occurs, shall be considered non-discretionary error.

(c) The Zoning Administrator is hereby authorized and directed to establish a written policy which governs the issuance of written orders, requirements, decisions or determinations regarding the permissibility of a specific use or density of a landowner's property.

(d) The Zoning Administrator is hereby authorized and directed to create a standard form of application that is to be used by landowners or their authorized agents in order to obtain a written order, requirement, decision or determination regarding the permissibility of a

*__Cross reference(s)__—Administration, ch. 2.

specific use or density of their property. The Zoning Administrator shall not issue a written order, requirement, decision or determination regarding the permissibility of a specific use or density of a landowner's property, unless said landowner or their authorized agent submits the standard form of application and provides all of the information that is requested therein.

(e) The fee for processing an application requesting a written order, requirement, decision or determination regarding the permissibility of a specific use or density of a landowner's property shall be equal to the fee associated with obtaining a zoning certification.

(f) Unless earlier suspended by action of the Council, a written order, requirement, decision or determination issued under this section remains in effect for one year. If the owner or developer incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the written order, requirement, decision or determination, however, it shall remain in effect while such diligent pursuit continues.

Secs. 66-274—66-300. Reserved.

ARTICLE V. SPECIAL USE PERMITS

Sec. 66-301. Generally.

Special use permits, as specified in this chapter, may be authorized by the Town Council in the district indicated, upon a finding that the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the town's plan of land use.

Sec. 66-302. Fee schedule.

A fee, as established by separate ordinance, shall be paid for a special use permit, to defray costs incurred for a public hearing, which is to be held in accordance with the provisions of this chapter. Special use permits shall be subject to time limitations and such other conditions as the Town Council deems necessary to carry out the intent of this chapter.

State law reference(s)—Advertisement of plans, ordinances, etc., joint public hearings, written notice of certain amendments, Code of Virginia, § 15.2-2204.

Sec. 66-303. Review and approval process.

(a) Before the formal submission of an application seeking approval of a special use permit, the applicant (who must be the property owner or contract purchaser) shall hold a conference with the Zoning Administrator concerning the proposal and shall provide, at or before that conference, a concept plan that specifies the following:

1. The general location and amount of land proposed for development.
2. The number of dwelling units, gross floor area, and acreage for each use or land area.
3. The general location and number of parking spaces.
4. Bearings and distances for all property lines and existing and/or proposed division lines.
5. Scale
6. North arrow.
7. Names of boundary roads or streets and widths of existing rights-of-way.

(b) Within fifteen days after the conference, the Zoning Administrator or designee shall provide the applicant with a summary of the meeting.

(c) Within one year of the required pre-application meeting, the applicant must submit a special use permit application, accompanied by the required fee. The application must contain all of the following materials in order to be complete:

1. A fully-complete application form obtained from the Town

   a. The application may be signed by the owner, the contract purchaser (with special power of attorney from the owner or that person's agent. However, if the application is signed by an agent, then a copy of written authority, or power of attorney form, from the owner (or contract purchaser) must accompany the application.

2. A generalized development plan (GDP) with the following elements on or submitted in conjunction with, prepared by an appropriately licensed professional:

   a. All existing improvements, proposed changes and new improvements anticipated if the request is approved;

   b. A landscape plan indicating the general location and type of significant or specimen trees located within the limits of the planned development area;

   c. All plans shall be to a scale no less than one-inch equals 50 feet;

   d. All plans shall be of sufficient detail to show the location of all existing utilities affected by the request;

   e. Each submission shall include one eight-and-one-half-inch by 11-inch reduction of the plan;

   f. Any model must be accompanied by eight-inch by ten-inch clear photographs showing a top view, an isometric view and each side view of the model;

   g. Two copies of a narrative statement shall be provided outlining operational conditions and special provisions proposed by the applicant to minimize the impact of the use on surrounding properties;

   h. A general vicinity map providing information concerning existing street and cross street locations within one-half mile or greater shall be provided. Vicinity map may be on the plan itself or as an addendum;

   i. Topography of the site (using Town maps if alternative sources of topography are not available);

   j. A traffic impact analysis (TIA), if deemed necessary by the Zoning Administrator at the pre-application meeting;

k. Wetlands on site and the source of delineation;

l. Resource Protection Areas on site and their source of delineation;

m. Locations of floodplains; and

n. Location of the Old and Historic Occoquan District adjoining or encompassing the site.

3. If the requested use would not result in the exterior alteration of a structure or parking area, a current building location plan may be submitted for site information only, in lieu of the generalized development plans.

4. The applicant shall submit building elevation drawings of all buildings and structures to be altered, relocated or constructed, showing any proposed exterior alterations.

(d) The Zoning Administrator shall report to the Planning Commission regarding the application before the opening of the public hearing and provide a recommendation, citing appropriate principles of zoning practice and applicable provisions of the Comprehensive Plan; however, failure of the Zoning Administrator to perform this duty shall not affect the authority of the Planning Commission or Town Council to take action or the validity of that action. The Planning Commission shall hold a public hearing after due advertisement according to law, and may close or continue the public hearing from time to time. The applicant may revise the application at any time before the closing of the public hearing. After the public hearing is closed, the Planning Commission may take any of the following actions:

1. Require additional information from the applicant and schedule a further hearing for other action after receipt of the additional information;

2. Recommend that the Town Council approve the application as requested by the applicant;

3. Recommend that the Town Council approve the application with changes to the scope, duration, or conditions; or

4. Recommend that the Town Council deny the application.

(e) After the Planning Commission makes a recommendation regarding the application, the Town Council shall hold a public hearing after due advertisement according to law, and may close or continue the public hearing from time to time. The applicant may revise the application at any time before the closing of the public hearing, in which case the Town Council may refer the application back to the Planning Commission for review and a new recommendation. After the public hearing is closed, the Town Council may take any of the following actions:

1. Require additional information from the applicant and schedule a further hearing for other action after receipt of the additional information;

2. Approve the application as requested by the applicant;

3. Approve the application with changes to the scope, duration, or conditions; or

4. Deny the application.

A failed motion to deny the application does not result in its approval, and a failed motion to approve does not result in its denial. Only an affirmative majority vote in favor of an action can result in a decision by the Town Council to take action on the application.

(f) If the Town Council approves the application, the Zoning Administrator shall issue the special use permit, noting any changes or conditions made by the Town Council.

Sec. 66-304. Re-filing following denial.

If an application for a special use permit is denied, the Zoning Administrator shall not accept any new application that includes any of the uses sought in the previously denied application and that is filed within one year of the denial on all or any part of the same parcel of land.

Sec. 66-305. Withdrawal of an application.

An applicant may withdraw an application for a special use permit at any time; however, if the withdrawal is made after publication of the notice for the public hearing, the Zoning Administrator shall not accept an application that includes any of the uses sought in the withdrawn application and that is filed within six months of the withdrawal date on all or any part of the same property. There shall be no refund of special use permit application fees in the case of withdrawal, regardless of the time of withdrawal.

Sec. 66-306. Deferral of application by applicant.

(a) Deferral of consideration of any application for a special use permit may be requested in writing by the applicant at any time.

(b) If a request for deferral is made after publication of the notice of public hearing, it may be granted only by the Town Council. In that case, the applicant shall bear the additional costs to re-advertise the public hearing.

(c) A request for deferral by the applicant cannot extend more than six months or the application shall be deemed withdrawn.

Sec. 66-307. Duration and expiration of permit.

(a) If a special use permit application is approved by the Town Council, the applicant has one calendar year from the date of the approval to initiate and diligently pursue construction authorized under the permit, or (if no construction was authorized or all construction is complete) to begin the use permitted under the permit. If no such action is taken, then at the end of that year the permit shall lapse and be of no further force or effect. If the permitted use lapses for a period of one year or more on the property, then the permit shall terminate without further action by the Town. The Zoning Administrator will notify the Town Council of that fact.

(b) Unless otherwise specified by the Town Council in the permit, the duration of any special use permit shall be five (5) years, renewable at the Town Council's sole discretion upon application by the then-owner or contract purchaser. However, the expiration or non-renewal of a special use permit shall not require the removal of any building or structure constructed under a valid special use permit, unless specifically stated in the special use permit itself. Rather, any such building or structure will be treated as a non-conforming building or structure under this chapter. After the expiration or termination of the special use permit, any use of the parcel, including any use of such building or structure, must conform to the then-existing zoning restrictions.

Sec. 66-308. Revocation of special use permits.

(a) The Town Council may revoke a special use permit at any time upon notice to the holder of the permit that the conditions of such permit have not been met or that failure to comply with any town regulation poses a nuisance to the surrounding properties.

(b) Such revocation shall not occur until such time as the holder of such permit and/or the owner of the property have been notified in writing by the Zoning Administrator advising them of the violations of the permits and giving them a reasonable time to comply, not to exceed thirty (30) days.

(c) A certified letter shall be mailed to the address of record advising the permit holder and/or property owner of the date and time of a public hearing to be held before the Town Council on the consideration of revocation of the permit.

(d) After the Town Council holds a public hearing on the matter, the council may, based on evidence provided and the nature of the violations, revoke the special use permit.

ARTICLE VI. ZONING AMENDMENTS

Sec. 66-331. Initiation of amendments.

The text of this chapter and any zoning district boundary shown on the zoning map may be amended, changed, modified or repealed by the Town Council. Proceedings for any amendment shall be initiated only:

(a) By the adoption of a resolution by the Planning Commission of intention to propose an amendment;

(b) By the adoption of a resolution by the Town Council of intention to amend, which resolution, upon adoption, shall be referred to the Planning Commission; or

(c) By the filing of a petition by the owner or contract purchaser of the land proposed to be rezoned (zoning map amendment).

Sec. 66-332. Application requirements.

All applications for amendments to the zoning map or rezoning, initiated in the manner prescribed by section 66-331, shall be filed with the Zoning Administrator. No application shall be officially accepted for filing until all of the information identified in this section is furnished, unless specific items are authorized by the Zoning Administrator for later submission, or unless otherwise provided for in this section in accordance with the provisions of this article. The application shall not be scheduled for a public hearing until all required data have been filed.

Applications and supplemental information, unless qualified below, shall include the following elements:

(a) Two copies of a completed application for zoning map amendment (rezoning) application form:

1. The application may be signed by the owner, the contract purchaser (with special power of attorney from the owner), or that person's agent. However, if the application is signed by an agent, then a copy of the written authority, or power of attorney, must accompany the application.

(b) Two copies of a plat of the property proposed for rezoning showing:

1. Bearings and distances for all existing property lines and proposed division lines;

2. Area of proposed zoning changes in square feet or acres, outlined in red;

3. Scale, not less than 1"=50' with matchlines, if necessary;

4. North arrow; and

5. Names of boundary roads or streets and widths of existing rights-of-way.

(c) Two copies of a written metes and bounds description of the proposed rezoning that shall conform to plat information.

(d) Two copies of a generalized development plan (GDP) shall be submitted in accordance with the provisions of section 66-333, unless determined to not be necessary by the Zoning Administrator.

(e) Statements to address the following:

1. Surrounding areas that have scenic assets or natural features deserving of protection and preservation with a statement of how protection and maintenance will be accomplished.

2. The relationship of the proposed development to the town's adopted Comprehensive Plan.

3. How adjacent and neighboring properties shall be protected from any adverse effects prompted by the proposed development. This includes vehicular access plans, proposed screening and buffering, and peripheral setback requirements.

4. The maximum height of any proposed buildings in the development.

5. The maximum number of dwelling units and square footage of office, assembly, commercial, and industrial space proposed.

6. Special amenities that are proposed within the development.

7. Anticipated off-site improvements that are proposed for the development, such as roads, water and sewer, and drainage facilities.

8. Any proposed phasing plan and the projected wastewater flows for each phase.

(f) Any additional information that the applicant may desire to proffer in the consideration of the application.

(g) Nonrefundable filing fee set forth by the uncodified ordinance of the town in a check or money order payable to the town treasurer.

(h) Based on the size and scale of the parcel, or complexity of the proffers submitted, the Zoning Administrator may require additional copies of all submitted materials as needed for supplemental reviewing agencies.

Sec. 66-333. Generalized development plans (GDP).

Generalized development plans shall include the following:

(a) Topography shown with contour lines on an interval not exceeding two feet.

(b) A schematic land use plan, at a scale of one inch equals 100 feet or less, for parcels equal to or larger than ten acres; or one inch equals 30 feet or less, for parcels less than ten acres.

(c) A proposed traffic circulation plan, including major streets connections; major pedestrian, bike and/or bridge paths; all proposed major open space areas; the approximate location of all proposed community and public facilities; and the proposed plan for all major sanitary sewer, water systems and storm drainage improvements.

(d) A landscape plan indicating the general location and type of significant or specimen trees located within the limits of the planned development area.

(e) A plan showing sensitive environmental features including steep slopes (those over 20%), highly permeable soils, highly erodible soils, Resource Protection Areas, wetlands, floodplains, and other such features as may be designated by the Zoning Administrator.

(f) Location of any overlay district boundaries adjoining or encompassing the site.

(g) Location of any portion of the Old and Historic Occoquan District adjoining or encompassing the site.

Sec. 66-334. Proffer declaration.

In accordance with the Code of Virginia, all statements, plans, profiles, elevations and other demonstrative material submitted with an application for rezoning shall be annotated with one of the following statements. Each statement shall be signed by the applicant; however, the applicant is not restricted to use the same statement on every submitted document. The applicant may vary statements as necessary to proffer certain statements, plans, profiles, and elevations, and not proffer other information or pieces of demonstrative material related to the same application. One of the following statements should accompany any application for zoning modification:

(a) Commitment to proffer. "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, unless an amendment thereto is mutually agreed upon by the Town Council and the undersigned."

(b) Non-commitment to proffer. "The conditions set forth in this submission are not to be construed as to be binding on the development of the subject property of this application."

Sec. 66-335. Validity and conformance with proffered conditions.

(a) If an amendment to the zoning map is adopted subject to the conditions proffered by the applicant as set forth in section 66-334, the property in question shall be appropriately annotated on the zoning map and all other land records referencing the conditions as adopted.

(b) Such proffered conditions shall become a part of the zoning regulations applicable to the property in question unless subsequently changed by an amendment to the zoning map, and such conditions shall be in addition to the specific regulations set forth in this chapter for the zoning district in question.

(c) Upon approval, any site plan, subdivision plat, or general development plan submitted for the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations or other demonstrative materials; and no development shall be approved by any town official in the absence of substantial conformity.

(d) For the purpose of this section, substantial conformance shall allow for a reasonable margin of adjustment due to final engineering data, but conform to the general nature of the proposed development, the specific uses and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

Sec. 66-336. Public hearing requirements.

(a) The Planning Commission shall not recommend, nor the Town Council adopt, any zoning ordinance or zoning map amendment (rezoning) to change district boundaries or classification of property until notice of intention to do so has been published and/or mailed in accordance with the law.

(b) The cost of any such notice shall be paid by the applicant.

(c) When any notice is required by law to be sent to units in a condominium or cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Sec. 66-337. Referral to Planning Commission.

(a) In accordance with Code of Virginia, Title 15.2, proposed amendments to this chapter, changes in district boundaries, amendments to proffers, or classification of property shall be referred by the Town Council, or the Zoning Administrator (in cases of amendments proposed by the property owner, contract purchaser with the owner's written consent, or owner's agent), to the Planning Commission for its recommendations.

(b) In accordance with Code of Virginia, § 15.2-2214, the Planning Commission shall annually fix a calendar for holding regular meetings, and may also, by resolution, fix certain days to which any meeting shall be continued if the chairman, or vice chairman if the chairman is

unable to act, finds and declares that weather conditions are such that it is hazardous for members to attend the meeting. Such findings shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required, provided the resolution setting the schedule is inserted in a newspaper having general circulation in the locality at least seven days prior to the first meeting held pursuant to the adopted schedule.

(c) The Planning Commission shall hold a public hearing on such application or resolution with advertising as provided by section 66-336.

(d) At the conclusion of the Planning Commission public hearing, the Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment. After that time, any material change made in the application shall necessitate the return of the application to the Planning Commission and the scheduling of another public hearing.

(e) The Planning Commission need not confine its recommendation to the proposed amendment as set forth in the petition/application/resolution.

1. If the proposed amendment consists of a change in the text of this chapter, it may recommend a revision to the proposal.

2. If the proposed amendment consists of a change in zoning district boundaries, it may reduce or enlarge the extent of land that it recommends to be rezoned or it may recommend that the land be rezoned to a different zoning district classification than that petitioned for if, in either case:

   a. The commission is of the opinion that such revision is in accordance with sound zoning practice and is in furtherance of the purpose of this chapter.

   b. Before recommending a larger extent of land or a rezoning to a less restricted classification than was set forth in the petition, the commission shall hold a further hearing on the matter, of which notice shall be given as in the first instance.

(f) In recommending the adoption of any amendment to this chapter, the Planning Commission shall state its reasons for such recommendation, describing any changes in conditions, if any, that it believes makes the amendment advisable and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the adopted Comprehensive Plan and would be in furtherance of the purposes of this chapter.

(g) The Planning Commission shall have 90 days following its first meeting after the proposed amendment has been referred to the commission to transmit its recommendation to the council. Failure to provide a recommendation within such specified time shall be deemed a recommendation of approval unless a deferral is requested by the applicant in conformance with this chapter.

Sec. 66-338. Town Council action.

(a) Following the report to the Town Council by the Planning Commission of any proposed amendment to this chapter, change in district boundaries, amendment to proffers, or classification of property, and before approving and adopting any ordinance or amendment thereof, the Town Council shall hold at least one public hearing thereon, pursuant to public notice as required by law.

(b) In order to approve an application, Town Council must act upon the request finding the following conditions have been addressed:

(1) The fees for zoning requests, as established by an un-codified ordinance, have been paid.

(2) Proposed amendments have been considered with reasonable regard for the existing use and character of the property, the suitability of the property for various uses, the trends of growth or change, and the current and future requirements of the town. Considerations shall include, but not be limited to, Comprehensive Plans or parts thereof, capital outlay programs, timing of development, relation of development to utilities and public facilities. Other elements to be considered include:

a. Various purposes as determined by population and economic studies and other studies.

b. Transportation requirements of the community and the town,

c. Requirements for schools, parks, playgrounds, recreation areas, and other public services.

d. Conservation of natural resources, and preservation of floodplains.

e. Conservation of properties and their values and the encouragement of the most appropriate use of land throughout the town; and

(c) The Town Council shall determine that the following requirements are met, or be assured that they will be met, in acting upon a petition to change the zoning boundaries, proffer amendment, or classification of property on the zoning map:

1. The requested zoning district shall be in general conformance with the adopted Comprehensive Plan that includes the area of the parcel subject to the requested change.

2. Parcels which are the subject of requests for changes of zoning classification shall have direct access to arterial, thoroughfare or collector streets without creating unsafe traffic conditions along minor streets. Rezoning requests requiring enlargement or extension of

new or existing arterial thoroughfare and collector streets to provide proper access to the parcel under the proposed zoning district shall:

a. Be consistent with the improvements and timing of the Comprehensive plan and protect against danger and congestion in travel and transportation.

b. Provide for the reservation or dedication of rights-of-way required on the subject parcel for the future enlargement or extension of new or existing streets that are shown in the adopted Comprehensive Plan.

3. Relation to utilities:

a. Parcels subject to requests for changes of zoning classification shall be located in relation to sanitary sewers, treatment plants, waterlines, storm drainage systems and other utilities or installations that any required enlargement or extension of such system will be generally consistent with local and regional water quality management plans, the adopted capital improvements program, and the adopted Comprehensive Plan for the area in which the subject parcel is located.

b. The applicant shall provide, where necessary, sanitary sewers, waterlines, storm drainage systems and other utilities and installations, or for the enlargement or improvement of existing systems, to serve the development in a manner consistent with applicable plans and policies.

4. Relation to public facilities:

a. Parcels subject to requests for changes of zoning classification shall be located, designed, scaled and scheduled for development such that either existing public facilities or planned public facilities that are contained in an adopted capital improvements program will be adequate to serve the proposed development.

b. In the event that new or enlarged public facilities are necessary to serve development permitted as a result of the requested change in zoning, the applicant shall provide for these facilities.

Sec. 66-339. Re-filing following denial.

Upon denial of any petition to change a zoning district boundary, proffers, or classification of property, applications for any or all of the same property for amendment to the same zoning district or use as applied for in the previously denied application shall not be filed within one year of the original denial.

Sec. 66-340. Withdrawal of application.

(a) An application for an amendment of this chapter may be withdrawn at any time. If the request for withdrawal is made after publication of the notice of public hearing before Town Council, then no application for all or any part of the same property may be filed within six months of the withdrawal date.

(b) There shall be no refund of rezoning fees in the case of withdrawal, regardless of the time of withdrawal.

Sec. 66-341. Deferral of application by applicant.

(a) Petitioner may request deferral of consideration of the application for rezoning.

(b) If the request for deferral is made after publication of the notice of hearing, such deferral shall only be with the consent of either the Planning Commission or the Town Council, whichever body advertised the hearing.

(c) The applicant shall bear the costs to re-advertise the application.

(d) Applications deferred by the Planning Commission at the request of the petitioner will not be deemed as being referred to the Planning Commission until such time as the matter has been rescheduled on the commission's agenda.

ARTICLE VII. OUTDOOR LIGHTING REQUIREMENTS

Sec. 66-350. General requirements and exemptions.

(a) Purpose and Intent

The purposes of the outdoor lighting regulations are to protect dark skies and the general welfare by controlling the spillover of light onto adjacent properties, and to prevent glare from outdoor luminaires and limit the intensity of light on adjacent properties and roadways to further public safety.

(b) Conformance with Applicable Codes and Ordinances

All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this Article, and applicable provisions of the Zoning Ordinance. The most restrictive shall govern.

(c) General Requirements

1. Shielding – All outdoor light fixtures except those exempted by §66-350 (d) and those otherwise regulated by §66-352 shall be fully shielded. A fully shielded fixture must be a full cutoff luminaire or a decorative luminaire with full cutoff optics, and defined as an outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixture. The light source visibility shall be shielded from the adjoining property (See Figures 1 and 2).

2. Spillover Light – Spillover light, vertical or horizontal, shall not exceed 0.5 footcandles at the property line.

3. Building and pole-mounted luminaires shall not have adjustable features.

(d) Exemptions

1. Non-conforming fixtures – Outdoor light fixtures installed prior to the effective date of this Article are exempt from the provisions of this Article, provided, however, that no change in use, increase in lumen output, or structural alteration of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this Article. Replacement of a fixture shall mean a change of fixture type or change to the mounting height of location of a fixture. Routine lighting fixture maintenance, such as changing lamps or light bulbs, ballast, starter, photo control, and other similar components shall not constitute replacement and shall be permitted provided such changes do not result in a higher lumen output. Changing of housing or lenses in a fixture shall not constitute an exemption to the requirements of this Article.

2. Lighting required by State or Federal law, to the extent that compliance with State or Federal law is inconsistent with compliance with this Article.

3. Roadway lighting and security lighting controlled and activated by motion sensor devices for a duration of fifteen (15) minutes of less.

4. Lighting of the U.S. or Commonwealth of Virginia flags and other non-commercial flags expressing constitutionally-protected speech.

5. Temporary circus, fair, carnival, or civic uses.

6. Construction and Emergency Lighting provided that said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

Sec. 66-351. Definitions.

Fully shielded	Fixtures that are shielded in such a manner that light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. This means that a fully shielded fixture is one used in a way that allows no direct or internally reflected light to shine above the fixture. (See Figure 1)
Footcandle	A quantitative unit of measure referring to the measurement of illumination at a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.
Full cutoff angle	The angle formed by a line drawn from the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted (see Figure 1).
Installed	The initial installation of outdoor light fixtures defined herein, following the effective date of this Article.
Initial lumens	The lumens emitted from a lamp as specified by the manufacturer of the lamp.
Lamp	The component of a luminaire that produces light. A lamp is also commonly referred to as a bulb.
Lumen	A standard unit of measurement referring to the amount of light energy emitted by a light source without regard to the effectiveness of its distribution.

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

Outdoor light fixture — Outdoor artificial illuminating devices, outdoor fixtures, lamps or other devices, permanent or portable, used for illumination, direction, or advertisement. Such devices shall include, but are not limited to, search, spot, or floodlights for:

(1) Buildings and structures including canopies and overhangs.

(2) Recreational areas.

(3) Parking lot lighting.

(4) Landscape lighting.

(5) Signs, including billboards; and

(6) Display and service areas.

Outdoor luminaire — A luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign.

Photometric plan — A point by point plan depicting the intensity and location of lighting on the property. (See Figure 4)

Temporary — Not used more than seven consecutive days and not used more than fifteen days in any calendar year.

Sec. 66-352. Use and zoning district specific requirements.

(a) Public or private outdoor recreational facilities – Outdoor night-time recreational events have unique and site specific lighting needs. This section is intended to permit adequate illumination for such events, while minimizing sky-glow and reducing glare and lighting spillover onto surrounding streets and properties.

1. Primary playing areas with the exception of residential accessory uses – Where playing fields or other recreational areas are to be illuminated, lighting fixtures shall be specified, mounted, and aimed so that their beams fall within the primary playing area. Direct illumination shall be confined to within the property lines of the recreational use. External shields may be required in order to reduce spillover light.

2. Lighting plans shall comply with special provisions listed in §66-353.

3. Event hours – under no circumstances shall any illumination of the playing field, court or track be permitted after 11:00 p.m. except to conclude an event that was reasonably scheduled to conclude prior to 11:00 p.m. All newly lighted fields, or existing fields being upgraded or refitted (public or private) shall be equipped with override timing devices which will automatically cut off the lights to ensure curfew compliance.

(b) Outdoor lighting of buildings, parking lots, loading areas, sales areas, display areas, aprons/canopies, landscaping, signs, flags, statues and other objects – The following lighting requirements apply to single-family attached, multi-family, educational, institutional, commercial recreation, public, commercial business and retail, motor vehicle related, wholesaling, and industrial uses identified in the Zoning Ordinance.

1. Lighting of the aforementioned uses shall consist of fully cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is confined to the object intended to be illuminated.

2. Directional control shields shall be used where necessary to limit stray light.

3. No light from any illuminated sign shall cause or direct non-reflected light from the fixture to shine onto any adjoining property or public right-of-way.

4. Lighting for all parking, display and loading areas shall not exceed an average horizontal illumination level of 2.5 footcandles. All lighting fixtures serving these areas shall be fully cut-off fixtures.

5. Maximum mounting height is 20 feet for residential uses and 25 feet for non-residential uses. Height is measured from the ground surface to the bottom of the lighting fixture (See Figure 3).

6. The lighting fixture bulbs in aprons and canopies shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling so that light is restrained to no more than 85 degrees from vertical.

   a. As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy.

   b. Lights shall not be mounted on the top or sides (facial) of the canopy and the sides of the canopy shall not be illuminated.

7. The lighting for pump islands and under canopies shall have a minimum of 1.0 footcandle at grade, and the average horizontal illumination cannot exceed 10 footcandles at grade level, subject to a uniformity ratio (ratio of average to minimum illuminance) no greater than 4:1. The standards herein are based on the Illuminating Engineering Society of America (IESNA) RP-33, Lighting for Exterior Environments.

8. Lamps shall not exceed 400 watts.

(c) Outdoor fixtures for single-family detached residential structures shall be limited to lamps with a maximum of 180 watts per fixture and shall be installed so that light does not spill onto an adjoining property.

Sec. 66-353. Site plan requirements.

(a) Application Requirements

1. Any person applying for a site plan in accordance with Chapter 46 or applying for a building, electrical, or sign permit to install outdoor lighting fixtures shall, as a part of said application, submit evidence that the proposed work will comply with this Article.

2. The lighting plan application shall include the following:

a. A site plan drawn to scale showing building(s), landscaping, parking areas and proposed exterior lighting fixtures.

b. Location of all post, canopy, supports and light fixtures, including the height of each fixture, relative to the buildings, structures, parking, and display and loading areas.

c. Specifications of the illuminating devices, lamps, supports, and other devices including designation as Illuminating Engineering Society of North America (IESNA) "cut-off" fixtures. This description may include, but is not limited to, manufacturers catalog cuts, and drawings including sections where required.

d. A photometric plan indicating the minimum and maximum footcandle levels within the lighted area of the site. Such plan shall show locations of all pole mounted and building mounted fixtures and a numerical 25 foot by 25 foot grid of lighting levels, in footcandles, that the fixtures will produce on the ground. (See Figure 4).

3. The required plans and descriptions shall be sufficiently complete to enable the Planning Commission, Zoning Administrator, Building Official, or their designee to readily determine compliance with the requirements of this Article. If such plans and descriptions cannot enable this ready determination by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by test reports performed by a testing lab certifying that the tests were conducted according to the standards of the Illuminating Engineering Society of North America (IESNA).

(b) Prior to issuance of a building, electrical or sign permit, the Zoning Administrator or designee shall determine that the submitted plans and details for said permit are in conformance with this Article. The stamping of the plans and the signature of the Building Official or designated representative and the date of the signature shall indicate that the plans are in conformance.

(c) Should the applicant desire to substitute outdoor light fixtures or lamps to be installed on private property after a lighting plan has been approved, the applicant shall submit said changes to the Zoning Administrator or designee for approval, with adequate information to assure compliance with this Article.

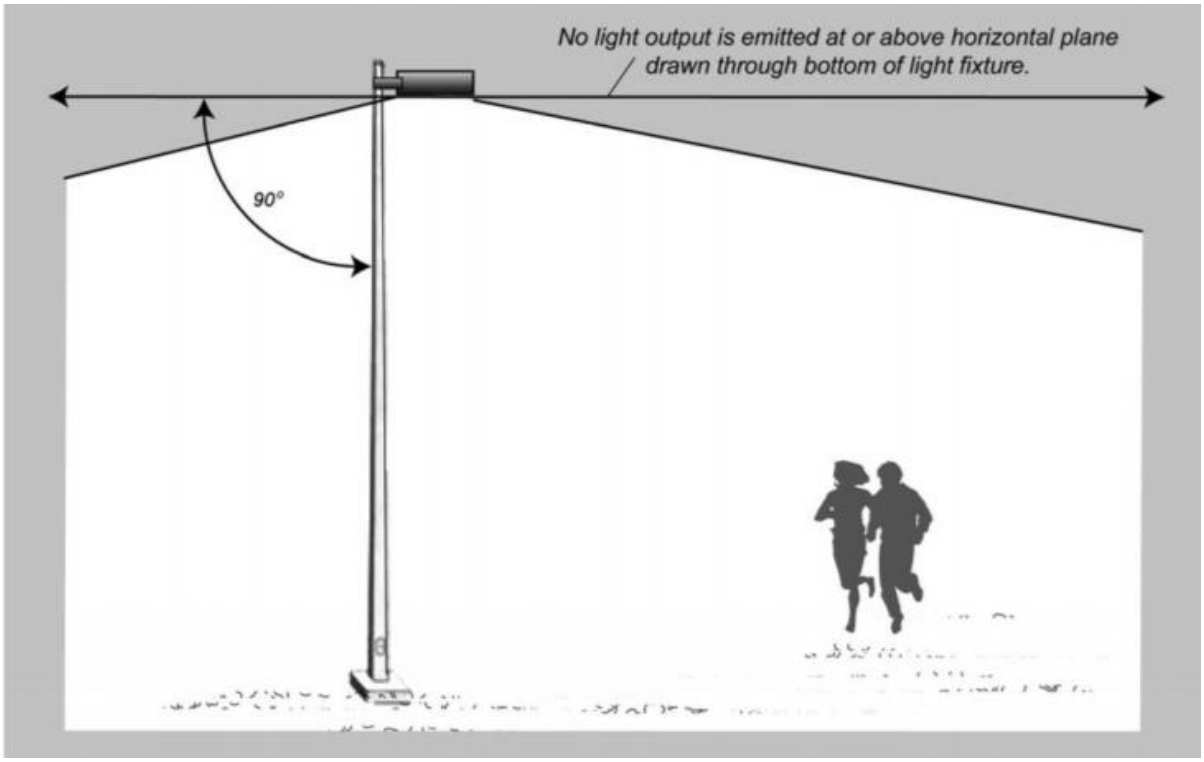
(d) Special Requirements for Public or Private Outdoor Recreational Facilities

1. For each athletic field or complex to be illuminated, a lighting plan shall be submitted detailing the property lighting installation. The plan shall include the lighting requirements for each sports field, the lighting specifications, and technical measures showing how those requirements will be achieved. Special tree planting and/or buffering to assist in light control and protection of adjacent properties and roadways may be required.

2. All applications for lighted outdoor recreational facilities shall include an accurate photometric plan in conjunction with a site plan for the proposed field and associated facilities.

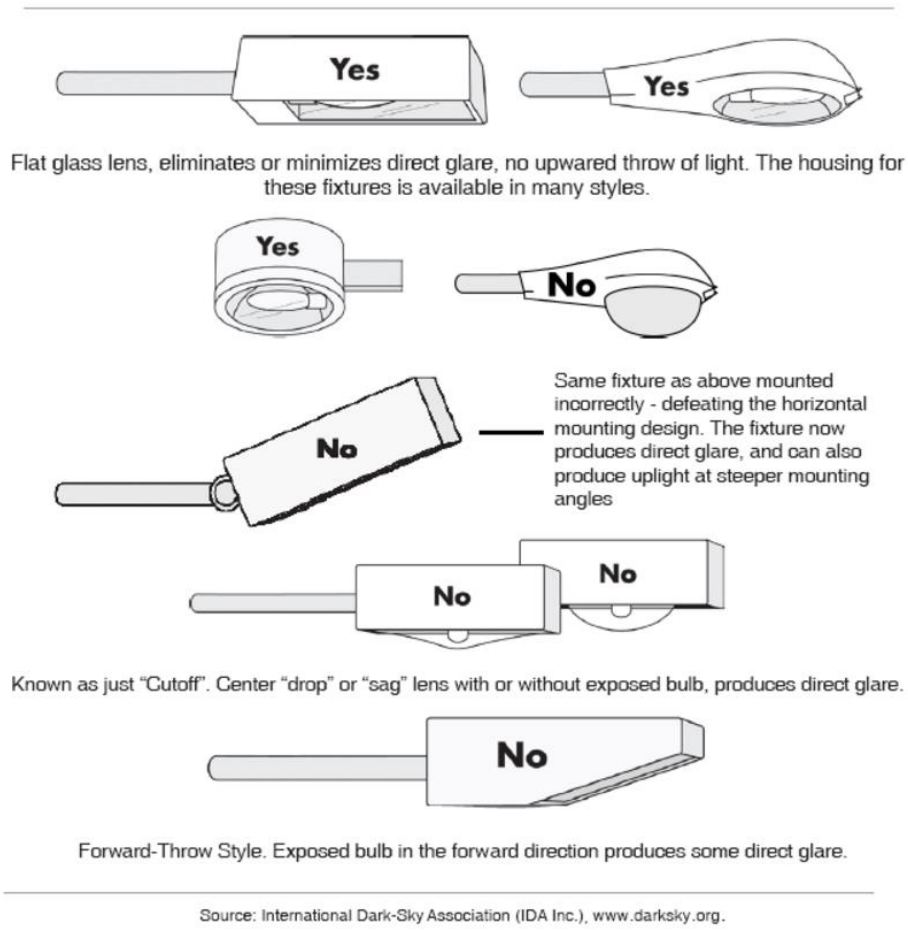
FIGURES 1-4 FOLLOW

Figure 1: Full cut-off lighting fixture



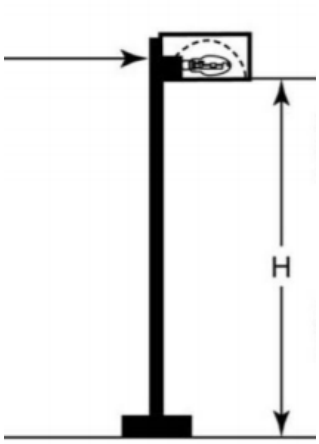
Source: Fairfax County, Virginia Zoning Ordinance – Appendix 2 (Illustrations)

Figure 2: Full Cut-Off Light Fixtures



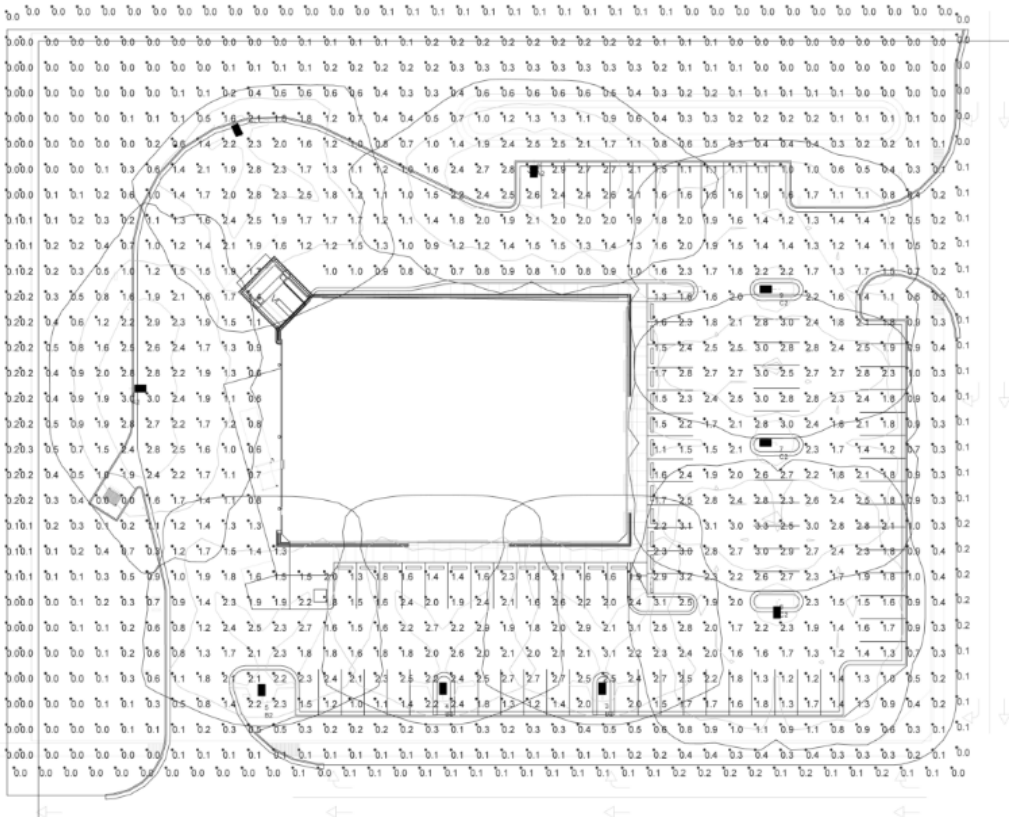
Source: International Dark-Sky Association (IDA Inc.), www.darksky.org.

Figure 3: Mounting Height



Source: Fairfax County, Virginia Zoning Ordinance – Appendix 2 (Illustrations)

Figure 4: Photometric Plan



Source: Hubbell Outdoor Lighting

Article VIII. Signs[1]

DIVISION 1. GENERAL PROVISIONS

Sec. 66-360. Findings, purpose and intent; interpretation.

(a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.

(b) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the Town Council are forbidden.

(c) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.

(d) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

(e) These regulations distinguish between portions of the Town designed for primarily vehicular access and portions of the Town designed for primarily pedestrian access.

(f) These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the Town. Rather, they are intended to

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[1]**State law reference(s)--**Outdoor advertising in sight of public highways, Code of Virginia, § 33.2-1200 et seq.

regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

(g) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

Sec. 66-361. Definitions

A-Frame sign	a two-faced chalk board sign with supports that are connected at the top and separated at the base, forming an "A" shape. These are also referred to as "sandwich board" signs. They are included in the term "portable sign."
Advertising	any words, symbol, color or design used to call attention to a commercial product, service, or activity.
Animated sign	a sign or part of a sign that is designed to rotate, move or appear to rotate or move.
Awning sign	a sign placed directly on the surface of an awning.
Banner	a temporary sign of flexible material designed to be installed with attachments at each of four corners.
Box Sign	a sign contained in a box, transparent on one side, which is not more than four and a half square feet in area and not more than one foot deep.
Business sign	a sign which directs attention to a product, service or commercial activity available on the premises.
Canopy sign	a sign attached to a canopy.
Changeable copy sign	a sign or part of a sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign.
Comprehensive sign plan	a plan for the signage of a property that includes multiple tenants or owners with shared parking or other facilities, with Special Use Permit (SUP) from Town Council.
Feather sign	A lightweight, portable sign mounted along one edge on a single, vertical, flexible pole. The physical structure may resemble a sail, bow, or teardrop.

Flag a piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as a symbol or decoration; this includes pennants.

Flashing sign a sign that includes lights that flash, blink, or turn on and off intermittently.

Freestanding Sign a non-portable sign that is supported by structures or supports in or upon the ground and independent of any support from any building or wall.

Height the maximum vertical distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

(1) Existing grade immediately prior to construction of the sign; or

(2) The newly established grade after construction, exclusive of any filling, berming, mounding or excavating primarily for the purpose of mounting or elevating the sign.

Illegal sign any sign erected without a required permit or which otherwise does not comply with any provisions of this article.

Illuminated sign a sign that is backlit, internally lighted, or indirectly lighted, but does not include a neon sign.

Inflatable sign any sign which uses compressed or forced gas to provide support.

Marquee a permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

Marquee sign a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed or both types of lettering in use.

Minor sign a wall or freestanding sign, as per Division 2 tables and not illuminated.

Monument sign a sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign.

Neon sign a sign containing exposed tubes filled with light-emitting gas.

Non-conforming sign Any sign which was lawfully erected in compliance with applicable regulations of the Town and maintained prior to the effective date of this

chapter of the zoning ordinance and which fails to conform to current standards and restrictions of the zoning ordinance.

Off-premises sign a sign that directs attention to a business, product, service or activity conducted, sold or offered at a location other than the premises on which the sign is erected.

Pole sign a sign that is mounted on one (1) or more freestanding poles.

Portable sign any temporary sign not affixed to a building, structure, vehicle or the ground. It does not include a flag or banner.

Projecting sign any sign, other than a wall, awning or marquee sign, affixed to a building and supported only by the wall on which it is mounted.

Public area any public place, public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water.

Roof sign a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.

Sign any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or character) visible to and designed to communicate information to persons in a public area. However, the term "sign" does not include architectural features, except those that identify products or services or advertise a business use. The term "sign" also does not include the display of merchandise for sale on the site of the display.

Sign face the portion of a sign structure bearing the message.

Sign structure any structure bearing a sign face.

Temporary sign a sign constructed of cloth, canvas, vinyl, paper, fabric, or other lightweight material not well suited to provide a durable substrate or, if made of some other material, is neither permanently installed in the ground nor permanently affixed to a building or structure which is permanently installed in the ground.

Vehicle or trailer sign any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service or activity. Any such vehicle or trailer shall, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker, or municipal decal, if the

vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle or trailer.

Wall sign — any sign attached to a wall or painted on or against a flat vertical surface of a structure.

Waterfront sign — a sign facing the river on riverfront property.

Window sign — any sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.

Sec. 66-362. Signs requiring a permit.

(a) A sign permit is required prior to the display and erection of any sign except as provided in Section 66-363 of this Article.

(b) Application for permit.

1. An application for a sign permit shall be filed with the Town on forms furnished by the Town. The applicant shall provide sufficient information to determine if the proposed sign is permitted under the zoning ordinance and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign.

2. The Town Zoning Administrator or designee shall promptly process the sign permit application and approve the application, deny the application, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this zoning ordinance, the building code, and other applicable laws, regulations, and ordinances shall be approved.

3. If the application is denied, the Town shall provide a list of the reasons for the denial in writing. An application shall be denied for non-compliance with the terms of the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

(c) A nonrefundable fee as set forth in the uncodified fee schedule adopted by the Town Council shall accompany all sign permit applications.

(d) If a sign is not installed within one year following the issuance of a sign permit (or within 20 days in the case of a temporary sign permit), the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed 20 days unless another time is provided in the zoning ordinance. The Town may revoke a sign permit under any of the following circumstances:

1. The Town determines that information in the application was materially false or misleading;

2. The sign as installed does not conform to the sign permit application; or

3. The sign violates the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

(e) All signs in the Old and Historic Occoquan Overlay District (HOD) require compliance with Architectural Review Board (ARB) guidelines except when a sign permit is not required as provided in §66-363.

(f) The Town Council shall approve comprehensive sign plans in the B-1 district. The comprehensive sign plan shall establish the time, manner, and placement of signs, frequency of message changes, the materials, the hours of lighting, the height of signs, the total number of square feet of sign surface, and the number of signs to be placed on a site. Height of signs shall not be modified above the height permitted in the Zoning Ordinance.

Sec. 66-363. Signs not requiring a permit.

A sign permit is not required for the following:

1. Signs erected by a governmental body or required by law.

2. Flags up to 16 square feet in size not containing any advertising; provided, that no freestanding pole shall be erected in the public right-of-way nor be within five (5) feet of a service drive, travel lane or adjoining street.

3. The changing of messages on marquees and the repair of an existing permitted sign, except that repair of a non-conforming sign must comply with § 66-368 (e).

4. Temporary signs as follows:

   a. One (1) sign, no more than sixteen (16) square feet in area, located on property where a building permit is active.

   b. On any property for sale or rent, not more than one sign with a total area of up to sixteen (16) square feet and a maximum height of six (6) feet when the sign abuts a road with a speed limit of 25 miles per hour or less, and when the sign abuts a road with a speed limit greater than 25 miles per hour not more than one sign with a total area of up to thirty-two (32) square feet and a maximum height of eight (8) feet.

   c. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of his official or directed duties; provided, that all such signs shall be removed no more than ten (10) days after their purpose has been accomplished.

d. On residential use property, one or more temporary signs with a total area of no more than eight (8) square feet, and which are removed within 90 days after being erected. Once removed, temporary signs may not be erected again.

e. On residential use property, window signs, provided that the total extent of window signs do not obstruct more than 25% of the total area of all windows on each building façade.

5. Not more than four minor signs per parcel, consistent with Division 2 tables. Additional minor signs are permitted in certain districts with a permit.

6. A-frame signs not in the public right of way, consistent with Division 2 tables.

7. A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door.

8. Box signs, consistent with Division 2 tables.

Sec. 66-364. Prohibited signs.

In addition to signs prohibited elsewhere in this Code or by applicable state or federal law, the following signs are prohibited:

(a) General prohibitions.

1. Signs that violate any law of the Commonwealth relating to outdoor advertising.

2. Signs attached to natural vegetation.

3. Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized town official as a nuisance.

4. Vehicle or trailer signs.

5. Freestanding signs more than 15 feet in height.

6. Any sign displayed without complying with all applicable regulations of this chapter.

(b) Prohibitions based on materials.

1. Signs painted directly on a building, driveway or road, except where expressly permitted by this chapter.

2. Animated signs.

3. Flashing signs.

4. Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows or wall edges of any building, except for temporary decorations not to exceed three months per year or not to exceed 60 consecutive days.

5. Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.

6. Signs that emit sound.

7. Any electronic sign that is generated by a series of moving images, such as a-TV, digital display, or other video technology, whether displayed on a building, vehicle, or mobile unit.

8. Strings of flags (two or more connected together) visible from, and within 50 feet of, any public right-of-way.

9. Pole signs less than 6 feet in height.

10. Feather signs.

11. Inflatables signs.

12. Illuminated signs, except for Box Signs.

13. Neon signs

(c) Prohibitions based on location.

1. Off-premises signs.

2. Signs erected on public land other than those approved by an authorized Town official in writing, required by law without such approval, or permitted under Virginia Code § 24.2-310 E. Any sign not so authorized is subject to immediate removal and disposal by any authorized official. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.

3. Signs on the roof surface or extending above the roofline of a building or its parapet wall.

4. Any sign which obstructs visibility for motorists or pedestrians at an intersection.

5. Window signs whose aggregate area on a window or door exceed twenty-five percent (25%) of the total area of the window or door.

Sec. 66-365. Measurements of sign area and height.

(a) Supports, uprights or structure on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed. In such cases, the sign area shall be computed in accordance with the preceding provisions.

(b) Sign area.

1. Sign area is calculated under the following principles:

a. With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face.

b. The permitted area of a double-faced sign shall be considered to be the area on one side only. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area. A double-faced sign must have an internal angle between its two faces of no more than 45 degrees.

c. For projecting signs with a thickness of four inches or more, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.

2. The maximum height for any sign shall be 15 feet unless otherwise specified within this chapter.

3. Maximum Sign Area is 16 square feet unless otherwise specified within this chapter.

Sec. 66-366. Maintenance and removal.

(a) All signs shall be constructed and mounted in compliance with the Virginia Uniform Statewide Building Code.

(b) All signs and components thereof shall be maintained in good repair and in a safe, neat and clean condition.

(c) The building official may take action under the Virginia Maintenance Code, after such notice as is provided by law, to address any sign which, in his opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof as provided in chapters 10 and 30 of this Code.

(d) Where the use or business has ceased operating, the owner of the sign or property owner shall remove the sign within 60 days of the cessation of use or business operation, or remove/replace the sign face with a blank face until such time as a new use or business has resumed operating on the property.

(e) Sign condition, safety hazard, nuisance abatement, and abandonment.

1. Any sign which becomes a safety hazard or which is not kept in a reasonably good state of repair shall be put in a safe and good state of repair within 30 days of a written notice to the owner and permit holder.

2. Any sign which constitutes a nuisance may be abated by the Town under the requirements of Virginia Code §§ 15.2-900, 15.2-906, and/or 15.2-1115.

Sec. 66-367. General requirements.

(a) *Placement.* Except as otherwise permitted, all freestanding signs shall leave a vertical clearance over any sidewalk of at least seven (7) feet and shall not overhang any vehicular right-of-way.

(b) *Illumination.* All permitted signs may be indirectly lighted, unless such lighting is specifically prohibited in this article. Box signs may be internally lighted.

1. In the case of indirect lighting, the source shall be so shielded that it illuminates only the face of the sign. However, Wall Signs shall be indirectly illuminated or have shielded direct lighting, unless otherwise prohibited within this chapter. Indirect lighting shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the sign to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the sign.

2. Internal illumination shall be limited to the illumination standards for outdoor lighting in Town Code § 66-352. No sign shall be permitted to have an illumination spread of more than .05 foot candle at the lot line, shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling unit. In no event shall the illumination of any sign resulting from any internal or external artificial light source exceed 100 lumens. All lighting fixtures used to illuminate a sign shall be full-cutoff, as defined by the

Illuminating Engineering Society of North America (IESNA), and shall have fully shielded or recessed luminaires with horizontal-mount flat lenses that prevent upward light scatter and protect the dark night sky.

3. All illumination for signs shall comply with provisions of Article VII of this Chapter 66.

(c) Waterfront signs – see chart in Division 2.

(d) Banners - In the Old and Historic Occoquan District, banner colors shall be consistent with the ARB guidelines.

1. A banner shall not contain more than four colors.

2. Such banners shall be attached to an existing principal structure (with a clearance of at least 12" from the edge of the store or building) or sign pole. They must not obscure architectural features of the building (such as windows, railings or ornamentation) and shall not exceed 16 square feet in total area. They may be hung in a horizontal or vertical manner and shall be attached at all four corners in a taut manner.

3. Banner permits shall be for 20 consecutive days and no more than twice in one calendar year per property.

4. Banners installed and used for special events and festivals sponsored by the Town of Occoquan may be erected without a permit and shall be removed within two days after the event.

Sec. 66-368. Non-conforming signs.

(a) Signs lawfully existing on the effective date of this chapter or prior ordinances, which do not conform to the provisions of this chapter, and signs which are accessory to a non-conforming use shall be deemed to be non-conforming signs and may remain except as qualified below. The burden of establishing non-conforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the Zoning Administrator, a property owner shall submit verification that sign(s) were lawfully existing at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into compliance with the current ordinance.

(b) No non-conforming sign shall be enlarged nor shall any feature of a non-conforming sign, such as illumination, be increased.

(c) Nothing in this section shall be deemed to prevent keeping in good repair a non-conforming sign. Non-conforming signs shall not be extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area.

(d) No non-conforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.

(e) A non-conforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its area may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed but may be replaced with a sign that is in full accordance with the provisions of this article.

(f) A non-conforming sign which is changed to becoming conforming or is replaced by a conforming sign shall no longer be deemed non-conforming, and thereafter such sign shall be in accordance with the provisions of this article.

(g) A non-conforming sign structure shall be subject to the provisions of section 66-238. In addition, a non-conforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Such sign structure shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign structure, the Zoning Administrator or designee shall give the owner fifteen (15) days' written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator or designee may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

Sec. 66-369. Non-commercial signs.

Wherever this Article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height and construction.

Sec. 66-370. – 390 Reserved.

DIVISION 2. SIGN REGULATION BY USE AND DISTRICT

Sec. 66-391. Residential district signs (R-1, R-2, R-3 & R-4).

(a) Except as otherwise prohibited in this Article, Table 1 includes signs are permitted as accessory to residential uses in residential districts. Animated signs and electronic message signs are prohibited on residential properties in all residential districts.

(b) Except as provided otherwise in this Article, Table 2 includes signs are permitted as accessory to non-residential uses in residential districts. Animated signs are prohibited as accessory uses for non-residential uses in all residential districts.

Table 1: Residential Signs					
Type	**Flags**	**Temporary**	**Permanent-Box, Freestanding, Monument, Pole, Projecting, & Wall**	**Minor**	**Waterfront**
Size (each/total)	16 s.f./no limit	16 s.f./16 s.f. 1 total	3 s.f./3 s.f.	1 s.f./ 4 s.f.	16 s.f.
Illumination	As required by law	None	Indirect	None	Indirect
Setback	See 66-363 (2)	None	None	None	None
Max.Height	15 ft.	6 ft.	6 ft.	6 ft.	6 ft
Location	See 66-363 (2)	See 66-363 (4)	Wall, window sign, freestanding or affixed to mailbox	Wall, window sign, freestanding or affixed to mailbox	Wall, window sign, freestanding or affixed to mailbox.
Duration	Unlimited	90 days	Unlimited	Unlimited	Unlimited

Table 2: Non-Residential Signs							
Type	**Flags**	**Temporary**	**Variable Message Signs**	**Permanent-Box, Freestanding, Monument, Pole, Projecting, & Wall**	**Minor**	**Monument**	**Waterfront**
Size (each/total)	16sf/ no limit	8sf/8sf	16sf/16sf	16sf/16sf	1 sf ea./ 4 sf total	16 s.f.	16 s.f.
Illumination	As required by law	None	indirect	Indirect	none	Indirect	Indirect
Setback	See 66-363 (2)	None	None	None	None	None	None
Max. Height	15ft	6ft	6ft	6ft	6ft	6ft	6ft
Materials	See flag definition	See 66-363 (4)					
Duration	Unlimited	20 Days	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited

Sec. 66-392. Commercial district signs (B-1)

(a) *Generally*. Except as provided otherwise in Table 3 of this Article, the following signs are permitted as accessory uses in commercial districts. In addition, up to one minor sign per business is permitted as a wall sign.

(b) Window signs are permitted up to 25% of the area of a window and count toward the maximum square footage of wall signs. Window signs are permitted only on the first floor of a building unless the business advertised is only on the floor where the window sign is displayed.

Table 3: Commercial Signs

Type	**Permanent-Box, Freestanding, Monument, Pole, Projecting, & Wall**	**Temporary**	**Flags**	**Minor**	**Waterfront**	**Marquee**
Size (each)	16 s.f. (except box signs, which are limited to 4.5 s.f. by definition)	16 s.f. total for commercial use property; 8 s.f. total for residential use property	16 s.f.	1 s.f. total	Total: two square feet per linear foot of the building's riverfront width, divided into as many signs as occupant wishes	SUP Req.
Location	Wall, window sign, freestanding or affixed to mailbox	See 66-363(4)	See 66-363(2)	Wall, window sign, freestanding or affixed to mailbox	Wall, window sign, freestanding or affixed to mailbox	SUP Req.
Maximum Number	4 (with no flags)*	unlimited	4 (with no signs)*	4 signs total without a permit; up to 2 additional with a permit	Unlimited up to maximum size	1
Illumination	Indirect	None	As required by law	None	Indirect	Backlit, internally or indirectly
Setback	None	See 66-363(4)	See 66-363(2)	None	None	None
Maximum Height	6ft	6ft	15ft	6ft	Height of building	Height of building
Duration	Unlimited	20 days	Unlimited	Unlimited	Unlimited	Unlimited
SUP Req.	No	No	No	No	No	Yes

*****Maximum number is a combination of signs and flags. There shall be no more than four signs and/or flags on any one property at a given time.

Sec. 66-393. Historic District signs.

In the Old and Historic Occoquan District, a certificate of appropriateness is required before erection or alteration of any structure. Repair of an existing sign, or replacement of an existing sign with like materials and colors, does not require a certificate of appropriateness.

Secs. 66-394 – 66-400 Reserved.

DIVISION 3. ADMINISTRATION

Sec. 66-401. Sign permit procedures.

(a) *Applicability.* A sign permit shall be required for all signs erected after December 12, 1995, except for those signs specifically excluded from the sign permit requirements as provided in section 66-367.

(b) *Filing of application; fees.* Applications for sign permits shall be filed on a form provided by the town by the applicant or his agent. Applications for permits for signs in the Old and Historic Occoquan District shall be subject to review and approval by the architectural review board. All applications for permits for signs outside the Old and Historic Occoquan District shall be subject to the review and approval of the Town Zoning Administrator, and shall contain information required in subsection (c) of this section, and shall be accompanied by a fee, as established from time to time by resolution of the Town Council.

(c) *Information required.* All applications for sign permits shall contain or have attached thereto the following information in either written or graphic form:

1. Name, address and telephone number of the sign erector and the sign owner.

2. Positions of the sign in relation to adjacent lot lines, buildings, sidewalks, streets and intersections.

3. Type of sign and general description of structural design and construction materials to be used.

4. Reserved.

5. Drawings of the proposed sign, which shall contain specifications indicating the height, perimeter and area dimensions, means of support, method of illumination, colors, and other significant aspects of the proposed sign.

(d) Reserved.

(e) *Inspections.* A final inspection shall be completed after installation of approved signs. Any discrepancies between the approved sign and the sign as constructed shall be identified and may result in the halt of construction or sign removal, if so ordered by the Town.

(f) *Revocations.* The Town may revoke a permit or approval if it is found that there has been concealment or misrepresentation of material facts in either the application or plans.

Sec. 66-402. Temporary sign permit procedures.

(a) All applications for signs requiring the issuance of a temporary sign permit, as established in section 66-368, shall contain all information requested by the architectural review board prior to the issuance of such permit. The approved permit shall include the expiration date of the temporary permit. The applicant may request extensions of the permit for good cause. Temporary signs remaining after the expiration of the permit shall be considered obsolete.

(b) All applications for banners, as established in section 66-368, shall contain all information requested by the Town prior to the issuance of such permit. The approved permit shall include the expiration date of the temporary permit. The applicant may request extensions of the permit for good cause. Banners remaining after the expiration of the permit shall be considered obsolete.

Sec. 66-403. Expiration of sign permits; signs not constructed.

A sign permit shall expire and become null and void if the approved sign is not erected within a period of 12 months from the date the permit was originally issued. Town may grant one extension of the sign permit for a period of six months, but in no case shall a permit be valid for more than a total of 18 months. Extensions may be granted only when the proposed sign is in compliance with all current applicable regulations.

Sec. 66-404. Variances to sign regulations not permitted.

Sec. 66-405. Removal of signs.

(a) *Illegal signs.* The Town may remove or order the removal of any illegal sign at the expense of the property owner.

(b) *Structurally unsafe signs.* Whenever in the opinion of the Zoning Administrator or building official, board a sign becomes structurally unsafe or endangers the safety of a building or premises, or endangers the public safety, or is in need of maintenance, the Zoning Administrator shall order that such sign be made safe, repaired or removed. Such order shall be complied with within five days of receipt of the order by the person owning or using the sign or the owner of the building or premises on which such unsafe sign is affixed or erected.