

CHAPTER 18ZONING

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Article 1Title, Applicability, Purpose

§ 18-1 Title. This ordinance shall be known as the Zoning Ordinance of the Town of Vienna.

§ 18-2 Applicability. This ordinance shall apply to the incorporated territory of the Town of Vienna, Virginia.

§ 18-3 Purpose. The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan to promote, in accordance with the present and future needs, the safety, morals, order, convenience, aesthetic appearance and welfare of the community of Vienna, Virginia. This ordinance is intended, among other purposes, to provide for adequate light, safety and ample parking facilities, and to prevent undue concentration of population.

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Definitions

§ 18-4 Definitions. For the purpose of this Chapter, certain words and phrases used herein are defined as follows: (Amended 11/8/94; 7/10/95; 6/2/03; 1/24/05)

The words "used for" include "designed for" and vice versa; words used in the present tense include the future; words in the singular number include the plural number and vice versa; the word "structure" includes the word "building"; the word "dwelling" includes the word "residence"; the word "lot" includes the word "plot"; and the word "shall" is mandatory and not discretionary.

ACCESSORY BUILDING: A subordinate building or a portion of the main building the use of which is incidental to that of the principal use of the main building.

ADULT BOOK STORE: An establishment having as a substantial and significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" of "Specified Anatomical Areas" (as defined below), or an establishment trading in such books, magazines, and other periodicals which limits its customers to persons over eighteen years of age. For the purpose of this Section, "Specified Sexual Activities" is defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

And "Specified Anatomical Areas" is defined as:

1. Less than completely and opaquely covered: (a) human genitals, pubic region; (b) buttock; and (c) female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (NEW 6-6-77)

ADULT MINI MOTION PICTURE THEATER: An enclosed building with a capacity for less than fifty (50) persons 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 therein, or an establishment used for presenting such materials which limits its customers to persons over eighteen (18) years of age. For the purpose of this Section, "Specified Sexual Activities" is defined as:

1. Human genitals in a state of sexual stimulation or arousal;

2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

And "Specified Anatomical Areas" is defined as:

1. Less than completely and opaquely covered;
(a) human genitals, pubic region; (b) buttock; and (c) female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (NEW 6-6-77)

ADULT ORIENTED MOTION PICTURES, VIDEO TAPES, DISCS, CASSETTES, OR PHOTOGRAPHS: Any motion picture, slide, video tape, cassette, or disc, or photographs of any type distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specific Sexual Activities" or "Specified Anatomical Areas" as defined in this Code for adult bookstores or adult mini-motion picture theaters. (NEW -EMERGENCY 4-20-81; Reg. 6-15-81)

ALLEY: A minor public street which is used primarily for vehicular service access to the back or the side of properties having principal frontage on another street.

AMUSEMENT ENTERPRISE: Any commercial establishment having or offering for public patronage or operation one or more mechanical or electronic amusement devices as defined in this Code, regardless of whether the offering of such devices constitutes the primary use of such establishment or an accessory use. (NEW 7-20-81; Amend. 4-4-83)

APARTMENT HOTEL: A building or portion thereof designed for or containing both individual guest rooms or suites of rooms and dwelling units.

AUTOMOBILE GRAVEYARD: Any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found. (Amend. 1-69)

BASEMENT: A portion of a building, partly underground, which has more than one-half (1/2) its height measured from finished floor to finished ceiling above the average grade of the adjoining ground, and not deemed a story unless the ceiling is six (6) feet or more above the average grade.

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BED AND BREAKFAST INN (Also referred to as Inns): A structure in which eight (8) or less rooms are set aside for transient guests. Such rooms shall not have separate utilities, provisions for cooking or dormitories for sleeping and must be located within the principal structure.

BILLBOARD: Any structure used as an outdoor display for the purpose of making anything known about something not attached to or which is remote from said display.

BLIGHTED PROPERTY: Any buildings or improvements or combination thereof which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

BOARDING HOUSE: A building other than a hotel where lodging, meals, or lodging and meals, are provided for three (3) or more, but not exceeding nine (9) guests, on a non-transient basis

BUILDING HEIGHT: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of roof.

BUILDING LINE: A line parallel to the street which establishes the minimum horizontal distance between the lot line and the nearest part thereto of any permitted building.

CARPORT: Any space outside a building and contiguous thereto, wholly or partly covered by a roof, and used for the shelter of motor vehicles. An unenclosed carport is a carport with no side enclosure (other than the side of the building to which the carport is contiguous) that is more than eighteen (18) inches in height, exclusive of screens.

COMMERCIAL GROUP BUILDING DEVELOPMENT: A series of attached commercial units developed in groups or clusters and separated from one another by continuous vertical party walls without openings from basement to roof and having diversified architectural facades, roofs and treatment of materials, and all sharing in common immediately adjoining off-street parking and other common facilities and elements required by this Chapter whether developed pursuant to the Horizontal Property Act of the Commonwealth or not. (NEW 4-22-74)

COMMERCIAL VEHICLE: Any motor vehicle other than a passenger car, pickup truck or panel truck as the same are defined in the **Virginia State Motor Vehicle Code*** which is used to further any profit-making business or professional enterprise. (NEW 3-15-82).

COURT: An open, unoccupied space, other than a yard on the same lot with a building or group of buildings, and which is bounded on two (2) sides by such building or buildings.

CURB GRADE: The elevation of the established curb in front of the building measured at the center of such front.

CUSTOMER UTILITY SERVICE: As used in this Chapter, the term "customer utility service" means all of those wires, conduits, pipes, cables and appurtenant equipment located between the pole and the wall of the building occupied by a customer in the case of an electric

DECK: A floor area extending from the outside wall of a building above ground level, whether or not its supports rest on the ground, and not sheltered by a roof or enclosed by other than a protective railing on those sides other than the side adjacent to the building wall. (Amend. 2/71; 10/16/72; 10/07/02)

***Virginia State Motor Vehicle Code Definitions:**

Passenger Car: Every motor vehicle designed and used primarily for the transportation of not more than ten persons including the driver, except motorcycles.

Pickup or Panel Truck: Every motor vehicle designed for the transportation of property with a registered gross weight of seven thousand, five hundred pounds or less.
power, telephone, telegraph or cable television system; and all of those conduits, pipes, and appurtenant equipment located between the street main and the wall of the building occupied by a customer in the case of a gas, water, steam, petroleum or sewer system. (Amend. 4-69)

DRIVE-THROUGH FACILITY: Except as provided below, any facility where: (1) goods are sold or services provided to a person or persons riding on or seated within a motor vehicle; or (2) services or inspections are performed on motor vehicles that stand or wait in line immediately prior to the service being performed. Drive-through facilities include, but are not limited to, uses such as car washes, motor vehicle lubrication and oil change facilities, and motor vehicle inspection stations as well as facilities--such as financial institutions, dry cleaners and restaurants--with one or more drive-through windows. Uses excepted from this definition include: (1) inspections utilizing not more than one (1) bay at a motor vehicle service station; (2) fuel service components of motor vehicle service stations; and, (3) the on-site parking of motor vehicles prior to servicing at motor vehicle service facilities.

DWELLING: A building designed or used as the living quarters for one (1) or more families (or family equivalent).

DWELLING UNIT: One (1) or more rooms in a dwelling providing complete living facilities for one (1) family (or family equivalent), including cooking facilities.

DWELLING; SINGLE-FAMILY: A detached building designed or used exclusively for occupancy by one (1) family (or family equivalent).

DWELLING; TWO-FAMILY: A building containing two (2) dwelling units, arranged one above the other or side by side.

DWELLING; MULTIPLE-FAMILY (APARTMENT HOUSE): A building or portion thereof, designed for occupancy by three (3) or more families (or family equivalent) living independently of each other. The term does not include hotel, tourist camp, cabin or court, trailer camp, motel or similar premises.

DWELLING, ROW: One (1) of a series of three (3) or more attached one-family dwellings of substantially similar appearance separated from one another by a single partition wall without opening extended from basement to roof.

ENCLOSURE:

- Total Enclosure: (Wholly, completely, or fully) Complete coverage with roof, opaque wall(s), and/or wall(s) of glass, plastic, fiberglass and/or similar solid type building material. (Amend. 2/71)
- Partial Enclosure: Wall(s) or fencing of opaque character and/or wall(s) of glass, fiberglass, and/or similar solid type building material, with or without a roof, which does not enclose an area. (Amend. 2/71)
- Open Enclosure: Enclosure of an area with fencing or other material which generally does not restrict view, but which prevents entry to an area. (Amend. 2/71)

FAMILY: One (1) or more persons related by blood or marriage occupying a single housekeeping unit and using common cooking facilities; where such persons are related by blood or marriage, not more than two (2) boarders or lodgers shall be permitted.

FAMILY EQUIVALENT: Two (2) or more individuals not related by blood or marriage, not exceeding four (4) persons.

GUEST HOUSE: Living quarters within a detached accessory building located on the same premises with the principal building for use by temporary guests of the occupants of the principal building and not rented or otherwise used as a separate dwelling.

GUEST ROOM: A room which is designed or intended for occupancy by one (1) or more guests but in which no provision is made for cooking and not including dormitories for sleeping purposes only.

HOME OCCUPATION: Any accessory use of a dwelling unit in addition to occupancy. (See Sec. 18-173 for Supplemental Regulations). A boarding house, tourist home, or real estate office shall not be deemed a home occupation.

HOTEL: Any building or portion thereof which contains guest rooms which are designed or intended to be used, let, or hired out for occupancy on a transient basis and which together are intended to provide for accommodations for compensation to ten (10) or more individuals at any given time. A hotel will be considered a commercial establishment.

JUNK YARD: Any land or building used for the abandonment, storage keeping, collecting, or bailing of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, machinery, or parts thereof.

LANDSCAPING: The planting of grass, ornamental shrubs, trees or other ornamental ground cover. (New-EMER. 11-1-82; Reg. 2-3-83)

LOT: Land occupied or to be occupied by a building or unit group of buildings and accessory buildings together with such yards and area as required by this Chapter and having its principal frontage upon a public street, or upon a pedestrian right-of-way in a townhouse development.

LOT AREA: The total horizontal area within the boundary lines of a lot. Except as herein provided, no alley, public way, public land or area proposed for future street purposes shall be included within the area of a lot.

LOT; CORNER: A lot situated at the intersection of two or more streets, having an angle of intersection of not more than 135 degrees.

LOT; DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the two side lot lines.

LOT; FRONT OF: The front of a lot shall be considered to be that side of a lot which fronts on a street. In case of a corner lot, the shortest side fronting on a street shall be considered to be the front of the lot, except where a house is built with its front entrance on the long side, then this shall be considered the front. When sides fronting on the street are of equal lengths, the lot shall be considered to front on that street having the greater total of front footage of lots within the same block; provided, however, that where the Board of Zoning Appeals has specifically designated the front of the lot in accordance with § 18-254.1, such designation shall thereafter prevail. (Amend. 1-67)

LOT; INTERIOR: A lot other than a corner lot.

LOT; LINES: The lines bounding a lot as defined herein.

LOT; MIDLINE: That line which is one-half the mean horizontal distance between the front and rear lot lines.

LOT; THROUGH: A lot, other than a corner lot, having frontage on two streets.

LOT; WIDTH: The horizontal distance between the side lot lines, as measured along a line parallel with the front street line. (Amend. 4/17/89)

in MANUFACTURED HOME: Manufactured home means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty 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 the purpose of these provisions, a mobile home, as defined the Council of American Building Officials, Chapter 2, Building Definitions, Section 202, shall be considered a manufactured home. (New 6/2/2003)

MANUFACTURED HOME, PUBLIC USE: A manufactured home, as defined under the Code of Vienna, used by public safety personnel and dedicated to public safety uses. (New 1/24/05)

MASSAGE THERAPIST: One who practices Massage Therapy and complies with the application, investigation and training requirements of §§ 22-5, 22-6, and 22-7, and the sanitation, hygiene and environment requirements applicable to Health Clubs as set forth in §§ 22-10, 22-11, and 22-12 of the Vienna Town Code; except such operation commenced in a residential zone shall not be required to comply with § 22-12 of the Vienna Town Code. (New 11/8/94)

MASSAGE THERAPY: A profession in which the practitioner applies massage techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well-being of the client. Massage Therapy may be applied in response to physician prescription, but does not include diagnosis, except to the extent of determining whether massage therapy is indicated. (New 11/8/94)

MECHANICAL OR ELECTRONIC AMUSEMENT DEVICE: Any machine or device which upon the insertion of a coin, slug, token, plate or disc may be operated by the public generally for use as a game, entertainment or amusement through the manipulation of the device whereby a score is established, the object of which is to secure a special number of numbers or a high total score. It shall include but not be limited to such devices as video games, marble machines, pinball machines, skillball, football, baseball, target shooting and

all games, operations, or transactions similar thereto under whatever name indicated whether operated mechanically or electrically or through a combination thereof. (New 7/20/81; Amend. 4/4/83)

MOTEL: A building or portion thereof, or a group of buildings of similar design which provides sleeping accommodations in 20 or more separate units or rooms, each such unit or room to be separated from the other with permanent masonry walls and each such individual unit to provide direct access to a common corridor, or area, and to include private bath and/or shower, water closet and wash basin facilities. A motel shall not be deemed to include any establishment which provides residential living accommodations on a more or less permanent basis such as an apartment hotel. No more than 20% of all units may be constructed with cooking facilities. (Amend. 12-6-71)

MOTOR BUS: Any motor-driven vehicle other than a private family passenger automobile, whether publicly owned or privately owned, which is designed to carry passengers and is operated for hire or compensation in the carrying of passengers either according to a fixed route, by schedule, or for charter; or used for transporting children to or from public and/or private schools. (Amend. 4-7-80)

NON-CONFORMING BUILDING: Any building or structure lawfully existing prior to the adoption of this Zoning Ordinance which does not conform to the area, bulk, yard, density, or off-street parking regulations of this Zoning Ordinance for the zone in which it is located.

NON-CONFORMING USE: A use which lawfully occupied a building, structure, or land prior to the adoption of this Zoning Ordinance which does not conform to the use regulations of this Zoning Ordinance for the zone in which it is located.

PARCEL: Any tract of land, capable of subdivision into lots under this Chapter.

PARKING AREA, PRIVATE: An open area, other than a street or alley, used for the parking of the automobiles of occupants of a dwelling.

PARKING AREA; PUBLIC OR CUSTOMER: An open area, other than a private parking area, street or alley, used for the parking of automobiles and available for public or quasi-public use.

PARKING SPACE; AUTOMOBILE: Space within a building or a private or public parking area for the parking of one automobile.

PATIO: A surfaced, court-like area at ground level outside the main wall of a building, which area is not sheltered by a roof. (Amend. 2-71)

PLANNING COMMISSION: The Planning Commission of the Town of Vienna, Virginia, the members of which shall be appointed for terms of three (3) years or to fill the unexpired term of a vacant seat on the Commission, shall exercise all powers conferred upon it by the Code of Virginia and the Charter of the Town of Vienna. (Amend. 6-9-75)

PORCH: An open or enclosed area outside an exterior wall of a building and covered by a roof which may be attached to a side wall or common with the main roof of the building and is used for purposes other than the sheltering of motor vehicles. (Amend. 2-71)

PRINCIPAL BUILDING: A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPAL STREET: In the case where two existing streets are in question, the principal street is that street having the heavier volume of traffic as determined by the Chief of Police of the Town of Vienna. The Planning Commission shall make this determination in the case of a proposed street.

PRIVATE GARAGE: A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles by the occupants of the premises, and in which no business, occupation, or service for profit is in any way conducted. No commercial vehicle except one of not more than one-half (1/2) ton capacity which belongs to, or is in the care and custody of the occupants of the premises shall be parked, or stored, temporarily or otherwise, in a private garage.

PUBLIC: Any land use, property, or structure owned by a political subdivision and dedicated to public use.

PUBLIC GARAGE: A building other than a private garage where automobiles are parked or stored.

RECREATIONAL USE: Of or relating to relaxation by the physical participation of persons in activities of a sporting or quasi-sporting nature usually conducted in, on or about track, court, field, or pool-like areas or field houses as distinguished from those types of recreation provided through exhibits or theatrical functions or by amusement enterprises as they are otherwise defined in this code. (NEW 4-4-83)

RESTAURANT: A commercial establishment, located inside an enclosed building, where meals are primarily prepared to order and served individually for consumption within such building to patrons seated at tables or counters, or in booths. A snack bar or refreshment stand at a non-profit community swimming pool, playground, playing field, park or similar recreational activity shall not be deemed to fall within the definition of a restaurant. (Amend. 2/71)

RESTAURANT, CARRY-OUT SERVICE: The preparation and sale of food for consumption off the premises when such service is incidental to the principal function of a restaurant, as herein defined. (Amend. 2/71)

RESTAURANT, DRIVE-IN: Any structure or establishment merchandising or dispensing food, beverage, or refreshments at which the customer is served either:

(a) While sitting in a motor vehicle or;

(b) At an interior or exterior sales window, counter or serving area, and at which the food, beverage or refreshments are sold for consumption either inside the said structure or in motor vehicles on the premises but outside the said structure. (Amend. 2/71)

CARRY-OUT FOOD BUSINESS: Any establishment, other than a Drive-In Restaurant, as herein defined at which prepared food, beverage or refreshments are sold primarily for consumption off the premises. (Amend. 2/71)

SEMI-PUBLIC: Any non-profit land use, property, or structure of an institutional or civic nature including community buildings not owned and/or operated by a public agency.

SHOPPING CENTER: A group of not less than four (4) contiguous retail stores or a building of contiguous retail stores having a total ground floor building area of not less than ten thousand (10,000) square feet, with immediately adjoining off-street parking facilities as required by this Chapter. (Amended 3/05)

SIGN: Any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to designate an individual, a firm, profession, business, or a commodity and which are visible from any public street. (This definition shall not include temporary merchandise signs displayed inside of a building.)

STORY: That portion of a building included between the surface of any floor and the surface of the next floor directly above it, or if there be no floor above it, then the space between such floor and ceiling next above it.

STREET: A public thoroughfare which affords the principal means of access to abutting property.

STREET LINE: A dividing line between a lot, tract, or parcel of land and a contiguous street.

STREET WIDTH: The total width of the strip of land dedicated or reserved for public travel including roadway, curbs, gutters, sidewalks and planting strips.

STRUCTURAL ALTERATIONS: Any change in supporting members of a building such as bearing walls or partition columns, beams or girders or any substantial change in the roof or the exterior walls.

STRUCTURE: Anything constructed or erected which requires location on the ground, or is attached to something having a location on the ground, tents used exclusively for recreational or camping purposes, and customary garden accessories such as fences, trellises, grapevine supports, etc., are not included in this definition. (Amended 1-6-97)

TENT: Any enclosure or shelter which is constructed of canvas or pliable material supported in any manner except by the contents it protects. (New: 1-6-97)

TERRACE: A surfaced, court-like area outside the main wall of a building, raised above the adjoining ground either by earth with sloping sides or an independent foundation. (Amend. 2-71)

TOWN HOUSE: One of a series of attached, single-family dwelling units developed in groups or clusters and separated and attached to/from one another by continuous vertical party walls without openings from basement to roof, and having diversified architectural facades, roofs and treatment of materials. (Amended 4-5-99)

TRAILER: Any vehicle or structure that: (a) is designed and constructed in such a manner as will permit (i) occupancy thereof as sleeping quarters for one or more persons, or (ii) the conduct of any business or profession, occupation or trade (or use as a selling or advertising device), including public purposes that may be allowed by this chapter; and (b) is or may be mounted on wheels and transported on highways or city streets, propelled or drawn by its

own or other motive power, excepting a device used exclusively upon stationary rails or tracks. (Amended 8/70; 1/05)

TRAILER, PUBLIC USE: A trailer, as defined under the Code of Vienna, used by the Town of Vienna or the Fairfax County Public Schools and dedicated to providing services to the public. (New 1/24/05)

TREE CANOPY OR TREE COVER: All areas of coverage by plant material exceeding five (5) feet in height. (New 9-25-89)

UNIT: One building in a series of attached commercial units where located in a commercial group building development as defined in this Chapter. (NEW 4-22-74)

UNIT GROUP BUILDING: Two (2) or more buildings (other than dwellings) grouped upon a lot and held under a single ownership, such as universities, hospitals and institutions.

USE: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

VIDEO ARCADE: Any commercial establishment having or offering for public patronage or operation one or more electronic or electric video games, television-like game devices, or mechanical or electronic amusement devices of any kind. (NEW 4-4-83)

YARD: An open space, other than a court, on the same lot with a principal building or group of principal buildings, which open space lies between the building or outer building of a group and the nearest lot or street line.

YARD, FRONT: A yard extending across the full width of the lot, between the nearest principal building and the front lot line. The depth of the required front yard shall be measured horizontally from the nearest part of the principal building to the nearest point of the front line.

YARD, REAR: A yard extending across the full width of the lot, between the nearest rear principal building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest part of the principal building to the nearest part of the rear lot line.

YARD SIDE: A yard between a principal building and the side lot line, extending from the front yard, or front lot line, where no front yard is required, to the rear yard. The width of the

required side yard shall be measured horizontally from the nearest point of the side line toward the nearest part of the principal building.

ZONING ADMINISTRATOR: The Town official designated by the Vienna Town Council to administer this Chapter.

ZONING MAP: The Official Zoning Map for Vienna, Virginia, together with all amendments thereto.

Article 3Zone Categories and Boundaries

§ 18-5 Zone Categories. For the purpose of this Chapter, the Town of Vienna is hereby divided into the following zones:

RS-16 Zone:	Single-family detached residential
RS-12.5 Zone:	Single-family detached residential
RS-10 Zone:	Single-family detached residential
RM-2 Zone:	Multi-family, low density
RTH Zone:	Town House
T Zone:	Transitional
C-1 Zone:	Local Commercial
C-1A Zone:	Special Commercial
C-1B Zone:	Pedestrian Commercial
C-2 Zone:	General Commercial
CMP Zone:	Industrial Park Zone
CM Zone:	Limited Industrial
PR Zone	Parks and Recreational

§ 18-6 Determination of Zone Boundaries. Where uncertainty exists as to the boundaries of any of the zones established in Section 18-5 and as shown on the Zoning Map, the following rules shall apply:

- A. Zone boundaries are intended to follow street, alley, lot, or property lines, unless such zone boundary lines are fixed by dimensions, as shown on said Zoning map.
- B. Where some boundaries are so indicated that they approximately follow lot lines and are not more than ten (10) feet distant therefrom, such lot lines shall be such boundaries.

§ 18-7 Zoning Map. The locations and boundaries of the zones shall be as shown on the official Zoning Map for Vienna, Virginia, approved May 29, 1959, together with all amendments thereto subsequently adopted. This map, with all explanatory matter thereon, shall be deemed to accompany, be, and is, hereby made a part of this Chapter.

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Zoning

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Article 4

General Regulations as to Uses, Height, and Area

§ 18-8 Regulations as to Uses, Height, and Area. In interpreting and applying this Chapter, the requirements contained herein are declared to be the minimum requirements for the protection of the health, morals, safety, and welfare of the inhabitants of the Town of Vienna. Except as hereinafter provided, the following general regulations shall apply:

§ 18-9 Uses. (Amend. 06-2003) No land or building shall be used or designed to be used for any purpose other than is permitted in the zone in which such a building or land is located. Manufactured Homes as defined herein are hereby prohibited and any Manufactured Homes currently in the Town are hereby declared to be a nonconforming use and shall be subject to the provisions of this Chapter.

§ 18-10 Height. No building or structure shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the zone in which such building or structure is located.

§ 18-11 Area.

A. No building or structure shall be erected, reconstructed, structurally altered, enlarged or moved, encroached upon or reduced in any manner except in conformity with all area and building location regulations hereinafter designated for the zone in which such building or open space is located.

B. No yard or other space provided about any building for the purpose of complying with the provisions of this Chapter shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

C. No lot or parcel of land, with or without buildings at the time this Chapter became effective, shall be subdivided, re-subdivided, or reduced in any manner below the minimum lot width and lot area required by this Chapter.

D. Every building hereafter erected shall be located on a lot as herein defined; and, except, as herein provided, there shall be no more than one principal building on one lot.

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Article 5RS-16: Single-family Detached Residential Zone Regulations.

The following regulations shall apply in all RS-16 Zones:

§ 18-12 Permitted Uses. The following uses are permitted:

Single-family detached dwelling.

Accessory buildings, including barns and other bona fide farm buildings, and private garages.

Agricultural operations including floriculture, horticultural and nurseries provided all structures and buildings used in connection therewith are at least one hundred (100) feet from the nearest property line; poultry and dairy farming and horse breeding on parcels of at least ten (10) acres in area provided all animals and buildings and structures used in connection therewith are located at least one hundred (100) feet from the nearest property line.

Customary home occupations (see Home Occupation, § 18-173).

The keeping of horses and/or ponies primarily owned and kept for the personal use of the occupant on the land on which they are maintained on parcels of at least two (2) acres in area, provided:

1. All buildings and structures used in connection with the keeping of horses or ponies shall be located at least one hundred (100) feet from all of the property lines of the owner or keeper.
2. All bulk feed and other supplies, equipment and materials used in connection with the keeping of horses or ponies shall be located in such buildings or structures located at least one hundred (100) feet from all of the property lines of the owner or keeper.
3. Not more than one pony or horse per acre shall be kept and all such property on which such ponies or horses are kept shall be fenced in a manner which will prevent any or all of them from straying closer than ten (10) feet from any property line of the owner or keeper. (Amend. 4-69)

§ 18-13 Conditional Uses. (Amended 11-8-94; 2-28-00)

The following may also be permitted subject to securing a Use Permit as provided in Section 18-209: (Amended 11-8-94)

Churches and other places of worship. (Amend. 10-20-80)

Colleges and schools (private, elementary and high) of a non-commercial nature.

Golf courses, country clubs, private clubs, including community buildings and similar recreational uses not owned and/or operated by a public agency. (Does not include golf driving ranges.)

Institutional homes and institutions of an educational or philanthropic nature, except those of a correctional nature or for mental cases.

Certified Massage Therapists in the RS-16, RS-12.5 and RS-10 zones only, subject to the same restrictions applicable to home occupations as set forth in § 18-173, and who further comply with the application, investigation and training requirements of §§ 22-5, 22-6, and 22-7, and the sanitation and hygiene requirements applicable to Health Clubs as set forth in §§ 22-10 and 22-11 of the Vienna Town Code. (New 11-8-94; 2-28-00)

Nursery and kindergarten schools (private).

Public buildings and uses.

Public parks, playgrounds and other recreational uses.

Public utilities and services, including the following: electric utility substations with non-rotating equipment; water and sewage pumping stations; above ground transmission lines not exceeding 33KV; telephone exchanges (but excluding service and service storage yards); provided that utilities shall be housed in a structure in keeping with the character of the neighborhood in which it is located.

Transitional Parking: Where the side or rear yard of any lot or parcel of land located in a C-1, C-1A, or C-2 abuts land in any residential zone, automobile parking required in connection with the particular use of such commercial land may, upon the granting of a use permit pursuant to Article 21 of this chapter, be permitted as a

transitional parking use on that such land zoned for residential use, provided, however, that:

1. Such transitional parking shall not extend more than 200 feet into any such abutting residential zone;
2. Shall not extend into the required front yard setbacks or properties on adjacent streets;
3. Shall not extend beyond the front and side yard setbacks of the residentially zoned lot or lots on which it is located;
4. Shall not provide more than forty per cent (40%) of the parking space required by the commercial use for the benefit of which said transitional parking lot is requested, and shall conform with the provisions of Article 16 of this chapter, except as otherwise expressly provided;
5. Shall not provide any ingress and egress across adjacent residentially zoned property. (Amend. 7-6-81).

§ 18-14 Transitional Uses: None

§ 18-15 Area Requirements:

- A. Lot Area: All lots other than in approved subdivisions shall have a minimum area of sixteen thousand (16,000) square feet. (Amend. 6-6-88)
- B. Lot Width: All lots shall provide a minimum width of fifty (50) feet at the street right-of-way line, sixty-five (65) feet at the front building line and ninety (90) feet at the lot midline. (Amend. 4/17/89)
- C. Front Yard: The building line shall not be less than sixty (60) feet measured from the center line of the street, when fronting upon a street of less than fifty (50) feet in width and not less than thirty-five (35) feet measured from the street line fronting upon a street of fifty (50) feet or more in width. In case of a through lot, the building line on any street or streets shall be determined in the aforesaid manner, or as hereinafter required.
- D. Side Yard: Minimum, fifteen (15) feet each in width. Buildings other than dwellings

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and their accessory buildings shall have a side yard on each side of the building of not less than thirty (30) feet in width. A corner lot shall have a side yard along its street side at least twenty-five (25) feet in width.

E. Area Requirements: Rear Yard Minimum, thirty-five (35) feet in depth. Decks may encroach into a rear yard provided that no deck may cause the reduction of any rear yard to less than twenty-five (25) feet in depth. (Amend. 10/7/02)

F. Lot Coverage: Not more than twenty-five percent (25%) of a lot shall be covered by buildings, accessory buildings, automobile parking spaces and access, sport courts, tennis courts, patios and terraces. (Amend.8-19-91)

Decks, as defined in Section 18-4 and regulated in Section 18-169, may not cover more than five percent (5%) of the total area of a lot. (NEW 8-19-91)

§ 18-16 Height Limit: Maximum height, two-and-one-half (2 1/2) stories, but not to exceed thirty-five (35) feet.

§ 18-17 Fences. Any fence from the rear lot line to, and including the front line of the building shall be no more than six (6) feet high, except that on a corner lot the fence along the side yard fronting on a street shall be not more than four (4) feet high, and the fence along the rear line, from the front of the adjacent house to its street line shall not exceed four (4) feet in height. Any fence located between the front of the house and the front property line shall be not more than four (4) feet high. (Amend. 8-30-76)

Any fence or screen constructed in any residential zone shall have the finished side facing the street or adjacent or abutting properties. The use of barbed wire is not permitted in any residential zone. (NEW 8-30-76)

§ 18-18 Accessory Building and Private Parking Area Requirement. As specified in Article 17.

§ 18-19 Off-street Parking Areas. As specified in Article 16.

§ 18-20 Nameplate and Signs. As specified in Article 19.

General Regulations. See Article 4.

Supplemental Regulations. See Article 18.

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Zoning

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Article 6

RS-12.5 Single-family Detached Residential Zone Regulations

The following regulations shall apply in all RS-12.5 Zones:

- § 18-21 Permitted Uses. All uses permitted in RS-16 Zones.
- § 18-22 Conditional Uses. All conditional uses permitted in RS-16 Zones.
- § 18-23 Transitional Uses. None.
- § 18-24 Area Requirements:

A. Lot Area: All lots other than in approved subdivisions shall have a minimum area of twelve thousand five hundred (12,500) square feet. (Amend. 6-6-88)

B. Lot Width: All lots shall provide a minimum width of fifty (50) feet at the street right-of-way line, sixty-five (65) feet at the front building line, and eighty (80) feet at the lot midline.

C. Front Yard: The building line shall not be less than fifty-five (55) feet measured from the center line of the street, when fronting upon a street of less than fifty (50) feet in width; and not less than thirty (30) feet measured from the street line fronting upon a street of fifty (50) feet or more in width. In case of a through lot, the building line on any street or streets shall be determined in the aforesaid manner, or as hereinafter required.

D. Side Yard. Same as specified for RS-16 Zone.

E. Rear Yard. Same as specified for RS-16 Zone.

F. Lot Coverage. Same as specified for RS-16 Zone.

- § 18-25 Height Limit: Maximum height, two and one-half (2 1/2) stories, but not to exceed thirty-five (35) feet.

- § 18-26 Fences. As specified in Section 18-17.

- § 18-27 Accessory Building and Private Parking Area Requirements.
As specified in Article 17.

- § 18-28 Vienna Town Code § 18-29

§ 18-28 Off-street Parking Areas. As specified in Article 16.

§ 18-29 Nameplates and Signs As specified in Article 19.

General Regulations See Article 4.

Supplemental Regulations See Article 18.

§ 18-30

Zoning

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Article 7

RS-10: Single-family Detached Residential Zone Regulations

The following regulations shall apply in all RS-10 Zones:

- § 18-30 Permitted Uses. All uses permitted in RS-16 Zones.
- § 18-31 Conditional Uses. All Conditional uses permitted in RS-16 Zones.
- § 18-32 Transitional Uses. None.
- § 18-33 Area Requirements.

A. Lot Area: Minimum, ten thousand (10,000) square feet.

B. Lot Width: All lots shall provide a minimum width of forty-five (45) feet at the street right-of-way line, sixty (60) feet at the front building line, and seventy-five (75) feet at the lot midline.

C. Front Yard: The building line shall not be less than fifty (50) feet measured from the center line of the street, when fronting upon a street of less than fifty (50) feet in width; and not less than twenty-five (25) feet measured from the street line fronting upon a street of fifty (50) feet or more in width. In case of a through lot, the building line on any street or streets shall be determined in the aforesaid manner or as hereinafter required.

D. Side Yard: Minimum, twelve (12) feet in width. Buildings other than dwellings and their accessory buildings shall have a side yard on each side of the building of not less than forty (40) feet in width. Corner lot shall have a side yard along its street side at least twenty-five (25) feet in width.

E. Rear Yard: Same as specified for RS-16 Zone.

F. Lot Coverage. Same as specified for RS-16 Zone.

- § 18-34 Height Limit. Same as specified for RS-16 Zone.
- § 18-35 Fences. As specified in Section 18-17.
- § 18-36 Accessory Building and Private Parking Area Requirements.
As specified in Article 17.

§ 18-37 Vienna Town Code § 18-38

§ 18-37 Off-street Parking Area. As specified in Article 16.

§ 18-38 Nameplates and Signs. As specified in Article 19.

General Regulations. See Article 4.

Supplemental Regulations. See Article 18.

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Zoning

§ 18-42

Article 8

RTH Town House

§ 18-39 Statement of Purpose.

In enacting this Article, it is the purpose of the Town Council to provide for controlled development of closely spaced, high quality, single family residential buildings with individual design characteristics and appearances; thereby permitting a higher density use of land, without departing substantially from the predominantly single family residential character of the existing development in the Town. In order to encourage more attractive site planning and building appearances, the controls provided in this Article are flexible in nature, as provided in Article 25. It is not the intent of this Article to permit the erection of apartment buildings of any type whatsoever.

B. Town House Cluster Development shall be permitted subject to approval of a Site Plan of each development by the Town Council in accordance with Section 18-43.

§ 18-41 Conditional Uses. None

§ 18-42 Transitional Uses. None

§ 18-43 Vienna Town Code § 18-44

§ 18-43 Site Plan Approval - As required by Article 25.

§ 18-44 General Specifications:

A. Total number of lots shall not cover more than 80% of the gross acreage of the development.

B. All area and height and parking requirements for Town House Group Development and Cluster Development may be varied contingent upon an approved site plan.

C. A minimum ten percent (10%) of the gross acreage of each Town House development shall be provided in one contiguous parcel of land for common open space, of such location, condition, size and shape to be usable for recreation. Flood plain land shall not be included in said ten percent (10%) unless it is of unusual shape and natural beauty, but in any event, the location of said common open space shall be approved by the Town Council.

D. The common open space and any common parking lot, including any required screening, shall be conveyed to a non-profit corporation, organized and operated under the laws of Virginia. The owner or developer shall present, with the Site Plan required by Article 25, copies of the articles of incorporation of such corporation, its by-laws and an adequately financed plan with effectuating agreements and covenants acceptable to the Town assuring the development and maintenance of the common open space and common parking lots.

All newly constructed common parking lots, roadways, streets and drives shall be constructed in accordance with the requirements as set forth in the document entitled Town of Vienna, Virginia Construction Specifications and Construction Details in effect upon the date of site plan approval. (Amend. 6-18-79; 3-15-93)

The membership of such non-profit corporation shall consist of all the individual lot owners of the development.

E. Common open space, excluding that contained in lots and streets, shall after development in accordance with the Site Plan, not be denuded, defaced or otherwise disturbed in any manner without the written approval of the Town Council of Vienna. All common open space including, but not limited to paved parking areas and driveways, shall be maintained in accordance with standards and regulations from time to time issued by the Director of Public Works with the approval of the Town Council. (Amend. 11-67)

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F. Minimum gross floor area: Gross plan area shall be interpreted as a measure of usable living area exclusive of attic, garage and basement which is more than 50% underground. Each Town House dwelling unit in a series shall have a minimum gross floor area of 1200 square feet with the average gross floor area within a series to be not less than 1400 square feet.

§ 18-50 Height Limit:

Maximum height of each dwelling unit shall be two-and-one-half (2 1/2) stories, but not to exceed thirty-five (35) feet.

§ 18-51 Accessory Building and Private Parking Area Requirements:

Accessory buildings and private parking areas shall not be permitted except that on any one lot there may be maintained one tool storage shed not exceeding 7 feet in height nor covering more than 64 square feet in area. The rear yard of any townhouse in which any such accessory building is located shall be screened from all adjacent properties by a solid ornamental screening type fence or solid brick or ornamental masonry wall six feet in height. (Amend 4-71).

§ 18-52 Off-Street parking Area:

As specified in Article 16 of this Chapter.

§ 18-53 Name Plates and Signs:

As specified in Section 18-185.

§ 18-54 Public Utilities:

All utilities requiring transmission by wires shall be placed underground or under surface except pad-mounted transformers which shall be properly screened.

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Zoning

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Article 9

RM-2: Multi-family, Low Density Zone Regulations

The following regulations shall apply in all RM-2 Zones.

§ 18-55 Permitted Uses: The following uses are permitted:

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1. Where buildings are front to front, or front to rear, two (2) times the height of the taller building, but not less than seventy (70) feet;
2. Where buildings are side to side, on (1) times the height of the taller building, but not less than twenty (20) feet; and
3. Where buildings are front to side, rear to rear, one and one-half (1 1/2) times the height of the taller building but not less than fifty-five (55) feet; provided that where roadways are located between said buildings, the width of such roadway shall be in addition to the above minimum distances between buildings.

I. Lot Coverage: Same as specified for RS-16 Zone.

J. Site Plan Approval: As required by Article 25.

§ 18-59 Height Limit:

Maximum height three (3) stories, but not to exceed thirty-five (35) feet above average grade.

§ 18-60 Accessory Building and Private Parking Area Requirements:

As specified in Article 17.

§ 18-61 Off-street Parking Area: As specified in Article 16.

§ 18-62 Name Plates and Signs: As specified in Article 19.

General Regulations: See Article 4

Supplemental Regulations: See Article 18.

§ 18-63 Zoning

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Article 10

T: Transitional Zone Regulations

The following regulations shall apply in all T Zones. For general regulations see Article 4 of this Chapter. Whenever the provisions of this Article 10 are more restrictive than, or in conflict with, those of any other Article, the provisions of this Article shall govern.

§ 18-63 Statement of Purpose (Amend. 4-2-79)

All buildings in the Transitional Zone shall conform in all material aspects of their external appearance to the dwellings in the adjacent residential zone, especially as to height, size, architecture, treatment and use of materials and landscaping.

Only those land areas in a residential zone (RS-16, RS-12.5, RS-10, RM-2 or RTH), the side or rear lot line of which coincides with the boundary of a commercial or limited industrial zone (C-1, C-1A, C-2 or CM), shall be eligible for reclassification to the T (Transitional) zoning category. Such reclassification procedure shall conform to the provisions of Article 24 of this Chapter.

Only that land lying within 200 feet of the nearest boundary of a C-1, or C-1A, C-2 or CM Zone shall be eligible for reclassification to the T (Transitional) zoning category; provided, however that this Section shall not be construed to confer upon any parcel of land so located within 200 feet of a C-1, C-1A, C-2 or CM Zone, or upon the owner thereof any special right to such land being reclassified to the T (Transitional) category; it being intended that the 200 feet criterion shall be one of limitation and not of entitlement.

The principal offices of medical and dental professionals licensed by the Commonwealth of Virginia, attorneys-at-law, architects, real estate brokers, insurance brokers, accountants, consulting engineers, land appraisers, stock brokers, mortgage brokers, teachers and professors offering instruction only, public stenographers, and purely administrative office activities; provided that any such professional or administrative office activities do not involve the storage and parking on the premises of commercial vehicles including trucks, buses, taxis and related equipment, except passenger automobiles required by persons engaged in such office activities.

§ 18-67 Conditional Uses. (Amended 11-8-94)

Massage Therapists who comply with the application, investigation and training requirements of §§ 22-5, 22-6 and 22-7, and the sanitation, hygiene and environment requirements applicable to Health Clubs as set forth in §§ 22-10, 22-11 and 22-12 of the Vienna Town Code.

§ 18-68 Area Requirements.

- A. Lot Area: Same as specified for least restrictive abutting residential zone.
- B. Lot Width: Same as specified for least restrictive abutting residential zone.
- C. Side Yard: Same as specified for least restrictive abutting residential zone.
- D. Front Yard: Same as specified for least restrictive abutting residential zone.
- E. Lot Coverage: Same as specified for least restrictive abutting residential zone.
- F. Height Limit: Same as specified for least restrictive abutting residential zone.

§ 18-69 Off-Street Parking Area.

The provisions of Article 16 of this Chapter shall apply except that when deemed appropriate by the Planning Commission, access driveways and access driveway throats less than twenty-five (25) feet in width, but not less than eighteen (18) feet in width may be permitted. All parking areas in the T Zone shall be located at the rear of the principal building and shall comply with the provisions of Section 18-136 applicable to parking areas adjoining a residential zone or extending into a residential zone as a transitional use; provided that no lighting standards shall be more than six

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(6) feet in height and shall not illuminate the parking area at a level greater than that which would be achieved by the use of a single 100 watt incandescent lamp for each four parking spaces provided.

§ 18-70 Special Regulations.

A. Every activity, operation or undertaking connected with any business in the T Zone except the parking of passenger automobiles shall be wholly conducted within a totally enclosed building which shall conform in all material aspects of its external appearance to the single-family dwellings in the abutting residential zone; especially as to height, size, architecture, treatment and use of materials and landscaping.

B. No business in the T Zone shall display or create outside of its principal building any evidence of the business use of the premises except the nameplate identification sign permitted by § 18-182.

C. No internal combustion engines shall be used in connection with such business, and no electric motors larger than one (1) horsepower shall be used other than for normal domestic uses.

D. The business shall emit no sound, vibration, electromagnetic radiation, odor, fumes, gases, smoke, illumination, or noise in excess of that which would be incident to a normal single family residence.

E. No stock of merchandise for sale shall be kept on the premises. No sales shall be made from the premises except those incident to professional services permitted in the T Zone.

F. No deliveries of supplies or equipment shall be made between 6:00 PM and 8:00 AM to or from the premises.

G. No vehicles other than passenger automobiles or passenger station wagons shall be used in connection with any business conducted in the T Zone, and there shall be no repair or servicing on the premises of any motor vehicles.

H. No business activity shall be conducted which would adversely affect the use, development or enjoyment of adjoining or neighboring residential properties.

I. All trash receptacles shall be covered and housed in a completely enclosed structure.

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§ 18-71 Site Plan Approval: As required by Article 25.

General Regulations: See Article 4.

Supplemental Regulations: See Article 18. (Article Revised 3/69)

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Article 11

C-1 Local Commercial Zone Regulations

The following regulations shall apply in all C-1 Zones.

§ 18-72 Permitted Uses.

- A. The uses permitted within the C-1 Zone must meet all of the following criteria in addition to all other requirements specified in this Article except those hereinafter expressly prohibited and those designated with special conditional limitations.

1. General business enterprises consisting of sales; home installation services associated with sales; offices, recreation, limited repairing, manufacturing, processing or assembly; shall be permitted provided, however, that:
 - a. The entire operation of the business or activity shall be conducted wholly within an enclosed building(s).
 - b. No sales or services of any kind, type or nature, comprising or relating to the business shall be conducted on the premises outside of a wholly-enclosed building(s). Nor shall any sales be permitted for consumption on the premises outside of a wholly-enclosed building.
 - c. No storage or display of merchandise, equipment, or other material will be wholly- permitted outside of an enclosed building(s) regardless of whether the storage or display area is a public thoroughfare or is privately owned.
 - d. Repairing, processing, manufacturing, washing, drying, dry cleaning, fabricating, forming, finishing or assembly shall be limited to those which are incidental to home consumption or use and services to other commercial enterprises when such services are not performed for or do not result in the resale by the recipient thereof. Such a use however shall not be permitted if there is any emission of smoke, odor or noise which is detectable outside of the building(s) beyond the boundaries of the lot on which the building housing such use is located.
 - e. Office buildings shall be occupied solely for professional use or the administrative activities accessory to other than professional uses. No such professional or administrative activity shall be considered as a permitted use

§ 18-72 Permitted Uses. (cont'd)

if it involves storage or parking on the premises of trucks, buses, taxies, equipment, or other commercial vehicles other than passenger automobiles incidental to the professional use or required for the use of persons engaged in the purely administrative activities accessory to the non-professional use.

- f. No business shall be considered as a permitted use if it involves the killing of poultry or other livestock or the processing of animal products. This restriction shall not include the cutting and preparation of animal products when performed for retail sale on the premises as food for consumption; and the killing or cutting of animals, other than human, incidental to medical practice or medical research.
- g. Where a building(s) contains office space as well as other commercial enterprises, the applicable criteria in this Section for office buildings shall apply to that portion of the building consisting of offices and the other criteria shall apply to the other commercial enterprises.

2. Restaurants.

a. Intent. It is the intent of this section to encourage quality restaurants which will enhance the appearance of the Town; afford the opportunity for dining in an aesthetically pleasing atmosphere; and provide for a variety of restaurant types to appeal to the diverse tastes of a wide range of age, income and social groups.

b. Where Permitted. “Restaurants”, as defined, shall be permitted where:

- (1) Such restaurant, when the sole occupant of a free-standing building, has a seating capacity for 125 or more persons inside the enclosed structure, such seating to be at tables or booths of the following minimum top surface sizes in square inches; for two people (720), for two to four people (1,008); or
- (2) Such restaurant does not occupy a free-standing building but either is (a) located in an office building which principally is occupied and used for professional and administrative offices; or (b) is operated as an incidental part of a drug store, department store, motel, or similar business; or (c) is the sole occupant of a separate unit within a shopping center group of structures divided by party walls. (Amend. 2-71)

- c. Additional Requirements. The provisions of § 18-130(H) Off-street Parking; § 18-250, Site Plan Control; and Chapter 4, Architectural Design Control, particularly, and all other pertinent sections of this Chapter generally shall apply.

3. Incidental Uses.

- a. In any restaurant, as defined herein, which meets the requirements of paragraphs 2. B (1) or (2) above, there shall be permitted as an additional incidental use thereto the operation of a bona fide, licensed catering service or a carry-out service, as herein defined, provided either or both such service is conducted wholly within the enclosed structure in which the restaurant is located.
- b. In any restaurant, as defined herein, which meets the requirements of § 2.b(1) or (2) above (1) Meals may be served for consumption on a roof garden of such building or at sidewalk tables directly adjoining such building, subject to the provisions of Article 21 of this Chapter; and (2) Live entertainment and patron dancing may be permitted subject to Article 21 of this Chapter. (Amend. 2-71)

4. Commercial Group Building Development. (New – Amend. 4-22-74)

Commercial Group Building Development which shall comply fully with the provisions of Section 18-173.1 of this Chapter.

§ 18-72-1 Certified Massage Therapists as defined in this Code (New 2-28-00)

§ 18-73 Special Conditional Limitations.

A. Residential apartment use shall be permitted where:

- 1. The apartment(s) is located in a building which is principally occupied and used for other uses permitted in § 18-72; and,
- 2. Such apartments are located on a floor(s) above the street floor of said building; and,
- 3. Provided the apartment and buildings in which any such apartments are located shall in addition to the requirements hereof meet all other requirements of law applicable to apartment dwellings. (Amend. 2-71)

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§ 18-73.1 Conditional Uses. (Amended 4-1-91; 11-8-94; 7-10-95; 2-28-00)

- A. Bed and Breakfast Inns.
- B. Drive-through facility as defined in § 18-4 and complying with the application and submittal requirements as set forth in § 18-210.

§ 18-74 Use Permit Required

- A. Each separate use conducted within a building in this zone and each accessory use to any such primary use conducted in a building in this zone shall require a separate use permit before such separate primary or accessory use shall be engaged in.
- B. Restaurants offering live entertainment, including patron dancing, shall be subject to the granting of a Conditional Use Permit (Amend. 2-71)
- C. Consumption of meals on a roof garden of an enclosed building in which a restaurant is located, or at sidewalk tables directly adjoining such building, shall be subject to the granting of a Conditional Use Permit. (Amend. 2-71)
- D. Motel, Hotel and Tourist Homes (Amend. 12-6-71)
- E. Hospitals, Sanitariums, Clinics and Animal Hospitals complying with the requirements of §18-210(O) of this Code. (Amend. 6-80)

§ 18-75 Change of Zone

- A. Following the adoption of this ordinance by the Town Council no application by any property owner for the rezoning of land in the Town of Vienna to this zoning classification shall be entertained by the Town Council unless and until such application is accompanied by:
 - 1. Detailed written description of the intended use to which such land is to be put; and,
 - 2. A site plan of the structure(s) intended to be placed on such land to accomplish the intended use. Such site plan shall conform in all respects to the provisions of Article 25 of this zoning ordinance.

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3. Such other assurances that the proposed land use will be accomplished by the applicant as the Town Council may reasonably require.

§ 18-75.1 Area Requirements (Amend. 2/28/94)

- A. For buildings hereafter erected and used exclusively for dwelling purposes, see § 18-149.
- B. Front Yard: The front yard as defined in this chapter shall be measured from the building line to the front property line and shall be not less than fifteen feet (15'). Structures in existence at the time of the adoption of this amendment and which previously complied with then existing front yard requirements, shall not hereafter be deemed to be non-conforming solely by virtue of their non-compliance with the front yard requirements of this section.(Amend. 2/28/94)
- C. All new structures requiring a building permit undertaken subsequent to the date of adoption of this section and all structural renovation, expansion, addition or change to existing structures, requiring a building permit, and undertaken subsequent to the date of adoption of this section, whether such structure be conforming or non-conforming on the date of adoption of this section, where such renovation, expansion, addition or change may reasonably be expected to result in an increase of fifty percent (50%) or more in usable floor area of such structure shall be required to conform in every way to the front yard requirements of this section as well as other applicable provisions of this chapter. (EMER. 11-1-82; Amend. 1-3-83)
- D. Side Yard: None required, except that if the lot adjoins a lot in a Residential Zone along its side lot line, there shall be a side yard of at least eight feet (8'); and further, each commercial or industrial building with any side wall containing windows or other openings which does not side on a street or alley, shall provide along such wall a side yard of not less than five feet (5') and one foot (1') additional for each story above the first story.
- E. Rear Yard: Minimum twenty-five feet (25') in depth.
- F. These area requirements may be modified by the Council in accordance with the provisions of Article 25, § 18-256 of this code.
- G. At least twenty-five (25) percent of the front yard shall be landscaped.
 1. Landscaping shall be in accordance with a plan approved by the Town Council after receiving reports and recommendations from the Planning Commission and

2. An approved landscape plan may be revised with the approval of the Board of Architectural Review. (New 2/28/94)

Maximum height of any structure erected following the adoption of this section, three (3) stories above ground level, but not to exceed thirty-five feet (35') above ground level. (Structures in existence at the time of adoption of this section that exceed the above height limit will not be considered non-conforming as to the height limit provision.)

Accessory building and private parking area requirements for dwellings erected in this commercial zone shall be as specified in Article 17.

B. The parking of vehicles belonging to and which are part of the business activity within a building, other than vehicles configured as private passenger cars, may be in an enclosed or partially enclosed building or in the open. Provided, however, that the partially enclosed building or open area shall be so located as to not be visible from the principal street on which the premises face and screened from and adjacent or abutting residential area by an ornamental masonry wall which shall be no less in height than the greatest height of the vehicles to be parked. (Amend. 3-29-72)

As specified in Article 19 except that free-standing signs as specified in § 18-196 of Article 19 as well as standards, banners, flags, streamers and similar devices used for advertising purposes, shall not be permitted in the C-1 Zone.

As required by Article 25.

Supplemental Regulations. See Article 18.

§ 18-80

Article 12
C-1A Special Commercial Zone Regulations

The following regulations shall apply in all C-1A Zones.

§ 18-80 Permitted Uses:

- A. All uses permitted in C-1 Zones provided that such uses when located in the C-1A Zone conform to all provisions of the C-1A Zone as well as all specific requirements and limitations provided for such particular use in the C-1 Zone. (Amend. 2-71)
- B. The following specified retail stores, shops or businesses shall be permitted provided that: (Amend 2-28-00)
 - 1. There shall be no manufacturing, compounding, processing, or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are sold at retail on the premises;
 - 2. Such uses, operations, products that are not objectionable due to odor, dust, smoke, gas, noise, vibrations, or other similar causes;
 - 3. Such stores, shops or businesses shall be conducted wholly within an enclosed building.

Auto glass shop.

Automobile parking lot (public) provided it is developed in accordance with provisions of §§ 18-135, 18-136 and 18-137.

Bowling alley.

Business college operated as a commercial establishment.

Blueprinting and Photostatting office.

Catering establishment.

Certified Massage Therapist as defined in this Code. (New 2/28/00)

Cleaning establishment (limited to retail on premises).

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Bed and Breakfast Inns and Hotels

Drive-through Facility as defined in § 18-4 and complying with the application and submittal requirements as set forth in § 18-210.

Farm or gardening implement sales and service.

Taxi stand. (Only private property.)

§ 18-82 Area Requirements (Amend. 2-28-94)

- A. For buildings hereafter erected and used exclusively for dwelling purposes, see § 18-149.
- B. Front Yard: The front yard as defined in this chapter shall be measured from the building line to the front property line and shall be not less than fifteen (15) feet. Structures in existence at the time of the adoption of this amendment and which previously complied with then existing front yard requirements, shall not hereafter be deemed to be non-conforming solely by virtue of their non-compliance with the front yard requirements of this section. (Amend. 2/28/94)
- C. All new structures requiring a building permit undertaken subsequent to the date of adoption of this section and all structural renovation, expansion, addition or change to existing structures, requiring a building permit, and undertaken subsequent to the date of adoption of this section, whether such structure be conforming or non-conforming on the date of adoption of this section, where such renovation, expansion, addition or change may reasonably be expected to result in an increase of fifty percent (50%) or more in usable floor area of such structure shall be required to conform in every way to the front yard requirements of this section as well as all other applicable provisions of this chapter. (EMER. 11-1-82; Amend. 1-3-83)
- D. Side Yard: None required, except that each commercial or industrial building with any side wall containing windows or other openings which does not side on a street or alley, shall provide along such wall a side yard of not less than five feet (5') and one foot (1') additional for each story above the first story.

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- E. Rear Yard: Minimum ten feet (10').

F. At least twenty-five (25) percent of the front yard shall be landscaped.

1. Landscaping shall be in accordance with a plan approved by the Town Council after receiving reports and recommendations from the Planning Commission and the Board of Architectural Review. Landscape maintenance shall be subject to the provisions as set forth in Section 18-173.14.
2. An approved landscape plan may be revised with the approval of the Board of Architectural Review. (New 2-28-94)

§ 18-83 Height Limit (Amend. 4-18-77 EMER; Reg. 6-6-77)

Maximum height of any structure erected following the adoption of this section shall be three stories above ground level, but not to exceed thirty-five feet (35') above ground level. Structures in existence at the time of the adoption of this section will not be considered non-conforming as to the height limit provision. This amendment shall not affect the rights of any persons who have filed, prior to the enactment of this ordinance, preliminary or final site plans for the construction of structures in excess of the height limit provided by this ordinance on property presently zoned C-1A or C-2.

§ 18-84 Accessory Building and Private Parking Area Requirements
As specified in Article 17.

§ 18-85 Off Street Parking Area
As specified in Article 16.

§ 18-86 Name Plates and Signs
As specified in Article 19.

§ 18-87 Site Plan Approval
As required by Article 25.

General Regulations. See Article 4.

Supplemental Regulations. See Article 18.

§ 18-87.1 Zoning § 18-87.1

Article 12.1

C-1B Pedestrian Commercial Zone Regulations
(NEW 4/96; Amend. 7-12-99; 2-28-00)

PURPOSE:

The purpose of this Pedestrian Commercial Zone (C-1B) is to legislatively recognize the distinctive character of the original old Vienna commercial district and to provide for the protection and preservation of the traditional image and history of that unique area as it presently exists and to encourage and enhance future development, utilizing that character and heritage as symbolized by excellence in design, architecture and that period development of Vienna in early years while blending private with public development and maintenance of that valuable distinct character.

In furtherance of the above purposes, the Town of Vienna has expended substantial sums in capital improvement programs to enhance the utilities, landscaping, streetscaping, public ways and general municipal character of the district in harmony with that character and heritage.

The Town acknowledges by legislative recognition that because of the unique traditional nature of the particular district, accomplishment of the intended goals of this article may not always be achieved or be achievable within the strict requirements of this chapter.

Strict application of the terms of this chapter in general could effectively prohibit achievement of those goals and prevent the most practical, efficient and aesthetic development of area sites in furtherance of the purposes of this article. Therefore, certain modifications, waivers and variations are required to accomplish the intended well planned development necessary to achieve the desired character.

DECLARATION OF INTENT:

The Vienna Town Council has made the legislative determination that the preservation of the existing traditional period character of the zone and the encouragement of future development within the zone in keeping with those same high standards of that Vienna character and heritage is in the best interests of the community, will promote long-term economic growth, encourage the optimum use of the real estate within the zone, attract new business, enhance the tax base of real estate and the taxable value of businesses within the area, encourage employment and commercial growth, and in general benefit the health, safety and welfare of the community as a whole.

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The Town Council declares further that it is in the best interests of the community and the owners of the property within the zone that the goals of this article be best achieved voluntarily through the cooperative efforts of property owners and the Town, and that the historic nature, unique character, and heritage of the area be best preserved without mandatory legislative

imposition of historic preservation regulations or districting. Rather, the goals of this Article will be best achieved through the prudent exercise of site plan powers enjoyed by the Town's Council when the same are merged with the application of the incentive land use principles contemplated by incentive zoning as defined in section 15.2-2201 of the Code of Virginia, 1950 as amended, by the grant of bonuses in the form of selective site plan modifications by the Town to a developer or property owner in return for that developer or property owner providing within a development, construction or reconstruction, certain predefined design and plan features and amenities desired by the Town and legislatively adopted herein.

GENERAL REGULATIONS:

The following general regulations shall apply in the C-1B Zone.

§ 18-87.1 Permitted Uses: (Amend 2/00)

A. All uses permitted in the C-1A Zone except:

1. Drive-through operations, either as a primary or incidental operation, shall not be permitted in this zone.
2. Automobile sales and service operations shall not be permitted in this zone.

B. Bed and Breakfast Inns shall be a permitted use.

C. All uses permitted in this zone shall:

1. Be conducted wholly within an enclosed building except that restaurants may provide outdoor seating subject to site plan approval;
2. Have no manufacturing, compounding, processing, or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are sold as retail on the premises;
3. Not be objectionable due to odor, dust, smoke, gas, noise, vibrations, or other similar causes.

D. Certified Massage Therapist as defined in this Code.

§ 18-87.2 Conditional Uses: (Amend 2/00)

The following uses may be permitted subject to securing a conditional use permit as provided for in Section 18-209:

Amusement enterprises or video arcades as defined and limited in Section 18-81.

Auditoriums and Halls.

Farm or gardening implement sales and service.

Hotels.

Taxi Stands (only on private property).

§ 18-87.3 Area Requirements:

A. For building erected and used exclusively for dwelling purposes, see Section 18-149.

B. Setbacks:1. Front Yard: No less than fifteen (15) feet

Any structure in existence at the time of adoption of this article may maintain its existing front yard setback, except that any addition, renovation, expansion or change to such structure that will result in an increase of fifty percent (50%) or more in usable floor area shall be required to conform to all front yard requirements of this section and all other applicable provisions of this chapter.

2. Side Yard: None, except each commercial building with any side wall containing windows or other openings, which does not side on a street or alley, shall provide along such wall, a side yard of not less than five (5) feet and one (1) foot additional for each story above the first.3. Rear Yard: No less than ten (10) feet.

C. Height: Three (3) stories above ground but not to exceed thirty-five (35) feet.

- D. Landscape: A minimum of twenty-five percent (25%) of the front yard shall be landscaped in accordance with a plan recommended by the Planning Commission and Board of Architectural Review and approved by the Town Council. Revisions to an approved plan may be approved by the Board of Architectural Review.
- E. Off-Street Parking Area: As specified in Article 16.
- F. Accessory Building and Private Parking Area: As specified in Article 17.
- G. Name Plates and Signs: As specified in Article 19.
- H. Site Plan Approval: The provisions of Article 25 of this Chapter, site plan control provisions, are applicable to this Article except as specifically modified or otherwise provided for in this Article.
- I. General regulations: As specified in Article 4.
- J. Supplemental Regulations: As specified in Article 18.
- K. Non-conforming Uses and Buildings:
 - 1. Non-conforming uses are governed by the provisions of Article 20 of this Chapter.
 - 2. Non-conforming structures are governed by the provisions of Article 20 of this Chapter except that development, construction or reconstruction performed pursuant to the terms of Section 18-87.4 of this Article shall be deemed conforming in the C-1B Zone.
 - 3. Conformity of structures acquired solely by this Section and compliance with Section 18-87.4 shall continue in effect only so long as those design and site features proffered and accepted there under continue in strict conformity with the approved site plan or are otherwise amended by revised site plan in compliance with this Article.

Deviation from the strict design and site features of the site plan shall constitute a surrender of the acquired status of conformity, a forfeiture of all bonuses previously granted in return for said design and site features and shall constitute a violation of this Chapter.

Property owners who upon notice of violation from the Zoning Administrator fail to correct deviations and restore the original, approved design and site features shall thereafter conform the property to Section 18-87.3. Appeal from notice of violation of design and site feature requirements from the Zoning Administrator shall be in writing to the Town Council within thirty (30) days of receipt of such notice of violation and the Circuit Court as provided by law. Appeal from notice of violations of Section 18-87.3 shall be to the Board of Zoning Appeals and the Circuit Court as provided by law.

SECONDARY REGULATIONS

§ 18-87.4 Modification of General Regulations:

- A. The provisions of section 18-87.3, A,B,D,E,F,G,I, and J shall not apply to development, construction or reconstruction in the C-1B Zone when as an incident to that development, construction or reconstruction, adopted building design features and site plan features are voluntarily proffered by the owner or developer, and accepted by the Town in return for the grant of bonus incentives by the Town to and acceptance by the developer or owner through site plan modifications in lieu Of the provisions of Section 18-87.3. Upon acceptance by the parties, such features and bonuses shall run with the land.
- B. In addition to modifications authorized by Section 18-256 of this Chapter, the Town Council is authorized to grant as modifications to site plans in the C-1B Zone incentive bonuses as adopted in Section 18-87.6 in return for the voluntary proffer and acceptance by an owner or developer of building design features and site plan features provided for in Section 18-87.5 when the same are desired by and acceptable to the Town in furtherance of the purposes of this Article.
- C. Modifications consisting solely of those design features, site features and incentive bonuses which have been previously legislated and incorporated by the Council into Section 18-87.5 and 18-87.6, respectfully, shall not require recommendation of the Planning Commission prior to grant by the Council.
- D. All modifications shall provide a landscape site plan and for the continual maintenance thereof.

§ 18-87.5 Building and Plan Design Features

In furtherance of the legislative intent of the C-1B Zone and to project continuity in harmony of character in the area, there are hereby adopted the following building design features and site plan features which are declared acceptable for use in development in the C-1B Zone in satisfaction of the provisions of Section 18-87.4.

These features were in their entirety approved by the Board of Architectural Review of the Town pursuant to the requirements of Chapter 4 of the Code prior to their adoption herein and any repeal or amendment of the same in this Section must undergo prior review by the Board pursuant to Chapter 4 of this Code.

The Zoning Administrator shall present all proposed amendments to this Section to the Board of Architectural Review for the Board's recommendation to the Town Council prior to presentation of the same to the Council. The Board of Architectural Review shall report its recommendations thereon to the Council within 30 days of notification by the Zoning Administrator, and failure to report in such time shall constitute approval of the Board.

A. Conceptual Architectural Renderings:

The renderings contained herein represent a conceptual illustration of the acceptable architecture design and development standards. In brief, adjoining buildings are to be constructed at staggered setbacks along the front property line, parking is to be open between the lots, accessed from a common drive and located behind the buildings, and the architecture shall be reminiscent of turn-of-the-century Vienna, emphasizing street level design and pedestrian oriented spaces.

Each development shall be proportionate to the other in terms of height, scale and massing. While each building and site is developed independently and may incorporate many eclectic styles and design elements, the overall effect shall be a cohesive and comprehensive architectural area.

These renderings are not to be interpreted as working drawings, binding illustrations or specific requirements for any building or lot. The written guideline text is the applicable medium and in the event of conflict between elements in any rendering and the written guideline text the written guideline text shall prevail.

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B. Building Design Features:

These design guidelines illustrate ways construction may occur which will complement and enhance the Town's character. They are not intended to dictate a particular style but rather offer guidance to the development theme desired in the C-1B Zone.

Buildings and developments within the C-1B Zone shall incorporate Virginia vernacular and enhance architectural styles that are reminiscent of the Town of Vienna's history between 1890 and 1930.

1. Design Goal:

To coordinate the visual and architectural characteristics in the C-1B Zone, emphasize Vienna's heritage, and create a pedestrian oriented streetscape.

2. Design Objectives:

- a. Preserve the character of the adjacent residential neighborhoods;
- b. Encourage reinvestment in the area by private property owners and merchants;
- c. Provide for at-grade separation of pedestrian and vehicular traffic through the use of on-street parking, centralized parking and clearly defined walkways.
- d. Integrate and enhance pedestrian walkways between commercial properties and public parks and lands;
- e. Maintain the character and heritage of the original historic Presbyterian Church, Freeman House and the Washington and Old Dominion (W&OD) Trail area as an enhanced public focal point and corridor gateway;
- f. Focus commercial activities, store fronts and signage at the pedestrian level.

3. Design Policies:

- a. Continue the undergrounding of individual building utility connections;

- b. Coordinate private development with the municipal Church Street streetscape project design elements;
- c. Encourage shared and public automobile parking facilities and non-motorized transportation alternatives.

4. General Design Requirements:

- a. Architectural styles for new buildings or the remodeling or renovation of existing buildings will be chosen from recommended characteristics shown in the Conceptual Architectural Renderings appearing herein at 18-87.5 A and Vienna history and enhance the character of the Church Street corridor.
- b. Building additions shall be compatible with the conceptual architecture and provide compatible details, scale, voids, materials and colors.
- c. The lower level of buildings shall offer a front design that is conducive to pedestrian activity and interest.
- d. Visual interest shall be provided along the street and pedestrian ways, such as entrances, display windows, landscape areas and outdoor seating.
- e. Primary customer entrances shall be designed and focused on the street front. Such entrances must be maintained and accessible as an entrance at all times. Any secondary entrance must mimic the materials and design of the primary entrance.
- f. Arcades are encouraged along the first floor of corner buildings but may not be used more frequently than every three store fronts or eighty (80) feet.
- g. Solid walls, dull or minimal facades will not be designed along streets or pedestrian ways.
- h. Building heights shall be compatible with adjacent buildings and the topography of the site and in compliance with the conceptual architectural renderings.

- i. Building setbacks of in-fill structures shall be consistent with neighboring structures and in compliance with staggered setback requirements.
- j. The width and proportion of building facades shall be compatible with the overall scale of the neighborhood. Where multiple developments are proposed, the development proposal shall create the feeling of architectural proportionality through exterior facade design.
- k. Courtyard style arrangements of buildings are encouraged along the W & OD Trail and at other suitable locations to emphasize pedestrian access and minimize automobile importance.
- l. Parking shall be designed to the rear of the lot when possible. When adjoining another lot with abutting parking, the lots will be integrated and opened to each other when practical.
- m. Landscaping shall be included around the parking facilities to ease their appearance in compliance with the submitted landscape plan.
- n. Landscape areas shall be used to enhance the buildings situation and orientation on a lot.
- o. Safe, convenient walkways shall be identified by paver materials that coordinate with the public sidewalks within the public street right-of-way.
- p. Lots in the C-1B Zone on the southern side of Church Street shall encourage pedestrian access to Maple Avenue by sidewalks or paths through the lots, tying the commercial corridors together both visually and physically.
- q. Signs shall be integrated into the design of the building. They shall not interfere with the architectural integrity or features of the building and meet the sign design guidelines of this section.
- r. Exposed neon shall not be visible from the street regardless of form, size or interior location; it shall not be used as a building detail, decorative accent or signage.
- s. Materials used for construction will be consistent with the provisions of 18-87.5 I.

- t. Vinyl siding may not be used below the second floor on any wall or surface visible from a public way. Aluminum siding and buildings primarily of glass are prohibited.
- u. Awnings or canopies may only be used in restaurant areas with outdoor patron seating.
- v. Awnings and/or canopies will be made of fabric. Vinyl or plastic awnings or canopies are not permitted.
- w. Building equipment, such as generators and air conditioning units shall be screened from view in a manner compatible with the site and using materials similar to the building and harmonious with the design.

C. Conceptual Plan

The following rendering is a conceptual site plan with identified design elements satisfying Section 18-87.5 B above. It should not be interpreted as a working drawing, binding illustration or specific requirement for any building or lot. The written guideline text is the applicable medium and in the event of any conflict between elements in the conceptual site plan and the written guideline text the written guideline text shall prevail.

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D. Building Setbacks and Siting

Buildings shall be constructed to meet the following setbacks and siting criteria:

Buildings shall be placed forward on a lot to create a continuous street block.
Buildings shall have a relationship to adjacent buildings and facades that creates a staggered building line along the street, consistent with the following criteria.

All setbacks shall be measured from the property line.

1. Front Yard Setbacks:

Corner lots must have a front yard setback of at least ten (10) feet from the street.
Interior lots must alternate the front yard setbacks using one of the following:

Five feet (5'),
Seven feet, eight inches (7' 8"), or
Ten feet, four inches (10' 4").

The nearest two (2) feet to the face of the building shall be used as a landscape strip or planter, except when the front yard is designed as a courtyard or patio.

No front yard setback may be continuously extended for more than a distance of forty (40) linear feet, whether such distance be across a single or adjoining lot.

2. Side Yard Setbacks:

Corner lots must have a side yard setback of at least five (5) feet from the street.
Interior lots may have a zero (0) side yard along the street level, provided there are no windows on the side walls at the street level.

3. Front Setback and Landscape Area Requirement:

- a. A five (5) foot brick sidewalk shall be constructed along the front property line adjoining the public planter and sidewalk to create a divided double sidewalk. A landscaped area may be used instead, if a double sidewalk is inappropriate to the intended use of the building.
- b. Except when the front yard is designed as a courtyard or patio, a landscape strip or planter shall be constructed between the building and the above mentioned sidewalk. For buildings with the minimum setback the planter or landscape strip must be at least two (2) feet in width and placed adjacent to the building. The intent of this requirement is to create a green space of varying width between the sidewalks and the building.

Siting:**NOT RECOMMENDED,**

Parking is located in front of the buildings

RECOMMENDED

Parking is located behind the buildings which are pushed forward on the lot; Parking along the side of the building is screened by a wall; Parking is shared between properties and parking lots cross property lines.

E. Facade Proportion and Street Level Continuity

The width and proportion of building facades (the relationship of a building's width to its height) shall be consistent with adjacent buildings. Buildings with a street front longer than forty (40) feet shall be architecturally designed and situated on the site to create the impression of multiple facades with staggered setbacks as set out in section 18-87.5 D. above.

Buildings should not be set back beyond the front building setbacks established in section 18-87.5 D above nor be situated to create a street front setback longer than forty (40) feet.

RECOMMENDED,
Compatible facade
proportion

**NOT
RECOMMENDED,**
Facade too long

F. Street Level Vitality

The street level of new and in-fill buildings, plazas, courtyards or other space and structures that face the street shall provide a primary pedestrian access and orient their design toward the street.

**NOT
RECOMMENDED,**
Lack of street level
design

RECOMMENDED,
Design oriented
to street level

Height

Maximum height is thirty-five (35) feet measured from the average grade of the lot. In-fill buildings shall be of a compatible height with adjacent buildings whenever possible.

**NOT
RECOMMENDED,**
Height change
too dramatic

RECOMMENDED,
Compatible
height

G. Specifics Design Requirements:

1. First story roofs shall have a minimum slope of 6/12.
2. Window center lines shall be aligned whenever possible.
3. Cornices shall be aligned whenever possible.
4. Stucco may be used no nearer than 2' 8" to the base of the building. The building base up to a height of 2' 8" above grade, should be constructed of brick or stone with a water table; split face block is acceptable upon review.
5. EIFS, or any like material, may only be used above the first floor.
6. Mansard roofs are not permitted.

H. Floor to Area Ratio:

1. The maximum Floor to Area Ratio (FAR) shall not exceed 0.7 for any lot and only upon accommodating both site and building design criteria.
2. Floor to Area Ratio is defined as the ratio of total floor area on a lot divided by the total lot area (FAR = total floor area/total lot area).
3. Total floor area is defined as the interior space of all floors of a building minus stairways, elevators, and attics or cellars with a ceiling height of six (6) feet or less.

I. Building Materials.

The following rendering identifies construction materials and architectural elements included in the C-1-B Zone. It shall not be interpreted as a working drawing, binding illustration or specific requirement for any building or lot. The written guideline text is the applicable medium and in the event of any conflict between elements in any rendering and the written guideline text by the written guideline text shall prevail.

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J. Parking and Circulation Requirements:

Parking shall be designed to the rear of the lot when possible. Where parking can only be located on the side of building, it must be screened from the principal pedestrian way by a low wall that integrates into the adjoining building or by the use of low hedges or other appropriate landscaping.

When adjoining another lot with abutting parking, the lots shall be integrated and opened to each other. In order to achieve the requirements of this section, reserved parking may be prohibited by site plan approval except for one reserved space for the owner or manager of the site.

These requirements shall in no way be permitted to delete otherwise lawfully required handicapped spaces.

Landscaping shall be included around the parking facilities to ease their appearance when possible.

All lots developed as part of the C-1B Zone using the approved Design Guidelines shall provide shared parking with other lots developed under the C-1B Zone Design Guidelines unless prevented by an adjoining lot or lots not developed under the approved Design Guidelines.

1. Standard Parking Spaces:

- a. All parking shall be provided at a net ratio of one space per 600 square feet of total floor area.
- b. Standard parking spaces shall measure nine by eighteen feet (9' x 18').
- c. Parking aisles shall have a minimum width of twenty-two (22) feet.

2. Compact Parking Spaces:

- a. 40 % of provided parking spaces may be compact in size.
- b. Compact parking spaces shall measure seven feet six inches by sixteen feet (7'6" x 16').

3. Access Ways and Easements:

- a. Access ways shall be developed within existing rights-of-way when possible, including existing, undeveloped alleys within the C-1B Zone. When public rights-of-way or alleys are not available, access ways shall be established through dedicated public access easements specifying they are for public access purposes.
- b. Access easements shall meet fire codes and standards for one and two way traffic as determined and identified on the Access Way Map.
- c. Additional public access easements may be required adjacent to existing rights-of-way or alleys to meet the Fire Code standards.

4. Lighting:

Lighting standards shall be no more than ten (10) feet in height above grade and shall be so arranged and hooded as to confine all direct light rays entirely within the boundaries of the parking areas. Lighting fixture designs shall be harmonious with the general architectural nature of the building or site.

Signs shall provide a coordinated image between signs and buildings and provide adequate exposure for the businesses.

1. General Sign Design Requirements:

- a. Signs shall be integrated into the design of the building and shall not interfere with the architectural integrity or features of the building.
- b. Exterior signs shall face public thoroughfares or rear parking lots.
- c. Signs may not be placed nearer to a window or door than a distance equal to the width of any molding surrounding the window or door. In the event, there is no molding, the sign shall not be placed nearer to the edge of a window or door than four inches.
- d. Multiple panel signs shall be designed to create a harmonious overall impression.
- e. Exterior signs shall have an element of “3-dimensionality.”

2. Content and Layout:

- a. Sign text may only include the business name as the same is stated on the business license, except that a “trading as” (T/A) or “doing business as” (DBA) identity is acceptable. Either a tag line or three descriptive or informational items are also permitted. A trademark, or logo may be incorporated into the sign design provided the same conforms as to this provision. Telephone and facsimile numbers, Internet and electronic mail (E-mail) addresses, and prices may not be displayed on any sign.
- b. Sign design and copy shall serve the primary purpose of business identification. Colors shall be used appropriately for the architecture, business identification and design elements. Designs and colors shall not be used for product advertisement.
- c. Store hours may only be posted on an additional unilluminated sign no larger than one and one-half (1½) square feet and placed adjacent to any public entrance.

- d. Sign layouts shall be centered within the sign area such that there is a border space around the entire sign with a width equal to ten percent (10%) of the total sign width.
- e. Sign designs and letter forms shall be professionally prepared.

3. Materials:

- a. Materials for signs will be consistent with the building architecture and Section 18-87.5 I.
- b. Signs shall be made of predominately natural materials such as wood, metal or stone.
- c. Synthetic materials, including plastic and sign foam, may be used only when it is finished to appear as a natural material.
- d. Unpainted plastic, molded plastic letters and vinyl leaf shall not be used.
- e. Glass beads or sand maybe used to add texture.
- f. Only genuine metallic leaf products in gold or silver and Palladium leaf (a.k.a. Dutch Metal) may be used.

4. Lighting:

- a. Signs may be illuminated by reflected light only.
- b. Signs may not be internally illuminated or use any exposed neon tubing.
- c. Signs may be illuminated only by external spot lighting; such light fixtures to be architecturally part of the structure.

5. Open Signs:

- a. Each business may place one sign reading “open” in a store window facing a public thoroughfare or parking lot.
- d. “Open” signs may not exceed one and one-half (12) square feet, may not be internally illuminated and may not be made of neon.

6. Window Signs:

Only the following window signs will be permitted:

- a. One permanent window sign for each business, lettered on the inside of the glass with no background color, no larger than twenty-five percent (25 %) of each window area of the window in which it is placed and made of either gold leaf, silver leaf or white individual letters.
- b. The area of a window sign will be calculated by measuring the outer edge of the overall sign image.
- c. Temporary window signs may not cover more than ten percent (10%) of any window area in which it is placed. Temporary window signs may not stay up for more than thirty (30) days at one time and there may be no more than four (4) such signs posted in any one calendar year.

7. Facade Signs:

- a. Facade signs may not interfere with or interrupt building details or openings and shall be designed in coordination with the structure. Facade signs include any wall mounted sign facing the front street, rear customer entrance or other public way.
- b. A total of two (2) square feet of facade signage is permitted for each linear foot of building frontage. Such sign area is to be shared by all tenants or tenant spaces within the building.
- c. Facade signs may be placed flat or perpendicular against any building side that fronts a parking lot or public thoroughfare,
- d. Facade signs must be permanently and securely attached to the building,
- e. Facade signs must be reinforced with a continuous metal band around the outer edge of the sign,
- f. Facade signs shall be below the trim fascia or gutter line,
- g. Facade signs shall not eclipse the roofline,
- h. Facade signs may be illuminated only by external spot lighting; such light fixtures to be architecturally part of the structure,

- i. Perpendicular signs may not project more than four (4) feet from the building facade, may not over-hang the property line, and may not interfere with pedestrian traffic or the building's architectural elements.

8. Canopy Signs:

Canopy signs may only be placed flat along the canopy valance.

9. Freestanding Signs:

- a. More than one freestanding sign may be erected per building but may not over-hang the property line or interfere with pedestrian traffic or the building's architectural elements.
- b. A freestanding sign may be no larger than twenty-four (24) square feet per building.

10. Sign Prohibitions:

The following signs are prohibited:

- a. A-frame or sandwich board signs,
- b. Billboards,
- c. Signs which involve motion or rotation of any part, or display flashing, strobe, or intermittent lights,
- d. Signs generating amplified sound, smoke, vapor particle emission or objectionable odors,
- e. Standards, banners, flags, streamers and similar devices, except for national, state or local governmental flags and temporary banners approved by the Zoning Administrator pursuant to Section 18-178 A.6,
- f. Exposed neon visible from the street regardless of form, location or message, including signs reading "open,"
- g. Shopping center style directory signs for multiple tenants.

11. Additional Sign Restrictions:

- a. Signs shall not be placed or used to compete for automobile visibility.
- b. Real estate, “for sale” and “for rent” signs may only be placed in the windows of the building to which the signs pertain. Such signs may not be placed in outdoor locations and may be up only so long as the space is for rent or sale.
- c. Signs may not use fluorescent colors, paint additives such as “pearl” or “metal flake” reflective sheeting, or refractive metallic films including gold leaf vinyl sheeting.
- d. Signs may not be placed or erected upon the roof of any building.
- e. Signs may not be plainly offensive to human sensibilities or otherwise provide a reasonably foreseeable detriment to the community.

12. Sign Examples:

The following pages provide examples of signs that illustrate the design elements, styles, colors and materials required in the C-1B Zone.

§ 18-87.5

Zoning

§ 18-87.5

§ 18-87.5

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§ 18-87.5

§ 18-87.5

Zoning

§ 18-87.5

L. Design Guidelines for Open Space1. Outside Display:

- a. Vending Machines: Vending machines may not be placed outside of a wholly enclosed building or shelter.
- b. Dumpsters: Trash, recycling and any other refuse collection dumpsters shall be located at the rear of the property and either screened, enclosed or otherwise blocked from public view. Such screening or enclosure shall be designed in conjunction with the primary building, shall use similar materials and shall provide complete obscurity of the dumpster. The screen or enclosure shall have double doors. Chain link fencing may not be used.

2. Sidewalks:

- a. Sidewalks in the identified C-1B Zone area shall be paved with coordinating pavers and designed to match the existing pattern established along the Church Street corridor.
- b. Brick pavers shall be used in a coordinating pattern to widen the public sidewalk as they adjoin private sidewalks.
- c. Sidewalks in the public right-of-way shall be constructed the full width of the lot and shall connect with existing sidewalk sections.
- d. Sidewalks shall be clearly identified and shall connect the building entrance with the public sidewalks.
- e. Whenever possible, sidewalk patterns and pavers shall extend between the C-1B Zone area and adjoining commercial properties to provide a visual connection between the commercial areas of town and clearly delineating pedestrian space from automobile space.
- f. A five (5) foot brick sidewalk shall be constructed along the front property line adjoining the public planter and sidewalk to create a divided double sidewalk. A landscaped area may be used instead, if a double sidewalk is inappropriate to the intended use of the building.
- g. Except when the front yard is designed as a courtyard or patio, a landscape strip or planter shall be constructed between the building and the above mentioned sidewalk. For buildings with the minimum setback the planter or landscape strip must be at least two (2) feet in width and placed

to the building. The intent is to create a green space of varying width between the sidewalk and the building.

3. Landscaping and Trees:

- a. Landscape islands shall use “mountable” curbs with a three to four inch (3”- 4”) curb rise.
- b. Landscape islands shall be a minimum of four (4) feet in width and edged by a “mountable” curb.
- c. Trees shall be used to enhance the open space areas and parking lots and shall be maintained in good condition by the property owner.
- d. Trees shall be selected so that they are resilient to pollution and drought, do not produce berries or fruit and have deep root growth so they do not up heave the sidewalks or planters.
- e. Every landscape island five (5) feet or more in length shall hold at least one tree and additional trees shall be planted within the island, for the full length of the island, so the ten –year canopy of each tree will touch edge-to-edge.
- f. Tree plants shall be a minimum of four (4) inch caliper and meet the specifications of the American Association of Nurserymen.
- g. Forty percent (40%) of the landscape island area shall be planted with vegetation in addition to trees and shall be maintained in good condition by the property owner.
- h. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen’s Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.

4. Lighting:

Lighting standards shall be no more than ten (10) feet in height above grade and shall be so arranged and hooded as to confine all direct light rays entirely within the boundaries of the property. Indirect and low ground-oriented lighting should be used whenever possible. Lighting fixture designs shall be harmonious with the general architectural nature of the building or site.

5. Retaining Walls and Fences:

- a. All retaining walls, fences, and screening between zoning districts shall be constructed to the following required design using the following required materials and colors.
- b. A six (6) foot tall masonry wall is required between any lot zoned single family residential and any commercially zoned property, including lots and public access ways in the C-1B Zone. Such wall shall be constructed and maintained along the property line but on the side of the commercial land or access way. Such wall shall be constructed by the developer and maintained as part of the property.

NOTE: The following drawing represents the required design style for a masonry wall. The drawing should not be interpreted to be structurally detailed. Any masonry screen or retaining wall should reflect the same exterior design detail but will require additional structural engineering by an appropriately licensed professional.

§ 18-87.6

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§ 18-87.6

Section 18-87.6 Bonus Modification:

The following are acceptable bonus incentives which may be granted as site plan modifications by the Town Council in return for an owner or developer providing building design and site plan features desired by and acceptable to the Town and as adopted by Section 18-87.5 hereof.

A. Bonus Incentives

1. Increase building footage and lot coverage.
2. Modification of lot coverages in general.
3. Reduce front, rear, and side building setbacks.
4. Modification to required number, size and location of parking spaces.

No modification, variance, or waiver to use or maximum height restriction requirements may be permitted.

The following regulations shall apply in all C-2 zones.

§ 18-88 Permitted Uses:

A. All uses permitted in C-1 or C-1A zones provided that such uses when located in a C-2 Zone conform to all provisions of the C-2 Zone and provided that such uses are not designated as Conditional Uses in the C-2 Zone as well as all specific requirements and limitations provided for such particular use in the C-1 and C-2 Zones. (Amend. 2-71)

B. The following specified retail stores, shops or businesses shall be permitted provided that:

1. There shall be no manufacture, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are sold at retail on the premises.

2. Such uses, operations and products are not objectionable due to odor, dust, smoke, gas, noise, vibrations, or other similar causes:

Automobile service station;

Automobile tire sales and service (such use not to include recapping or retreading on the premises);

Feed or fuel store wholly within an enclosed building;

Wholesale merchandising broker, excluding wholesale storage.

C. Uses customarily incident to a § 18-73

D. Certified Massage Therapists as defined in this Code. (New 2/28/00)

§ 18-89 Conditional Uses: (Amended 11/8/94; 7/10/95; 2/28/00)

The following uses may also be permitted subject to securing a Use Permit as provided for in § 18-209:

Adult Bookstores, Adult Mini-motion Picture Theaters and Establishments Offering for Sale, Lease or Rental Adult Oriented Motion Pictures, Video Tapes, Discs, or Cassettes, or Photographs: In Consideration of such applications, the Board of Zoning Appeals shall apply standards for special permit uses contained in § 18-209 of this Chapter. In addition, The Board of

Zoning Appeals shall be precluded from issuing the said Use Permit if the location does, in fact, abut a residentially zoned or residentially used property or is located closer than one thousand (1,000) feet from any church or school; and provided further that no two such adult book stores or mini theaters may be located closer than one thousand (1,000) feet from each other. Nothing contained herein shall be construed in any way to limit the application of any State statute relating to obscenity or relating to distribution of materials to juveniles. (Amend. 6-6-77; EMER. 4-20-81; Reg. 6-15-81)

Amusement enterprises or video arcades, if conducted wholly within an enclosed building provided such building contains at least one thousand (1,000) square feet of floor space open to the public and the floor area occupied by amusement enterprises does not exceed five per cent (5%) of that floor area open to the public. (Amend. 4-4-83)

Auditoriums and halls.

Auto sales, new and second-hand provided, however, that second-hand auto sales will be allowed only where such sales are made as a normal part of the business of a franchised dealer in new automobiles, and where such second-hand autos are kept upon and sold from the same premises as those upon which the new automobile agency is located.

Bed and Breakfast Inns and Hotel.

Drive-through Facility as defined in § 18-4 and complying with the application and submittal requirements as set forth in § 18-210.

Farm or gardening implement, sales and service.

Fortune tellers, Clairvoyants and Practitioners of Palmistry and Phrenology provided:
(New 1-5-76)

(1) The same shall be at all times conducted in such a manner as to be fully open to public observation and scrutiny.

(2) No housekeeping, cooking or sleeping quarters or facilities shall be maintained in, on, or about the premises; nor shall such use be conducted as a home occupation under any circumstances.

(3) No other business shall be conducted or service rendered on the premises.

(4) No persons ever having been convicted of a crime involving moral turpitude shall be employed therein.

(5) Daily records shall be maintained listing the name and address of each customer or client, the service performed and the charge therefor. Such records shall be kept for a period of three (3) years and shall be open to inspection and examination by authorized representatives of the Town.

Minute car wash stations. (Amend. 5-10-71)

Pet shop.

§ 18-90 Area Requirements (Amend. 2/28/94)

A. For buildings hereafter erected and used exclusively for dwelling purposes, see Section 18-149.

B. Front Yard: The front yard as defined in this chapter shall be measured from the building line to the front property line and shall be not less than fifteen feet (15'). Structures in existence at the time of the adoption of this amendment and which previously complied with then existing front yard requirements, shall not hereafter be deemed to be non-conforming solely by virtue of their non-compliance with the front yard requirements of this section. (Amend. 2/28/94)

C. All new structures requiring a building permit undertaken subsequent to the date of adoption of this section and all structural renovation, expansion, addition or change to existing structures, requiring a building permit, and undertaken subsequent to the date of adoption of this section, whether such structure be conforming or non-conforming on the date of adoption of this section, where such renovation, expansion, addition or change may reasonably be expected to result in an increase of fifty percent (50%) or more in usable floor area of such structure shall be required to conform in every way to the front yard requirements of this section as well as all other applicable provisions of this chapter. (EMER. 11-1-82; Amend. 1-3-83)

D. Side Yard: None required except that each commercial or industrial building with any side wall containing windows or other openings which does not side on a street or alley, shall provide along such wall a side yard of not less than five feet (5') and one foot (1') additional for each story above the first story.

E. Rear Yard: Minimum of ten feet (10').

F. At least twenty-five (25) percent of the front yard shall be landscaped.

1. Landscaping shall be in accordance with a plan approved by the Town Council after receiving reports and recommendations from the Planning Commission and the Board of Architectural Review. Landscape maintenance shall be subject to the provisions as set forth in section 18-173.14.

2. An approved landscape plan may be revised with the approval of the Board of Architectural Review. (New 2/28/94)

§ 18-91 Height Limit. (Amend. 4-18-77 EMER; Reg. 6-6-77)

Maximum height of any structure erected following the adoption of this section shall be three stories above ground level, but not to exceed thirty-five feet (35') above ground level. Structures in existence at the time of the adoption of this section will not be considered non-conforming as to the height limit provision. This amendment shall not affect the rights of any persons who have filed, prior to the enactment of this ordinance, preliminary or final site plans for the construction of structures in excess of the height limit provided by this ordinance on property presently zoned C-1A or C-2. (Amend. 4-77 by EMER.; Reg. 6-77)

§ 18-92 Accessory Building and Private Parking Area Requirements:

As specified in Article 17.

§ 18-93 Off-Street Parking Area.

As specified in Article 16.

§ 18-94 Name Plates and Signs.

As specified in Article 19.

§ 18-95 Site Plan Approval.

As required by Article 25 of this Chapter. (Amend. 11-86)

Maintenance of Site.

Following completion and approval by the Town of on-site improvements pursuant to any approved site plan, all such on-site improvements required by and included on that site plan shall be maintained in strict compliance with that site plan until such site plan is amended after first obtaining Town approval as provided in Article 25 of this Chapter. (NEW 11-86)

General Regulations.

See Article 4.

Supplemental Regulations.

See Article 18.

Article 14CMP: Industrial Park Zone Regulations

The following regulations shall apply in all CMP Zones.

The purpose of this Industrial Park (CMP) Zone is to provide a protective zone for a park-like development of industry that is based on the performance of an industry as well as on the type of industry. This zone is intended to be located in areas which are not feasible for light or heavy industrial developments because of proximity to residential uses or other conditions. The regulations of this zone are intended to encourage development compatible with surrounding or abutting residential districts, with suitable open spaces, landscaping, and parking areas. To these ends, development is limited to a low concentration; external effects are limited; and permitted uses are confined to those administrative, research, and manufacturing activities which can be carried on in an unobtrusive manner, and to certain facilities which are necessary to serve the employees of the district.

These regulations have been established so as to provide a healthful operating environment for industry, while preventing detrimental effects to the use or development of adjacent properties or the general neighborhood; to protect industries within the district from the adverse effect of other incompatible industries, and at the same time to reduce to a minimum the impact of industries on surrounding non-industrial land uses; and to protect the health, safety, and welfare of the residents or workers in the area.

§ 18-96 Permitted Uses

Any of the following uses to be conducted wholly within a completely enclosed building except offstreet parking and loading, provided such uses meet performance standards set forth hereinafter:

- A. Professional, executive, and administrative offices.
- B. Research, experimental, or testing laboratories.
- C. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, and crystal holders.
- D. Other assembly, limited manufacturing or other uses which fulfill the conditions and standards of this Article, when located and arranged according to a plan providing for aesthetic and other conditions in harmony with the neighborhood and approved by the Town Council after receiving report and recommendation thereon from the Planning Commission.

E. Uses customarily incident to any of the above uses when located on the same lot, provided that such uses, operations, or products are not objectionable due to odor, dust, smoke, noise, vibration, or other similar causes.

F. Accessory buildings when located on the same lot.

G. A residence related to the use allowed in this Zone, such as janitor or night watchman. Any such residence shall meet the requirements of the RM-2 or this zone, whichever are more restrictive.

H. Facilities operated by and within an industrial establishment within the zone primarily for its own employees, such as snack bars or cafeterias, or employees' recreational facilities provided they meet the criteria set forth in § 18-72A.2b (Amend. 2-71)

§ 18-97 Conditional Uses. None

§ 18-98 Area Requirements

A. Any tract of land zoned CMP, (Industrial Park) shall have a minimum area of fifty (50) acres except that a tract with an area of not less than ten (10) acres shall be permitted where such tract adjoins and has a common boundary with a CMP zone.

Within any CMP zoned area, each main building erected, together with its accessory buildings, shall be located on a lot having an area of at least two (2) acres, with the exception of public utility buildings and structures necessary for public convenience and service, which may be located on a lot having an area of one (1) acre, subject to the approval of the Town Council upon consideration of the necessity of the exception; and provided that the lot is of sufficient size that all provisions of this Article may be fulfilled.

B. Required Yards and Landscaped Areas: No principal or accessory building shall be located:

1. Less than fifty (50) feet from front, rear, or side lot line.
2. Less than one hundred (100) feet from the boundary of any residential zone.

3. Less than the following minimum distances from the street right-of-way line or proposed street right-of-way of the following types of streets or highways as designated by proper governmental authority:

Freeway or Express Highway	100 feet
Other primary Highways	75 feet
Connecting or secondary (arterial) highway	75 feet
From a local street within the Industrial Park Zone	50 feet

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No parking area shall be located:

- (a) Less than fifty (50) feet from a lot line fronting on a public street.
- (b) Less than fifteen (15) feet from any side or rear lot line; provided that the Town Council may waive this requirement.
- (c) Less than fifty (50) feet from any residential zone.

C. Landscaping: The required yards set forth above shall be landscaped in accordance with a plan approved by the Town Council after receiving report and recommendation of the Planning Commission as set forth in § 18-116.

Landscaping shall mean the planting of grass, shrubs, trees, and other comparable ground-cover, as well as the provision of ornamental masonry walls where required. To protect the abutting contiguous uses, a protective strip of land bordering the external boundaries and along any frontage on public rights-of-way and devoted to the planting, cultivation, growing, and maintenance of sight-obscuring trees, shrubs, and plant life shall be established and maintained. The maintenance guarantee of such protective strips and the planned landscaping of the site may be bonded to the Town of Vienna in a reasonable amount if required by the Town Council. (Amend. 3-20-72)

D. Planting Screens: All planting screens or walls required in § 18-101. (Off-street Parking Area) shall be located abutting parking areas rather than on the periphery of the lot.

E. Frontage: Each lot shall have a minimum frontage of one hundred fifty (150) feet on a street or private way; provided, however, that the Town Council may approve a lesser frontage to a minimum of one hundred (100) feet for lots located on cul-de-sacs or on street curves or having other extraordinary characteristics.

F. Lot Coverage: Not more than twenty-five (25) percent of the area may be covered by buildings, including accessory buildings.

G. Spacing Between Buildings: No building other than an accessory building shall be located closer than fifty (50) feet to any other building.

§ 18-99 Height Limit.

The maximum height for any structure shall be forty-five (45) feet, except that accessory structures may be of a greater height provided such greater height is approved by the Town Council after obtaining a report and recommendation from the Planning Commission.

Outside Storage

Raw materials and supplies and finished or semi-finished products may, if properly screened from streets and any abutting property by landscaping, or ornamental masonry walls, be stored in the open within the setback requirement for the area. When ornamental masonry walls are used for screening, they shall be solid and at least six (6) feet in height, and of a minimum height equal to the material stored. Outdoor storage facilities shall not occupy more than five (5) per cent of the area of the lot. (Amend. 3-20-72)

Fuel storage tanks utilized as part of the heating equipment of an establishment shall be located underground or in a building. Bulk storage of gasoline or petroleum products shall not be permitted except as incidental to a laboratory, a production operation, or the servicing of company-owned or leased vehicles, and then shall be subject to the fire regulations of the Town of Vienna and of Fairfax County.

§ 18-101 Off Street Parking Requirements

In a CMP Zone the following off-street parking regulations shall supersede those in Article 16, whenever the following regulations are more restrictive.

The minimum requirement for off-street parking for an industrial or manufacturing establishment or warehouse or similar use shall be one parking space for each one and one-half employees or one for each two employees on combined major and second shifts, and in addition one visitor parking space for every ten employees, except that the Town Council may authorize fewer visitor parking spaces if it finds that a lesser number will be sufficient for the operation anticipated. In addition to the foregoing, one parking space shall be provided for each company-owned or leased truck, passenger car, or other vehicle located or principally based on the premises. No parking spaces may be located within required yards, except that an area equivalent to not more than five (5) percent of the total area of all required parking spaces may be located within a required yard for use as parking space for visitors, selected personnel, and minor deliveries. Off-street parking spaces may be grouped in facilities serving more than one lot or establishment. When the lot on which parking spaces are located abuts the rear or side lot line of, or is across the street from, any land in a residential zone other than publicly owned land, an ornamental masonry wall, or evergreen plantings six (6) feet or more in height shall be maintained so as to screen substantially the parking lot from view from the nearest property in the residential zone. The screenings shall be maintained in good condition at all times.

In parking lots of one acre or more at least five (5) percent of the area of the parking lot shall be devoted to landscaping within the interior of the parking area. No lighting on parking lots shall be more than ten (10) feet above ground level and shall be so screened as not to shine beyond the parking lot. (Amend. 3-20-72)

§ 18-102 Loading Berth Requirements.

Off-street loading berths shall be provided for all buildings in which material of any kind is received or from which material is shipped. The number and size of loading berths is dependent upon the type and volume of material received and shipped. The plot plan required in § 18-116 (A) shall show the number and size of loading berths together with sufficient information, either on the plot plan or by a separate statement in writing, as to the type and average daily volume of materials to be received and shipped. The number and size of loading berths to be provided will be subject to approval of the Town Council, after receiving a recommendation and report thereon from the Planning Commission at the time the plot plan is approved. In determining the adequacy of the loading berths, the Town Council will be governed by the standard that sufficient berths of an appropriate size will be provided reasonably to preclude the necessity of having cargo vehicles parked or standing on public streets awaiting their turn either to load or unload. Such berths may be located either within a building or in the open, but not within required yards. If such berths are not enclosed they shall be located not less than three hundred (300) feet from any residence zone boundary or public park area and effectively screened therefrom as in the case of parking areas specified in § 18-101. For the purpose of this section the 300-foot limitation shall not be applied against a residential zone area across a railroad right-of-way.

§ 18-103 Access Roads to Loading Berths.

All access roads to loading berths shall be at least fourteen (14) feet wide, except that if tractor-trailers are to be accommodated, then the roads shall be at least fourteen (14) feet wide for one-way traffic and at least twenty-two (22) feet wide for two-way traffic.

§ 18-104 Loading on Rail Lines.

§ 18-104 deleted in its entirety 3-20-72.

§ 18-105 Hours Prohibited for Loading.

Loading and unloading, except from a berth located within a building, shall not be permitted between the hours of 10:00 P.M. and 6:00 A.M.

§ 18-106 Signs.

As specified in Article 19, except that free-standing signs may be placed at ground level, provided such signs are not so located as to obstruct, impair, or impede the line of sight for traffic coming from the opposite direction or traffic moving along intersecting streets, highways, or roads, whether public or private.

§ 18-107 Lighting of Free-Standing Signs.

Free-standing signs may be lighted by either self-contained lighting or external lighting provided such lighting shall be shielded or directed in such a way that it does not shine or reflect into any residential zone or public park or public road.

§ 18-108 Screening.

Wherever in this Article provision is made for erection and maintenance of an ornamental masonry wall or evergreen planting for screening purposes, such wall shall be of sufficient height to screen the activity from a residential zone or public park area, but in no event, less than six (6) feet in height. The wall shall not contain any openings other than entrances or exits or necessary opening to provide for proper drainage. Walls shall be of substantial construction and maintained at all times in a state of good repair, and such walls, and screening shall be set back at least twenty (20) feet from road intersections so as not to obstruct the line of sight in either direction. (Amend. 3-20-72)

§ 18-109 Evergreen Screening.

Evergreen screening, except where existing natural screening is used, shall consist of evergreen plantings with the same height restriction provided for ornamental masonry walls in Section 18-108. Such planting shall be so staggered and in such depth that activities on one side cannot be readily observed from the other side through the screening. (Amend. 3-20-72)

§ 18-110 Inadequately Maintained Screening.

Wherever an ornamental masonry wall or natural screen or existing fence is not adequately maintained by the owner of the property, then the Town of Vienna, after giving thirty (30) days written notice to the property owner, may take the necessary action to repair or otherwise maintain the wall, or natural screen or existing fence. The expense for such repair or maintenance shall be chargeable to the owner of the property and shall become a lien on the real property with the same force and effect as real property taxes. (Amend. 3-72)

§ 18-111 Street Rights-of-Way

All public streets, highways, or roads within the Industrial Park Zone shall have a minimum of a sixty (60) foot right-of-way with a minimum of a forty (40) ft. paved area.

§ 18-112

Zoning

§ 18-115

§ 18-112 General Intent

§ 18-113 Limitations upon External Effects

§ 18-114 Plans for Abatement to be Presented

§ 18-115 Tests for Non-adherence to Standards

§ 18-116 Vienna Town Code § 18-116

18-99

A. Application: In addition to submitting the plans and other data required in Chapter 4 of the Code of Vienna, an applicant for a building permit or certificate of occupancy in a CMP Zone shall submit a plan of development to the Planning Commission as set forth in Section 18-116(D) below; a description of the proposed operation including all machinery, processes, and products, and estimate of the maximum number of employees contemplated and the number of shifts during which they would work; and specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements. The description of the proposed operation must be in sufficient detail to indicate the effects of the operation in the production of auto and traffic congestion or problems of noise, glare, odor, sewerage, air pollution, water pollution, fire or safety hazards, or other factors detrimental to the health safety, and welfare of the area.

B. Other Information Required: The applicant shall provide whatever other information the Planning Commission or the Town Council may require to determine the effect that the proposed uses may have upon their environment and on the cost of providing municipal services to the areas.

C. Private Covenants Included in Plan: Private covenants and/or provisions for associations of individual owners proposed within a CMP Zone shall be included as a part of the preliminary development plan.

D. Plan of Development, Requirements for Approval of: No building permit or certificate of occupancy shall be issued for any use except in accordance with a plan of development approved by the Town Council after receiving a prior report and recommendation of the Planning Commission for the lot or tract on which such use is to be located. Other property owners within the particular CMP tract involved shall be advised of such submission and given the opportunity to present their views to both the Planning Commission and the Town Council. Such plan of development shall show the location and height of all buildings and structures; the area devoted to parking facilities and loading berths; all access roads, landscaping and screening plans; areas designated for outdoor storage; proposed signs; and other features required by this Article. The Planning Commission and the Town Council shall consider the standards and objectives of the Industrial Park regulations and, specifically, the location of buildings, parking and loading areas, and other features with respect to the topography of the lot and existing natural features such as water courses and large trees, with the objective of achieving a maximum of coordination between the proposed use and the surrounding uses.

E. When Issuance of Permit Authorized: Upon the finding by the Town Council after prior report and recommendation of the Planning Commission that the contemplated development will constitute an industrial development of sustained desirability and stability, that

it will be in harmony with the character of the surrounding neighborhood, and consistent with the overall long-range plans for the community, that it will not result in traffic hazards, and that the plans indicate that it will be adequately landscaped, buffered, and screened, the Town Council shall authorize the issuance of a permit or permits for a proposed development in a CMP Industrial Park Zone.

F. Change in Use: A new certificate of occupancy shall be required if there are any major structural alterations or substantial variations from the operations referred to in the building permit or previous certificate of occupancy permitting such use. However, any normal replacement or addition of equipment and machinery not affecting the foregoing operations or not changing the degree or nature of dangerous and objectionable elements emitted shall not be considered a change in use.

§18-117 Performance Standards

All uses in a CMP Zone shall operate in conformance with the limitations set forth in each subsection below:

1. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line; nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration measuring equipment.

2. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. In no event shall the sound-pressure level of noise radiated continuously from a facility at night-time exceed at the lot line the values given in Table 1 (set out hereafter) in any octave band of frequency. However, where the lot line adjoins or lies within twenty-five (25) feet of the boundary of a residence district, the sound-pressure levels of noise radiated at night-time shall not exceed at the lot line the values given in Table 2 (set out hereafter) in any octave band of frequency. The sound-pressure level shall be measured with a Sound Level Meter and an Octave Bank Analyzer that conform to specifications published by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc., New York, N.Y. and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards, Inc., New York, N.Y. shall be used).

TABLE 1

Maximum permissible sound-pressure levels at the lot line for noise radiated continuously from a facility between the hours of 9:00 P.M. and 7:00 A.M.

Frequency Band Cycles Per Second	Sound Pressure Level Decibels re 0.0002 dyne/cm ²
20-75	69
75-150	60
150-300	56
300-600	51
600-1,200	42
1,200-2,400	40
2,400-4,800	38
4,800-10,000	35

If the noise is not smooth and continuous and is not radiated between the hours of 9:00 P.M. and 7:00 A.M., one or more of the corrections in Table 3 below shall be added to or subtracted from each of the decibel levels given above in Table 1.

TABLE 2

Maximum permissible sound-pressure levels at a lot line for noise radiated continuously from a facility between the hours of 9:00 p.m. and 7:00 a.m., where the lot line adjoins or lies within twenty-five (25) feet of the boundary of a residence district.

Frequency Band Cycles Per Second	Sound Pressure Level Decibels re 0.0002 dyne/cm²
20-75	65
75-150	50
150-300	43
300-600	38
600-1,200	33
1,200-2,400	30
2,400-4,800	28
4,800-10,000	26

If the noise is not smooth and continuous and is not radiated between the hours of 9:00 P.M. and 7:00 A.M., one or more of the corrections in Table 3 below shall be added to or subtracted from each of the decibel levels given above in Table 2.

TABLE 3

TYPE OF OPERATION IN CHARACTER OF NOISE	CORRECTION IN DECIBELS
Daytime Operation Only	Plus 5
Noise Source operates less than 20% of any one-hour period	Plus 5*
Noise source operates less than 5% of any one-hour period	Plus 10*
Noise source operates less than 1% of any one-hour period	Plus 15*
Noise of impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5

*Apply one of these corrections only.

3. Air Pollution, Smoke, Dust, Fumes, Particulate Matter.

a. Definitions

- (1) Particulate Matter. Material which is suspended in or discharged into the atmosphere in finely divided form as a liquid or a solid, including smoke, dust, fumes, or mist.
- (2) Process Weight Per Hour. The total weight of all materials introduced into any specific process which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight but liquid and gaseous fuels and combustion air will not. "The Process Weight Per Hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.
- (3) Combustion Contaminants. Particulate matter, sulfur, carbon, or their compounds, discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.
- (4) Atmosphere. The air that envelopes or surrounds the earth. Where air pollutants are emitted into a building not designed specifically as a piece of air pollution control equipment, such emission into the building shall be considered an emission into the atmosphere.
- (5) Standard Conditions. A gas temperature of 60 degrees Fahrenheit and gas pressure of 14.7 pounds per square inch absolute. Results of all analyses and tests shall be calculated or reported at this gas temperature and pressure.

b. Smoke. There shall not be discharged into the atmosphere from any source of emission whatsoever any air contaminant for a period or periods aggregating more than three minutes in any one hour which is:

- (1) As dark or darker in shade than that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or its equivalent, or
- (2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Paragraph 3(b)(1) of this standard.

c. Combustion Contaminants. There shall not be discharged into the atmosphere from any single source of emission combustion contaminants (excluding condensed steam) in any state or combination thereof exceeding at the point of discharge 0.3 grains per cubic foot of gas calculated to twelve percent (12%) carbon dioxide (CO₂) at standard conditions.

TABLE 4

<u>MAXIMUM ALLOWABLE DISCHARGE PER HOUR</u>			
<u>Process Weight</u> <u>Per Hour, LB</u>	<u>Allowable Discharge</u> <u>Per Hour, LB</u>	<u>Process Weight</u> <u>Per Hour, LB</u>	<u>Allowable Discharge</u> <u>Per Hour, LB</u>
50	0.24	3,300	5.36
100	0.46	3,400	5.44
150	0.66	3,500	5.52
200	0.852	3,600	5.61
250	1.03	3,700	5.69
300	1.20	3,800	5.77
350	1.35	3,900	5.85
400	1.50	4,000	5.93
450	1.63	4,100	6.01
500	1.77	4,200	6.08
550	1.89	4,300	6.15
600	2.01	4,400	6.22
650	2.12	4,500	6.30
700	2.24	4,600	6.37
750	2.34	4,700	6.45
800	2.43	4,800	6.52
850	2.53	4,900	6.60
900	2.62	5,000	6.67
950	2.72	5,500	7.03
1,000	2.80	6,000	7.37
1,100	2.97	6,500	7.71
1,200	3.12	7,000	8.05
1,300	3.26	7,500	8.39
1,400	3.40	8,000	8.71
1,500	3.54	8,500	9.03
1,600	3.66	9,000	9.36
1,700	3.79	9,500	9.67
1,800	3.91	10,000	10.00
1,900	4.03	11,000	10.63
2,000	4.14	12,000	11.28
2,100	4.24	13,000	11.89
2,200	4.34	14,000	12.50
2,300	4.44	15,000	13.13
2,400	4.55	16,000	13.74
2,500	4.64	17,000	14.36
2,600	4.74	18,000	14.97
2,700	4.84	19,000	15.58
2,800	4.92	20,000	16.19
2,900	5.02	30,000	22.22
3,000	5.10	40,000	28.3
3,100	5.18	50,000	34.3
3,200	5.27	60,000	40.0

Where process weight falls between figures stated, values of allowable discharge per hour shall be interpolated. Process weight is defined as total weight of raw materials entering process (not weight of finished product). Solid fuels charged are considered as part of process weight, but liquid and gaseous fuels and combustion air are not. In continuous operation, average rate of feed is used. In batch operation, total batch weight divided by operating time of a batch cycle determines process weight per hour.

d. Particulate Matter.

(1) There shall not be discharged in any one hour from any sources whatsoever, except as provided in 3(c) above, particulate matter, excluding condensed steam, in total quantities in excess of the amount shown in the preceding table.

(2) When the process weight is in excess of sixty thousand pounds per hour, there shall not be discharged in any one hour from any source whatsoever dust or fumes in excess of .066 per cent of the hourly process weight.

e. Threshold Values. There shall not be discharged into the atmosphere any contaminant for which threshold limit values are listed for working atmospheres by the American Conference of Governmental Industrial Hygienists in such quantity that the concentration of the contaminant at ground level at any point beyond the boundary of the property shall at any time exceed the threshold limit.

f. Exceptions. Paragraphs (b), (c), (d), and (e) do not apply to:

(1) Fire set by any officer, employee, or fireman in the course of his official duty, for the purpose of weed abatement, the prevention of fire hazard, or the instruction of public employees in the methods of fire fighting or research relating to the prevention and control of fires.

(2) Agricultural operations in the growing of crops or raising of fowl or animals.

4. Odors.

a. There shall not be discharged or permitted to escape into the atmosphere, odors which shall be offensive to the public or which endanger public comfort, repose, health, or safety.

b. The intensity of offensive odors shall be determined at the property line adjacent to the source in the manner described in "Air Pollution Abatement Manual", Chapter 5, Table 3; Manufacturing Chemists' Assn., Washington, D.C. 1951.

5. Electromagnetic Radiation. The following standards shall apply:

a. General: It shall be unlawful to operate or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes which does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies, and government-owned plants, the regulations of the Interdepartmental Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation. Further, said operation in compliance with the Federal Communications Commission or the Interdepartmental Radio Advisory Committee regulations shall be unlawful if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious reradiation, harmonic content, modulation, or energy conducted by power or telephone lines.

The determination of "abnormal degradation in performance" and "of quality and proper design" shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply: (1) American Institute of Electrical Engineers, (2) Institute of Radio Engineers, and (3) Electronic Industries Association.

Recognizing the special nature of many of the operations which will be conducted because of the research and educational activities, it shall be unlawful for any person, firm, or corporation to operate or cause to be operated, to maintain or cause to be maintained any planned or intentional source of electromagnetic energy, the radiated power from which exceeds 1000 watts, without the express approval of the Town of Vienna. Further, it is required that any person, firm, or corporation intending to operate or cause to be operated, to maintain or cause to be maintained, any planned or intentional source of electromagnetic energy, the radiated power from which exceeds 10 watts, shall file, at least thirty (30) days prior to such operation, a description of the radiating device and the operating characteristics thereof with the Town of Vienna.

b. Electromagnetic Interference. For the purpose of these regulations, electromagnetic interference shall be defined as electromagnetic disturbances which are generated by the use of electrical equipment other than planned and intentional sources of electromagnetic energy which interfere with the proper operation of electromagnetic receptors of quality and proper design. It shall be unlawful to operate or cause to be operated any source of electromagnetic interference, the radiation or transmission from which exceeds the maximum values tabulated below (kc=kilocycles; mc=megacycles):

RADIATED

Section of Electro-magnetic Spectrum (from - to)	Primary Intended Service	Maximum Field Strength at Edge of Property Containing Interference Source
10kc* - 100kc	Communications Service	500 microvolts/meter
100kc - 535kc	Navigational Aids	300 microvolts/meter
535kc - 1605kc	AM Broadcasting	200 microvolts/meter
1605kc - 44mc**	Various Communications Service	200 microvolts/meter
44mc - 88mc	VHF Television Airport Control	150 microvolts/meter
88mc - 174mc	FM Broadcasting	200 microvolts/meter
174mc - 216mc	VHF Television	150 microvolts/meter
216mc - 580mc	Navigational Aids Citizens Radio	250 microvolts/meter
580mc - 920mc	UHF Television	300 microvolts/meter
920mc - 30,000mc	Various	500 microvolts/meter

BY TRANSMISSION OR CONDUCTION

Section of Electro-magnetic Spectrum (from - to)	Primary Intended Service	Maximum Voltage Measured Line to Line or Line to Ground Where Power/Telephone Lines Cross Edge of Property Containing Interference Source
10kc* - 100kc	Communications Service	2.5 millivolts
100kc - 535kc	Navigational Aids	1.5 millivolts
535kc - 1605kc	AM Broadcasting	1.0 millivolts
1605kc - 44mc**	Various Communications Service	0.5 millivolts
44mc - 88mc	VHF Television	0.25 millivolts
88mc - 174mc	FM Broadcasting Airport Control	1.5 millivolts
174mc - 216mc	VHF Television	0.15 millivolts
216mc - 580mc	Navigational Aids Citizens Radio	5.0 millivolts
580mc - 920mc	UHF Television	20.0 millivolts
920mc - 30,000mc	Various	150 millivolts

* kc = kilocycles

**mc = megacycles

c. Method of Measurement: For the purpose of determining the level of radiated electromagnetic interference, standard field strength measuring techniques shall be employed. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured field strength exceeds the maximum value tabulated for this spectrum section.

For purposes of determining the level of electromagnetic interference transmitted or conducted by power or telephone lines, a suitable, tunable, peak reading, radio frequency voltmeter shall be used. This instrument shall by means of appropriate isolation coupling, be alternately connected from line to line and from line to ground during the measurement. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured the measured peak voltage exceeds the maximum value tabulated for this spectrum section.

6. Fire and Explosion. All activities and all storage of flammable explosive materials at any point shall be provided with adequate safety and fire fighting devices in accordance with the Fire Prevention Code of Fairfax County.

7. Radioactive Materials. The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes, shall be in conformance with the regulations of the Atomic Energy Commission as set forth in Title 10, Chapter One, Part 20, Standards for Protection Against Radiation, as amended; and all applicable regulations of the State of Virginia.

8. Glare and Heat. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding or otherwise, so as to be visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting or parking areas otherwise permitted by this Chapter. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

9. Non-Radioactive Liquid or Solid Wastes. There shall be no discharge at any point into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials except in accordance with the regulations of the Town of Vienna, the County of Fairfax, Virginia, and the Water Board of the State of Virginia, as applicable.

General Regulations: See Article 4.

Supplemental Regulations: See Article 18; when the regulations in Article 14 are more restrictive they shall apply.

Article 15

CM: Limited Industrial Zone Regulations

The following regulations shall apply to all CM Zones.

§ 18-118 Permitted Uses:

A. All uses permitted in the C-2 Zone, provided that where such uses are located in the CM Zone, they shall conform to any specific requirements or limitations provided for such particular use in the C-2 Zone except as hereinafter provided. A dwelling other than for a watchman or caretaker employed on the premises shall not be permitted. Conditional uses under § 18-89 are permitted without securing a Use Permit. (Amend. 2-71)

B. Uses to be conducted wholly within a completely enclosed building except for the on-site parking of delivery vehicles which are incidental thereto:

The manufacture, compounding, assembling, or treatment of articles for merchandise from the following materials which have been prepared beforehand: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, yarns, and paint not employing a boiling process.

The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.

The manufacture and maintenance of electric and neon signs, billboards, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like.

The manufacture of musical instruments, toys, novelties, and rubber and metal stamps.

Assembly of electrical appliances, electronic instruments and devices, radios, television sets, and phonographs; electroplating and the manufacture of small parts and components such as transistors, coils, condensers, transformers, crystal holders, and the like.

Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing or overhauling.

Blacksmith shop and machine shop excluding the following: punch presses over twenty (20) tons rated capacity, drop hammers, and automatic screw machines.

Carpentry and woodworking shops.

Distribution plants, parcel delivery, ice and cold storage plant, bottling plant, and food commissary or catering establishment

Foundry casting lightweight non-ferrous metal not causing noxious fumes, noise, or odors.

Indoor skating arenas.

Laboratories: experimental, photo or motion picture, film, or testing.

Laundry, cleaning and dyeing works, and carpet and rug cleaning.

Storage buildings and warehousing.

C. Uses enumerated below are to be conducted wholly within a completely enclosed building, except that supplies and materials necessary to the conduct of such uses may be stored outside such building, provided all such outside storage is contained within and screened from the outside on all sides by an ornamental masonry wall not less than six (6) feet in height.

Building material sales yard, including the sale of rock, sand, gravel and the like as incidental part of the principal business, but excluding concrete mixing.

Petroleum, retail storage and distribution thereof.

Plumbing yard or storage.

Retail lumber yard.

The owner(s) or occupant(s) of the property shall be required to maintain such ornamental masonry wall or fence, or chain link or other acceptable open fencing, in a proper state of repair. (Amend. 3-20-72)

Exception, fencing for purpose of containment only: A chain link or other acceptable open fence, not less than six (6) feet in height, may be substituted in part or in total for the opaque wall or fence when, in the judgment of the Zoning Administrator after consultation with the Director of Public Works, it is determined that:

(1) Due to topographic conditions a solid fence would not screen the storage area from (a) residential property at higher elevation, or (b) other public view in general.

(2) Solid screening from public view at ground level is not a paramount consideration, i.e., when the only view is from the storage area of one property to the immediately adjacent storage area, a view not generally shared by the public.

When (1) and (2) exist in concert, the Zoning Administrator shall determine where exceptions are justified. (Amend. 2-70)

D. Uses customarily incident to any of the above uses and accessory buildings.

E. Certified Message Therapists as defined in this Code. (New 2-28-00)

§ 18-119 Conditional Uses: (Amended 11/8/94; 7/10/95; 2/28/00)

The following uses may also be permitted subject to securing a Use Permit as provided for in Section 18-209:

The manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products except fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils.

Concrete mixing plants

Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.

Drying, freighting, or trucking yard or terminal.

Collection of waste glass, paper and metal for off-site recycling, provided that no chemical processing, burning or heating of any such waste material shall take place on site, nor shall any site used pursuant to this section exceed 5,000 square feet in area. (Amend. 11-1-71)

Drive-through Facility as defined in § 18-4 and complying with the application and submittal requirements as set forth in § 18-210.

§ 18-120 Area Requirements. Same as specified for C-2 Zone.

§ 18-121 Yard Requirements.

A. Front Yard: Same as specified for C-2 Zone.

B. Side Yard: None required

C. Rear Yard: Minimum of ten (10) feet

§ 18-122 Height Limit: Forty five (45) feet

- 18-114

Article 15.1PR, PARK AND RECREATIONAL ZONE REGULATIONS

The following regulations shall apply to all lands zoned PR: (New - Amend. 4/15/91)

§ 18-126.1 Permitted Uses: (Amend. 3/7/94)

Any of the following when owned or exclusively used by one or more political subdivisions, public authorities, or non-profit organizations:

Parks, parkland, playgrounds, stream valley parks.

Private organizations or individuals owning parcels with such uses as delineated herein may apply for this zoning category for said parcels provided that the organization operating such uses is not for profit and its net earnings are used to promote the general welfare, education, or recreation, and do not accrue to the direct benefit of any individual.

§ 18-126.2 Conditional Uses: (Amend. 3/7/94)

Recreational facilities and athletic fields, such as community recreation centers, golf courses, and clubs (driving ranges may be included only as an accessory use to a golf course operation), swimming pools, tennis courts and playing fields (not to include indoor skating rinks).

The installation and use of safety fences, backstops, and other types of fencing integral to a particular sport or activity and at variance with § 18-17, outdoor lights, and electronic public address systems associated with any of the uses as enumerated in § 18-126.1 or above.

§ 18-126.3 Transitional Uses: None§ 18-126.4 Area Requirements:

For those structures which require the issuance of a building permit, the following area requirements shall apply:

- A. Lot Width: Minimum width seventy-five (75) feet.
- B. Front Yard: Minimum, fifteen (15) feet in depth.
- C. Side Yard: Minimum, fifteen (15) feet in depth.

D. Rear Yard: Minimum, twenty-five (25) feet in depth.

E. Open Space: All property within the PR Zone shall provide a minimum of sixty (60) percent open space. Such open space shall not include principal buildings, enclosed accessory buildings, parking areas and related ingress/egress.

Such structures and features as bleachers, play-ground equipment, in-ground permanent swimming pools, picnic structures, trails, tennis courts, playing fields, etc., may be considered and permitted in the open space.

§ 18-126.5 Height Limit: Maximum height of structures may be two and one-half (2 1/2) stories or thirty-five (35) feet.

§ 18-126.6 Fences: As prescribed in Section 18-17, and in accordance with the requirements as set forth in Section 18-126.2 for safety fences, backstops or other types of fencing integral to a particular sport or activity.

§ 18-126.7 Accessory Building Requirements: One or more enclosed accessory buildings are permitted, the total floor area of which shall not exceed one hundred fifty (150) square feet in area per acre of open space.

§ 18-126.8 Off-street Parking Area: As specified in Article 16.

§ 18-126.9 Nameplates and Signs: As specified in Article 19.

§ 18-126.10 Site Plan Approval: All elements of any site plan must be approved by the Town Council as required by Article 25, after receiving a report and recommendation from the Planning Commission. Prior to forwarding such recommendation to the Town Council, the Planning Commission shall hold a Public Hearing in the manner prescribed in Section 18-246. Before considering any such recommendation from the Planning Commission, the Town Council shall hold a Public Hearing in the manner as prescribed in Section 18-247. (Amend. 3/7/94)

General Regulations: As required by Article 4.

Supplemental Regulations: As required by Article 18.

Article 16

Off-street Parking and Loading Areas

§ 18-127 Plot Plan for Parking Area Required. No application for a building permit, use permit, or occupancy permit for a commercial or an industrial building or use in any commercial transitional or industrial zone shall be approved, unless there is included with the plan for such building, improvement or use, a plot plan showing the required open space designated as an Automobile Parking Compound for off-street parking purposes in accordance with § 18-130 together with the exact location and detail drawings of any ornamental masonry wall which may be required by other sections of this Chapter; and no use permit or occupancy permit shall be issued unless the required facilities, and ornamental masonry wall, if required, have been provided in accordance with those shown on the approved plan. (Amend. 3-72)

§ 18-128 Area Required for One Parking Space. For purposes of computation under this Chapter, one automobile parking space shall be nine (9) feet wide by twenty (20) feet long, exclusive of adequate interior ingress and egress driveways.

§ 18-129 Space Allocation for Parking. All garage or other space allocated for the parking of vehicles within buildings or in basements or open space on the roofs of buildings, shall be considered part of the required off-street parking requirements.

§ 18-130 Requirements. Off-street parking space shall be provided as follows: (Revised 10-73; Amend. 5-74; 5-77; 7-81; 11-90)

A. Detached Single-Family Residential Uses. (Other than townhouses, two-family, or multi-family uses): Each detached single-family residential dwelling unit constructed subsequent to the effective date of this section shall provide on the same lot, not less than two (2) parking spaces. For those dwelling units that contain more than three (3) bedrooms, one (1) additional parking space shall be required for each additional bedroom with a maximum requirement of four (4) off-street parking spaces.

For the purposes of constructing future additions, alterations, extensions, renovations and restorations, no single-family residential structure in existence on the effective date of this Code section shall be deemed to be non-conforming due to lack of compliance herewith. (Amend. 11-90).

B. Boardinghouse, Guest House, or Tourist Home: Not less than one (1) permanently constructed and maintained off-street parking space for each guest room contained therein; said parking space or spaces to be made available to and provided for the use of the occupant or occupants of said guest room or rooms.

C. Professional and Real Estate Offices in RM-2 of T Zones: One (1) parking space for each two hundred (200) square feet of area devoted to such use. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants.

D. Clubs or Comparable Uses: One (1) parking space for every three hundred (300) square feet of gross floor area in any building used for such a purpose. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and members of such club.

E. School Auditoriums (public and private) General Auditoriums and Similar Places of Assembly: At least one (1) parking space for every four (4) seats in such facility or structure. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and users of said school auditorium.

F. Churches or Other Places of Worship: One (1) parking space for every six (6) seats provided in the main sanctuary. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and persons attendant at said church or place of worship.

G. Hospitals and Welfare Institutions: At least one (1) parking space for each eight hundred (800) square feet of gross floor area of the building. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and visitors to such hospital or institution.

H. Commercial Buildings: Except as provided for in Paragraphs I through O of this section, at least one (1) parking space for every two hundred (200) square feet of floor area on all floors. Floor area shall not include stairs and elevators. Said parking space or spaces to be made available to and provided for the use of the occupants and visitors to such building. (Amend. 5-74; 4-77 EMERGENCY; Reg. 5-77.)

I. Bowling Alleys: Three (3) parking spaces for every alley. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and customers of said alleys.

J. Theaters: Two (2) parking spaces for every five (5) seats. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and patrons of such theater.

K. Indoor Skating Arenas: One (1) parking space for every one hundred (100) square feet. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and patrons of such arena.

L. Industrial Buildings: At least one (1) parking space for every three (3) employees in said building. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants of such buildings.

M. Hotels and Motels: At least one (1) parking space per available rental room. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants of said rooms.

N. Furniture Stores: One (1) parking space for every five hundred (500) square feet of total floor area plus one (1) parking space for each employee. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and customers of such stores.

O. Restaurants: One (1) parking space for every four (4) seats. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants and patrons of such restaurants.

P. Minute Car Wash Stations: Provision shall be made for thirty (30) cars waiting for service. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants.

Q. Town House, Two-Family and Multiple-Family Residential Uses Apartment Development. Each townhouse, two-family and multiple-family residential dwelling unit constructed subsequent to the effective date of this section shall provide not less than two (2) parking spaces, either within the individual lot area, or in a separate common parking lot within the development, to which each unit has convenient, and safe pedestrian access. For those dwelling units that contain more than three (3) bedrooms, one (1) additional parking space shall be required for each additional bedroom with a maximum requirement of four (4) off-street parking spaces.

For the purposes of constructing future additions, alteration, extensions, renovations and restorations, no townhouse, two-family or multiple-family residential structure in existence on the effective date of the this Code section shall be deemed to be non-conforming due to lack of compliance herewith. (Amend. 11-90)

R. Adequate parking space to park vehicles belonging to and which are a part of the business activity within a building shall be provided and such space shall be in addition to space requirements required by this Chapter. Said parking space or spaces to be made available to and provided for the use of the occupant or occupants engaged in such business activity.

S. Except in the case of single-family residential uses, all parking facilities required by this article shall provide therein parking spaces for the physically handicapped as set forth in the following table. All such spaces shall be identified by both above-grade signs and approved pavement markings as reserved for physically handicapped persons.

TABLE

Total Parking In Lot	Required Number of Accessible Spaces
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
Over 1000	20 + 1 for @ 100 over 1000

Such spaces provided for the handicapped shall be those spaces closest to the entrance of the building or to the entrance of that use in the building for which such parking spaces are so provided and shall be located where possible so that physically handicapped persons need not traverse any area to the rear of parked cars to reach entrances, ramps, walkways or elevators.

Parking spaces provided for the physically handicapped shall measure twelve (12) feet in width and twenty (20) feet in length. (Amend. 7-81)

T. Amusement Enterprises or Video Arcades: In addition to that number of parking spaces required by the primary use of the building housing an amusement enterprise or video arcade as defined in this Chapter, there shall be provided one (1) parking space for each two (2) mechanical or electronic amusement devices and one (1) secure and conveniently located bicycle rack capable of storing at least five (5) bicycles for each three (3) mechanical or electronic amusement devices. Such bicycle rack or racks shall not be located in any area otherwise designated for vehicular parking and shall not be located in such a manner as to interfere with pedestrian traffic in, or about any sidewalk passageway or walkway. (NEW 4-83)

U. Child Care Centers, Nursery Schools and Day Care: (Amend./New 2-25-91)
One (1) space per room used for care facility plus one (1) space per five hundred (500) gross floor area of building. No such structure in existence on the effective date of this code section shall be deemed to be non-conforming due to lack of compliance herewith.

V. Civic and Quasi-Public Uses: Same as § 18-130D, clubs and comparable uses. No such structure in existence on the effective date of this code section shall be deemed to be non-conforming due to lack of compliance herewith.

W. Banks: One (1) space per 200 square feet of floor area, plus sufficient area for ten (10) stacking spaces for the first drive-through window and five (5) stacking spaces for each additional window. No such structure in existence on the effective date of this code section shall be deemed to be non-conforming due to lack of compliance herewith.

X. Restaurant, with Drive -Through Window: One (1) space for every four (4) seats, plus sufficient area for a minimum of ten (10) stacking spaces for the drive-through window of which at least five (5) stacking spaces shall be available for the ordering station. No such structure in existence on the effective date of this code section shall be deemed to be non-conforming due to lack of compliance herewith.

Y. Vehicle Drive-Through Services: One (1) space per 200 square feet of total floor area plus sufficient area for ten (10) stacking spaces for the first bay and five (5) stacking spaces for each additional bay. The bay area may be included in such calculations at rate of one bay to one parking space. All drive-through stacking aisles shall be designed so as not to impede pedestrian or vehicular circulation on the site or in any abutting right-of-way. No such structure in existence on the effective date of this code section shall be deemed to be non-conforming due to lack of compliance herewith.

Z. Recreational and Athletic Facilities, Private and Public.
(New - Amend. 4/15/91)

1. Swimming Pools: One (1) space per six (6) persons legally allowed in the pool at one time, plus one space per employee.

2. Tennis Club: Two (2) spaces per court, plus one (1) space per employee.

3. Outdoor regulation playing fields (baseball, softball, football or soccer fields consistently used for regulation games of pre-teen to adult leagues): Twenty-five (25) spaces per regulation playing field.

4. Outdoor playing field complexes (three or more regulation playing fields at one location): Seventy-five percent (75%) of the required number of parking spaces as specified in Section 18-130Z (3) for outdoor playing fields.

5. Shared Parking Facilities: Recreational and athletic facilities may jointly use the parking spaces of neighboring establishments and properties when each of the following conditions is satisfied:

a. Such parking spaces are located not more than four hundred (400) feet in distance therefrom;

b. The aforesaid establishments and properties are not normally open, used, or operated during the peak demand for parking by such recreational and athletic facilities; and,

c. In the case of privately owned parking facilities, written permission for use of such parking spaces is first obtained from the owners of each of the affected properties, and copies of all such agreements are filed with the Office of Zoning Administrator for the Town of Vienna.

AA. Community Recreation Centers: Total off-street parking requirement is the sum of (a) auditorium and assembly rooms, calculated at one (1) space per four (4) seats based upon one seat per fifteen (15) square feet of gross floor area; (b) game rooms and gymnasium, calculated at one (1) space per four (4) recreation participants based upon one (1) participant per thirty (30) square feet of gross floor area; and (c) one (1) space per two hundred (200) square feet of permanent office space. (New-Amend. 4/15/91).

§ 18-131 Location of Parking Facilities: There shall be no parking between the building setback line and the street line within the C-1, C-1A, C-2, and C-M zoning districts, and as set forth in Section 18-101 for the CMP zoning district; nor within five (5) feet of the side yard property lines within the RM-2, RTH, C-1, C-1A, C-2 and C-M zoning districts. All automobile parking areas for commercial and industrial uses shall be located on the site or conveniently near, and in no case more than four hundred (400) feet from the principal building or use to which such parking facilities are appurtenant. (Amend. 11-90)

§ 18-132 Loading Space: Every hospital, institution, commercial or industrial building hereafter erected shall provide indoor or outdoor space for the loading and unloading of goods and materials. Such space shall be at least twenty-five (25) feet in depth; such space if located within a building shall be at least fifteen (15) feet in height; such space also shall have a width of at least fifteen (15) feet for every fifty (50) feet or fraction thereof of building width.

§ 18-133 Loading Space in Rear Yard: A loading space may occupy a required rear yard or any part thereof.

§ 18-134 Improvements Applicable to parking Areas and Loading Spaces: All private or public parking areas and loading spaces constructed after the effective date of this Section shall be developed as follows:

A. All parking areas in the single-family residential zoning districts shall be constructed of permanent materials, with an asphalt, concrete, or grid paver surface, meeting the specifications of the Town. Ingress and egress to a public street shall be provided by means of a driveway meeting these same specifications and maintaining a width of not less than twelve (12) nor more than twenty-five feet at the street right-of-way line.

B. All parking areas in the townhouse, two-family, multiple-family residential, commercial and industrial zoning districts shall be constructed of permanent materials, with an asphalt or concrete surface, meeting the specifications of the Town. Ingress and egress to a public street shall be provided by means of entrances and exits meeting these same specifications and maintaining a width of not less than twenty-five (25) feet nor more than thirty-five (35) feet at street right-of-way line. All parking areas shall also be provided with bumper guards as deemed necessary by the Director of Public Works in order to protect a building from vehicular bumpers, or a public sidewalk from overhanging bumpers, to prevent vehicles from rolling down embankments or onto adjacent property, or to provide protection against other hazards peculiar to the topography or site development of a particular parcel of ground. Curb stops may be substituted for bumper guards where their use is considered adequate by the Director of Public Works.

C. Whenever any such private or public parking lot abuts or adjoins any public street or streets, a landscaping strip at least five (5) feet in width, continuous except for entrances and exits, shall be provided immediately inside the line separating such parking lot from the adjoining street or streets. (Amend. 11-90)

§ 18-135 Additional Improvements Required: Where off-street parking areas adjoin a lot in a detached residential zone, said parking areas shall be screened in accordance with the provisions of § 18-172. Any lights used to illuminate said parking areas shall not exceed ten (10) feet in height above grade and shall be so arranged and hooded as to confine all direct light rays entirely within the boundary lines of the parking areas. (Amend. 7-74)

§ 18-136 Additional Improvements: Additional protective conditions may be required in connection with off-street parking adjacent to residential zones, when, in the judgment of the Town Council, such are deemed necessary for the protection, convenience, and quiet of surrounding residential properties.

§ 18-137 Non-availability of Parking Area: At any time that a required parking area shall cease to be available for such use, except as a result of government action, the occupancy or use permit for the principal use to which such parking area is appurtenant shall be revoked and declared null and void, until such time as other acceptable off-street parking space is provided.

§ 18-137.1 Transitional Parking: (Amend. 7-81) In addition to other provisions of Article 16 of this Chapter, the following requirements shall apply without modification to all land used for Transitional Parking pursuant to § 18-13 of this Chapter, and shall, in addition to special conditions imposed by the Board of Zoning Appeals, be deemed to constitute conditions of any use permit granted for any such Transitional Parking lot:

- (a) No commercial enterprise, sales, repair, work or servicing of any kind shall be conducted or permitted on any part of any Transitional Parking lot.
- (b) No fee shall be charged for parking thereon and all parking thereon shall be restricted to the employees and patrons of the commercial establishment or establishments for which the Transitional Parking use permit was granted.
- (c) No signs of any kind except those necessary for orderly parking and traffic movement shall be erected.
- (d) The paved parking area shall be interrupted with landscape planting. For every 3,000 square feet of pavement there shall be 180 square feet of internal landscape planting of trees and shrubs.

(e) All such Transitional Parking lots shall be screened from all adjacent property in any residential zone and from that portion of the lot between the front or side yard setback line and any street by a brick wall or other ornamental masonry wall of equally acceptable aesthetic quality which does not require painting, erected to a height of at least six (6) feet above grade, located at and running parallel to the boundary of any such Transitional Parking lot.

(f) All Transitional Parking lots shall be cleaned of trash, garbage, and debris at least once each week throughout the year. All grass located in or on such lots shall be mowed at least once each week between May 1 and November 15 of each year and all trimmings removed from paved surfaces. All shrubs shall be kept neatly trimmed. Dead trees and shrubs and deteriorated pavement and masonry shall be replaced as required by the Director of Public Works of the Town of Vienna.

(g) There shall be no repairing, painting, reconstruction or refurbishing of any vehicle, other equipment or materials, nor any dismounting or installation of equipment on any vehicle other than equipment or materials, parked or located on any Transitional Parking lot.

(h) No vehicle exceeding 3/4 ton load-carrying capability, and no buses, shall be parked overnight on any Transitional Parking lot.

(i) The owners, operators, lessees, occupants, tenants, persons having care or custody of or using, managing or having control of, and fiduciaries holding title to, or having the care, custody, control or management of the land used for any Transitional Parking lot, or the commercial properties or operations for the benefit of which such Transitional Parking lot use permit is granted, shall jointly and severally be responsible for maintaining and operating such Transitional Parking lot in accordance with the provisions of this Article.

(j) Artificial lighting shall conform to the provisions relating thereto contained in §18-69 of this Chapter. When filing an application for any Transitional Parking lot use permit, the applicant shall submit a site plan showing all details of layout planting, screening, walls, storm drainage, lighting and other relevant features as required by the Director of Public Works of the Town of Vienna. Conditions, in addition to those required by this Section necessary for the protection, maintenance of value and quiet enjoyment of surrounding residential properties, and the peaceful, undisturbed use of said surrounding property by its occupants, may be imposed, and the use permit made subject thereto, by the Board of Zoning Appeals of the Town of Vienna. Upon the failure of any person or persons enumerated in paragraph (i) of this Section to operate or maintain any Transitional Parking lot in compliance with the conditions and

specifications set forth in this Section 18-137.1, the Director of Public Works of the Town of Vienna shall after ten (10) days written notice to such person of failure to comply, cause such parking lot to be brought into conformance with such conditions and specifications and bill the owner of the land for the cost thereof. If such bill not be paid within thirty (30) days of its mailing to the person or persons enumerated in paragraph (i) above, it shall be added to the Town real estate tax on the land and constitute a lien on such land to the same extent as the real estate tax is a lien.

(k) All such parking lots shall display thereon signs approved in design by the Director of Public Works in such number and at such locations as designated by the Director of Public Works restricting the use of such parking lots to lawful parking of vehicles by patrons of the adjoining commercial establishments and prohibit trespassing, disorderly conduct and all unlawful acts on and uses of such parking lots.

Article 17Accessory Buildings, Swimming Pools and Private Parking Area
(New 1-17-72; Amend. 9-24-84; 1-24-05)

§ 18-138 One-story Accessory Building, Where To Be Located. An accessory building not exceeding one (1) story or fourteen (14) feet in height above average grade may be located only in the rear yard and shall not be closer than five (5) feet to any alley line and not less than one (1) foot from any side or rear lot line.

§ 18-138.1 Swimming Pool, Where To Be Located. A family pool as defined in Chapter 19 of this Ordinance may be located only in the rear yard and shall not be closer than twenty (20) feet to any alley line, and not less than ten (10) feet from any side or rear lot line. (Amend. 1-17-72)

§ 18-138.2 Outdoor Hot Tubs, Area and Location Requirements. An outdoor hot tub may be located within the side and rear yards of the subject property, provided that the device meets the side yard setback requirements of the residential zoning district in which it is located, and is situated no closer than twenty (20) feet to any alley line, nor less than ten (10) feet from any rear property line. The total water surface area of the outdoor hot tub may not exceed two percent (2%) of the total area of the subject property, and the device must be secured in the manner as set forth in Section 19-13(b) of the Town Code. (New 4-17-89)

§ 18-139 Two-story Accessory Building, Where To Be Located. A two-story accessory building is permitted provided that no part of it shall exceed the height of the principal building, or be located nearer than ten (10) feet to any lot line.

§ 18-140 Accessory Building, Area And Location. An accessory building may occupy not more than thirty percent (30%) of the area of a required rear yard. In residential zones, where any portion of such accessory building is located in the rear of a principal building, it shall be not less than ten (10) feet therefrom; where no portion of such accessory building is located directly in the rear of a principal building, it shall be not less than fifteen (15) feet therefrom, and provided further that the front of the accessory building be no less than ten (10) feet from an extension of the rear wall line of the principal building on the adjacent lots.

§ 18-140.1 Swimming Pool, Area And Location. A family pool may occupy not more than twenty-five percent (25%) of the area of the actual rear yard. In residential zones, where any portion of such family pool is located in the rear of a principal building it shall be not less than ten (10) feet therefrom; where no portion of such

family pool is located directly in the rear of a principal building, it shall be not less than five (5) feet therefrom, and provided further that the front edge of the family pool be no less than five (5) feet from an extension of the rear wall line of the principal building on the adjacent lots. (Amend. 1-17-72)

- § 18-141 Accessory Building On Corner Lot. No accessory building on a corner lot shall be constructed beyond the building line of any adjoining lot, nor be located nearer than five (5) feet to the side line of such adjoining lot.
- § 18-141.1 Swimming Pool On Corner Lot. No family pool on a corner lot shall be constructed or installed beyond the building line of any adjoining lot, nor be located nearer than ten (10) feet to the side line of such adjoining lot. (Amend. 1-17-72)
- § 18-142 Accessory Building Not To Be Used For Dwelling Purposes. No accessory building shall be used for dwelling purposes other than by domestic servants, employed entirely on the premises.
- § 18-143 Trailer and Manufactured Home Not An Accessory Building. A trailer or manufactured home is not considered an accessory building and shall not be used for the display or sale of merchandise or as a dwelling; provided, however, that a Public Use Trailer or Public Use Manufactured Home approved under Section 18-152.2 shall be deemed to be part of the principal use of the property. (Amend. 1-24-05)
- § 18-144 Private Parking Area; Where To Be Located. A private parking area may occupy any part of a required rear yard. In residential zones, it shall be not less than one (1) foot from any side or rear lot line.
- § 18-145 Private Parking Area on Corner Lot. No private parking area on a corner lot shall be constructed beyond the building line of any adjoining lot, nor be located nearer than five (5) feet to the side line of such adjoining lot.
- § 18-146 Accessory Building Or Private Parking Areas For Dwellings In Commercial Or Industrial Zones. The location of accessory buildings or parking areas for dwellings erected in commercial or industrial zones shall be the same as required above.
- § 18-147 Private Garage, When Not Considered An Accessory Building. A private automobile garage having any part of a wall in common with a dwelling is considered a part of a principal building and not an accessory building.

§ 18-147.1 Satellite Antenna. (NEW 9-24-84)

A. Definitions.

1. Satellite Antenna - an apparatus, usually dish shaped, the purpose of which is to have the capability to receive communications from a transmitter or a transmitter relay located in planetary orbit.

B. Location, Number and Size.

1. (a) Only one satellite antenna not exceeding fourteen (14) feet in diameter may be erected or installed on any one building lot in the Town of Vienna regardless of the zone in which it is located.

(b) Any such antenna shall be located only in the rear yard of such lot no closer than fifteen (15) feet to any side or rear lot line nor less than ten (10) feet from the rear of a principal building provided, however, that in lieu of any such antenna in a rear yard, one satellite antenna four (4) feet or less in diameter may be suitably mounted to the roof area of a building.

2. Corner Lot In addition to the provisions of Section B-1 above, no satellite antenna on any corner lot shall be erected forward of the building line of any adjoining lot nor closer than fifteen (15) feet to the side of such adjoining lot.

3. Height Limitation. No satellite antenna mounted in any such yard shall exceed eighteen (18) feet measured vertically from the highest point of the signal receiving apparatus, when positioned for operation, to the bottom of the base which supports the satellite antenna except any antenna which pursuant to this Section may be located and suitably mounted to the roof of a building.

C. Mounting and Screening.

1. Ground Mounting. All satellite antennae shall be ground mounted at ground level pursuant to all requirements of the building code after securing the proper building permits, and sufficiently secured to withstand a one hundred (100) year windstorm; except such antenna four (4) feet or less in diameter which is otherwise permitted by this Section to be mounted to the roof area of a building.

2. Screening. All ground mounted satellite antennae over four (4) feet in diameter shall be screened from adjoining properties by a wooden or masonry fence of six (6) feet in height or by a living screen of evergreen plantings not less than five (5) feet in height at the time of planting, planted no more than five (5) feet on center and of a variety which will mature to a height of at least six (6) feet. All such fences or plantings shall be fully and properly maintained during such time as the antenna being screened shall remain in such location. (Amend. 4-4-94)

D. Variances By Board Of Zoning Appeals.

Upon application to the Board of Zoning Appeals by any property owner, and upon showing by such property owner to the satisfaction of the Board of Zoning Appeals that a usable satellite signal cannot be obtained on such owner's property solely by reason of one or more of the requirements established by this Section, the Board of Zoning Appeals may grant such variance as may be necessary to permit reception of a usable signal and under such special conditions as the Board of Zoning Appeals may deem proper under the circumstances, whereupon perpetual compliance with such special conditions by the property owner shall be a prerequisite to continued maintenance and use of such antenna.

ARTICLE 18Supplemental Regulations

- § 18-148 The regulations specified elsewhere in this chapter shall be subject to the following supplemental regulations as to use, height, area, and other matters.
- § 18-149 Single-family Dwelling in a Less Restricted Zone. Any single-family dwelling erected in a less restricted zone insofar as such is permitted shall conform to all regulations in the RS-10 zone.
- § 18-150 Multi-family Dwelling in Commercial or Industrial Zone. Any multi-family dwelling erected in any commercial or industrial zone insofar as such is permitted shall conform to all regulations applying in the RM-2 zone.
- § 18-151 Row Dwelling. Row dwellings as herein defined are prohibited.
- § 18-151.1 Drive-in Restaurants. Drive-in restaurants as defined in this Chapter are prohibited within the corporate limits of the Town of Vienna. (Amend. 2-71)
- § 18-152 Trailers The use of a trailer or trailers as a residence, an office, or for conducting retail sales or solicitations as referred to in Chapter 15 of the Code, is hereby prohibited, with the following exceptions: (a) Public Use Trailers as provided in §18-152.2; (b) the temporary use of a trailer on an actual construction site for the purpose of an on-site construction office during the period of actual construction only, and when first approved by the Director of Public Works; and (c) a sales trailer for residential development on a newly subdivided site subject to the terms of § 18-152.1 when first approved by the Director of Public Works. Notwithstanding the prohibitions set forth in this section, the Town Council may authorize the temporary use of a trailer or mobile home as a dwelling for a period not to exceed six months by residents of the Town when Council is first satisfied that such temporary use is required during reconstruction of a dwelling located in the Town and formerly occupied by said residents which dwelling has been destroyed or rendered uninhabitable by fire or other disaster not willfully caused by such residents. Any such authorization of Council pursuant hereto may be revoked by the Council prior to expiration of the six-month period if revocation is deemed by Council to be necessary in the public interest. (Amend. 4/70; 5/74; 12/92; 10/95; 01/05)
- § 18-152.1 Sales Trailers for Residential Developments. (New 10/95)
- Upon final approval by the Town Council of a new residential subdivision and recordation thereof, a permit may be obtained for one on site sales trailer therein upon posting with the Town a cash bond in the amount of \$10,000.00 to insure removal of the trailer.

The said bond shall be forfeited to the Town should the permittee fail to remove the trailer upon expiration of the permit or upon completion and sale of the last residential structure in the subdivision whichever shall occur sooner otherwise the bond shall be returned to permittee upon such timely removal of the trailer.

Bond proceeds shall be held in an interest bearing account to the benefit of the permittee upon return of the bond.

Such permit shall be void upon expiration of six (6) months following issue but may be extended for not more than one additional six (6) month period for good cause shown.

§ 18-152.2 Public Use Trailers and Manufactured Homes. (New 01/05) Notwithstanding the prohibitions set forth in § 18-152, a Public Use Trailer or a Public Use Manufactured Home, may be permitted to serve an interim need as part of a permitted public use subject to the following standards and procedures:

A. The Town Council may approve, for a period of up to three (3) years, a Public Use Trailer or Temporary Public Use Manufactured Home upon finding that such installation complies with the applicable provisions of this Chapter and is consistent with the conditions of any permit for the principal use issued pursuant to § 18-209.

B. For an existing Public Use Trailer permitted pursuant to § 18-152.2(A) or approved pursuant to § 18-152.2(B), the Council, upon a finding that the public health, safety and welfare of the Town will not be thereby impaired, may extend the time allowed for a Public Use Trailer for additional periods of up to two (2) years each pursuant to § 18-256.

C. All Public Use Trailers must comply with all provisions of this Chapter and be consistent with all conditions of any permit issued pursuant to § 18-209, unless such requirements are modified pursuant to § 18-256.

D. Notwithstanding the above, the Town Manager may approve installation of a Public Use Trailer or Public Use Manufactured Home in order to respond to exigent needs. Such approval shall be for an interim period, not to exceed one school year, pending satisfaction of the requirements of this section.

§ 18-153 Overnight Parking of Commercial Vehicle in Residential Zone. (Amend. 3/82; 1/85)

A. It shall be unlawful to park any commercial vehicle, as defined in this Chapter, in any residential zone of the Town of Vienna for more than one hour in any twenty-four hour period, except that not more than one such vehicle which does not exceed

20,000 pounds gross weight may be parked overnight and on Saturdays, Sundays and holidays off street on the property owned or leased by the vehicle owner or custodian; provided that while so parked, such vehicle shall not be moved or operated at any time to further any profit-making business or professional enterprise, and further provided that while so parked between the hours of 7:00 P.M. and 5:00 A.M., such vehicle shall not be operated nor its engine run for any purpose whatsoever, nor may such vehicle be driven from the parked location between the hours of 7:00 P.M. and 5:00 A.M.

The provisions of this section, however shall not apply to any vehicle or vehicles designed or used to haul garbage, trash, refuse or wastes of any type, the parking or storage of the same on street or off street in any residential zone being hereby strictly prohibited at any and all times of day or night. (NEW 1-85)

The restrictions, prohibitions, and limitations imposed by this section shall not apply to any vehicle, or vehicles, owned or used by the Town of Vienna in furtherance of its municipal purposes when such vehicles are parked on Town owned property. (NEW 1-85)

B. Notwithstanding the provisions of Section 18-153 A, above, any such vehicle may be parked on a residential street for more than one hour while actually being loaded or unloaded or while the custodian of any such vehicle is actively performing services in the area or for the occupants of a residence abutting the street on which the vehicle is parked and the residence is not that of the custodian of such vehicle.

§ 18-153.1 Authority to Restrict Keeping of Inoperative Motor Vehicles, etc., on Residential or Commercial Property; Removal of Such Vehicles. (Amend. 6/87; 4/88; 1/90)

A. It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building or structure, on any property zoned for residential, multi-family or commercial purposes any motor vehicle, trailer or semitrailer as such are defined in Section 46.2.100 of the Code of Virginia 1950 as amended, which is inoperative except that one such inoperative motor vehicle may be kept outside of a fully enclosed building or structure if shielded or screened from view by an auto cover. As used in this Section, an "inoperative motor vehicle" shall mean any motor vehicle which is not in operating condition; or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this Section shall not apply to a licensed business which on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

§ 18-153.1

Vienna Town Code

§ 18-153.3

§ 18-153.4 Parking Commercial Vehicles in Residential Zones Prohibited.

It shall be unlawful to park or, to permit to be parked, or to be left standing in areas zoned for residential use, any commercial vehicle as defined herein except when such commercial vehicle is being used to pick up or discharge passengers or when temporarily parked pursuant to the performance of work or service at a particular location.

For the purposes of this ordinance, the term “commercial vehicle” shall include the following:

1. Any solid waste collection vehicle, tractor truck or tractor truck/semitrailer, or tractor truck/trailer combination, dump truck, concrete mixer truck, towing and recovery vehicle with a registered gross weight of 12,000 pounds or more and any heavy construction equipment, whether located on the highway or on a truck, trailer, or semitrailer;
2. Any trailer, semitrailer or other vehicle in which food or beverage are stored or sold;
3. Any trailer or semitrailer used for transporting landscaping or lawn-care equipment whether or not such trailer or semitrailer is attached to another vehicle;
4. Any vehicle licensed by the Commonwealth for use as a common contract carrier or as a limousine.

Notwithstanding the foregoing, one resident of each single family dwelling unit zoned residential may be permitted to park one vehicle licensed as a taxicab or limousine on such street or highway provided other vehicles are permitted to park thereon.

§18-154 Display of Merchandise. (Amended 7/69; 12/94; 2/96; 6/01)

A. No merchandise shall be displayed nor any business conducted between the street line and the building line. Where the building housing such business is located to the rear of the building line, storage and display may be conducted but no sales shall be consummated in that area normally used for pedestrian traffic immediately adjacent to any front, side or rear of the building itself provided that such area be limited to a depth of four (4) feet when measured from the building itself and provided further that there shall be maintained at all times for pedestrian traffic an area free and clear of any and all obstacles, such area to be at least six (6) feet in

width fronting immediately on and extending the full length of all such storage or display area. Notwithstanding the above provision of this Section, no part of any vehicle parking area, driveway, or roadway may be utilized for storage or display of merchandise, nor may access to any phone booth or similar facility provided for public use be obstructed in any way. The provisions of this Section do not apply to the interior or enclosed structures which are constructed in compliance with all applicable ordinances of the Town of Vienna, Virginia.

B. A waiver of Paragraph A above may be obtained for a period not exceeding thirty (30) days by written application to the Town Manager accompanied by such evidence as may be required by the Town Manager to establish that such waiver is necessary:

1. To permit local business establishment with a principal place of business in the Town of Vienna to sell for a limited period, holiday or seasonal items of a type, sort, kind and character normally sold by such establishment in the course of its regular business and according to the custom and usage for like businesses. All such sales shall be conducted by bona fide regular employees of that business for the benefit of the said business, the use of other persons, subcontractors or personnel of other organizations of any nature being prohibited or;
2. To permit the conduct of activities by recognized Town of Vienna based charities, religious or service organizations not having an established place of business when to require otherwise would be to impose an undue hardship, and primary and secondary schools wherein at least one third of the student population are residents of the Town of Vienna. Provided however, that the conduct of all such activities and sales by such organizations be carried out exclusively by uncompensated volunteers or members of the particular organization without compensation and that no paid agents, employees or contractors be used.

C. Notwithstanding paragraphs A and B above, the Town Manager is authorized to permit one private farmers market or marketplace in the Town each year from the first day of May to the last day of October inclusive at a location authorized by this zoning code and approved by him, or other public property and only for the sale of vegetables, fruits, agricultural and farm products of a perishable nature grown or produced by the vendors thereof and not purchased by the vendors for sale. Conduct of such markets or marketplaces shall be in compliance with all applicable federal, state and local laws.

All sales must be conducted in person by that vendor having grown or produced the

products sold, members of his family or his direct employees. The hours of activity shall be limited to 7:30 a.m. until 1:30 p.m. Saturday only.

- § 18-155 When Basement Living Quarters May be Maintained. No basement living quarters shall be maintained as a rental unit in any dwelling where the floor grade is more than two (2) feet below the surrounding yard grade, except where the entire exterior wall area of one of the longer sides of the basement is above the ground level of the yard.
- § 18-156 Public Buildings; Height. Public buildings shall comply with the height limitations established in the zone in which they are located.
- § 18-157 Yard Requirements, Buildings Other Than Dwellings; Distances Between Principal Buildings. For "unit group buildings" other than dwellings, the front, side, and rear yards along the lot lines shall be the same as required for the zone in which the property is located and the minimum distances between the principal buildings within the side area shall be equivalent to the sum of the two required front, side, or rear yards, or a combination of two of the above yards, according to the arrangement and relationship of the buildings.
- § 18-158 Deleted in its Entirety 7-22-74.
- § 18-159 Obstruction to Vision at Corner, Residential Zone Prohibited. On any corner lot in a residential zone there shall be no planting, structure, fences, shrubbery, or obstruction to vision more than three (3) feet above the curb level within twenty-five (25) feet of the intersection of any two (2) street lines.
- § 18-160 Obstruction at Corner, Commercial Zone Prohibited. On any corner lot in a commercial zone no building or obstruction shall be permitted within eight (8) feet of the intersection of any two (2) street lines.
- § 18-161 Gasoline Stations; Locations of Pumps and Driveways. Gasoline pumps shall be erected at least ten (10) feet behind the building line. When a gasoline service station occupies a corner lot, the ingress or egress driveways shall be located at least twenty (20) feet from the intersection of the front and side street lines of the lot. Any driveway serving a gasoline service station shall have a minimum width at the throat of twenty-five (25) feet and a width at the throat not to exceed thirty-five (35) feet. A lot shall not be used for a gasoline service station if it is within three hundred (300) feet of an entrance to a public or parochial school, a public park or playground.
- § 18-162 Annexed Areas, How Classified. Any area annexed to the Town of Vienna after the effective date of this Chapter shall, immediately upon such annexation, be classified as having a Town of Vienna zoning most nearly approximating the zoning which it

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had prior to annexation, until a zoning map for said area has been adopted by the Town Council. The Planning Commission shall recommend to the Town Council

§ 18-163 **When Additional Story is Permitted.** On any lot, sloping downhill from the street, which has an average ground slope on that portion of the lot to be occupied by the principal buildings of twenty-five percent (25%) or more, an additional story may be permitted.

§ 18-164 **Penthouses and Other Roof Structures Above Permitted Height Limits, When Allowed.** Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, water tanks, silos, or similar structures which are part of the principal building may be erected above the height limits herein described, but no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional floor space. All structures and equipment here permitted (except towers, steeples and flagpoles) shall be enclosed, the facade of such enclosure to be in harmony with the facade of the principal structure.

§ 18-165 **Front Yard Requirements, Residential Zones, for Lot Lying Between Two (2) Lots With Dwellings Thereon.** In any residential zone any lot lying between two (2) lots immediately adjacent thereto and having dwellings erected upon them at the time of enactment of this Chapter, shall have a front yard equal in depth at least to the average depth of front yards of the lots immediately adjacent thereto, provided no front yard shall be less than fifteen (15) feet in depth and no front yard shall be required to be more than forty (40) feet in depth.

§ 18-166 **Front and Side Yard Requirements.** The front and side yard requirements shall not apply to dwellings, boarding or rooming houses, erected above the ground floor of a building when said ground floor is designed exclusively for commercial or industrial purposes.

§ 18-167 **How Far Carport May Project into Side Yard.** An unenclosed carport may project into a required side yard for a distance not to exceed five (5) feet; provided, however, that any yard on the side street of a corner lot shall not be reduced to less than ten (10) feet in width.

§ 18-168 **Porches, Projection Into Required Yard Area Prohibited.** Any one-story or two-story enclosed or unenclosed porch shall be considered a part of the building in the determination of the size of any yard and shall not project into any required front, side, or rear yard.

The space in any required yard shall be open and unobstructed except for:

1. The ordinary projections of window sills, belt courses, cornices, eaves, bay windows, steps, and other architectural features, provided such features shall not project more than four (4) feet into any required yard; and,
2. Decks, which shall not project more than four (4) feet into any required yard, except as specified for rear yards in the RS-16, RS-12.5, RS-10 and Rth zones. (Amend. 10/16/72; 10/7/02)

§ 18-170 Fire Escapes. Open fire escapes shall not extend into any required yard.

§ 18-171 Walls, When Setback and Yard Requirements Do Not Apply. The setback and yard requirements of this Chapter shall not apply to any retaining wall which is less than five (5) feet high, nor to any decorative masonry wall which is less than four (4) feet high.

§ 18-172 Wall Required Between Certain Zones. (Amend. 7-74; 4-76; 2-83; 10-83)

All Transitional Parking lots and all parking lots in Transitional Zones shall be screened from all adjacent property in any residential zone, and all land zoned C-1, C-1A, C-2, RM-2, RTH or CM on which any industrial, commercial, townhouse or multi-family housing use is conducted shall be screened from all adjacent property in any detached residential zones. Further, all land zoned C-1, C-1A, C-2 or CM on which any industrial or commercial use is conducted shall be likewise screened from all adjacent property in any RM-2 zone. Such screening shall be by a masonry wall constructed of brick or other ornamental masonry of equal acceptable aesthetic quality which does not require painting and shall be maintained at all times. Said wall shall be located on that land so used for that less restrictive but more intense and higher density use along the boundary line separating such land from that adjacent land used for the less dense, less intense residential use and said wall shall be erected to a minimum height of six (6) feet above that grade of the residential side of the wall.

Where any land on which an ornamental masonry wall is required by this section abuts an alley, or where dedication of such alley is required from such land upon development thereof, the required six (6) foot high masonry wall shall be constructed and maintained on the commercial land along the inside boundary line between such land and such alley when that land located directly on the opposite side of such alley and abutting thereon is zoned RS-16, RS-12.5, or RS-10. Where any land on which an ornamental masonry wall is

dedication of such public utility easement or right-of-way is required from such land upon development required by this section abuts a public utility easement or right-of-way, or where

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thereof, the required six (6) foot high ornamental masonry wall shall be constructed and maintained in said public utility easement or right-of-way along the inside boundary line between such utility easement or right-of-way and that land located directly on the opposite side of such public utility easement or right-of-way and abutting thereon which is zoned

RS-16, RS-12.5 or RS-10. Provided, however, that the Town Council may waive or modify the requirement for any masonry wall or walls required by this section if in the judgment of the Council such wall or walls would not protect the residential property against loss of privacy, trespass by persons or vehicles, or intrusion of noise or trash, attributable to activities conducted on any adjacent Transitional Parking lot, parking lot in a Transitional Zone or on adjacent land zoned C-1, C-1A, C-2 RM-2, RTH or CM; or in the judgment of the Council equivalent protection of such adjacent or nearby residential property against loss of privacy, trespass and intrusion of noise and trash can be achieved by evergreen planting, fencing or a combination of such planting and fencing; and provided further, that prior to the meeting at which such waiver of any masonry wall is to be considered, the Planning Commission and the Council shall give written notice of same to the occupants of all property adjacent to and across the street from the property to which such waiver would apply.

All walls or evergreen screening required by this section shall be shown on all site plans required by Article 25 of this Chapter. (Amend. 5-24-82)

§ 18-172.1 Underground Utility Services. (Amend 9-90)

All utility services, including but not limited to all wires, cables, pipes, conduits and appurtenant equipment, carrying or used in connection with the furnishing of electric power, telephone, telegraph, cable television, petroleum, gas, steam, water or sewer systems, shall, after the effective date of this Section be placed below the surface of the ground; provided that:

(a) Equipment such as electric distribution transformers, switchgear, meter pedestals, and telephone pedestals, which is normally installed above ground in accordance with accepted utility practices for underground distribution systems may be so installed;

(b) Meters, service connections, and similar equipment normally attached to the outside wall of the premises it serves may continue to be so installed; and

(c) Existing overhead utility services to any building, accessory building, or structure erected prior to the effective date of this Section may remain overhead when repaired, replaced, or increased in capacity.

All improvements herein required shall be constructed in accordance with accepted standards of utility practice for underground construction.

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Whenever relocation of utility facilities is compelled by any construction undertaken by any unit of Government, the provisions of this Section may be waived by the Town Council. (Amend. 4-69)

§ 18-173 Home Occupation. In any residential zone a home occupation is permitted, including the use of the home as an office, provided that the occupation complies with all the following conditions: (Amended 11/94; 11-04)

A. Is operated in its entirety within the single unit dwelling and only by the person or persons maintaining a dwelling therein.

B. Does not display or create outside the building any external evidence of the home occupation, including any method of advertisement other than a dwelling nameplate as permitted in Section 18-185.

C. Does not utilize more than twenty-five percent (25%) of the gross livable floor area including the basement.

D. No person is employed other than a member of the immediate family residing on the premises. Provided, however, that in the event any such family member so employed in any home occupation dies or becomes physically incapacitated, and such incapacitation is certified by a medical doctor as preventing said family member from performing such employment thereby causing a hardship to the proper conduct of said home occupation, the Board of Zoning Appeals may grant a variance to permit temporary employment of not more than one person for a period not to exceed six months following a Public Hearing, pursuant to § 18-234 of this Chapter. (Amend. 6-16-75)

E. Does not use any internal combustion engine as a power source and does not use more than a total of three horsepower in fractional horsepower electric motors (other than is normally used for domestic use.)

F. Will not involve the emission of any sounds, odors, or smoke beyond the property line in excess of normal single unit dwelling use.

G. No commodity will be sold on the premises.

H. Any service involving the presence of customers or clients on the premises will be operated on an appointment basis only.

I. Will not constitute a nuisance because of sidewalk or street traffic.

J. Said use will not tend to affect adversely the use and development of adjoining properties in the immediate neighborhood.

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K. No equipment or merchandise shall be stored anywhere on the premises other than inside the principal residential structure itself. (Amend. 2-4-85; 4-15-85)

L. No commercial deliveries shall be made either to or from the premises before 8:00 A.M. and after 6:00 P.M. (Amend.2-4-85)

A boarding house, tourist home, massage therapist or massage therapy establishment, or principal office of a real estate business shall not be deemed a home occupation.

§ 18-173.1 Commercial Group Building Development (New; Amend. 4-22-74)

The following regulations shall apply to all Commercial Group Building Development where permitted. For general regulations see Article 4 of this Chapter. All supplemental regulations contained in this Article 18 shall apply, excepting that where other regulations in this Article 18 are in conflict with the regulations in this section, then this section shall govern.

A. Commercial Group Building Developments complying with § 18-72 and § 18-73 of this Chapter shall be permitted subject to approval of a Site Plan of each development by the Town Council in accordance with Article 25 of this Chapter.

B. General Specifications:

1. All area and height and parking requirements for Commercial Group Building Development shall be governed by the regulations applicable to the zone in which located.

2. The common open space and any common parking lot, including any required screening, shall be governed by a council of co-owners if such development shall have qualified pursuant to the Horizontal Property Act of this Commonwealth, or conveyed to a non-stock, non-profit corporation, organized and operated under the laws of Virginia. If conveyed to such corporation, the owner or developer shall present, with the Site Plan required by Article 25, copies of the articles of incorporation of such corporation, its by-laws and an adequately financed plan with effectuating agreements and covenants acceptable to the Town assuring the development and maintenance of any common open space and common parking

lots. The membership of such non-stock, non-profit corporation shall consist of all the individual lot and unit owners of the development.

3. Common open space, excluding any contained in lots, streets and parking, shall after development in accordance with the Site Plan, not be denuded, defaced, or otherwise disturbed in any manner without the written approval of the Town Council of Vienna. All common open space including, but not limited to paved parking areas

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and driveways, shall be maintained in accordance with standards and regulations from time to time issued by the Director of Public Works with the approval of the Town Council.

4. Minimum gross floor area: Gross plan area shall be interpreted as a measure of usable area exclusive of attic, garage and basement which is more than fifty percent (50%) underground. Each separate unit in a series shall have a minimum gross floor area of 800 square feet per floor with the average gross floor area within a series to be not less than 1000 square feet per floor.

5. Minimum area permitted, Commercial Group Building Development: One contiguous acre, maximum number of units per gross acre not to exceed eight (8).

6. No more than ten (10) units shall be constructed in a contiguous series in any Commercial Group Building Development.

7. Facades, roofs and treatment of external materials shall be submitted as a condition of Site Plan approval. Not more than two abutting units and not more than one-third of any abutting series of units shall have the same architectural design or treatment of materials unless otherwise approved by the Architectural Review Board of the Town.

8. A minimum ten percent (10%) of the gross acreage of each commercial zone building development shall be provided for common open space to include green areas, trees, plantings, etc. for the purpose of improving the appearance of the project.

C. Unit Width.

For each separate unit in a Commercial Group Building Development there shall be a minimum unit width of twenty (20) feet. Not more than two abutting units and not more than one-third of any abutting series of units shall have the same width.

D. Yard Requirements.

See also subsection "B" above, General Specifications.

E. Front Yard.

None required excepting that the distance from the unit front to common open space or common parking lot shall be subject to Site Plan approval provided not more than two (2) abutting units shall have the same front set-back from such common open space or parking lot.

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F. Side Yard.

None required excepting that end units and corner units shall be set back from the property line a distance equal to the required side yard for the zone in which located.

G. Rear Yard.

None required excepting that no unit in any group shall be constructed closer than twenty-five (25) feet from the rear property line.

H. Height Limit.

Maximum height of each unit shall be two and one-half (2 1/2) stories, but not to exceed thirty-five (35) feet.

I. Off-street Parking Area.

As specified in Article 16 excepting that notwithstanding contrary provisions of Article 16, all required parking facilities in any commercial group building development shall be located on the site and meet all requirements of the zone in which located.

J. Name Plates and Signs.

As specified in this Chapter for the zone in which the development is located.

K. Public Utilities.

All utilities requiring transmission by wires shall be placed underground or under surface except pad-mounted transformers which shall be properly screened.

§ 18-173.2 Intent and Purpose. (NEW 3-17-80)

The Town Council of Vienna finds and declares that:

A. The intrusion of non-regulated garage sales is causing annoyance to citizens in residential areas in the Town of Vienna and congestion of the streets in residential areas in the Town of Vienna.

B. The provisions contained in this ordinance are intended to prohibit the infringement of any businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area.

C. The provisions of this ordinance do not seek control of sales by individuals selling a few of their household or personal items.

D. The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the safety and welfare of the Town citizens.

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Definitions. For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory.

- (a) Garage Sale shall mean and include all general sales, open to the public, conducted from or on a residential premise used for family residential purposes only, in any residential zone as defined by the zoning ordinance, for the purpose of disposing of personal property including but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "room", "backyard", "patio", "flea-market", or "rummage" sale. This definition shall not include a situation where no more than five (5) specific items are held out for sale and all advertisement of such sale specifically names those items to be sold.
- (b) Personal Property shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment or merchandise obtained from persons other than those specifically authorized to conduct a sale under the specific permit granted.

§ 18-173.4 Number of sales limited. It shall be unlawful for any such sale to be conducted on premises other than those occupied as a residence by one of the persons conducting such sale. No more than two (2) such sales may be conducted at any one residence and/or family household during any calendar year. If members of more than one residence join in conducting such sale, such sale shall be considered to have been conducted at all of such residences.

§ 18-173.5 Hours of operation. Such garage sales shall be limited in time to no more than the daylight hours of two (2) consecutive days or two (2) consecutive weekends (Saturday and Sunday).

§ 18-173.6 Advertising; Signs. (Amend. 1/97)

(a) Signs permitted. Only the following specified signs may be displayed in relation to a pending garage sale;

(1) Two Signs Permitted. Two signs of not more than four square feet each shall be permitted to be displayed on the property of the residence where the garage sale is being conducted.

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(2) Directional Signs. Four signs of not more than two square feet each are permitted provided that the premises upon which the garage sale is conducted is not on a major thoroughfare, and permission to erect said signs is received from the property owners upon whose property such signs are to be placed.

(3) No signs shall be posted on public or utility property.

(b) Time Limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.

(c) Removal of Signs. Signs must be removed each day at the close of the garage sale activities or by the end of daylight whichever first occurs.

§ 18-173.7 Public Nuisance. The individual conducting such sale and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on said premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of such premises. All such individuals shall obey the reasonable orders of any member of the police or fire departments of the Town of Vienna in order to maintain the public health, safety, and welfare.

§ 18-173.8 Parking. All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the police department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any garage sale.

§ 18-173.9 Persons exempted from ordinance. The provisions of this ordinance shall not apply to or affect the following:

- (a) Persons selling goods pursuant to an order or process of a Court of competent jurisdiction.
- (b) Persons acting in accordance with their powers and duties as public officials.
- (c) Any sale conducted by any merchant or mercantile or other business establishment from or at any place of business wherein such sale would be permitted by the zoning regulations of the Town of Vienna or under the protection of the non-conforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.

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- (d) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods or articles are not sold on a consignment basis.

§ 18-173.10 Separate Violations. Every article sold and every day a sale is conducted in violation of this ordinance shall constitute a separate offense.

§ 18-173.11 Penalty. Any person who shall violate any of the terms and regulations of this ordinance shall, upon conviction, be fined not less than fifty dollars (\$50) nor more than two hundred-fifty dollars (\$250.00) or be imprisoned for a period not to exceed ten (10) days for each violation.

§ 18-173.12 Separability. If any provision of this ordinance is found by a Court of competent jurisdiction to be invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

§ 18-173.13 Condominium Conversions Generally (NEW 7-12-82)

A. Information Filing Required.

The declarant of a conversion condominium in the Town shall file with the Zoning Administrator, copies of all information otherwise required to be filed by such declarant with any and all appropriate departments, agencies and offices of the Commonwealth of Virginia and such filing with the Zoning Administrator shall be done simultaneous with such other filing required by the Commonwealth.

B. Offer of Lease to Elderly and Disabled Tenants Required.

(1) The declarant of a conversion condominium in the Town shall simultaneous with giving to tenants such notice of conversion as is required by applicable provisions of the Code of Virginia, offer elderly and disabled tenants occupying as their residence at that time, apartments or units in the proposed conversion condominium leases or extensions of lease on the apartments or units they then occupy or on other apartments or units of equal size and overall quality.

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(2) Offers of leases or extensions of leases required by this section shall include no less than twenty percent (20%) of the apartments or units in the proposed conversion condominium and shall be offered for a term of three (3) years. Such offers of leases or extensions of leases shall not apply to apartments or units which will, in the course of conversion, be substantially altered in the physical layout, restricted exclusively to nonresidential use or rendered legally uninhabitable because of renovations or rehabilitation which the declarant intends in good faith to perform.

For the purpose of this section Elderly means a person not less than 62 years old and Disabled means a person suffering from a severe, chronic physical or mental impairment which results in substantial functional limitations.

C. Reimbursement of Displaced Tenants Required.

The declarant of any residential condominium converted from multi-family rental shall reimburse any tenant displaced by the conversion for amounts actually expended to relocate as a result of such dislocation but not in excess of the amount to which the tenant would have been entitled to receive under law if the real estate comprising the condominium had been condemned by the Virginia Department of Highways and Transportation.

- D. The Zoning Administrator shall maintain a current schedule of reimbursable expenses which schedule shall be available to the public during business hours. (NEW 6-17-85)

§ 18-173.14 Maintenance of Landscape Areas (NEW 11-86)

1. Owners of property within the Town shall maintain all landscaping, and all planting areas installed pursuant to any provision of this Chapter 18 (Zoning) in compliance with regulations to be published from time to time by the Director of Public works. Such regulations shall, among other elements, require the regular periodic mowing of grass, trimming of borders, fertilization and watering of all ground cover, shrubbery, and trees, application of insecticides to protect against infestation, removal of weeds, pruning of all plantings as necessary to maintain vigor and appearance, replacement of dead shrubs, trees, bushes and plants, and removal of trash, litter, garbage and debris.

2. Where any such landscaping or planting area is not maintained in compliance with Paragraph 1 above of this section, the Director of Public Works shall immediately notify the owner of the property on which such landscaping or planting area is located of such deficient maintenance and request that the necessary maintenance work be performed. Such notice and request shall be by certified mail

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sent to the owner, postage prepaid. Where no address can be found, the letter herein referred to shall be posted in a conspicuous place on the property.

3. If the deficiencies in landscaping or planting area maintenance, referred to in Paragraph 2 above of this section, have not been corrected by the property owner within ten (10) days from the date the letter referred to above has been mailed, or the notice posted, the Director of Public Works shall cause the deficiencies to be corrected by Town forces or by a contractor of the Town.

4. Where deficiencies in the maintenance of landscaping or planting areas are corrected at Town expense by the Director of Public Works pursuant to Paragraph 3 above of this section, the cost of same shall be billed to the owner of the property; and if such bill is not paid, it shall be added to the real estate bill on such property, and shall be a lien on such property to the same extent and effect as the real estate tax.

§ 18-173.15 Blighted Property a Nuisance (New 10/98)

The Town Council may by ordinance, declare any blighted property as defined in this chapter, to constitute a nuisance, and thereupon abate the nuisance pursuant to authority of municipal corporations to so act.

Such ordinance shall be adopted only after written notice by certified mail to the owner or owners at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.

§ 18-173.16 Security Fences (New 11/04)

Notwithstanding any restrictions related to fences, fences used for security and protection of Town and/or government facilities, structures and/or utilities, may exceed the height restriction set forth in Chapter 18. Fences exceeding such restrictions, barbed wire, razor wire, concertina wire and/or other security enhancement devices may be used for security protection of Town and/or government facilities, structures and/or utilities if approved by resolution of the Town Council. Such resolution shall be based upon the recommendation of the Director of Public Works and Chief of Police and upon a finding by the Town Council that such measures are necessary in the interest of public safety and security for such facility, structure and/or utility.

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Article 19

Name Plates and Signs

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A. The intent of this Article is to control all signs within the Town of Vienna, to ensure that they are appropriate for their respective principal uses and in keeping with the appearance of the affected property and surrounding environment, and to protect the public health, safety, morals and general welfare. In addition, the intent of this Article is to:

1. Encourage good design in the context of the overall image and visual environment of the Town;
2. Protect property values; enhance the appearance of the business and industrial community;
3. Stimulate the economic vitality of the Town, encourage a business atmosphere that continues to attract new enterprises to the Town, encourage trade within the Town, and to appropriately inform consumers;
4. Ensure that signs are adequate, but not excessive;
5. Prohibit the erection of signs in such numbers, sizes, designs and locations as may create danger to the public by obscuring road signs or by unsafely diverting the attention of motorists;
6. Prohibit signs which are likely to create unsafe conditions because of unsound structures or unsuitable locations;
7. Avoid excessive competition for placement of signs, so that permitted signs provide identification, direction, information and advertising while minimizing clutter and unsightliness.

B. The general premise for the control of signs includes legibility, the effective display of information, the safety of passing traffic, and the coordination of signs with buildings, landscaping and other elements of the visual environment. In particular, signs should be designed and constructed as follows:

1. For maximum legibility, considering viewing, location and traffic conditions.
2. For size and dimensions, signs should be related to the frontage and setback of the building.

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3. The setback and size of signs should give a fair exposure to all commercial buildings in a given area.
4. Signs should be integrated with the architecture of the buildings to which they relate, and with the nearby landscaping.

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DEFINITIONS (Amend. 10/96)

The following definitions are set forth for use in this Article:

A. Awning or Canopy. An awning or canopy shall include any structure made of cloth or metal or a frame attached or detached from a building and projecting therefrom, and possibly carried by frames supported at grade level.

B. Banner, Pennants or Streamers, Standards or Flags. Any temporary sign consisting of lightweight, flexible material, which is supported by a frame, ropes, cables, wires or other anchoring devices.

C. Building Directory. A wall sign which lists the names, times, uses and locations of various services, offices or activities within a building, and which is intended to be read at close proximity.

D. College or University. A place, location, building(s), or structure(s) that houses or is used by an organization devoted to higher education. To be eligible for signage under § 18-185F, the organization must serve an institutional purpose. Proof of such purpose includes being approved or recognized by the State Council of Higher Education for Virginia, or by an equivalent agency of the State in which the primary campus of the institution is located. Eligibility under § 18-185F does not include business schools.

E. Free-Standing Sign. Any sign supported by one or more uprights, braces or poles, or placed directly on the ground or on a foundation on the ground and not attached to a building.

E.1. Master Sign Plan. A comprehensive sign plan for a multi-tenant development, building or shopping center which identifies all proposed permanent wall, free-standing and window signs. (New 3/99)

F. Monument Sign. A free-standing sign no taller than six (6) feet in height, permanently placed in a landscaped area and used to identify a building, its tenants or businesses located on the same site.

G. Moving or Rotating Signs. Any sign which involves motion or rotation of any part or which displays flashing or intermittent lights.

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H. Place of Worship. A church, synagogue, temple, mosque, or other building(s) or structure(s) that houses the sanctuary or principal place of worship of an organization devoted to the furtherance of religious ideals. To be eligible for signage under § 18-185F, the organization must have tax exemption based on the religious nature of its activities.

I. Political Sign. A temporary sign relating to the election of a person to public office, or a political party, or a matter to be voted upon by an election called by a duly constituted public body.

J. Principal Street. A principal street shall be considered that public street which parallels the longest side of a shopping center; in the case of only one public street adjoining a shopping center that one street shall be the principal street.

K. Projecting Sign. Any sign which is attached in a plane approximately perpendicular to the surface of a building or other structure.

L. School. A location, building(s), or structure(s) that houses or is used by an organization for instruction in any branch or branches of knowledge. To be eligible for signage under § 18-185F, the organization must serve an institutional purpose. Proof of such purpose may include being accredited, licensed, certified or being recognized by the State Board of Education of the Commonwealth of Virginia. Eligibility under § 18-185F does not include home-based schools or vocational schools.

M. Show Window Display. Displays of merchandise, pictures, posters, prices, promotional statements, etc., designed and intended to be viewed by pedestrians in front of the show window.

N. Sign. Any object, letter, figure, design, symbol, artistic display, trademark, flag (excluding federal, state and local flags), illumination of other device intended to call attention to or identify or give direction to any place, subject, person, firm, business, public performance, article, machine or merchandise.

O. Sign Area. The area of signs shall include the entire face of the sign and any adjacent area incidental to its decoration and, in case of an open sign made up of individual letters, figures or designs, the space between and around such letters, figures or designs.

P. Sign Height. The difference in height between the elevation of the established or proposed grade level beneath the sign and the elevation of the uppermost extremity of the sign structure.

Q. Sign Maintenance. The renewal, painting, repair or cleaning of an existing sign which retains the same sign information items, colors, composition, location and structure as the original.

R. Sign Structure. Any assembly of materials which supports a sign and which is not an integral element of a wall or building.

S. Temporary Sign. Any sign, banner, valance or advertising display which may easily be dismantled or removed and which may only be displayed for a limited period of time at any one location.

T. Time-Temperature Display. A sign which displays time/date/temperature for the convenience of the public.

U. Wall Sign. Any sign which is affixed directly to or suspended from a wall, marquee, mansard roof or parapet wall of a building, with the exposed face of the wall and extending from it less than twelve (12) inches. A wall sign may be either of one-piece construction or of individual letters or symbols. A wall sign may also be inscribed on or attached to the vertical or nearly vertical surface of an awning or canopy which is permanently affixed to a building.

V. Window Sign. Any permanent or temporary sign which can be read from a public street or parking lot, and which is placed on the inside surface of a glass window or within a distance of six (6) feet inside the window. Show-window displays are not included within this definition. (Amend. 8/19/91)

§ 18-176 PERMITS REQUIRED

Except for an exempt sign, a permit is required to erect, alter in any major respect, including changing colors, or move any sign. No name plate or sign shall be permitted in any residential, commercial or industrial zone of any character other than specified in this Article.

§ 18-177 EXEMPT SIGNS

A. Exempt signs shall include the following:

1. Signs not exceeding one and one-half (1 1/2) square feet in area, and not otherwise prohibited by Section 18-178 of this Article. Any sign over one and one-half (1 1/2) square feet and not otherwise prohibited by Section 18-178 of this Article shall require a permit as specified in Section 18-176. (Amend. 8/19/91)

2. Temporary Window Signs. Signs made of paper, cardboard, cloth or similar material may be displayed in buildings in the commercial and industrial zones provided the area of such signs shall not exceed twenty-five percent (25%) of the total area of transparent glass.

3. Bulletin Boards. One (1) white lighted bulletin board is permitted, not exceeding eighteen (18) square feet in area for non-profit organizations.

4. Residential Name Plate. One (1) residential name plate for each dwelling unit shall be permitted not exceeding one and one-half (1 1/2) square feet in area. Such sign may be at but not project over any street sign.
5. For Sale or For Rent Signs. One (1) unlighted sign will be permitted to advertise property for sale or for rent provided such sign is located on the property to which it pertains and provided the total area of such sign does not exceed six (6) square feet.
6. Other similar signs as determined by the Zoning Administrator or designee.

§ 18-178 PROHIBITED SIGNS AND SIGN STRUCTURES (Amend. 10/95)

A. Signs prohibited by this Article include:

1. Signs and/or sign structures, except temporary signs, which are erected on any property without the express written permission of the property owner or his authorized agents.
2. Signs which are a public nuisance because of amplified sound, smoke, vapor, particle emission or objectionable odors.
3. Signs and/or sign structures which violate the visibility provisions of this Article.
4. Signs on Roof Prohibited. Signs of any type shall not be erected upon the roof of any building, except on the sides of a mansard-type roof.
5. Billboards Prohibited. Billboards are hereby prohibited in the Town of Vienna.
6. Moving or Rotating Signs and Pennants, Banners, Streamers, etc., Prohibited. Signs which involve motion or rotation of any part, or display flashing or intermittent lights are prohibited. Standards, banners, flags, streamers, and similar devices used for advertising purposes are prohibited, unless provided by the Zoning Administrator for not more than thirty (30) days. The Zoning Administrator shall exercise his discretion with due regard for the Intent provision of this Article set forth in Section 18-174 A 3.
7. All signs and sign structures which are erected after the adoption of this Article and which do not comply with the provisions of the Article shall be deemed prohibited signs, subject to removal. Signs approved by the Board of Architectural Review, but not erected prior to this Article shall not be subject to removal.
8. Signs or sign structures, the permits for which have been revoked.

9. Any exposed-tubing lighting arrangement, except that:

a. Any business establishment may have one or more signs with a total area not to exceed one and one-half (1 1/2) square feet. Signs of more than one and one-half (1 1/2) square feet in total area and consisting of exposed tubing that were in existence as of August 19, 1991, may continue in operation only so long as they remain in good operating condition and provided that they are not replaced or altered in any manner whatsoever. For the purposes of this Code section, the term "replaced" shall mean the removal of an existing lighting arrangement and its substitution with any other type as defined herein; and the term "altered" shall mean the process of changing, enlarging, extending, or reducing the existing lighting arrangement. (Amend. 8/19/91; 10/95)

b. Any business establishment with a public entrance and all of its parking in the rear of its building may have, in addition to the lighting permitted under a. above, one exposed-tubing lighting arrangement not exceeding one and one-half square feet in total area located in a rear-facing display window or public entrance. (New 10/95)

10. Telephone and facsimile numbers, Internet and electronic mail addresses: the use of telephone numbers, facsimile numbers, Internet addresses or electronic mail addresses on permanent wall and free-standing signs can be distracting to motorists and thereby create a hazardous situation. Therefore, telephone numbers, facsimile numbers, Internet addresses, electronic mail addresses may not be displayed on such signs, either jointly or individually, except when required by federal, state, or local law. Evidence of such requirement must be submitted with any application for a sign permit containing a telephone or facsimile number, or an Internet or electronic mail address. (New 3/99)

§ 18-179 STRUCTURAL REQUIREMENTS, MAINTENANCE AND ILLUMINATION.

A. No sign or sign structure shall be erected unless it complies with the applicable requirements of the Virginia Uniform Statewide Building Code and Chapter 18 of the Town of Vienna Code.

B. All signs and sign structures shall be maintained in good repair and in a safe and secure condition. A sign or sign structure found by the Zoning Administrator or his designee to be unsafe or insecure may be deemed a public nuisance, subject to the removal provisions of this Article.

C. All signs and sign structures shall be kept in a neat, clean and presentable condition, such that each sign information item is clearly legible. A sign found by the Zoning Administrator or his designee to show clear evidence of deterioration, including rust, faded colors, discoloration, holes and missing parts or information items, may be deemed a public nuisance, subject to the removal provisions of this Article.

D. A sign illumination shall be by means of internal light sources or by external, shielded light sources.

§ 18-180 REVOCATION OF PERMITS AND REMOVAL OF SIGNS.

A. The Zoning Administrator may revoke any permit issued under this Section in any instance in which the sign or sign structure is found to be in violation of any provision of this Section, unless the sign owner corrects such a violation within thirty (30) days of receiving written notice of such revocation.

B. Responsibility. The responsibility of any sign or sign structure shall rest jointly and severally with the sign owner, and the owner of the premises on which the sign is located.

C. Special Remedies. Every sign or sign structure declared to be a public nuisance may be abated, enjoined, restrained or removed by the Town in any available legal proceeding or court action in addition to the other remedies specified by this Article.

§ 18-181 SIGNS ERECTED PRIOR TO THIS ARTICLE.

No sign erected before the adoption of this Article shall be altered in any major respect, or its color changed, or moved unless it be brought under compliance with the provisions of this Article. This provision does not apply to routine sign maintenance.

§ 18-182 PERMITTED SIGNS IN TRANSITIONAL ZONES.

Each business located in a transitional zone shall be permitted an identification sign not exceeding two (2) square feet in area which shall be attached to and parallel with the front of all the building in which the business is located. Where more than one business is located in a single building, all such identification signs shall be of the same style and size and mounted in a closely spaced group which shall not exceed eight (8) square feet in total area.

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In lieu of such attached signs and not in addition thereto, there may be permitted one (1) free standing identification sign not exceeding a maximum of eighteen (18) square feet

accommodating all businesses in such location. No such identification sign or groups of signs or any other external feature of any building or facility shall be electrically illuminated, directly or indirectly, by any device which consumes more than one hundred (100) watts of electric power. All such illumination shall be shielded against reflection or direct radiation into adjacent residential zones. (Amend 11-15-93)

§ 18-182.1 PERMITTED SIGNS IN RTH ZONES

One (1) freestanding sign not exceeding a maximum of twenty-four (24) square feet and the maximum height of the sign or structure shall be no more than six (6) feet above average grade, identifying by name a townhouse subdivision as the same appears on that subdivision plat previously approved by the Town Council and recorded among the land records of Fairfax County. Such identification sign shall be set back a minimum of ten (10) feet from the street line. All sign illumination shall be by means of external, shielded light sources. (New 10-88)

§ 18-183 PERMITTED SIGNS IN RM-2 MULTI-FAMILY ZONES

The following signs are also permitted in the RM-2 zone:

A. One (1) identification sign not to exceed three (3) square feet for boarding and rooming houses.

B. One (1) white-lighted identification sign (excluding illuminated signs of the flashing or animated types) not to exceed twelve (12) square feet for multiple dwellings and principal offices of professions.

§ 18-184 PERMITTED SIGNS IN COMMERCIAL AND INDUSTRIAL ZONES.

A. Permitted Name Plates and Signs. All name plates and signs permitted in residential zones are permitted in commercial and industrial zones.

B. Sign Area. A total limit of two (2) square feet of sign area is permitted for each linear foot of commercial or industrial building frontage. This shall include all exterior and interior signs, except after review by the Board of Architectural Review, one and one-half (1 1/2) square feet may be added to the building sign for street number designation purposes only.

C. Exterior Signs

1. Any exterior sign shall pertain only to a use conducted within the building and shall front the principal street, a parking area on the rear portion of the lot, or in the case of a corner building, on that portion of the side street wall within fifty

(50) feet of the principal street. In no case shall a sign project above the roof line or be displayed on a rear wall of a building so that it is visible in a residential zone except as permitted in §§ 18-184 C 3 and 18-184 C 4. All exterior signs shall serve the primary purpose of identifying the business and/or profession conducted on the premises, but may also include reasonable product information as is approved by the Board of Architectural Review established by Chapter 4 of this Code.

2. All exterior signs attached to a building shall be flat against the building and parallel with its horizontal dimension.

3. An exterior identification sign not to exceed twelve (12) square feet or four (4) feet in length may be attached to the rear wall of a building provided that such sign is flat against the building and parallel with its horizontal dimensions, that it is not lighted, and that the building has a rear entrance for its customers.

4. All exterior signs attached to canopies which are structurally a part of the building and all exterior signs attached flat against a building with less than eighteen (18) inches between the top of the display window and above the roof line may project three (3) feet above the roof line but not exceed four and one-half (4 1/2) feet in total height, provided such signs shall be opaquely shielded and hooded from any immediately adjoining residential zones. The back of signs attached to a canopy shall not extend behind a line eighteen (18) inches back from and parallel with the outermost edge of the top of the canopy.

D. Free-Standing Suspended Signs. Signs not attached to any building shall not project over the property line and the bottom of such sign shall not be less than nine (9) feet above the finished grade at its base, except that a free-standing sign may be placed lower than nine (9) feet if such is placed on a landscaping strip, and it is determined by the Zoning Administrator or designee that it does not interfere with pedestrian traffic or traffic vision. One free-standing sign not to exceed thirty-six (36) square feet in area shall be permitted for each separate building or buildings located in a commercial or industrial zone except shopping centers.

E. Shopping Center Signs. Shopping Centers shall be permitted one free-standing sign, no larger than one hundred (100) square feet in area. The maximum height of such sign shall be the lesser of twenty (20) feet or the roof line height of the nearest building.

In lieu of one free-standing sign, a shopping center may have two (2) monument signs under the following conditions:

1. The center must have a minimum, continuous principal street frontage of five hundred (500) linear feet and a minimum, continuous side street of 250 linear feet;

2. The combined area of both signs may not exceed one hundred (100) square feet;

3. Signs may be no taller than six (6) feet.

All such signs shall be used for center and tenant identification purposes only.

F. Window Signs, Permanent. Permanent window signs shall be permitted on each side of a building on which a ground floor business has street frontage or in the front of such building where there is no street frontage.

1. Area. No window sign shall exceed twenty-five percent (25%) of the total transparent glass area of the windows on each side of the building. In addition, sign area per business shall not exceed ten (10) square feet on any street frontage.

2. Location. No permitted window sign shall be located in a window above the second floor.

G. Master Sign Plan. A Master Sign Plan may be proposed by a property owner or authorized agent for a multi-tenant development, building or shopping center. The Master Sign Plan shall clearly show the layout, location, dimensions, design, letter style, color, material and illumination of all proposed permanent wall, free-standing and window signs.

If a Master Sign Plan is approved by the Board of Architectural Review, applications for approval of individual sign permits included in the plan may be submitted pursuant to Section 18-186 E. without further review by the Board.

Any application for an individual sign permit that is not consistent with an approved Master Sign Plan will require the review and approval of the Board of Architectural Review. (New 3/99)

§ 18-184.1 Permitted Signs in PR Zones: The following signs are permitted in PR Zones. (NEW - Amend. 4/15/91)

A. Site Identification: One (1) sign not to exceed twenty-four (24) square feet in area shall be permitted for each separate street frontage that abuts the subject tract;

B. Multiple Fields or Uses within One Site: One (1) sign per field or use, not to exceed twelve (12) square feet in area;

C. Scoreboards: As set forth in Section § 18-185.1 of the Town Code;

D. Buildings with as Area of Less than One Hundred and Fifty (150) Square Feet: One (1) non-illuminated sign of not more than two (2) square feet in area may be permitted per building located on site.

Such sign shall be attached flat against said building.

E. Buildings with an Area of One Hundred and Fifty (150) Square Feet or More: One (1) sign of not more than twelve (12) square feet in area may be permitted per permanent building located on site.

§ 18-185 Special Regulations For Certain Uses And Signs.

A. Time, Temperature and Date Signs: Notwithstanding the provisions of § 18-178, any free-standing sign which conforms in all other respects to the provisions of this Article may include as a part thereof an area not to exceed fifty percent (50%) of that total sign on which there is alternately displayed by changing light patterns the time, temperature and date provided:

1. Neither time, temperature nor date is otherwise displayed on or about the building or structure served by such sign.
2. The changing light patterns are restricted to the time, temperature and date portion of the sign only.
3. A series of separate, white, incandescent bulbs and no other device be used to create those characters comprising the time, temperature and date legend.
4. The said portion of the sign be completely extinguished at any time as any of the said legends should inaccurately display the proper time, temperature or date, any of the incandescent bulbs fail to light or the sign is otherwise not fully functional or in proper operational condition.

For the purpose of this Section, the judgment of the Zoning Administrator or designee, exercised in good faith, shall be conclusive as to whether any sign is fully functional or in proper operating condition.

B. Awnings and Canopies No part of any awning shall be less than seven (7) feet above the sidewalk level, nor shall any awning be less than one (1) foot to the curb line. Architectural canopies may project forty-two (42) inches above any building.

C. Signs Not Attached to Wall of Building, Setback Requirements. All signs, except as otherwise provided herein that are not attached to the wall of a building shall be set back ten (10) feet from the street line.

D. Sign Permitted for Buildings Other Than Dwelling. One (1) identification sign not exceeding twelve (12) square feet in area for buildings other than dwellings or business is permitted provided same shall be attached to and parallel with the front wall of the building.

E. Temporary Signs. A temporary real estate sign and signs of a public and semi-public nature not exceeding fifty (50) square feet in area may be erected upon issuance of a temporary six (6) months renewable permit. Such sign shall not be illuminated, nor shall it be less than seventy-five (75) feet from any dwelling. No such temporary permit shall be granted unless a twenty-five dollar (\$25.00) bond has been posted. All temporary real estate signs and public and semi-public signs shall be dismantled within five (5) days after expiration date of the temporary permit.

1. Temporary Signs of a Public or Semi-Public Nature Pertaining to Elections. Five (5) temporary signs not exceeding twenty (20) square feet total may be posted on residential property after securing the necessary permits and posting of a twenty-five dollar (\$25.00) bond, for a period of thirty (30) days prior to election day and shall be removed not more than five (5) days after election day. Failure to remove signs shall constitute forfeiture of all bonds posted and all material will become property of the Town. (Amend. 2-88)

2. A banner across Maple Avenue at the intersection of Maple Avenue and Center Street shall be erected two weeks before election day to announce Town elections, such wording shall be "Town Council Election, Tuesday, May (date)" and removed the day after election. (New 2-88)

3. Temporary Signs During Construction. (NEW 3-16-92)

a. In the event an existing approved exterior sign permitted under § 18-184 of this Article requires temporary removal due to reconstruction or renovation of the building exterior where located. A temporary business identification sign of a size not exceeding the original may be substituted therefor during the period of actual reconstruction or renovation, or six months, whichever is less. All such temporary business identification signs shall be subject to approval of the Board of Architectural Review.

b. One construction sign identifying a construction site or project, located on the identified project site and meeting the permit requirements of this article, may be erected no more than five days prior to the beginning of construction and must be removed, prior to issuance of an occupancy permit in the case of new construction. In the case of renovation or other construction during occupancy, such signs shall be removed on or before that date provided in the application for sign permit as the date of estimated completion of renovation or other construction.

- c. The Zoning Administrator is authorized to extend the time periods provided for in paragraphs (i) and (ii) above, for one additional period not to exceed six (6) months, for good cause shown.

F. Informational Municipal and Institutional Signs. (Amended 1/96)

1. The following categories of signs which serve a municipal purpose are permitted provided, that each such sign has first been authorized by the Town Council and approved by the Board of Architectural Review as to design:

- a. Signs designating municipal buildings, parks, playgrounds, recreational areas and facilities or similar sites. All such signs shall be limited to twelve (12) square feet in area except as otherwise permitted by § 18-184.1.

- b. Signs identifying and designating historic districts, and sites and places where historic events occurred, provided that any such sign proposed for erection in any historic district so designated by the Town Council shall also be subject to any other procedures and approvals set forth in this Code and applicable to the erection of signs in said district. All such signs shall be limited to twelve (12) square feet in area.

- c. Signs which in the discretion of the Town Council further the municipal functions and purposes of the Town. All such signs shall be limited to twelve (12) square feet in area.

2. The following categories of signs which serve an institutional purpose are permitted, subject to approval by the Board of Architectural Review (BAR) pursuant to Chapter 4 of this code.

- a. Signs designating schools, colleges, universities, hospitals, and places of worship. All such signs shall be limited to a total of thirty-six (36) square feet in area per site.

- (1) Such signs may be attached or free-standing. No more than two (2) free-standing signs, each not exceeding eight (8) feet in height, shall be permitted per site. This permitted signage includes any otherwise exempted signs and bulletin boards.

- (2) Size and area restrictions herein established include all symbols, emblems, messages, or logograms.

(3) Street number designations, steeple-mounted symbols, stained glass windows or other such architectural features of a building are not to be considered a sign.

§ 18-185.1 SCOREBOARDS AND FUNCTIONAL ATHLETIC DEVICES.

A. Notwithstanding the prohibition of all advertising on Municipal signs as provided in Section 18-185 the Town Council may approve the inclusion of a name or a logo or a registered mark on one scoreboard or like structure which serves a functional support purpose for organized athletic events involving team play, located on a fenced recreational field or park open to the public and at no other place; provided, however, that:

1. All other provisions of 18-185 shall be fully satisfied; and
2. Such name, logo or registered mark shall be restricted thereon to an area of twelve (12) square feet or ten percent (10%) of the total scoreboard or structure area whichever is less; and
3. Approval of the Board of Architectural Review be obtained as to design, size, shape and color or colors.

§ 18-186 SIGN PERMIT PROCEDURES.

A. Applications. Prior to any alteration or installation of a sign or sign structure that requires a permit, an application shall be submitted to the Zoning Administrator containing the following information:

1. Plans showing the area of the sign;
2. The size;
3. Character and color of letters and design proposed;
4. The method of illumination, if any;
5. The exact location proposed for such sign;
6. In the case of suspended or projecting signs, the method of fastening such sign to its supported structure; and
7. Samples or pictures of sign facing material and color.

B. Fees. A fee shall accompany the application. The fees shall be as shown on the Schedule of Fees adopted by the Town Council.

C. Application Process. Upon receipt of a complete application for a sign permit, the Zoning Administrator shall schedule the application for review by the Board of Architectural Review.

D. Board of Architectural Review. The Board shall review all applications for sign permits in accordance with the guidelines and procedures set forth in Chapter 4 and in Chapter 8-B of the Town Charter.

E. Issuance of Permits. Sign permits shall be issued by the Zoning Administrator.

F. Right of Appeal. Any final decision of the Board of Architectural Review may be appealed to the Town Council in accordance with Chapter 4, Section 4-12.

§§ 18-187 through 18-196 - RESERVED.

Article 20Nonconforming Buildings and Uses

- § 18-197 Continuance of Nonconforming Buildings. Any nonconforming building or structure may be continued only so long as such building or structure is maintained in the same structural condition as it was in at the time of the enactment of this Zoning Ordinance.
- § 18-198 Enlargements, Etc., of Nonconforming Buildings. A nonconforming building or structure shall not be enlarged, extended, reconstructed or structurally altered in any manner unless such building or structure is made to conform to all the regulations of the zone in which located.
- § 18-199 Repairs to Nonconforming Buildings. Repairs may be made to a nonconforming building or structure, provided that no structural alteration shall be made except as may be required by law or ordinance.
- § 18-200 Restoration of Nonconforming Buildings Damaged or Partially Destroyed. Any nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or Act of God or the public enemy, to the extent of not more than fifty (50) percent of its value exclusive of foundations at that time, may be restored provided that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.
- § 18-201 Restoration When Damage Exceeds 50% of Value. In the event such damage or destruction exceeds fifty (50) percent of the value exclusive of foundations of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations for new buildings in the zone in which it is located. Restoration of nonconforming structures having historical or cultural value, to their original state, may be permitted.
- § 18-202 Moving of Nonconforming Buildings. No nonconforming building or structure shall be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all the regulations of the zone in which it is located.

§ 18-203 Nonconformance Caused by Government Action or Dedication. The provisions of this Article shall not apply to those cases where the requirements of this Chapter pertaining to yard setbacks, minimum lot dimensions, building line restrictions, and parking, cannot be met:

A. By reason of either the lawful action of a Federal, State or Local Government in acquiring lands for roads or other public purposes, or

B. By the dedication of land by the owner thereof which is duly accepted by the appropriate Government for public benefit and use.

Provided, however, that the requirements of this Chapter had been or could have been met prior to such government action or dedication.

Provided further that such dedication or acquisition for public use shall not be deemed to authorize any subsequent increased or additional departure from the strict application of all other provisions of this Chapter.

Provided further that the nonconformance with the requirements of this Chapter pertaining to yard setbacks, minimum lot area, minimum lot dimensions, building line restrictions, and parking is caused by dedication for the purpose of widening existing streets and dedicated rights-of-way only and not by dedication of partial or total right-of-way requirements for proposed streets within a proposed subdivision.

§ 18-204 Continuance of Nonconforming Use of Buildings. The nonconforming use of a building or structure may be continued only so long as the same use which existed at the time of the enactment of this Zoning Ordinance or a more restricted use continues, and such use is not discontinued for more than two (2) years.

§ 18-205 Change of Use. Where a nonconforming use is changed to a use of a more restricted classification, it shall not thereafter be changed to a use of a less restricted classification.

§ 18-206 Termination of Nonconforming Uses. Whenever any nonconforming building or structure is enlarged, extended, reconstructed or structurally altered so as to become a conforming building, the use thereafter occupying such building or structure shall conform to the regulations of this Zoning Ordinance.

§ 18-207 Extension of Use. A nonconforming use of a conforming building or structure shall not be enlarged or extended into any other portion of such conforming building or structure nor changed except to a conforming use.

§ 18-207.1

Zoning

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§ 18-207.1 Same. Notwithstanding the provisions of § 18-207 above, the Board of Zoning Appeals may, by written order after holding a duly advertised public hearing, permit the expansion or extension of a nonconforming use within a conforming building provided the Board first finds as a matter of fact all of the following to exist:

(a) That the nonconformity resulted from enactment of an amendment to the Zoning Ordinance, at which time the existing use would otherwise have been conforming, and that failure of such use to fully satisfy all of the so amended criteria results from a newly enacted definition of a use specifically permitted prior to and subsequent to the effective date of such amendment.

(b) That after expansion or extension of the use, the building housing the use will conform in all respects to the Zoning Ordinance and the site on which said building is located shall comply with all requirements of the Town site plan and other ordinances respecting the use as if said use were fully complying.

(c) That the expansion or extension of the use will constitute a change to a greater degree of conformity than theretofore; and that thereafter, each element of such use shall have the same or a greater degree of conformity than existed prior to such change.

(d) That the expansion or extension will not operate to the detriment of adjacent property owners, or of the public welfare, health, morals, or safety and will not otherwise be contrary to the public interest, or to the spirit or purpose of the Town Zoning Ordinances.

The provisions of this section shall not be interpreted to permit nor to empower the Board of Zoning Appeals to permit the introduction into any zone of the Town, any nonconforming use or uses not lawfully located therein on the date of adoption of this section. (NEW Amend. 4-1-74)

§ 18-208 Continuance of Nonconforming Use of Land. The nonconforming use of land may be continued only so long as the same use which existed at the time of the enactment of this Zoning Ordinance or a more restricted use continues, and such use is not discontinued for more than two (2) years; provided that no such nonconforming use of land shall in any way be enlarged or extended either on the same or adjoining property.

§ 18-208.1 Conversion of Nonconforming Land or Structures to Condominium Uses.

Proposed conversion condominiums otherwise permitted by law and which do not conform to all applicable zoning site plan and subdivision ordinances of the Town shall require before conversion, such use permit, variance or special exception as may be appropriate under the specific circumstances. Upon demonstration by the applicant, to the reasonable satisfaction of the Town Council or Board of Zoning Appeals as the case may require, that the nonconformities are not likely to be adversely affected by the proposed conversion such request shall be granted. No action on such requests shall be unreasonably delayed. (New 7-12-82)

- § 18-209 Use Permit Subject to Certain Conditions. The Board of Zoning Appeals may issue a use permit for any of the uses enumerated in § 18-210 in response to an application therefor, provided the use for which the permit is sought will not (1) affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use, (2) will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood, and (3) will be in accord with the purposes of the Master Plan of the Town of Vienna. In granting any use permit the Board of Zoning Appeals may impose such conditions as it may deem in the public interest, including limiting the duration of a permit, and as will assure that the use will conform to the foregoing requirements and that it will continue to do so, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. The Board may revoke a use permit if the Board determines that there has not been compliance with the terms and conditions of the permit. No permit may be revoked except after notice and hearing as provided by § 15.1-431 of the Code of Virginia, 1950 as amended. (Amend. 12/2/91)
- § 18-210 Use Permits Required. A use permit is required for any of the following uses. (See regulations for Zone in which the use is proposed to be located): (Amended 11/8/94; 7/10/95)
- A. Amusement enterprises, if conducted wholly within an enclosed building, provided that the existence and location of the same shall not impose a deleterious effect upon the Town and that permits therefore shall insure compatibility with land use policies embodied in the Town zoning ordinances. (Amend. 4-4-83)
 - B. Auditoriums and halls
 - C. Auto Sales
 - D. Bowling alley
 - E. Carpenter or general woodworking shop (excluding outdoor storage)
 - F. Cemeteries
 - G. Colleges and Schools (Private, Elementary and High) of a non-commercial nature
 - H. Concrete mixing plants

- I. Consumption of meals on a roof garden of an enclosed building in which a restaurant is located, or at sidewalk tables directly adjoining such building. (Amend. 2-71)
- J. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors
- K. Draying, freighting, or trucking yard or terminal
- L. Farm or gardening implement, sales and service.
- M. Feed and Fuel Yard
- N. Funeral Homes
- O. Golf courses, country clubs, private clubs, including community buildings and similar recreational uses not owned and/or operated by a public agency. (Does not include golf driving ranges.)
- P. Hospitals, sanitariums and clinics which are an integral part of such hospitals and clinics providing treatment for mental or behavioral disorders as out-patient counseling or therapeutic facilities only; and provided that such clinics if not an integral part of a hospital or sanitarium be formally affiliated with such hospital or sanitarium or such other governmentally sponsored organization that provides counseling for mental or behavioral disorders. (Amend. 6-2-80)

Notwithstanding any of the above, all clinics and facilities not an integral part of a hospital or sanitarium and treating contagious diseases, drug or alcohol addicts or abusers, sex offenders, felons, or persons suffering from psychosis, anti-social personality disorders or explosive personality disorders are not permitted regardless of whether such facility operates an in-patient or out-patient facility, counseling or therapeutic facility or otherwise. (Amend. 6-2-80)

Animal hospitals not providing boarding facilities other than for hospitalization to provide medical and/or surgical care for the patient are likewise subject to procurement of a use permit. However, animal hospitals providing boarding facilities not directly associated with immediate medical and/or surgical care for the patient are not permitted. (Amend. 6-2-80)

- Q. Hotel and Motel (Amend. 12-6-71)

- R. Institutional home and institutions of an educational or philanthropic nature, except those of a correctional nature or for mental cases.
- S. Live entertainment and patron dancing in restaurants. (Amend. 2-71)
- T. Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.
- U. Massage Therapists, as defined in this Chapter. (New 11-8-94)
- V. Minute Car Wash Stations. (Amend. 5-10-71)
- W. Nursery and kindergarten schools (private).
- X. Office of a physician or dentist and medical or dental clinics or laboratories operated in conjunction with such office.
- Y. Outdoor amusement enterprises.
- Z. Pet Shop.
- AA. Plumbing yard or storage.
- BB. Public buildings and uses.
- CC. Public parking area in transitional use.
- DD. Public parks, playgrounds, and other recreational uses.
- EE. Public utilities, as defined and regulated in § 18-13.
- FF. Taxi stand. (only private property)
- GG. Theater, indoor or outdoor.
- HH. Transitional parking lots. (Amend. 3-69)

II. Drive-through Facility, as defined in this chapter, with the following submittal requirements and evaluation criteria:

1. Application submittal requirements:

- A. A written statement describing the proposed use and providing all information pertinent to the review of the application. Such information would include, but not be limited to: the type of product or service to be offered; the proposed hours of operation and employee staffing; plans for the control of litter and the disposal and recycling of waste material; effects on air quality at the site and in adjacent areas; and estimates of sound levels that would be generated by the proposed use at site boundary lines.
- B. A traffic analysis providing information that would include, but not be limited to: estimates of the number of vehicle trips and the amount of vehicular stacking that would occur daily and during am/pm peak hours; trip generation by use type; estimated internal and external traffic flows; parking and vehicular stacking spaces that would be provided on-site; and data on existing traffic conditions and the traffic-handling capacity of roads fronted by the proposed use. In addition, the analysis would discuss sight distances at points of ingress and egress, pedestrian and bicycle traffic, and any other site-specific traffic factors or public safety issues associated with the application.

2. Applications for drive-through facilities will be evaluated on the basis of the following criteria, with emphasis given to potential adverse effects on adjoining or nearby properties:

- A. Location and arrangement of any drive-through window in relation to adjoining properties and public rights-of-way.
- B. Appropriateness of proposed hours of operation.
- C. Traffic circulation patterns, including safe ingress and egress, and a clear designation of drive-through aisles through the use of paving materials, pavement markings or landscaping.
- D. Pedestrian circulation and safety.
- E. Adequacy of screening of vehicle use and parking areas.

§ 18-214 Notice and Public Hearing. The Board of Zoning Appeals shall hold a public hearing on each application for a use permit not less than six (6) days nor more than twenty-one (21) days after final publication. Written notice, by registered mail, of the time and place of such hearing shall be given to the applicant at least ten (10) days before the time of said hearing. (Amend. 6/19/00)

§ 18-215 Decision of Board. The decision of the Board on an application for a use permit shall be made within ninety (90) days of the application therefor. (Amend. 11-87)

§ 18-216 Permit Void After Six (6) Months if Operation Not Commenced. Any use permit shall become void six (6) months after issuance if construction or operation related thereto has not commenced.

Chesapeake Bay Preservation Areas
(New 1-6-92; Amend. 4/93; 2/03; 12/03)

§ 18-216.1.1 Purpose and Authority.

It is the intent of the Town of Vienna, Virginia and this ordinance to protect, improve and enhance the water quality of the Chesapeake Bay, its tributaries and other State waters. These regulations are issued under authority of Section 10.1-2109, and Section 15.2-2283 of the Code of Virginia and Regulations VAC 10-20 et seq.

§ 18-216.1.2 Definitions.

For the purpose of this Article, the following words and terms shall have the following definitions:

Best Management Practice (BMP): A practice, or combination of practices, that is determined by the Commonwealth of Virginia to be the most effective, practicable means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with State water quality goals.

Buffer Area: An area of 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 Section 10.1-2109 of the Code of Virginia. Chesapeake Bay Preservation Areas shall consist of Resource Protection Areas and/or Resource Management Areas.

Development or Land Development: The construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities, structures or land.

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 with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight (8). The EI for any soil shall be defined by the formula $RKLS/T^*$, where K is the soil susceptibility of 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.

*This formula originally derived from the "Food Security Act Manual" of August 1988 in the "Field Office Guide" of the U.S. Department of Agriculture Soil Conservation Service.

Highly Permeable Soils: 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 72 inches as found in the "National Soils Survey Handbook" November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil 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, structures, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Land Disturbing Activity: For purposes of this section the following applies: any land change which may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth or Town. Such land change or activity may include, but is not limited to: the removal or destruction of a portion of the natural topsoil; the removal or destruction of trees or other vegetative cover; clearing, grading, excavating, transporting and filling of land; and construction activities.

Non-point source pollution: Diffuse source pollutants such as runoff from cultivated agricultural land, from silvicultural activities, and from urban storm runoff. These pollutants are conveyed to waterways through natural processes, such as rainfall, stormwater runoff, or groundwater seepage rather than by deliberate discharge.

Non-tidal Wetlands: Areas other than tidal wetlands that are inundated or saturated by surface or ground water 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 C.F.R. 328.3b.

Point source pollution: Discharge of pollutants into waters at a specific location through a pipe, outfall, or ditch.

Redevelopment: The process of developing land that is or has been previously developed.

Resource Management Area (RMA): A component of the Chesapeake Bay Preservation Area (not classified as a Resource Protection Area [RPA]), as designated on the official CBPA map for the Town of Vienna as incorporated in the current Comprehensive Plan that includes lands, which if improperly used or developed, have a potential for causing significant water quality degradation. Lands with the following characteristics may be classified as RMAs:

- A. 100-year floodplains;
- B. Highly erodible soils and/or slopes in excess of fifteen (15) percent;
- C. Highly permeable soils;

- D. Non-tidal wetlands not classified as an RPA; or
- E. Other lands as identified by the Town of Vienna to be necessary to protect the quality of State waters.

Resource Protection Area (RPA): A component of the Chesapeake Bay Preservation Area as designated on the official CBPA map for the Town of Vienna as incorporated in the Comprehensive Plan that is comprised of lands adjacent to a water body with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to the impacts which may result in significant degradation to the quality of State waters. The following lands shall be classified as RPAs:

- A. Non-tidal wetlands connected by surface flow to or contiguous to a water body with perennial flow;
- B. Other lands as identified by the Town of Vienna to be necessary to protect the quality of State waters; and,
- C. Buffer areas having widths of not less than 100 feet, landward of the components listed in subsections A and B above, and adjacent to and landward from each side of any water body with perennial flow.

Substantial Alteration: Expansion or modification of a structure in a Resource Management Area, which results in a disturbance of land exceeding an area of 2500 square feet.

Water Body with Perennial Flow: A well-defined channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for the perennial stream, but it also carries stormwater runoff. A water body with perennial flow exhibits the typical biological, hydrological, and physical characteristics associated with the continuous conveyance of water. Generally, the Town will consider a water body to have perennial flow if it is depicted as a perennial stream on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).

Water Dependent Facility: Development of any land that cannot exist outside of a Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to:

- A. Ports;
- B. The intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewer;
- C. Marinas and other boat docking structures;

- D. Beaches and other public water-oriented recreation areas, and;
- E. Fisheries or other marine resources facilities.

§ 18-216.1.3 General Provisions.

- A. Application: The regulations in this section shall apply to all lands located within Chesapeake Bay Preservation Areas (CBPA), both Resource Management Areas and Resource Protection Areas as defined above and as depicted on the official CBPA maps for the Town of Vienna.
- B. Delineation of RPA Boundaries: An applicant for a building, clearing or grading permit, or subdivision or site plan review shall conduct an evaluation to locate the boundary of the RPA (100-foot buffer area) on the applicant's property as well as the boundary of the 50-foot portion of the buffer area that is directly adjacent to the water body with perennial flow. The applicant shall submit the results of the evaluation to the Town for review. The Town may provide such assistance to the applicant, as the Town deems necessary, to conduct such evaluation.
- C. Dispute of Resource Protection Area Boundaries: An applicant for a building, clearing or grading permit, or subdivision or site plan review for land within an RPA who disputes the boundaries on the CBPA Map, a delineation of boundaries pursuant to Section 18-216.1.3(B), or the inclusion of the applicant's property within an RPA shall submit to the Zoning Administrator a site specific evaluation with supporting evidence to determine where such boundaries are or whether a water body on or adjacent to the applicant's property is a water body with perennial flow.

The existence and location of a water body with perennial flow that is on or adjacent to the development site must be identified in the evaluation, including any non-tidal wetlands connected by surface flow or contiguous to such a water body. The applicant shall submit to the Zoning Administrator surveys or drawings, which indicates a precise delineation of the RPA boundary, including buffer area. The Zoning Administrator will review and confirm that the boundaries of the RPA are adjusted, as necessary, based on the evaluation of the site.

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§ 18-216.1.4 Allowed Uses and Developments.

Permitted uses, accessory uses, and conditional uses shall be allowed as established by the underlying zoning district except as specifically modified by this Article.

Lot size shall meet the requirements of the underlying zoning district, provided further that any subdivision plat submitted after the effective date of this Article shall provide sufficient area outside an RPA to accommodate an intended use.

A. Allowed Uses in Resource Protection Areas:

1. Land development must be permitted by the underlying zoning district and must be in compliance with all applicable Performance Requirements of Section 18-216.1.5. Land development shall be allowed only if it meets one or more of the following criteria:

- a. Is water dependent;

- (1) New or expanded water dependent facility may be allowed provided that:

- (a) Any non-water dependent component is located outside of Resource Protection Areas;

- (b) Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided;

- (c) It does not conflict with the Comprehensive Plan;

- (d) It complies with the performance criteria for RPAs.

- b. Constitutes redevelopment;

- (1) Redevelopment in RPAs shall be permitted only if there is not increase in the amount of impervious cover and no further encroachment within the Resource Protection Area. All redevelopment activities shall conform to the regulations contained in Sections 17-55 and 17-56 (Subdivision), Chapter 18.1 (Floodplain), and Chapter 23 (Erosion and Sediment Control) of the Vienna Town Code; as well as the criteria for redevelopment in Section 18-216.1.5.A.7.

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- c. Is a use established prior to October 1, 1989;

- d. Is a road or driveway not exempted under Section 18-216.1.4.A.2.b and satisfies the following conditions:
 - (1) No reasonable alternatives to aligning the road or driveway in or across the RPA exist;
 - (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize (i) encroachment in the RPA and (ii) adverse effects on water quality;
 - (3) The design and construction of the road and driveway satisfy all applicable criteria of this chapter, including submission of a water quality impact assessment; and
 - (4) The proposed road or driveway meets all requirements to obtain a building permit or site plan approval.

- e. Is a flood control or stormwater management facility satisfying the following conditions:
 - (1) The facility within the RPA is in its optimum location;
 - (2) The size of the facility is the minimum necessary to provide necessary flood control, stormwater management, or both;
 - (3) The facility must be consistent with a storm management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase 1 modification to the Town of Vienna's program;
 - (4) All applicable permits for construction in state or federal waters have been obtained from the appropriate State and Federal agency, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality;

- (5) A building permit or site plan approval has been obtained;

- (6) Routine maintenance is performed on such facility to assure that it continues to function as designed.

2. The following uses and improvements are exempt from the Performance Criteria of Section 18-216.1.5:

- a. Passive recreation facilities, such as hike and bicycle trails, picnic areas and pathways, and historic preservation and archaeological activities, provided that:
 - (1) All land disturbing activity exceeding an area of two thousand five hundred (2,500) square feet shall be performed in accordance with Performance Criteria in Section 18-216.1.5 A.6.
 - (2) Such uses are reviewed and approved by the Zoning Administrator.
- b. Utilities, public facilities, improvements such as streets, channel improvements, bridges, utility pipes and utility transmission lines with the Performance Criteria exemptions found in Section 18-216. 1.5 D.
- c. Reconstruction or structural alteration of those buildings, structures, and improvements existing prior to the effective date of this Article provided that the Performance Criteria of Section 18-216.1.5A are met.

B. Nonconforming Uses and Waivers

The lawful use of a building or structure which existed on the effective date of this Article, January 6, 1992, and which is not in conformity with the provisions of this Article may be continued in accordance with Article 20 of this Chapter.

No alteration or expansion of a non-conforming principal building or structure shall be permitted with the exception that the Zoning Administrator may grant a waiver when:

1. There will be no net increase in non-point source pollutant load;

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2. Any development or land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of Chapter 23 of the Vienna Town Code;

3. Granting the waiver will not confer upon the applicant any special privileges denied by this Article to other property owners in the RPA;
4. The waiver is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;
5. The waiver is the minimum necessary to afford relief;
6. The waiver will be in harmony with the purpose and intent of the RPA, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
7. Reasonable and appropriate conditions are imposed which will prevent the waiver request from causing a degradation of water quality.

This waiver may be granted only for relief from the Chesapeake Bay Preservation Area requirements and shall not apply to any other restrictions imposed or required by the Code of the Town of Vienna including, but not limited to, the floodplain, zoning, subdivision or erosion and sedimentation ordinances. Any development not meeting the performance criteria under Section 18-216.1.5.B.1-2 shall require an exception under Section 18-216.1.5.E.

Appeals to any waiver decision of the Zoning Administrator shall be made to the Board of Zoning Appeals in accordance with Article 23 of this Chapter.

§ 18-216.1.5 Performance Criteria.

It is the intent of these criteria to achieve a ten (10) percent reduction in non-point source pollution for redevelopment not meeting the pollution runoff standards in Section 18-216.1.5.A.7, and to prevent a net increase in non-point source pollution for other redevelopment activities and from new development.

A. General Performance Criteria:

Unless provided elsewhere in this Article, each use, development or redevelopment of lands located in a Chesapeake Bay Preservation Area as designated on the official CBPA

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map for the Town of Vienna and/or verified by the site-specific evaluation required under Section 18-216.1.3.B shall meet or exceed the following performance criteria:

1. No more land shall be disturbed than is necessary to provide for the proposed use or development.

2. Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use and development proposed.
3. Where BMPs require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured through a maintenance agreement provided by the applicant or other mechanism that achieves the same objective.
4. All development, including single-family residential, which exceeds two thousand five hundred (2,500) square feet of land disturbance, shall be subject to site plan review as required in Section 18-252.
5. All land development shall minimize impervious area consistent with the proposed use or development.
6. Any land disturbing activity that exceeds an area of two thousand five hundred (2,500) square feet, including single-family homes and septic lines and drain fields, shall comply with the requirements of Chapter 23 of the Town Code (Erosion and Sediment Control).
7. Stormwater management shall be used to accomplish the goals and objectives of these regulations:
 - a. The following requirements for controlling non-point source pollution shall apply:
 - (1) For sites being developed, post-development non-point source pollution runoff load shall not exceed the pre-development load. Predevelopment pollution load, in terms of pounds per acre per year (lbs/ac/yr) of phosphorus, computed from the average watershed impervious area of 39 percent for Wolftrap Creek, 40 percent for Bear Branch and 40 percent for Piney Branch watersheds is 3.53 lbs/ac/yr for Wolftrap Creek, 3.61 lbs/ac/yr for Bear Branch and 3.61 lbs/ac/yr for Piney Branch watersheds. Post-development pollution loads must be calculated and the Best Management Practice (BMP) selected for the purpose of controlling non-point source pollution to these

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required standards. Guidelines for such calculations and information on BMPs are available through the Department of Public Works.
 - (2) Redevelopment of any site not meeting the existing watershed non-point pollution load as specified in

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subparagraph (1) above shall achieve at least a ten (10) percent reduction of non-point source pollution runoff load compared to the existing run-off load from the site. If currently meeting the standard, the post-development load shall not exceed the existing watershed non-point pollution load as specified in subparagraph (1) above.

If existing facilities can be shown to achieve the post-development standard, the site will be considered as being served by water quality BMPs.

- b. The following stormwater management options shall be considered to comply with this subsection:
 - (1) Incorporation on the site of BMPs that meet the required control. For the purposes of this subsection, the “site” may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a single BMP will be utilized by those projects to satisfy water quality protection requirements;
 - (2) Compliance with the Town of Vienna stormwater management program, which may include a Virginia Pollution Discharge Elimination System (VPDES) permit issued by Department of Environmental Quality (DEQ) to the Town for its municipally owned separate storm sewer system discharges, that has been reviewed and approved as an equivalent water quality protection program by the Chesapeake Bay Local Assistance Board.
 - (3) Compliance with a site-specific VPDES permit issued by the DEQ, provided that the Town of Vienna specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.

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- 8. On-site land disturbing activities shall not begin until appropriate permits such as those for clearing, grading or building have been issued and evidence provided that all required Federal and State wetland permits have been obtained.

B. Additional Performance Criteria for Resource Protection Areas:

The following criteria shall apply within RPAs in addition to the general performance criteria in Section 18-216.1.5.A:

1. Except as otherwise provided herein, no land disturbing activity and no acts prohibited by Chapter 18.1 of the Town Code (Flood Plain Ordinance) shall be permitted in RPAs.
2. Buffer area requirements:
 - a. For the purpose of retarding runoff, preventing erosion and filtering non-point source pollution from runoff, a buffer area extending at least one hundred (100) feet adjacent to the edge of a water body with perennial flow shall be retained, if present, or established wherever such buffer does not exist. The 100-foot buffer shall be deemed to achieve a seventy-five (75) percent reduction in sediment and a forty (40) percent reduction of nutrients. The following performance criteria shall apply:
 - b. In order to maintain the functional value of such buffer area, indigenous vegetation may be removed as permitted by the Town of Vienna only to provide reasonable sight lines, access paths, general woodlot management and BMP, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
 - (1) Trees may be pruned or removed, subject to the provisions of Section 18-252E of the Town Code (Tree Preservation) to provide for sight lines and vistas; provided, however, that each tree removed shall be replaced with other vegetation, which is at least equally effective in retarding runoff, preventing erosion and filtering non-point source pollution from runoff.
 - (2) Dead, diseased or dying trees or shrubbery may be removed.
 - (3) Trees and woody vegetation may be removed in connection with approved stream bank erosion control projects. However, control techniques must be employed and appropriate vegetation established to protect or stabilize the stream bank.

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(4) Any trail or pathway shall be constructed and surfaced so as to effectively control erosion.

c. When the establishment of a buffer area results in the loss of buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may permit encroachment into the buffer area after submission of sufficient evidence as follows:

(1) Encroachments into the buffer area shall be permitted to the minimum extent necessary to achieve reasonable buildable area for a principal building or structure and necessary utilities to serve the building or structure.

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

(3) The encroachment may not extend into the 50-foot portion of the buffer area that is directly adjacent to the water body with perennial flow.

C. Water Quality Impact Assessment:

A water quality impact assessment (WQIA) is required to be submitted with all development and redevelopment site plans for property partially or totally located within an RPA and where there is land disturbing activity in excess of 2,500 square feet in the RMA. The WQIA study will include but not be limited to the following:

1. Narrative Description:

a. Impact of proposed development on water quality.

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b. Description of specific measures to be employed to mitigate the impacts.

c. Geology of the site.

d. Estimates of pre-development and post-development runoff.

- e. Additional information as deemed necessary by the Director of Public Works or Zoning Administrator to assist in the review of the project.

2. Site Drawing:

- a. Existing topography, soils and hydrology of the site.
- b. Boundaries of the RMA, and if adjacent to a water body with perennial flow as defined in this Article, the location of the 100-foot RPA buffer area.
- c. Location and nature of any proposed encroachments into the RPA buffer area including roadways and areas of grading; location of structures, driveways, or other impervious cover; utilities; and wetland mitigation sites.
- d. Type and location of proposed stormwater management facilities and best management facilities and BMPs to mitigate the proposed encroachments.
- e. Size and location of anticipated drainfield or wastewater irrigation areas.
- f. Location of existing vegetation onsite, including the number and type of trees and the vegetation to be removed in the buffer to accommodate the encroachment or modification;
- g. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal and erosion and runoff control.

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D. Exemptions for Public Purposes:

Exemptions for public utilities, public roads, railroads and similar facilities from performance criteria for RPAs are as follows:

- 1. Construction, installation, operation and maintenance of electric, natural gas, telephone, fiber optic, and cable television transmission lines,

railroads and public roads and their appurtenant structures shall be exempt from the performance criteria in Section 18-216.1.5 provided that said construction, installation, operation and maintenance is in accordance with Chapter 23 of the Town Code or the Erosion and Sediment Control Law (Title 10.1, Section 10.1- 560, et. seq. of the Code of Virginia) as appropriate.

2. Construction, installation and maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned, permitted, or both by the Town of Vienna or a regional service authority shall be exempt from the performance criteria in Section 18-216.1.5 provided that:
 - a. Such utilities and facilities shall be located outside RPAs to the highest degree possible.
 - b. No more land shall be disturbed than is necessary to provide for the desired utility installation.
 - c. All construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal permits and designed and conducted in a manner that protects water quality.
 - d. Any land disturbing activity exceeding an area of two thousand five hundred (2,500) square feet shall comply with the requirements of Section 18-216.1.5 A.6.

E. Exceptions

1. An application for an exception to the requirements of Section 18-216.1.4.A and Section 18-216.1.5.B of this Article shall be made in writing to the Board of Zoning Appeals. It shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment, which complies with the provisions of Section 18-216.1.5.C.

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2. The Board of Zoning Appeals shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with Section 15.2-2204 of the Code of Virginia, except that only one hearing shall be required.
3. The Board of Zoning Appeals shall review the request for an exception and the water quality impact assessment and may grant the exception with such

conditions and safeguards as deemed necessary to further the purpose and intent of this Article if the Board of Zoning Appeals finds:

- a. Granting the exception will not confer upon the applicant any special privileges denied by this Article to other property owners in the RPA;
 - b. The exception is not based on conditions or circumstances that are self-created or self-imposed;
 - c. The exception is the minimum necessary to afford relief;
 - d. The exception will be in harmony with the purpose and intent of the RPA, not injurious to the neighborhood or otherwise detrimental to the public welfare, and will not result in substantial detriment to water quality; and
 - e. Reasonable and appropriate conditions can be imposed which will prevent the exception request from causing a degradation of water quality.
4. If the Board of Zoning Appeals cannot make the required findings or refuses to grant the exception, the Board of Zoning Appeals shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.
5. A request for an exception to the requirements of provisions of this Article other than Section 18-216.1.4.A and Section 18-216.1.5.B.2 shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:
- a. Exceptions to the requirements are the minimum necessary to afford relief; and
 - b. Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this Article is preserved.

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- c. Exceptions to Section 18-216.1.5.A may be made provided that the findings noted in Section 18-216.1.5.E.3 are made.

Article 22Administration and Enforcement

- § 18-217 Administrative Official. Except as otherwise provided in this Chapter, the Zoning Administrator shall administer and enforce this Ordinance, including the receiving of applications, the inspection of premises, the issuing of building and occupancy permits and the determining of precise zone boundaries according to § 18-6 of this Chapter. No building permit or certificate of occupancy shall be issued by him except where the provisions of this Ordinance have been complied with. In case any building is erected, constructed, reconstructed, altered, repaired or converted, or any land is used in violation of this Chapter, the Zoning Administrator is authorized and directed to institute appropriate action to put an end to such violation.
- § 18-218 Building Permit Required. No excavation shall be commenced, no wall, fence, structure, premises, or land used, no building or part thereof built, constructed, or altered, no building shall be moved, no sign shall be erected, repaired or repainted until application has been made and the proper permit obtained from the Zoning Administrator in accordance with the provisions of this Chapter and said permit has been posted at the building site in plain view from the street. (Amend. 2-25-74; 9-27-93)
- § 18-219 Land Subject to Flooding or Erosion. No permit shall be issued for the erection of any permanent structure intended for residential, commercial or industrial use, nor shall any structure be erected, on land in such proximity and relative elevation to any open stream or drainage channel where such land is subject to periodic or recurring flooding from storm water, or subject to the danger of erosion unless all plans therefor conform to all requirements of the Flood Plain Ordinance, Chapter 18.1 (Amend. 1-4-82)
- § 18-220 Application for Building Permit. All applications for building permits (except interior remodeling) shall be accompanied by accurate plot plans in triplicate, prepared by a registered engineer or certified land surveyor, showing the following:
- A. The lot upon which the building is proposed to be erected; lot dimensions, lot and block numbers, and subdivision's name if any, zoning, lot area and gross ground floor area;

- B. Name and width of abutting street or streets;
- C. Location, dimensions, and use of existing buildings and other structures on the lot or lots;
- D. Location, dimensions and proposed use of buildings and other structures for which permit is requested;
- E. Front, side, and rear yard dimensions;
- F. North direction arrow;
- G. Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Chapter.

§ 18-221 Certificate of Occupancy, When Required. A Certificate of Occupancy shall be required for any of the following:

- A. Occupancy and use of a building hereafter erected or structurally altered;
- B. Any change in use of an existing building;
- C. Any change in ownership of a commercial or industrial use;
- D. Change of occupancy and use of land to use of a different classification;
- E. Any change in the use of a nonconforming use.

§ 18-222 Occupancy, Use, and Change of Use Prohibited Until Certificate of Occupancy Obtained. No occupancy, use, change of use, or continuation of a use following the change in ownership or proprietary control of such use of any building shall take place until a Certificate of Occupancy shall have been issued by the Zoning Administrator in accordance with the provisions set forth in this Chapter. Written application for a Certificate of Occupancy for a new building, or for an existing building, which is to be altered shall be filed with the Zoning Administrator at the same time as the application for the building permit for such building. Upon completion of the erection or alteration of a building or part thereof, the applicant for such Certificate may request the Zoning Administrator to issue the Certificate. The Zoning Administrator shall issue the Certificate of Occupancy for any use or changes of use indicated in § 18-221 within ten (10) days of the receipt of the written request for issuance thereof provided there has been full compliance with the provisions of this Code. (Amend. 8-6-73; 8-20-90)

Notwithstanding any other provision hereof no occupancy permit shall be issued as the result of a change in occupancy, a change of use, a change in ownership of use, or a change of proprietary control of any use in any building housing a single use until the Zoning Administrator is first satisfied that both the building and site are in full compliance with all specifications provided on the original site plan therefor and those relating to fences, walls, landscaping, and parking facilities in particular. (NEW 8-20-90)

§ 18-222.1 Temporary Occupancy Permits (New - Added 5-21-73)

Subject to the conditions hereinafter set forth, a temporary occupancy permit may be issued when in the judgment of the Zoning Administrator and the Town Manager, denial of temporary occupancy would exercise such a hardship on the applicant therefor as to constitute unreasonable denial of the use of his property due to any of the following reasons:

1. Immediate compliance with all provisions of the site plan is impossible or impractical due to season, weather conditions, or inability of the applicant to comply for reasons outside his control.
2. Unusual construction requirements not generally encountered by others in like or similar construction.
3. Full compliance respecting a new structure requires destruction of an existing structure then occupied by the applicant, which existing structure must be vacated by the applicant to enable completion of the new structure for full compliance.

No such temporary occupancy permit shall be issued unless and until the Zoning Administrator and Town Manager are satisfied that all other applicable requirements of the Town Code have been met with respect to the structure which is the subject of the application and further until the applicant shall first post with the Town a bond, either in cash or with a surety acceptable to the Town, guaranteeing complete compliance with the approved site plan and all applicable provisions of the Code of Vienna within six (6) months next following issuance of such temporary occupancy permit.

§ 18-223 Required Approval for Erection and Occupancy of New Buildings.

The following approvals shall be obtained for erection and occupancy of new buildings.

- A. Initial Approval. No permit for the erection of any building shall be issued until the application therefor has been submitted to and approved by the Zoning Administrator. If approval by any officer, body or agency of the Town is required (other than that of the building inspector), the Zoning Administrator shall not approve the application until after such approval has been obtained.

B. Intermediate Approval. The erection of a building shall not proceed beyond the corners of a concrete slab or the placement of the corners of the foundation, whichever is applicable in establishing the exact location of all corners of the said building, until such location, as indicated by a certified land surveyor's plat thereof, has been submitted to and approved by the Zoning Administrator as conforming to all applicable provisions of this Article. (Amend. 9-68)

C. Final approval. No certificate of occupancy for any new building shall be issued, until the exact location of the completed building and of all appurtenances thereto, as indicated by a certified land surveyor's plat showing every constructed feature on the lot, including driveways and automobile parking areas and showing the composition of the surfacing of such driveways and automobile parking areas, has been submitted to and approved by the Zoning Administrator, as conforming to all applicable provisions of this Article.

D. Approval of Location of Completed Buildings, Etc. No certificate of occupancy for any one-family dwelling shall be issued until the exact location of the completed buildings and any accessory buildings as shown on a certified land surveyor's plat, has been submitted to and approved by the Zoning Administrator as conforming to all applicable provisions of this Article.

§ 18-224 Certificate of Occupancy, When Change of Use Involved.

Written application for a Certificate of Occupancy for a change in the use of land, or of a building, or for a change in a nonconforming use, as herein provided, shall be made to the Zoning Administrator. The same procedure is required as specified in §§ 18-222 and 18-226, except that no building permit is involved.

§ 18-225 Certificate of Occupancy, Statements Required.

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all the provisions of law and of all Town ordinances and regulations. A record of all Certificates of occupancy shall be kept on file in the Town Hall and copies shall be furnished on request, to any person having proprietary or tenancy interest in the building or land affected.

§ 18-226 Fees.

The fees for any permit required by this Ordinance shall be paid to the Town of Vienna as set forth in the Schedule of Fees adopted by the Town Council.

§ 18-227 Application for Building Permit and Certificate of Occupancy Unacceptable
Unless All Required Information Furnished.

No application for a building permit or Certificate of Occupancy shall be accepted by the Zoning Administrator unless all of the information required has been furnished by the applicant.

§ 18-228 Building Permit and Certificate of Occupancy Void After Six Months if Operation
Not Commenced.

Construction or operation shall be commenced within six (6) months of date of issuance or said building permit or Certificate of Occupancy becomes void.

§ 18-229 Violation to Act Without Permit or Certificate of Occupancy When One Required:
False Statement in Material Matter Voids Permit.

It shall constitute a violation of this Chapter for any person, firm, or corporation, whether owner, agent, or occupant, to do any of the things for which a permit or Certificate of Occupancy is required by this Chapter without having first obtained the said permit or certificate; and any permit or certificate issued upon a false statement of any fact which is material to the issuance thereof, shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Zoning Administrator, he shall forthwith revoke the permit or certificate by notice in writing to be delivered to the holder of the void permit or certificate upon the premises where the violation has occurred, or if such holder be not found there, by posting the said notice of revocation in some conspicuous place upon the said premises. Any such person, firm or corporation who shall proceed thereafter with such work or use without having obtained a new permit or certificate in accordance with this Chapter shall be deemed guilty of violation thereof. Any applicant for a building permit and certificate of occupancy required by this Article who, prior to the issuance of a certificate of occupancy, conveys, uses or occupies, or permits or suffers the use, conveyance or occupancy of the premises for which such building permit is issued, shall be guilty of violating this Chapter. (Amend. 9-69)

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Article 23
Board of Zoning Appeals

- § 18-230 Continuation of Existing Board. The Board of Zoning Appeals heretofore established shall continue as the Board of Zoning Appeals under the provisions of this Chapter.
- § 18-231 Membership. The Board of Zoning Appeals shall consist of not less than five (5) nor more than seven (7) residents of the Town of Vienna, appointed by the Circuit Court of Fairfax County upon recommendation of the Town Council, for a term of five (5) years. Appointments to fill vacancies shall be only for the unexpired portion of the term. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the Court which appointed him. Members of the Board shall hold no other public office in the Town except that one may be a member of the Planning Commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies. (Amend. 12/2/91)
- § 18-232 Appeals. The Board of Appeals is authorized to hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator or other administrative officer in the administration or enforcement of this Chapter.
- § 18-233 Variances. The Board of Appeals shall have the power to authorize, upon appeal in specific cases, such variance from the terms of this Chapter as will not be contrary to the public interest, when owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this Chapter shall be observed and substantial justice done, as follows:
- A. When a property owner can show that his property was acquired in good faith and,
- (1) Where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this Chapter; or
- (2) Where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this Chapter would effectively prohibit or unreasonably restrict the use of the property; or

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(3) Where the Board is satisfied, upon evidence heard by it, that the granting of such variance will alleviate a clearly demonstrated hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the spirit and use of this Chapter.

B. No such variance shall be authorized by the Board unless it finds that:

(1) The strict application of this Chapter would produce undue hardship.

(2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

(3) The authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

(4) The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Chapter.

C. In authorizing a variance, the Board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

§ 18-234

Variances; Notice and Hearing. With respect to an appeal for a variance, the Board shall hold a public hearing and give notice of the time and place thereof as prescribed in §§ 18-213 and 18-214 of this Chapter.

§ 18-235

Variance Valid for Six (6) Months. Any variance authorized by the Board to permit the erection or alteration of a building or structure shall be valid only for six (6) months unless a building permit for such erection or alteration is obtained within this period and the erection or alteration is started and proceeds to completion in accordance with the terms of the decision.

§ 18-236 Applications for Conditional Use Permits. The Board of Appeals is authorized to hear and decide applications for those use permits enumerated in § 18-210 of this Chapter.

§ 18-237 Interpretation of Zoning Map. The Board is authorized to hear and decide applications for interpretation of the Zoning Map where there is any uncertainty as to the location of a district boundary. The Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question.

The Board shall not have the power, however, to re-zone property or substantially to change the locations of district boundaries as established by this Chapter, or to change the locations of Zone boundaries as established by the Zoning Map.

§ 18-238 Interpretation of Zoning Map, Notice and Hearing. With respect to an application for interpretation of the Zoning Map as provided above, the Board shall hold a public hearing and give notice of the time and place thereof as prescribed in §§ 18-213 and 18-214 of this Chapter.

PROCEDURE

§ 18-239 A. Appeals. An appeal to the Board may be taken by any person aggrieved or by any official of the Town affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

B. Notwithstanding the provisions of paragraph A above, appeals from a notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in residential zones or similar short-term recurring violations, shall be taken within fourteen (14) days after the decision appealed from. (New 7/3/00)

§ 18-240 Notice and Hearing. The Board shall hold a public hearing of an appeal, give public notice of the time and place thereof as well as due notice to the parties in interest as prescribed in Sections 18-213 and 18-214 of this Chapter.

§ 18-241 Decisions of Board. In all cases coming before the Board of Zoning Appeals, decisions shall be made within ninety (90) days of the filing of the application or appeal. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter or to effect any variance thereof.

The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public record. The Chairman of the Board, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. (Amend. 3-2-87)

§ 18-242 Fee Required. Every notice of appeal shall be accompanied by a check or cash payment to the Town of Vienna in the amount set forth in the Schedule of Fees adopted by the Town, which shall be applied to the cost of advertising and expense incidental to reviewing and publishing the facts. In addition, the Board may require the applicant to pay for the recording of the proceedings.

Article 24Rezoning and Amendments§ 18-243 Amendments.

The Town Council may, from time to time, amend, supplement, or change the provisions of this Chapter, zone boundaries, or rezone property. Before taking any action on any proposed amendment, supplement, change, or rezoning which has been initiated by itself or a property owner, the Town Council shall submit the same to the Planning Commission for its recommendation and report.

§ 18-244 Rezoning (Changes to the Zoning Map)

An application for rezoning of property may be made by the owner, contract owner or optionee of the property which is proposed to be rezoned which shall be submitted to the Town Council on a standard form, accompanied by a plat by a certified surveyor and the fee specified in the Schedule of Fees adopted by the Town. Such plat shall show the boundaries of the land for which rezoning is requested, the boundaries of all contiguous land in which the applicant has any interest and all abutting streets and alleys. In addition, the applicant shall furnish to the Council a map showing the location of the applicant's land, the zoning classification of all abutting land and land lying on the opposite sides of streets and alleys abutting the land for which rezoning is requested and such other information as may be required by the Planning Commission and Council to properly evaluate the application. All such plats and maps shall be current at the time the application is filed.

§ 18-245 Reapplication for Rezoning.

No application for any change to the same or a less restricted classification of zoning of the same lot, plot, parcel, or portion thereof, shall be considered by the Town Council and the Planning Commission within twelve (12) months of the final action of the Town Council upon the prior application. This provision, however, shall not impair the right of the Town Council to propose a change of zoning on its own motion.

§ 18-246 Planning Commission Notice and Hearing.

The Planning Commission shall hold a public hearing on the proposed amendment, supplement, change, or rezoning referred to it by the Town Council for its recommendation. Notice of public hearings before the Commission shall be given by publishing the time, place and notice of the hearing once a week for two successive weeks in a newspaper having a paid general circulation in the Town of Vienna. The public hearing shall be held not less than five (5) nor more than twenty-one (21) days after final publication. (Amend. 11-68; 6-75; 11-17-75; 2-25-02)

In addition, in cases where property is proposed for rezoning, the Commission shall cause the property concerned to be posted at least ten (10) days prior to the date of the hearing before said Commission. When the proposed rezoning involves twenty-five (25) or fewer parcels of land, written notice by registered or certified mail shall be given by the Planning Commission at least five (5) days before the hearing to the owner or owners, their agent or the occupant of each parcel involved, and to the owners, their agent or occupant of all abutting property and property immediately across the street or road from the property affected, whether such property be in the Town or County. (Amend. 4-69; 11-17-75)

After the public hearing, the Planning Commission shall submit its recommendations to the Town Council.

§ 18-247 Town Council to Give Notice and Hold Hearing.

Before considering any proposed amendment, supplement, change, or rezoning, the Town Council shall hold a public hearing thereon, notice of said hearing to be accomplished as prescribed in § 18-246 above. The Planning Commission and Council may hold a joint public hearing after the public notice as set forth hereinabove. If such joint hearing is held, then public notice as set forth above need be given only by the Council. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the Comprehensive Plan. (Amend. 11/68; 12/2/91)

§ 18-248 Protest Against Proposed Change.

In case of a protest against any change of zone boundaries or rezoning of property signed by twenty (20) percent, or more, of any one of the following groups: (1) the owners of lots included within the area of the proposed change, or (2) the owners of lots abutting the area included in such proposed change, or (3) the owners of lots directly opposite the area included in such proposed change, where such area abuts upon a street, then such change shall not become effective except by the favorable vote of six-sevenths (6/7) of all the Town Council.

§ 18-249 Basis for Determination.

In determining what, if any, amendments to this Chapter are to be adopted, the Town Council shall give due consideration to the proper relationship of such amendments to the entire Comprehensive Plan for Vienna, it being the intent to retain the integrity and validity of the zoning districts herein described, and to avoid spot zoning changes in the Zoning Map.

§ 18.249.1 Zoning on Conditions. (NEW 9-17-79)

As a condition to any rezoning or amendment to the Zoning map, the Council may require reasonable conditions, in addition to the regulations provided for the zoning district or zone by this code, provided such conditions are voluntarily proffered in writing by the owner prior to public hearing before the Council and provided further that:

- (a) The rezoning itself must give rise for the need for the conditions;
- (b) Such conditions shall have a reasonable relation to the zoning;
- (c) Such conditions shall not include a cash contribution to the Town;
- (d) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in the Town subdivision or site plan ordinances;
- (e) Such conditions shall not include payment for or construction of off-site improvements except those provided for in the Town subdivision or site plan ordinances;
- (f) No condition shall be proffered that is not related to the physical development or physical operation of the property; and
- (g) All such conditions shall be in conformity with the comprehensive plan.

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Article 25Site Plan Control Provisions
(Amend. 9/03; 2/04)§ 18-250 Statement of Purpose

It is the purpose of this article to regulate orderly and attractive development of commercial townhouse, multi-family and limited industrial land uses with the Town of Vienna, to conserve property values, to preserve adequate space for the accommodation of transportation facilities usually associated with such uses, and to avoid traffic congestion. It is the further purpose of this Article to recognize, in the planning of specific land uses, the densities and uses of adjacent land and the health, safety, morals, appearance and general welfare of the community. In order to achieve the aforementioned objectives, and to encourage imaginative use of land areas, certain modifications of the strict requirements of this Chapter are provided for where deemed by the Town Council, after seeking the recommendation of the Planning Commission, to be in the public interest.

§ 18-251 Where Applicable. (Amend. 4-19-71; 5-10-82; 3-7-94; 9-9-03)

To the alteration or construction of any building located in a C-1, C-1A, C-1B, C-2, CM, T, RTH, RM-2, or PR Zone and the alteration or construction of any building primarily used for other than a residential use in any residential zone.

§ 18-251.1 Application Fee. (New 9-9-03)

An application for site plan approval or modification shall be accompanied by the fee specified in the Schedule of Fees adopted by the Town of Vienna.

§ 18-252 Site Plan Specifications. (Amend. 3-7-94; 9-9-03)

Any person, corporation, firm or other organization or association, shall, prior to or at the time of filing application for a building permit to erect or alter any structure in a C-1, C-1A, C-1B, C-2, CM, T, RTH, RM-2, or PR Zone, submit to the Director of Public Works of the Town of Vienna a Site Plan prepared by a registered architect, registered engineer or certified land surveyor authorized by the Commonwealth of Virginia to practice as such. Such plan shall include the following data:

- A. 1. Location of all existing and proposed buildings and structures.
2. Boundary of the entire tract by courses and distances.
3. Area of the tract.
4. Zone of the tract.
5. Present record owner of the tract.
6. Owner, zone and present use of all contiguous property.

7. Width of all streets adjoining the tract (both right-of-way and pavement widths).
8. Location of existing edge of pavement or curbs.
9. Location of existing easements and underground facilities, proposed easements and buildings and their dimensions.
10. Number of floors, floor area and use of each building and height of each building.
11. A schedule showing compliance with the parking requirements of this Chapter.
12. All off-street automobile parking space and type of surfacing (indicating size of stalls and width of aisles).
13. All off-street loading and pickup spaces. (Amend. 7-6-81)
14. Location of any poles, fire hydrants, retaining walls, pump islands, signs, doorways, window wells, guy wires, or other structures which might interfere with automobile parking or maneuvering.
15. The location and type of entrances and driveways which shall conform to the State Department of Highways and Town standards and specifications.
16. Location of all curbs to be constructed and specify type.
17. Location and width of all sidewalks.
18. Fencing and walls to be erected; type, height and location.
19. The location, type and size of all existing trees as defined in this Code. If the property is densely wooded in whole or in part, the limits of such densely wooded areas may be shown on the plan in lieu of locating individual trees within these areas. (Amend. 4-68; 4-71; 2-74)
20. Topography, existing and proposed (indicating areas of major grading and slopes to be maintained.)
21. Disposition of storm water drainage (indicating all pipe sizes, types and grade elevations.)
22. All sanitary sewerage facilities, indicating pipe size, type and grades and where connection is to be made to the Town system.
23. Name of architect, engineer or surveyor preparing site plan.
24. Specifications for the removal of trees and protection of trees during clearing and grading. (Amend. 2-25-74)
25. Grade changes or other work adjacent to a tree that is to be preserved which might affect it adversely, with specifications on how the ground drainage and aeration will be maintained around said tree. (Amend. 2-25-74)
26. Landscape planting, clearly identified by appropriate symbols, showing the location, type and size of trees, shrubbery and screening to be planted. (Amend. 2-25-74)

B. All information required by §§ 17-14 and 17-15(a) through 17-15(o) of this Code where applicable.

C. A tabulation listing the site plan specifications as they compare to minimum zoning requirements shall be furnished with each copy of the site plan.
(Amend. 4-68; 4-19-71)

D. All information required by the Flood Plain Ordinance, Chapter 18.1 where applicable. (Amend. 1-4-82)

E. Provisions for replacement of trees during development as follows: (New 9-89; Amend 7-91)

1. A plan for the planting and replacement of trees on site during development to the extent that, at maturity of twenty (20) years, minimum tree canopies or covers will be provided in the respective zoning districts of the Town as follows:

- a. Twenty percent (20%) tree canopy in the RS-16, RS-12.5, and RS-10.
- b. Fifteen percent (15%) in the RM-2 and RTH zones.
- c. Ten percent (10%) tree canopy in the T; C-1, C-1A, C-2, CMP, and CM zones.

2. All trees planted shall meet the specifications of the American Association of Nurserymen and the Town shall maintain in writing a system for rating the desirability for planting of various tree species which writing shall be available in the office of the Director of Public Works.

3. The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation.

4. Existing trees which are to be preserved as otherwise provided in this Chapter may be included in the plan to meet all or part of the canopy requirements, and may include wooded preserves if the site plan identifies such trees and the trees meet standards of desirability and life expectancy established by the Town.

5. The Town Council may grant reasonable exceptions or deviations from the requirements of this section when strict application of the requirements would result in unnecessary or unreasonable hardship to the developer, or to allow for reasonable development of the following:

- a. Areas devoid of woody materials.
- b. Dedicated school sites.
- c. Playing fields and other non-wooded areas and uses of a similar nature.

6. Violation of this section shall constitute a Class 3 misdemeanor punishable by fine of not more than two hundred fifty dollars (\$250.00), and each day after the first during which such violation shall continue shall constitute a separate violation.

§ 18-253 Site Plan to Conform With Code.

All features and elements of the Site Plan required by this Article shall in all respects conform to all applicable provisions of the Code of Virginia and the Code of the Town of Vienna.

§ 18-254 Building Permit and Occupancy Permit, Issuance Requirements.

No building permit for any development or building subject to the provisions of this Article shall be issued until all approvals required by this Code shall have been made. No occupancy permit for any development or building subject to the provisions of this Article shall be issued until the Director of Public Works and the Zoning Administrator of the Town of Vienna shall have found, after an on-site inspection, that such development or building is complete and conforms in all material respects to the approved Site Plan. (Amend. 4-19-71)

Where a particular development consists of two or more separate buildings or is a commercial group building development, the Town Manager may, upon recommendation of the Director of Public Works and the Zoning Administrator, authorize the progressive issuance of occupancy permits for individual buildings within the said development as each is satisfactorily completed and prior to total completion of the development as hereinabove required, provided he first make written findings that the following exist:

1. Except for the completion of one or more other buildings shown on the approved site plan, all other elements of the approved site plan and common to the buildings shown thereon, including structures, improvements and features designed to protect abutting or nearby residential properties have been completed; or,

2. That to require immediate completion of all such common elements and structures, improvements and features designed to protect abutting or nearby residential properties would constitute a hardship and that a bond has been posted either in cash or with surety acceptable to the Town, guaranteeing completion of all such common elements and protective works as shown on the said approved site plan within a reasonable time next following issuance of the occupancy permit or permits. (New Amend. 4/1/74)

§ 18-254.1 Site Location on Corner Lots.

Where any person, corporation, firm or other organization or association which proposes the location of a residential building on a corner lot wherein the actual front of said building shall not also be the legal front of said lot as defined in § 18-4, then such building location shall not be approved by the Director of Public Works; provided, however, that an application for a variance to the provisions of this section may be immediately made to the Board of Zoning Appeals in accordance with § 18-223, which Board shall, if a variance is granted, designate the legal front of said lot. (Amend. 1/67)

§ 18-255 Approval; Factors to be Considered by the Director of Public Works.
(Amend. 4/19/71)

Except as provided elsewhere in this Code, the Director of Public Works shall approve all elements of any required site plan. In passing on any site plan, the Director of Public Works shall consider:

- A. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site and in relation to pedestrian traffic.
- B. The traffic circulation features within the site and the location of automobile parking areas. The Director of Public Works of the Town of Vienna may make such requirements with respect to any of such matters as will assure:
 - 1. Safety and convenience of both vehicular and pedestrian traffic, both within the site and in relation to access streets.
 - 2. Satisfactory and harmonious relations between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

- C. All in furtherance of the purposes of this Chapter the Director of Public Works may require landscaping, ornamental masonry walls, fences, sidewalks, curb and gutter, storm drainage facilities and walls in pursuance of these objectives, and the same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant. (Amended 3/20/72)

§ 18-256 Modification of Requirements.

Where an applicant for a building permit subject to the requirements of this Article can demonstrate to the Council that the most practical, efficient or aesthetic development of the site involved cannot be achieved within the requirements of this Chapter, the Council after receiving the recommendation of the Planning Commission, or not less than thirty (30) days after requesting such recommendation in writing, may modify such requirements upon a finding that the integrity of this Chapter and the health, safety and morals of the Town will not be thereby impaired. Such modifications may apply to yard, lot area, lot coverage, parking, number of units, unit floor area, screening, frontage, and similar requirements, but this Section shall not be construed to permit any modifications of the uses permitted in any zone or of the maximum building height permitted for any building. (Amend. 3/20/72)

§ 18-257 Procedure for Requesting Modification (Amend. 02/23/2004)

Requests for modifications authorized under § 18-256 shall be submitted to the Director of Public Works of the Town of Vienna in writing and shall be accompanied by a written statement setting forth the reasons therefor. Each such request shall also be accompanied by a Site Plan, including thereon all of the information required by this Article shown to indicate the development as modified or building as it is proposed for construction by the applicant. The granting or denial of any such modification shall be discretionary with the Council and this Article shall not be deemed to create any right to any such modification.

Prior to the Town Council granting or denying any such modification, notification letters by certified mail to adjoining property owners and those abutting across a public street shall be sent not less than five (5) days prior to Council's consideration of the request for modification. (New 02/23/2004)

Approval by the Town Council of any such modified Site Plan, shall constitute authority for the Director of Public Works of the Town of Vienna to issue the necessary building permits therefor, provided other applicable provisions of law have been complied with.

(New 2-75; Amend. 4-79; 6-84)

§ 18-258 Intent. For the purpose of promoting the general welfare, education and recreational pleasure of the public, through the perpetuation of those geographical areas or parcels of land or individual structures and premises which have been officially designated by the Town Council as having historic or architectural significance, historic districts are created. Regulations within such districts are intended to protect against destruction of or encroachment upon such areas, structures, and premises; to encourage uses which will lead to their continuance, conservation and improvement in a manner appropriate to the preservation of the cultural, social, economic, political, architectural, or archeological heritage of the Town; to prevent creation of environmental influences adverse to such purposes; and to assure that new structures and uses within each such district will be in keeping with the existing character of the district to be so preserved and enhanced by this Article.

§ 18-259 Definition. For purposes of this Chapter, "Historic District" is defined as any public or private property within the Town of Vienna on which is located a neighborhood, site, building, structure, object or artifact which Town Council identifies as reflecting significantly, and considers of such outstanding importance as to warrant conservation and preservation, the lives of historic personages, some great idea or ideal of the people, or the archeological, architectural, cultural, economic, ethnic, military, natural, political, religious or social heritage of the community, state or nation.

"Officially Designated." "Officially designated" is defined as a landmark, building structure which has been duly designated by the Virginia Historic Landmarks Commission or by other recognized historical preservation organizations or by the Vienna Town Council. (New 6-84)

"Alteration." "Alteration" means changing or altering the exterior architectural character of a building or structure to that degree which requires obtaining a building permit. (New 6-84)

§ 18-260 Historic District Boundaries Generally. The historic district boundaries shall in general be drawn so as to include all lands closely related to and bearing upon the character of an historic site, thus providing a landscape unit and affording transitional regulations needed to control potentially adverse environment all influences. No such historic district shall extend farther than one-quarter mile from the property line of the land pertaining to any such historic landmark, building or structure.

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§ 18-261 Establishment Of And Amendments To Historic District Boundaries And Regulations. Amendments to the provisions of this section, as well as to any historic district shall be in accordance herewith. The Planning Commission or any interested citizen may propose to the Town Council, or the Council of its own initiative may propose, such amendments as deemed appropriate, including the establishment of historic districts. Upon receipt of said proposal, the Town Council shall refer the same to the Planning Commission. The Planning Commission shall prepare and submit to the Town Council recommendation in the form of a written report on the proposed amendment. Such report shall establish and define the historic district boundaries as well as the historic and/or architectural significance of the buildings, structures, or sites to be protected, and describe present trends, conditions and desirable public objectives for preservation. In addition, such report shall include the following specific matters:

yards
parking
detailed

- a. An analysis of existing structures by period of construction, architectural style, condition, and other matters relating to planning or regulating future development, such as location on lots, location of and other open spaces, access to interior of lots, and off-street provided. In addition to general analysis, two specific and descriptions shall be entered:

- (1) A description of individual structures and premises of substantial public interest, with maps, photographs and other data indicating the public importance of their preservation and the particular features it is desired to preserve.

- (2) A description of existing structures, premises and uses likely to have an adverse effect on the desired character of the district, including those near and visually related to the district, with maps, photographs and other data indicating the reasons for such an effect.

- b. An analysis of lands not occupied by structures, including lands near and visually related to the district. For public lands, ownership, use, and location shall be indicated. For private lands, assessed valuation shall be added as well as existing zoning and planned land use.

- c. Recommendations concerning detailed regulations, if any, to be applied within the district, to supplement or modify general regulations set forth herein, providing such regulations shall promote the general intent of this Article and shall be made only for the express purpose of preventing changes which are architecturally incompatible with the buildings, structures, or sites to be preserved. (Amend. 6-84)

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d. In preparation of the said report, the Planning Commission shall be entitled to call upon the services of the Architectural Review Board, the Zoning Administrator and the Department of Public Works.

§ 18-262 Action By The Town Council. If the Town Council creates an historic district, its action shall include a declaration that the landmarks, buildings, structures, or sites to be preserved are in fact of historical and/or architectural significance requiring protection against destruction and encroachment. Such action shall amend the zoning map by placing such historic district thereon, overlaying the existing zoning district(s). Such action shall also include adoption, in the manner provided for by general law, of such regulations and development policies as may be deemed necessary by the Town Council. Upon adoption, such development policies and regulations for a given historic district, which shall supplement or modify the schedule of regulations for the underlying district(s), shall be presented as an appendix to this Chapter. Such appendix shall be incorporated as part of this Chapter by reference as if it were completely presented herein.

§ 18-263 Uses Permitted. Within historic district boundaries, all uses may be permitted pursuant to the regulations governing the zone prior to such overlaying and general regulations shall be the same as provided in the Chapter except where such regulations are modified or amended hereafter.

No use permitted by right or by the Board of Zoning Appeals shall be permitted where the operational characteristics of the use would tend to destroy or encroach upon the historic character of the district as established and specifically recorded in the recommendations made pursuant to § 18-261c and adopted pursuant to § 18-262 hereinabove.

§ 18-264 Lot Regulations. Lots or portions of lots existing in historic districts may be combined, but no existing lot, or combination of lots, parcels, or portions thereof, in single ownership at the time of district creation, shall be reduced in width, depth, or area without the approval of the Town Council.

§ 18-265 Height Regulations. Height regulations shall be in accord with those governing the zone prior to overlaying of the historic district except where such heights would tend to encroach upon the historic landmark or otherwise be in conflict with the recommendations adopted pursuant to § 18-262 hereinabove.

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§ 18-266 Off-Street Parking. Off-street parking regulations shall be in accord with those governing the permitted use except that no required off-street parking or loading space shall be located in any required front yard. It is the intent of this regulation to permit off-site where on-site parking would have an adverse effect on appearance of the property or the district in general. It is also intended to encourage provision of such off-site parking in grouped facilities in interior parking lots, courts, or at other appropriate locations which will be convenient for users, reduce interference with pedestrian and vehicular traffic, and generally promote public safety.

§ 18-267 Signs, Exterior Illumination. All regulations pursuant to Article 19 applicable to the permitted use shall be adhered to; henceforth, no sign shall be permitted except for advertising to or informing the public of service, business, occupation, or profession conducted on, in, or about the premises.

§ 18-268 New Construction, Reconstruction And Exterior Alterations. No building or structure, including signs, shall be erected, reconstructed, substantially altered or restored within any historic district unless the same is approved by the own Council, acting upon the advice of the Architectural Review Board as being architecturally compatible with the historical and/or architectural aspects of the landmark.

§ 18-269 Razing Or Demolition. No officially designated historic landmark, building, or structure within any such district shall be razed or demolished until such action is approved by the Town Council acting upon the advice of the Architectural Review Board.

§ 18-270 Moving Or Relocation. No officially designated historic landmark, building, or structure within any such historic district shall be moved or relocated unless the same is approved by the Town Council acting upon the advice of the Architectural Review Board.

§ 18-271 Administration. Upon creation of an historic district with regulations for the district as provided in § 18-262 herein, administrative procedures shall be as generally provided hereafter.

§ 18-272 Role Of Zoning Administrator. The Zoning Administrator shall not authorize a permit for any erection, reconstruction, exterior alteration, restoration, demolition, or razing of a building or structure in an historic district until the same has been approved by the Town Council following the procedure set forth hereafter.

Upon receipt of an application for such permit(s) in an historic district, the Zoning Administrator shall act in accordance with the existing procedures of his office,

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except as those procedures are necessarily modified by the following requirements:

- a. He shall forward to the Planning Commission or the Architectural Review Board, as appropriate, a copy of the application for such a permit, together with a copy of the site plan and the building plans and specifications filed by the applicant.
- b. He shall maintain in his office a record of all such applications and of his handling and final disposition of the same, which shall be in addition to and appropriately cross-referenced to his other records.
- c. He shall require applicants to submit a sufficient number of additional copies of material required to permit compliance of the foregoing.

§ 18-273 Material To Be Submitted For Review. By general rule or by specific request in a particular case, the Zoning Administrator, Planning Commission, Architectural Review Board and Town Council may require submission of any or all of the following in connection with the application: Architectural plans, site plans, landscaping plans, proposed signs with appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view (with indications as to visual construction materials, design of doors or windows, colors, and relationships to adjoining structures) and such other exhibits and reports as are necessary for its determinations.

§ 18-274 Matters To Be Considered in Determining Appropriateness Of Erection, Etc., Of Buildings. The Town Council shall not consider interior arrangements, relative size of the building or structure, detailed design, or features not subject to any public view and shall not make any requirements except for the purpose of preventing developments architecturally incompatible with the historic aspects of the historic district.

The Town Council shall consider the following in determining the appropriateness of architectural features:

- a. Exterior architectural features, including all signs, which are subject to public view from a public street, way or place.
- b. General design, arrangement, texture, material, color and fenestration of the proposed building or structure and the relation of such factors to similar features of buildings or structures in the immediate vicinity of the historic landmark(s).

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- c. The extent to which the building or structure would be harmonious with or architecturally incompatible with the historic landmark.
- d. The extent to which the building or structure will preserve or protect historic places and areas of historic significance in the Town.
- e. The extent to which the building or structure will promote the general welfare of the Town and all citizens by the preservation and protection of historic places and areas of historic interest in the Town.
- f. The extent to which said preservation and protection will promote the general welfare by maintaining and increasing real estate values; generating business; creating new positions; attracting tourists; students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; and making the Town a more attractive and desirable place in which to live.

§ 18-275 Matters To Be Considered in Determining Whether To Grant Permit To Raze, Etc., Historic Building. The Town Council, upon receiving an application for a permit to raze or demolish, shall review the circumstances and the condition of the structure or part proposed for demolition and shall report its finding based on consideration of any and all of the following criteria:

- a. Is the building of such architectural or historical interest that its removal would be to the detriment of the public interest?
- b. Is the building of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty?
- c. Would retention of the building help preserve and protect a historic place or area of historic interest in the Town?
- d. Would retention of the building promote the general welfare by maintaining and increasing real estate values; generating business; creating new positions; attracting tourists, students, writers, historians, artists and artisans, attracting new residents; encouraging study and interest in American History; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; or making the Town a more attractive and desirable place in which to live?

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§ 18-276 Matters To Be Considered In Determining Appropriateness Of Moving, Etc.,
Historical Building:

- a. Would the proposed relocation have a detrimental effect on structural soundness of the landmark?
- b. Would the proposed relocation have a detrimental effect on the historical aspects of other landmarks in the historic district?
- c. Would relocation provide new surroundings that would be harmonious with or incongruous to the historical and architectural aspects of the landmark, structure or building?
- d. Would relocation of the building help preserve and protect a historic place or area of historic interest in the Town?
- e. Would relocation of the building promote the general welfare by maintaining and increasing real estate values; generating business; creating new positions; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American History; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; and making the Town a more attractive and desirable place in which to live?

§ 18-277 Reports Of Planning Commission Concerning Applications For Permits To Erect, Etc., Historical Buildings. If the Planning Commission and the Architectural Review Board, or either, on the basis of information received from the applicant, the determining consideration set forth in §§ 18-274, 18-275 and 18-276 and from their general background and knowledge, such Commission and/or Board decide to counsel against the granting of a permit, it shall indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Commission or Board would protect and/or preserve the historical aspects of the landmark, building, structure or district. If the applicant determines that he will make the suggested changes, he shall so advise the Planning Commission and Architectural Review Board which shall counsel the Town Council accordingly.

The Planning Commission and the Architectural Review Board, as appropriate, shall submit to the Town Council in writing and within sixty days after receipt of the application, their counsel concerning the appropriateness of authorizing a permit for the erection, reconstruction, exterior alteration; restoration, razing, or demolition or relocation of all or a part of any building within an historic district. The written report shall include but not be limited to the following matters:

- § 18-278 Action of Town Council Concerning Application For Permits. Upon receipt of the written counsel pursuant to § 18-277, the Town Council shall consider at a regular or special meeting the question of authorizing the Zoning Administrator to grant or deny a permit for the action specified in the application. The applicant shall be notified by the Zoning Administrator of the time and place of the meeting at which his application will be considered and shall have the right to attend and be heard as to his reasons for filing the same.

disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting and preserving the historical character of the district. In the case of disapproval, the application shall not be resubmitted for consideration until twelve months has elapsed from the date of disapproval unless the indicated changes in plans and specifications required to meet the conditions for protecting the district have been incorporated into the application.

§ 18-279 Duties of Zoning Administrator Concerning Permits. Upon receipt of the Town Council's written disapproval, the Zoning Administrator shall disapprove the application

for the required permit and so advise the applicant. The applicant may appeal from the disapproval as provided by law and § 18-280 herein below.

The Zoning Administrator shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Section in the same manner as in his enforcement of the other Sections of this Chapter as presently enacted and as the same may be amended.

§ 18-280 Appeal To Circuit Court. Any person or persons jointly or severally aggrieved by any decision of the Town Council, or any taxpayer, may appeal such decision to the Circuit Court of Fairfax County for review by filing a petition at law setting forth the alleged illegality of the action of the Town Council provided such petition is filed within thirty days after the final decision is rendered by the Council. The filing of the said petition shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish an historic landmark, building, or structure. The court may reverse or modify the decision of the Town Council in whole or in part if it finds upon review that the decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Town Council. (Amend. 6-84)

§ 18-280.1 Windover Heights Historic District. (New 4/79; Amend 7-6-92)

Purpose. The purpose of this ordinance is to recognize and designate by an overlay to the Zoning Map of the Town of Vienna the Windover Heights Historic District of the Town, which District contains buildings and places in which historic events occurred and which have special public value because of notable architectural features and other features which relate to the cultural and artistic heritage of Vienna, and to provide for the preservation of that District and sites therein; the Town Council recognizing that the District is a single family residential neighborhood which has changed little since the turn of the century, which consists mostly of older homes, open spaces and meandering streets lined with mature trees and shrubs which constitutes one of the original residential sections of historic old Vienna and which housed citizens who were prominent in the development of the Town of Vienna.

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§ 18-280.2 Boundaries. (Amend 8/98)

A. The Windover Heights Historic District is hereby created and the boundaries of such district are drawn so as to include all lands closely related to and bearing upon the character of the area known for a long period of time as the "Windover Area," "Windover Heights," or "The Hill."

B. The boundaries of this District shall be as follows: Beginning at the point of intersection of Lawyers Road, NW, and the creek east of Stowe's Addition to Windover Heights, thence southeasterly along the southwesterly right-of-way line of said Lawyers Road, NW, to the southerly line of 210 Lawyers Road, NW; thence westerly along said property line to the westerly line of said parcel; thence northerly along said property line to the southeasterly line of Lovers Lane, NW; thence southwesterly along said right-of-way line to the easterly line of Lot 48, Block 5 of Windover Heights; thence southeasterly along said property line to the southerly line thereof; thence southwesterly along said line and the southerly line of Lots 47 through 40, Block 5, to the westerly line of said Lot 40 of Block 5; thence northwesterly along said property line to the southeasterly line of Lovers Lane, NW; thence southwesterly along said right-of-way line to its point of intersection with the northeasterly line of Pleasant Street, NW; thence southeasterly along said right-of-way line to its point of intersection with the northwesterly line of Lot 34, Block 5, Windover Heights; thence northeasterly along said line to the northeasterly line of said Lot 34; thence southeasterly along said line and the northeasterly lines of Lots 33 through 29 of Block 5 to the northwesterly line of Church Street, NW; thence southwesterly along said right-of-way line to the northeasterly line of Pleasant Street, NW; thence northwesterly along said right-of-way line to the prolongation of the southeasterly line of 130 Pleasant Street, NW, thence southwesterly along said line, also being the boundary between the residential and commercial zones to Lewis Street, NW; thence northwesterly along said Lewis Street to Windover Avenue, NW; thence northeasterly along said Windover Avenue to Knoll Street, NW; thence along the back of those lots on the westerly side of Windover Avenue, NW, to 346 Orchard Street, NW; thence along the westerly boundary of this lot to Orchard Street, NW; thence easterly along said Orchard Street to the rear boundary of 277 Windover Avenue, NW; thence northerly along the rear boundaries of 277 and 261 Windover Avenue, NW, to the rear boundary of 322 West Street, NW; thence westerly along the rear boundary of said lot and the rear property lines of 324 and 326 West Street, NW; thence northeasterly to the westerly property line of said 326 West Street, NW; thence southeasterly along the previously-mentioned creek to its intersection with Lawyers Road, NW; said point also being the point of beginning. (New - Amend. 3/18/91; 8/98)

§ 18.280.3 Public Improvements. No new construction projects, the purpose of which shall be the installation of new public improvements and public owned utilities not in existence at the time of the adoption of this ordinance shall be commenced in the Windover Heights Historic District until the Town Council shall first conduct an advertised public hearing concerning the necessity of the improvement, at which hearing the recommendations of the Windover Heights Board of Review, if available, shall be included in the record.

The provisions of this Section shall not be applicable to maintenance or repair of existing public improvements or utilities.

§ 18-280.4 Certification of Appropriateness Required.

A. A Certificate of Appropriateness shall be required before any of the following, except as provided in paragraph B below, may be performed within the District:

1. Erection of a building, accessory building, structure, fence or sign.
2. Changing or altering the exterior architectural character of an existing building, accessory building, or structure to that degree which requires obtaining a building permit.

B. A Certificate of Appropriateness shall not be required in the following cases:

1. Repair or replacement of any part of an existing building. Accessory building, structure, fence or sign when using substantially similar materials and maintaining the same architectural features.
2. Repair or replacement of a roof on an existing building or accessory building even if different colors or materials are used. However, any change to the existing roof line or profile of the roof shall require a Certificate of Appropriateness.
3. Repair or replacement of existing stoops, porches, entryways, windows, or doors; or the repair, replacement or addition of screens, storm doors, or storm windows.
4. Erection of a shed or other accessory structure which does not require a building permit.

5. Construction of an in-ground swimming pool. However, a pool constructed so that any part, excepting handrails or diving boards, is more than 18 inches above ground shall require a certificate of appropriateness.
6. The painting or repainting of an existing building, accessory building, structure, fence or sign.
7. Erection, alteration or reconstruction of buildings, accessory buildings, structures, fences or signs when no part of such improvement is subject to public view at any time of the year from a public street, way or place.

§ 18.280.5 Windover Heights Board of Review, Creation of Board. For the purpose of making effective the provisions of this Section, there is hereby created a Board to be known as the Windover Heights Board of Review.

Membership of Board. The Windover Heights Board of Review shall consist of five (5) members, one (1) registered professional architect whose qualifications are compatible with historic preservation and restoration and who need not be a resident of the Town of Vienna, one (1) member of the Board of Architectural Review, one (1) member of the Planning Commission, one (1) member of the Beautification Commission and one (1) person selected from the community at large. In making all appointments to the Board, the Town Council shall give consideration to persons who have evidenced an interest in and an appreciation for the cultural heritage and history of Vienna. Except for the registered professional Architect, all members of the Board shall be residents of the Town of one a period of two (2) years. Initially, three (3) members of the Board shall be appointed for a term of one (1) year and two (2) shall be appointed for a term of two (2) years. Thereafter, all appointments to the Board, except for those to fill an unexpired term, shall be for a period of two (2) years. All members shall serve without compensation.

§ 18-280.6 Rules Of The Board.

A. The Board shall elect from its membership a Chairman, and Vice-Chairman, at the first meeting of the Board which shall be within 45 days of adoption of this ordinance and thereafter at the first meeting of each year. The Chairman shall preside over the Board and have the right to vote. The Vice-Chairman shall perform the duties of the Chairman in his absence. An accurate record of the proceedings of the Board shall be kept and a permanent record of all resolutions, motions, transactions and determinations, which records shall be delivered to the Town Clerk within seven (7) days following each meeting and shall be records of the Town.

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B. The Board shall hold a regular meeting at least once a month. Special meetings may be held at other times at the call of the Chairman, or two (2) members of the Board. Meetings also shall be called at the direction of the Town Council.

§18-280.7 Procedures For Applications And Review.

A. Applications for a Certificate of Appropriateness shall be made to the office of the Zoning Administrator for the Town of Vienna. The application shall be accompanied by a house location survey or dimensional drawing of the subject property showing the following:

1. The location of all existing buildings, accessory buildings, structures, fences or signs, and any proposed additions or alterations thereto.
2. The location of proposed buildings, accessory buildings, fences or signs to be erected.

B. Upon the filing of an application that complies with the requirements of paragraph A of this section, the Zoning Administrator shall within ten (10) working days thereafter, forward the application, together with his recommendations on the same, to the Windover Heights Board of Review.

C. The Board shall consider the application at the first regular meeting after receipt of the recommendations of the Zoning Administrator.

D. The Windover Heights Board of Review shall approve or disapprove such application forwarded by the Zoning Administrator at that regular meeting, unless time is extended by mutual agreement between the Board and the applicant. If such application is approved, a Certificate of Appropriateness signed by the Chairman or Vice-Chairman, shall be attached to the application for Certificate of Appropriateness and, within two (2) working days, transmitted to the Town of Vienna Zoning Administrator, or designee, for issuance.

E. If the Board disapproves of an application, it shall make findings of fact and state its findings and reasons therefor in writing and transmit a record of same to the Zoning Administrator and to the applicant. If the Board disapproves of an application, it may offer advice regarding appropriate changes that would address identified deficiencies.

A. In its review of any application for a Certificate of Appropriateness, the Windover Heights Board of Review, or the Council, on appeal, shall consider the following aspects of a building, accessory building, structure, fence or sign.

1. Exterior architectural features, including all signs, which are subject to public view at any time of the year from a public street, way or place.
2. General design and arrangement.
3. Texture and material.
4. The relation to similar features of buildings, accessory buildings, structures, fences or signs in the immediate surroundings.
5. Harmony or incongruity with the old and historic aspect of the surroundings.
6. The extent to which historic places and areas of historic interest in the District will be preserved or protected.
7. Special public value because of architectural and other features which relate to the cultural and artistic heritage of the Town of Vienna.

B. The Windover Heights Board of Review shall not consider interior arrangement, or relative size of the building, accessory building, structure, fence or sign.

§ 18-280.9 Exceptions.

Nothing in this ordinance shall be construed to prevent ordinary maintenance and repair or sale of any structure within the District, nor shall anything in this ordinance be construed to prevent the construction, alteration, moving or demolition of any structure under any permit issued prior to the passage of this ordinance.

§ 18-280.10 Appeal To Town Council.

A. Any person or persons jointly or severally aggrieved by any decision of the Board, including any applicant, any citizen of the Town and the Town through its Zoning Administrator, may appeal such decision to the Town Council by filing with the Town Clerk a written request for appeal. Such appeals to be filed within thirty (30) days after the decision has been made by the Board.

B. The Town Council shall within thirty (30) days of receipt of such written request, or within a longer period if agreed upon by the applicant, grant such applicant a full hearing at a public meeting.

C. Within thirty (30) days of such hearing, and after consultation with the Board, the Council may reverse or modify the decision of the Board, in whole or in part, or it may affirm the decision of the Board.

§ 18-280.11 Appeals To Circuit Court.

Any person or persons jointly or severally aggrieved by any decision of the Town Council or any citizen of the Town may appeal such decision to the Circuit Court of Fairfax County for review by filing a petition at law setting forth the alleged illegality of the action of the Town Council providing such petition is filed within thirty (30) days after the final decision is rendered by the Council. The filing of the said petition shall stay the decision of the Town Council pending the outcome of the appeal to the court. The court may reverse or modify the decision of the Town Council in whole or in part, if it finds upon review that the decision is arbitrary and constitutes an abuse of discretion or it may affirm the decision of the Town Council.

§ 18-280.12 Penalty For Violation.

Any person, firm or corporation who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) nor more than two hundred fifty dollars (\$250.00), and each day after the first during which such violation shall continue shall constitute a separate violation.

§ 18.280.13 Validity.

Should any section, clause or provision of this ordinance be declared by the court to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

§ 18-281

Zoning

§ 18-281.1

18-227

Article 27

Penalties

§ 18-281 Penalties.

Any person, firm or corporation who violates any of the provisions of this Chapter shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00), nor more than two hundred fifty dollars (\$250.00) and each day after the first during which such violation shall continue shall constitute a separate violation.

§ 18-281.1 Civil Penalties (New 11-87; 4-17-89)

A. A violation of the following scheduled provisions of this Chapter shall be deemed an infraction and shall be punishable by a civil penalty of one hundred dollars (\$100.00): (Amend. 6/91)

Section 18-9	Uses
Section 18-153	Overnight Parking of Commercial Vehicles in Residential Zone
Section 18-154	Display of Merchandise
Section 18-159	Obstruction to Vision at Corner Residential Zone Prohibited
Section 18-173	Home Occupations
Article 19	Name Plates and Signs
Section 18-209	Conditions Placed on Conditional Use
Section 18-229	Violation to Act Without Permit or Certificate of Occupancy When One Required

B. Each day during which any violation of the provisions scheduled above is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten (10) day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00). (Amend. 6/91)

C. The designation of a particular violation of this ordinance as an infraction under this section shall preclude the prosecution of such as a criminal misdemeanor, except for any violation resulting in injury to any person or persons, which may be so prosecuted as well.

D. The Zoning Administrator shall notify by written summons a person committing or suffering the existence of an infraction. Such notice may be served in person or by certified mail return receipt requested. The summons shall contain the following information:

- (1) The name and address of the person charged.
- (2) The nature of the infraction and the ordinance provision(s) being violated.
- (3) The location, date and time that the infraction occurred or was observed.
- (4) The amount of the civil penalty assessed for the infraction.
- (5) The manner, location and time in which the civil penalty may be paid to the Town.
- (6) The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.

E. The summons shall provide that any person summoned for a violation may, within fourteen (14) days from personal service or of mailing of the summons, elect to pay the civil penalty by making an appearance in person or in writing by mail to the Town's Director of Finance at least seventy-two (72) hours prior to the time and date fixed for trial by the summons and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. In the alternative, the person may elect to stand trial. Such summons shall inform the persons summoned of their right to stand trial for the violation charged and provide that a signature to an admission of liability shall have the same force and effect as a judgment of court; however, an admission shall not be deemed a criminal conviction for any purpose.

F. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, and does not elect to stand trial, the Town shall then cause the appropriate official to serve the summons on the person charged in the manner prescribed by law for service of civil summons. The violation shall be tried in the General District Court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

G. The remedies provided for in this section are cumulative and not exclusive and, except as provided above, shall be in the addition to any other remedies provided by law.

Article 28Interpretation§ 18-282 Provisions of this Chapter: Control When More Restrictive than other Existing Laws.

Where this Chapter imposes a greater restriction upon the use of land, buildings, or premises, or upon the height of buildings, or requires larger yards, courts, or other open spaces than are required by other existing provisions of law or ordinance, the provisions of this Chapter shall control.

§ 18-283 Deed Restrictions Greater Than Required by this Chapter; Not Superseded by this Chapter.

Where private building restrictions in recorded deeds are greater than those required by this Chapter, they are not superseded by the provisions of this Chapter.

§ 18-284 Permits Approved Prior to Adoption of the Chapter.

Any permit approved prior to the adoption of this Chapter shall adhere to the regulations of the Zoning Ordinance which was in effect prior to the adoption of this Zoning Ordinance, provided that after six (6) months from the issuance of any such permit, it shall be void unless actual on-site construction has commenced.

Vienna Town Code

Article 29

Validity

- § 18-285 If any section, paragraph, subdivision, clause, phrase, or provision of this Chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Chapter as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.
- § 18-286 All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Article 30

Effective Date

§ 18-287 Force and Effect.

After the adoption of this ordinance by the Town Council, it shall be in full force and effect ten (10) days after publication.

